

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  CONCERT COMMUNICATIONS SALES LLC	DOCKET NOS. TCU-99-13 TF-99-140
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**ORDER APPROVING TARIFF IN PART, REJECTING TARIFF IN PART,  
AND ISSUING CERTIFICATE**

(Issued September 20, 1999)

On April 26, 1999, Concert Communications Sales LLC (Concert) filed with the Utilities Board (Board) an application for a certificate of public convenience and necessity to provide local exchange service. The application is identified as TCU-99-13. At the same time, Concert filed an accompanying tariff which is identified as TF-99-140. On July 14, 1999, the Board suspended the tariff in order to consider it in conjunction with its review of Concert's application and extended the time for consideration of Concert's application while Concert filed corrections to its proposed tariff. Concert has filed a statement that it concurs in the local service area maps of U S West Communications, Inc., and GTE Midwest Incorporated, which are on file with the Board. The Board has reviewed the application and finds Concert has the requisite technical, financial, and managerial ability to provide the service it proposes to render. Pursuant to IOWA CODE § 476.29(2), the Board will grant Concert's application.

The Board has reviewed the tariff filed by Concert and finds that the tariff substantially complies with the Board's rules and the service proposed to be rendered by Concert. However, there are three items in Concert's proposed tariff which the Board finds unacceptable and will reject. In the second paragraph of page seven of the proposed tariff, Concert has included a statement which makes the provision of local service subject to "the Company's other related tariffs." A customer in Iowa should be able to read the tariff approved by the Board and thereby be cognizant of all restrictions and limitations. The service should not be provided subject to Concert's other related tariffs which have not been approved by the Board. Therefore, this tariff language will be rejected.

Second, in paragraph G on page 15 of the proposed tariff Concert defines its limit of liability as "the service provider's liability described in the applicable tariffs of the underlying carrier." The Board cannot approve that section of Concert's proposed tariff because the actual limit of liability is not included as part of the tariff which will be available to Iowa customers. Therefore, that section of the proposed tariff will be rejected. Finally, in the same paragraph, Concert proposed language which states, "No action or proceeding against the Company shall be commenced more than one year after the service is rendered." The Board's authority to commence an action cannot be limited. Therefore, the Board will reject that statement in paragraph G on page 15 of the proposed tariff.

Therefore, the tariff and maps will be approved with the exception of the rejected statements on pages 7 and 15, of the tariff, which will not have effect.

Concert will submit for the Board's approval new tariff pages 7 and 15, which have the rejected language removed. Pursuant to IOWA CODE § 476.29, the Board will issue a certificate to Concert simultaneously with issuance of this order.

**IT IS THEREFORE ORDERED:**

1. The application for a certificate of public convenience and necessity filed by Concert Communications Sales LLC. on April 26, 1999, identified as TCU-99-13, is granted.
2. The tariff filing, identified as TF-99-140, filed by Concert on April 26, 1999, is approved with the exception of the statements rejected in the body of this order on pages 7 and 15. Within 15 days of the issuance of this order, Concert shall file new pages 7 and 15 with the statements removed. Concert's concurrence in exchange maps is approved.
3. A certificate, identified as Certificate No. 0198, is issued to Concert with this order.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

/s/ Diane Munns

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of September, 1999.