

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE, Complainant,</p> <p style="text-align:center">vs.</p> <p>ACCXX COMMUNICATIONS, LLC, Respondent.</p>	<p>DOCKET NO. FCU-07-14 (C-07-229)</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued November 6, 2007)

On September 24, 2007, pursuant to Iowa Code §§ 476.3 and 476.103, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty for an alleged slamming violation committed by ACCXX Communications, LLC (ACCXX). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On August 22, 2007, the Board received a complaint from Mr. Verlis Miller of Cedar Rapids, Iowa, alleging that his long distance provider was changed without authorization from Qwest Corporation (Qwest) to ACCXX. Mr. Miller stated attempts to contact ACCXX were unsuccessful. Attached to Mr. Miller's complaint were copies

of a bill from ACCXX for long distance calls totaling \$4.56, a bill from Qwest showing charges for changing his preferred long distance company, and an e-mail message from Mr. Miller to ACCXX.

Board staff identified the matter as C-07-229 and, on August 23, 2007, forwarded the complaint to ACCXX for response. Staff also forwarded the complaint to Qwest, asking whether Qwest, as Mr. Miller's local telephone service provider, had any information in its records relating to the alleged unauthorized change in service.

The Board received a response from Qwest on August 30, 2007. Qwest explained that its records show it received an electronic order on June 5, 2007, from Virtual Reach Corporation¹ in Deerfield Beach, Florida, requesting that the preferred carrier for Mr. Miller's account for both interstate and intrastate long distance be changed to Virtual Reach. Qwest also stated Mr. Miller called Qwest on August 13, 2007, to dispute the change in service provider and to place a carrier freeze on his line. Qwest noted that Mr. Miller's service was returned to Qwest.

The Board received a response from ACCXX on September 6, 2007, stating that the customer's telephone number was still in its database as an inactive customer and that an error in the process of changing its database reactivated old accounts, changed long distance service for those accounts to ACCXX, and generated a bill. ACCXX stated that the error had been resolved, the account was credited for the full amount, and the account was terminated from its database.

¹ Based on correspondence to the Board from ACCXX, it appears that Virtual Reach and ACCXX are the same company.

ACCXX also asked that the customer send ACCXX a copy of the bill from the local phone company showing any long distance switching fees and stated the customer would be reimbursed for those charges.

On September 10, 2007, Board staff issued a proposed resolution finding a slamming violation. Staff concluded that even though ACCXX claimed the change in service resulted from an error, Mr. Miller's account was slammed because the change in service was not authorized. Staff directed ACCXX to issue a refund for \$1.25 to Mr. Miller to reimburse him for the switching fees charged by Qwest.

In its September 24, 2007, petition, Consumer Advocate asserts the proposed resolution is correct but asserts a civil monetary penalty is necessary to secure future compliance with the statute. Consumer Advocate argues a credit is insufficient for that purpose. ACCXX did not respond to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there are reasonable grounds to warrant further investigation of this matter. The Board notes it has received five complaints against ACCXX since July 2007 and that ACCXX has given the same response in each case. The response from ACCXX has not provided sufficient detail or documentation to answer several questions the Board has about this matter, including, but not limited to, whether ACCXX obtained Mr. Miller's account information by way of a previous service relationship with him or by some other means and whether it was appropriate for ACCXX to maintain that information

in its database. Further investigation may prove useful in answering those and other questions.

The Board will grant Consumer Advocate's petition for proceeding to consider a civil penalty, but will delay establishing a procedural schedule to allow ACCXX an opportunity to respond to Consumer Advocate's petition.

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 September 24, 2007, is granted. File C-07-229 is docketed for formal proceeding, identified as Docket No. FCU-07-14.

2. ACCXX Communications, LLC, is directed to file a response to Consumer Advocate's petition within 30 days of the date of this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 6th day of November, 2007.