

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NO. TF-03-130
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**ORDER DOCKETING TARIFF AND
ASSIGNING TO ADMINISTRATIVE LAW JUDGE**

(Issued May 29, 2003)

On April 29, 2003, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed with the Utilities Board (Board) a proposed tariff expanding its existing "Win Back Program" tariff. The proposed tariff has been identified as Docket No. TF-03-130.

On May 13, 2003, South Slope Cooperative Telephone Company (South Slope) filed an objection to Iowa Telecom's proposed tariff. In support of its objection, South Slope raised the following six issues:

1. Iowa Telecom's existing "Win Back Program" tariff has never been approved by the Board; rather, it was accepted for filing in 2001.
2. Iowa Telecom has not offered any legal justification for the proposed "Win Back Program" being excused from the prohibitions of Iowa Code § 476.5.

3. Iowa Telecom has not offered an explanation as to why the waiver of monthly service rates and other nonrecurring charges does not constitute the use of basic exchange service rates to subsidize or offset the costs of this promotion.

4. Iowa Telecom has not offered an explanation of certain vague language describing the applicability of its proposal; specifically, the description of “where local exchange competition is present,” instead of a precise definition such as where “effective competition” exists.

5. Iowa Telecom now seeks the expansion of its existing “Win Back Program” to include new residential and business customers.

6. Absent specific legal authority supporting its new program, Iowa Telecom appears to be engaging in predatory pricing.

On May 14, 2003, the Iowa Association of Municipal Utilities (IAMU) filed an objection to Iowa Telecom’s proposed tariff and a petition to intervene. In support of its objection, IAMU raised the same six issues previously raised by South Slope.

On May 23, 2003, Iowa Telecom filed a reply to the objections raised by South Slope and IAMU as well as an objection to South Slope’s and IAMU’s intervention in this matter. On May 27, 2003, South Slope filed a reply to Iowa Telecom’s response.

The issues raised by South Slope and IAMU concerning Iowa Telecom’s proposed tariff appear to be mixed questions of law and fact. The nature of these

issues is sufficient to require that this matter be docketed for further investigation. It is not clear from the documents filed by the parties, however, that an evidentiary hearing has been requested by the parties or will be necessary. Therefore, the Board will assign this matter to an administrative law judge (ALJ) for further proceedings, pursuant to Iowa Code § 17A.11(1)"b" (2003) and 199 IAC 7.1(4). The ALJ may set a prehearing conference with the parties to determine whether a hearing is necessary. Should a hearing be necessary in these proceedings, the ALJ will, among other things, set a hearing date, preside at hearing, and issue a proposed decision.

With respect to the intervention of South Slope and IAMU in these proceedings, neither South Slope nor IAMU have substantially complied with 199 IAC 7.2(8). However, it appears that these parties may be able to substantially comply with the Board's rules regarding intervention if given an opportunity. Therefore, the Board will leave this determination to the ALJ.

IT IS THEREFORE ORDERED:

1. The proposed tariff filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on April 29, 2003, identified as Docket No. TF-03-130, is docketed for investigation.
2. Pursuant to Iowa Code § 17A.11(1)"b" (2003) and 199 IAC 7.1(4),

Docket No. TF-03-130 is assigned to the Board's administrative law judge, Amy Christensen, to conduct a prehearing conference to determine whether a hearing is necessary.

3. Should a hearing become necessary in this matter, the Board's administrative law judge shall, among other things, conduct a hearing, and issue a proposed decision. The administrative law judge shall have all of the authority provided under 199 IAC 7.1(4)"a" through "j."

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.