

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="padding-left: 100px;">Complainant,</p> <p style="text-align:center">vs.</p> <p>HORIZON TELECOM, INC.,</p> <p style="padding-left: 100px;">Respondent.</p>	<p>DOCKET NO. FCU-07-21 (C-07-90)</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING
AND ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued December 6, 2007)

On March 23, 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 cramming violation committed by Horizon Telecom, Inc. (Horizon). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On February 13, 2007, Glee Neibert filed a complaint with the Board alleging unauthorized charges on her telephone bill. Ms. Neibert stated that she did not authorize charges by Horizon. Ms. Neibert further stated that she did not know or find out about the charges until she received her telephone bill from her carrier, South Slope Cooperative Telephone Company (South Slope). Ms. Neibert stated that she

called Horizon and was told by a Horizon representative that she had given authorization over the Internet. Ms. Neibert also stated she was told by the Horizon representative that Horizon had sent her a confirmation e-mail, which gave her five days to cancel the ordered service. Ms. Neibert stated that she told the Horizon representative that she had received the e-mail but had deleted it because she does not open e-mails from unfamiliar addresses. Ms. Neibert further stated that she canceled the service and the Horizon representative gave her a confirmation number. Ms. Neibert stated that after she had canceled and received the confirmation number, she then received another bill from Horizon.

Board staff identified the matter as C-07-90 and, pursuant to Board rules, on February 15, 2007, forwarded the complaint to Horizon. Horizon did not respond to Ms. Neibert's complaint. Board staff then confirmed Horizon's address and verified that none of the correspondence had been returned.

On March 20, 2007, Board staff issued a default proposed resolution stating that pursuant to Iowa Code § 476.103 and Board rules, telecommunications carriers are required to investigate and respond to complaints of this nature within ten days. Board staff concluded that Horizon violated Board rules by failing to respond to Ms. Neibert's complaint within the required ten-day time frame. Board staff directed Horizon to fully credit all charges and to close Ms. Neibert's account. Board staff also prohibited Horizon from pursuing the charges in collection and notified Horizon that

its violation of Board rules might be considered by the Board to determine whether civil penalties should be levied against Horizon.

On March 23, 2007, Consumer Advocate filed a petition for proceeding to consider civil penalties. Consumer Advocate stated that Board staff's default proposed resolution was correct as far as it went. Consumer Advocate further stated that, subject to hearing rights to which Horizon is entitled under law, the proposed resolution should be expanded to clarify that companies cannot escape civil penalties by ignoring allegations of violation.

Board rule 6.8(2) regarding complaints to the Board states, in relevant part, "[t]he complaint . . . will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within ten days of the date the complaint or notification of receipt of a telephone, or other oral, complaint was forwarded."

Horizon failed to respond to the consumer's complaint within the required time period. The Board therefore finds reasonable grounds for further investigation in order to investigate Horizon's failure to comply and to determine whether Horizon received authorization for a change in service from Ms. Neibert.

The Board will assign this case to its administrative law judge (ALJ) for further proceedings pursuant to Iowa Code § 17A.11(1)"b" (2007) and 199 IAC 7.3. The ALJ may take all appropriate action, which may include setting a hearing date, presiding at the hearing, and issuing a proposed decision.

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 March 23, 2007, is granted as discussed in this order. File No. C-07-90 is docketed for formal proceeding identified as Docket No. FCU-07-21.

2. Pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.3, Docket No. FCU-07-21 is assigned to the Board's administrative law judge, Amy Christensen, for further proceedings. The administrative law judge shall have the authority provided under 199 IAC 7.3.

UTILITIES BOARD

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Margaret Munson
Executive Secretary, Deputy

/s/ Darrell Hanson

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