

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: BTC, INC., d/b/a WESTERN IOWA NETWORKS	DOCKET NOS. TCU-97-23 TF-03-21 WRU-03-4-3098
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**ORDER APPROVING AMENDMENT TO APPLICATION, GRANTING WAIVER,
APPROVING TARIFF, AND ISSUING CERTIFICATE**

(Issued March 7, 2003)

On August 26, 1997, the Utilities Board (Board) issued an order in Docket No. TCU-97-23, approving the application for public convenience and necessity filed by BTC, Inc. (BTC), on July 17, 1997. In that order, the Board stated that a certificate would be issued when BTC obtained an approved tariff setting forth the prices, terms, and conditions of local exchange service in Iowa.

On January 23, 2003, BTC, Inc., d/b/a Western Iowa Networks (Western Iowa), filed with the Board a proposed amendment to its approved application for a certificate of public convenience and necessity that reflects the fact that BTC, Inc., will be doing business as Western Iowa Networks. The filing also indicates that Western Iowa will support a 2-PIC methodology for dialing parity.

Also, on January 23, 2003, Western Iowa filed a proposed local exchange tariff with the Board providing the terms, conditions, and rates for local exchange service in listed exchanges as described in the exchange maps and boundaries of Qwest Corporation and Iowa Telecommunications Services, Inc., d/b/a Iowa

Telecom. Revisions to the proposed tariff were filed on February 20, 2003. The proposed tariff and its revisions have been identified as Docket No. TF-03-21.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant “possesses the technical, financial, and managerial ability to provide the service it proposes to render and the Board finds the service is consistent with the public interest.”

The Board has reviewed Western Iowa’s amended application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. The Board finds that it is consistent with the public interest to approve the amended application.

Western Iowa has requested the Board waive the requirements of 199 IAC 16.5(2) and 22.3(1). The request has been identified as Docket No. WRU-03-4-3098.

Western Iowa requested a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform system of accounts. Western Iowa states that it employs an accounting system in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted, since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider.

Western Iowa also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant this waiver based upon Western Iowa’s statement that it will arrange for its customers to be included in the directories published by Qwest and Iowa Telecom in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant a waiver if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship on Western Iowa because other competitive carriers have been granted similar waiver requests. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantial equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

The Board has reviewed the proposed tariff filed by Western Iowa on January 23, 2003, and finds that they substantially comply with Board rules for the filing and processing of tariff pages. The tariff contains rates for both business and residential customers. Notice was provided to all affected carriers. The Board will approve the tariff and its revisions effective the date of this order and issue Western Iowa a certificate of public convenience and necessity concurrent with this order.

IT IS THEREFORE ORDERED:

1. The amendment to the application for a certificate of public convenience and necessity filed by BTC, Inc., d/b/a Western Iowa Networks, on January 23, 2003, is granted.
2. The waiver of 199 IAC 16.5(2) and 22.3(1), identified as Docket No. WRU-03-4-3098 is granted as described in this order.
3. The tariff filed by BTC, Inc., d/b/a Western Iowa Networks, on January 23, 2003, and its revisions filed on February 20, 2003, identified as Docket No. TF-03-21, are approved effective the date of this order.
4. A certificate, identified as Certificate No. 0265, is being issued to BTC, Inc., d/b/a Western Iowa Networks, concurrent with this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 7th day of March, 2003.