

\STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,  Complainant,</p> <p style="text-align:center">vs.</p> <p>HORIZON TELECOM, INC.,  Respondent.</p>	<p>DOCKET NO. FCU-07-22 (C-07-138)</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING  
AND ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued December 10, 2007)

On March 29, 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 Horizon Telecom, Inc. (Horizon). Based upon the record assembled in the informal complaint proceeding, the events to date can be summarized as follows:

On March 6, 2007, Toni Vawter filed a complaint on behalf of her 83-year-old grandmother, Dorothy Gordon. Ms. Vawter stated that her grandmother had received a welcome letter from Horizon. Ms. Vawter further stated that the letter from Horizon said that her grandmother had recently changed her long distance telephone service to Horizon, and the letter then went on to explain how Horizon's calling card service

worked and how Horizon would bill Ms. Gordon. Ms. Vawter stated that her grandmother does not remember authorizing a change in her long distance service. Ms. Vawter also stated that her grandmother does not have long distance service on her telephone because she uses calling cards. Moreover, Ms. Vawter stated that her grandmother told her that she had not spoken with anyone from Horizon and that she had not ordered anything through the Internet.

Board staff identified the matter as C-07-138 and, pursuant to Board rules, on March 7, 2007, forwarded the complaint to Horizon and Qwest Corporation (Qwest), Ms. Gordon's local telephone service provider. Horizon did not respond to Ms. Vawter's complaint. Board staff then confirmed Horizon's address and verified that none of the correspondence had been returned.

On March 13, 2007, Qwest responded stating that its records indicated that on March 2, 2007, it received an electronic order from Global Crossings changing Ms. Gordon's interstate and intrastate long distance service to carrier code 0444. Qwest further stated that on March 6, 2007, Mrs. Gordon called to have her long distance carrier changed to "none," as it had been prior to Horizon. Qwest also stated that its records showed no charges had been billed to Ms. Gordon, and Ms. Gordon requested a preferred interexchange carrier freeze, which Qwest established when the carrier was changed back to "none."

On March 20, 2007, Board staff issued a 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. Vawter's complaint on behalf of her grandmother within the required ten-day time frame. Board staff directed Horizon to fully credit any and all charges and to close Ms. Gordon's account. Board staff also prohibited Horizon from pursuing 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 29, 2007, Consumer Advocate filed a petition for a proceeding to consider civil penalties. Consumer Advocate stated that Board staff's 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 with Board rules and to determine whether Horizon received authorization for a change in service from Ms. Gordon.

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 29, 2007, is granted as discussed in this order. File No. C-07-138 is docketed for formal proceeding identified as Docket No. FCU-07-22.

2. Pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.3, Docket No. FCU-07-22 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/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 10<sup>th</sup> day of December, 2007.