



the record assembled in the informal complaint proceedings, the events to date can be summarized as follows:

On June 5, 2007, Consumer Advocate filed an application for entry of judgment by default against Ultimate. On June 8, 2007, Scott Wilson, President of UMCC, wrote a letter to Consumer Advocate informing Consumer Advocate that Ultimate is a Delaware Corporation, does not have any customers in the State of Iowa, and it has not contacted or invoiced any resident or business in the State of Iowa for telecommunications services.

As a result of Mr. Wilson's letter, on June 15, 2007, Consumer Advocate withdrew its application for entry of default judgment against Ultimate and on the same day filed an amended petition for proceeding to consider civil penalties and other remedies against UMCC.

Recently, UMCC acquired all or part of the customer service list of Buzz Telecom, Corp. (BUZZ), which has been the subject of prior Board action.<sup>1</sup> On February 2, 2007, Board staff sent a letter to UMCC notifying it of the Board's January 30, 2007, order granting default judgment and imposing a civil penalty against Buzz and prohibiting other carriers from serving or billing for Buzz. The letter also outlined Iowa law regarding carrier registration requirements, carrier obligations when acquiring assets and customers from other providers, and included a copy of a carrier registration form and applicable regulations. Board staff requested UMCC to

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<sup>1</sup> Based on the record to date, it appears UMCC sent bills to customers that said: "On December 1, 2006, UMCC Holdings, Inc., acquired the active and valid customers of Buzz Telecom and Business Options."

complete and return the carrier registration form within seven days of the date of the letter. UMCC did not respond to staff's request.

Subsequent to staff's letter, but also in February of 2007, the Board began receiving complaints from Iowa consumers stating that UMCC had changed their long distance carrier without their consent and billed them through their local telephone providers. As of the date of this order, the Board has received a total of 73 complaints against UMCC, 67 of which are the subject of this order.

Staff forwarded each of the complaints to UMCC for response. On May 29, 2007, UMCC responded by sending staff a complete list of its customers in Iowa in relation to this docket. In its response, UMCC stated that the customers on the list who had made payments would be issued refunds. Staff's proposed resolutions found that UMCC violated the Board's rules by failing to timely respond to the complaints because UMCC response was outside the ten day window staff had given UMCC to respond. In the proposed resolutions, staff directed UMCC to immediately credit all UMCC charges to each customer's account and to immediately close the accounts. Also, the proposed resolutions prohibited UMCC from pursuing collection actions in relation to these charges.

On June 15, 2007, Consumer Advocate filed an amended petition for proceeding to consider civil penalties and other remedies. In its petition for proceeding to consider civil penalties and other remedies, Consumer Advocate stated that the consumer complaints against UMCC allege that customers were billed for long distance telephone service without the customer's authorization, in violation

of Iowa Code § 476.103 (2007). The complaints allege that in some instances, UMCC billed consumers for long distance service when in fact no long distance service was provided, while in other cases UMCC billed consumers for long distance service after service was terminated, billed consumers for long distance calls they did not place, and billed consumers for calls that were previously billed and paid, again in violation of Iowa Code § 476.103. Consumer Advocate also alleges that UMCC appears to have violated the Board's regulations implementing Iowa Code § 476.103, specifically, 199 IAC 22.23(2)"e." Consumer Advocate contends civil monetary penalties should be assessed in order to secure future compliance with the statute. Consumer Advocate also suggests that UMCC may have engaged in a pattern of violations in these and other cases and suggests that the Board consider implementing the remedies provided for in Iowa Code § 476.103(5).<sup>2</sup>

Consumer Advocate argues a formal proceeding is necessary to give UMCC notice and opportunity for hearing, affirm staff's determinations that UMCC committed a slamming or cramming violation in these dockets, consider civil penalties in an amount sufficient to deter future violations, and to consider the penalties for a pattern of violations.

In light of UMCC's failure to timely respond to any of the 67 complaints that are the subject of this order, the Board concludes there are reasonable grounds for

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<sup>2</sup> If the Board determines, after notice and opportunity for hearing, that a service provider has shown a pattern of violations of the rules adopted pursuant to § 476.103, Iowa Code § 476.103(5) allows the Board to prohibit other service providers from billing charges on behalf of the violating provider and prohibit local exchange service providers from providing exchange access services to the violating provider, among other remedies.

further investigation of how UMCC acquired the accounts from Buzz, UMCC's failure to comply with Board's carrier registration process, and whether UMCC continued to bill for these accounts after the Board's January 30, 2007, order prohibiting collection on former Buzz accounts. These are the minimum issues to be investigated; additional issues may develop as the case progresses.

Also, the Board concludes that further investigation is appropriate to determine whether the Board should assess civil penalties to UMCC. The Board will grant Consumer Advocate's requests for proceedings to consider civil penalties. Because these complaints involve similar allegations, the Board will maintain the consolidation of these proceedings.

Finally, the Board will delay establishing a procedural schedule to allow UMCC an opportunity to provide a complete response to the allegations Consumer Advocate raises in its petition. Given UMCC's failure to respond to earlier Board or staff communications and the number of complaints alleging similar misconduct by UMCC, the Board believes it is appropriate to accelerate the next step in this proceeding. Therefore, the Board will require UMCC to provide a complete response to the allegations raised in Consumer Advocate's petitions within seven days of the date of this order. UMCC's response must identify and specifically address the allegations made in each of the 67 complaints addressed in this order. UMCC is cautioned that no extensions of this deadline will be granted.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on June 15, 2007, is granted. File Nos. C-07-52, C-07-53, C-07-54, C-07-57, C-07-58, C-07-59, C-07-60, C-07-61, C-07-62, C-07-63, C-07-64, C-07-65, C-07-68, C-07-69, C-07-70, C-07-71, C-07-72, C-07-73, C-07-75, C-07-76, C-07-77, C-07-78, C-07-79, C-07-81, C-07-82, C-07-83, C-07-84, C-07-88, C-07-89, C-07-91, C-07-92, C-07-93, C-07-94, C-07-95, C-07-96, C-07-99, C-07-100, C-07-101, C-07-102, C-07-103, C-07-104, C-07-105, C-07-106, C-07-107, C-07-108, C-07-109, C-07-110, C-07-111, C-07-112, C-07-113, C-07-114, C-07-116, C-07-117, C-07-118, C-07-119, C-07-120, C-07-121, C-07-122, C-07-123, C-07-124, C-07-125, C-07-126, C-07-127, C-07-128, C-07-129, C-07-130, C-07-136, are docketed for formal proceeding.

2. The motion to consolidate filed by the Consumer Advocate on March 13, and March 27, 2007, is granted. File Nos. C-07-52, C-07-53, C-07-54, C-07-57, C-07-58, C-07-59, C-07-60, C-07-61, C-07-62, C-07-63, C-07-64, C-07-65, C-07-68, C-07-69, C-07-70, C-07-71, C-07-72, C-07-73, C-07-75, C-07-76, C-07-77, C-07-78, C-07-79, C-07-81, C-07-82, C-07-83, C-07-84, C-07-88, C-07-89, C-07-91, C-07-92, C-07-93, C-07-94, C-07-95, C-07-96, C-07-99, C-07-100, C-07-101, C-07-102, C-07-103, C-07-104, C-07-105, C-07-106, C-07-107, C-07-108, C-07-109, C-07-110, C-07-111, C-07-112, C-07-113, C-07-114, C-07-116, C-07-117, C-07-118, C-07-119, C-07-120, C-07-121, C-07-122, C-07-123, C-07-124, C-07-125, C-07-126, C-07-127, C-07-128, C-07-129, C-07-130, and C-07-136 continue to be consolidated.

3. UMCC Holdings, Inc., is directed to file a response to Consumer Advocate's petition within seven days of the date of this order.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 6<sup>th</sup> day of July, 2007.