

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>OFFICE OF CONSUMER ADVOCATE,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">vs.</p> <p>INTERNATIONAL SATELLITE COMMUNICATIONS,</p> <p style="text-align:center">Respondent.</p>	<p style="text-align:right">DOCKET NO. FCU-08-16 (C-08-70)</p>
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**ORDER DOCKETING FOR FORMAL PROCEEDING TO CONSIDER CIVIL
PENALTY AND ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued September 26, 2008)

On July 29, 2008, pursuant to Iowa Code §§ 476.3 and 476.103, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a petition with the Utilities Board (Board) for a proceeding to consider a civil penalty for an alleged cramming violation committed by International Satellite Communications (ISC). Based upon the record assembled in the informal complaint proceeding, the events and allegations to date can be summarized as follows:

On June 19, 2008, Ms. Rhonda Prine filed a complaint that ISC placed charges on her local telephone bill for two unanswered calls to a toll free number, for a total of \$28.78. Ms. Prine admitted to making the calls; however, prior to making the two calls, she confirmed with the operator that the number was toll-free. The number was to a resort in Antigua. Ms. Prine stated that she dialed the phone

number and encountered rings and static, but no answer. She hung up and dialed again with the same result.

Two months later, Ms. Prine's Qwest Communications (Qwest) bill contained two charges of \$14.39 each for three-minute calls to Antigua, billed by Zero-Plus Dialing, Inc. (ZPDI), on behalf of ISC. The bill listed the number called as a different number than she had dialed. Ms. Prine stated that she would have never called the toll-free number if she knew that she would be charged. Ms. Prine stated that she contacted ZPDI, talked to a ZPDI representative, and was issued a 50 percent credit.

Board staff identified the matter as C-08-70 and, pursuant to Board rules, on June 24, 2008, forwarded the complaint to ISC to respond to the allegations and file proof that Ms. Prine authorized the charges. ISC did not file a response within the ten-day deadline. Staff contacted ISC to learn the response status and talked to an ISC customer service representative. The ISC representative confirmed that Board staff had used the correct mailing address, but did not know if ISC received the letter because a different department responds to letters. Board staff then requested a telephone number for that department. The representative refused and then refused Board staff's request to transfer the call to that department. Board staff then requested to speak to a supervisor and the representative indicated that no supervisor was available, and that ISC does not take messages for a supervisor's call back.

On July 17, 2008, staff issued a proposed resolution and concluded that, by default, ISC violated Board rules by not responding to the complaint within ten days.

Staff directed ISC to fully credit the charges immediately and close the account. Staff also forwarded a copy of the proposed resolution to ZPDI.

On July 29, 2008, Consumer Advocate filed a petition requesting a formal proceeding to consider a civil penalty. Consumer Advocate stated staff's proposed resolution was correct as far as it went. Consumer Advocate further stated subject to hearing rights to which ISC is entitled to under law, a civil monetary penalty should be assessed in order to secure future compliance with the statute and a credit alone is insufficient for that purpose.

Consumer Advocate requests the Board commence a proceeding pursuant to Iowa Code §§ 476.3 and 476.103 for the purposes of: (1) affording ISC notice and an opportunity for hearing; (2) finding that ISC committed a cramming violation; and (3) considering a civil penalty in an amount designed to deter future violations.

Board staff allowed ISC ten days to respond to Consumer Advocate's petition. To date, ISC has not responded to the complaint or to Consumer Advocate's petition.

DISCUSSION

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."

ISC 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 ISC's failure to comply and to determine whether ISC received authorization for a change in service from Ms. Prine.

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.

ORDERING CLAUSES

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 July 29, 2008, is granted as discussed in this order. File No. C-08-70 is docketed for formal proceeding identified as Docket No. FCU-08-16.

2. Pursuant to Iowa Code § 17A.11(1)"b" and 199 IAC 7.3, Docket No. FCU-08-16 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 26th day of September, 2008.