

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: CRYSTAL COMMUNICATIONS, INC., d/b/a HICKORYTECH	DOCKET NO. TCU-00-53
--	----------------------

ORDER SUSPENDING PROCEEDINGS AND REQUESTING JOINT PROPOSAL

(Issued May 29, 2003)

On April 3, 2003, Crystal Communications, Inc., d/b/a HickoryTech (HickoryTech), filed with the Utilities Board (Board) a request to terminate its resale service in all of its Iowa exchanges except the Waukee exchange. HickoryTech states that approximately 1,006 customers will be affected by the withdrawal of its resale service in those exchanges.

Attached to the request was a proposed form letter that HickoryTech intended to send to its resale customers in those exchanges, telling the affected customers to select an alternative local service provider and place an order to be switched to that provider before July 5, 2000, or they would be automatically migrated to Qwest Corporation (Qwest), the incumbent local exchange provider. In that letter, HickoryTech states that a customer choosing to be automatically migrated to Qwest will be able to “retain their telephone number and all features currently established in the Qwest switch as a resale customer.”

On May 5, 2003, Qwest filed a response to HickoryTech’s request stating that while Qwest does not oppose the substance of HickoryTech’s request, it does

oppose HickoryTech's proposed implementation process. Qwest claims that HickoryTech did not inform Qwest that it planned to exit its resale business. Qwest also states that it is not a Provider of Last Resort (POLR) as asserted by HickoryTech, and therefore is not obligated to be the default carrier for HickoryTech's displaced customers. Qwest states that it is willing to provide service to HickoryTech's customers, but asks for time to arrange a joint proposal with HickoryTech regarding the implementation of the transfer of HickoryTech's customers to Qwest, should those customers decline the opportunity to select an alternate carrier.

On May 9, 2003, HickoryTech filed a response to Qwest's May 5, 2003, filing. In its response, HickoryTech asserts that it contacted Qwest's wholesale service team to discuss the migration of HickoryTech customers to Qwest and at no time did Qwest express concern with HickoryTech's exit from this part of the market. HickoryTech suggests that as a POLR, Qwest has an obligation to provide service to HickoryTech's displaced customers, and that as a result of Qwest's POLR obligations, a waiver of the Board's slamming rules (199 IAC 22.23) is unnecessary. Finally, HickoryTech states that it is opposed to the creation of a joint proposal with Qwest.

The Board has reviewed the filings by HickoryTech and Qwest and finds that it is in the public interest for the parties to submit a joint proposal outlining the manner in which HickoryTech's customers will be transferred to Qwest or another local exchange carrier in the exchanges from which HickoryTech intends to withdraw. The filings submitted by the parties indicate a significant difference in the parties'

expectations for the seamless transfer of HickoryTech's customers to Qwest. These differences threaten the public interest in ensuring that service to these customers is not interrupted for the convenience of HickoryTech.

First, the Board notes that Qwest has not been designated as the POLR for HickoryTech's customers. Iowa law does not appear to require a single POLR in any exchange. Rather, Iowa Code § 476.29 provides that each local exchange carrier is obligated to service all eligible customers within its designated service territory. Qwest does not bear the burden of acting as the sole default carrier for HickoryTech's unwanted customers and Qwest should not be expected to take these customers on short notice without adequate time to prepare.

Further, based on the available information, the Board is not satisfied that the discussions between HickoryTech and Qwest have resulted in an agreement that will ensure a satisfactory transition to Qwest of those HickoryTech customers who do not select an alternate carrier. Therefore, the Board will suspend HickoryTech's request and require that HickoryTech and Qwest present to the Board a joint agreement describing the implementation of the transfer of these HickoryTech customers to Qwest. The Board does not believe the creation of a joint proposal will be a hardship for either party, as some discussion has already taken place and both parties should be motivated to complete this transition.

Finally, HickoryTech should seek a waiver of the Board's unauthorized change of service rules, 199 IAC 22.23. These rules require telecommunications carriers to obtain individual customer authorizations before making any changes to the customer's service. HickoryTech's withdrawal from many of its Iowa exchanges will

result in changes of service providers for approximately 1,006 HickoryTech customers; in the absence of individual authorization, a waiver of these rules will be required.

IT IS THEREFORE ORDERED:

1. The request to terminate resale services in several exchanges filed by Crystal Communications, Inc., d/b/a HickoryTech, on April 3, 2003, identified as Docket No. TCU-00-53 is suspended, as described in the body of this order.

2. Crystal Communications, Inc., d/b/a HickoryTech, and Qwest Corporation are directed to submit to the Board a joint proposal describing the implementation of the transfer of current HickoryTech customers to Qwest, as described in the body of 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 29th day of May, 2003.