

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION FOR WIRELESS CARRIERS [199 IAC 39.2]	DOCKET NO. RMU-03-13
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**ORDER COMMENCING RULE MAKING**

(Issued August 25, 2003)

Pursuant to the authority of Iowa Code §§ 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) proposes the rule attached hereto and incorporated herein by reference. This rule amends 199 IAC 39 to provide a definition of the appropriate service territory for wireless carriers with respect to designation as an eligible telecommunications carrier (ETC) and to provide additional filing and compliance requirements for those wireless carriers that have received an ETC designation.

**IT IS THEREFORE ORDERED:**

1. A rule making proceeding, identified as Docket No. RMU-03-13, is commenced for purposes of receiving comments upon the proposed rule attached to this order.

2. The Executive Secretary is directed to submit for publication in the Administrative Bulletin, a notice in the form attached to and incorporated by reference in 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 25<sup>th</sup> day of August, 2003.

## **UTILITIES DIVISION [199]**

### **Notice of Intended Action**

Pursuant to Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) gives notice that on August 25, 2003, the Board issued an order in Docket No. RMU-03-13, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers, “Order Commencing Rule Making,” to receive public comment on new proposed rules granting eligible telecommunications carrier (ETC) status to wireless telecommunications carriers based on their certification from the Federal Communications Commission (FCC) and establishing filing procedures and service quality requirements for wireless carriers that seek and receive ETC status.

Under existing Board rules, a telecommunications carrier that seeks and receives ETC designation is required to certify to the Board that it provides universal service fund (USF) supported services throughout its entire service territory. In the past, the Board has applied this requirement to service territories that were based upon the historical wireline exchanges. The existing rules were written with a focus on wireline telecommunications carriers seeking ETC designation. Wireline carriers receive their operating certificates from the Board and their service territories typically follow Iowa’s established exchange boundaries.

The Board has generally required that wireline carriers base their service areas on the historical exchange boundaries in order to limit the opportunity for picking and choosing among customers, or cream-skimming, on a geographic basis. The requirement has also helped to ensure that all territory in the state is served by a local exchange utility, as required by Iowa Code § 476.29(1).

Wireless carriers differ from their wireline counterparts in that they receive their operating licenses from the FCC and those licenses include service areas that do not follow Iowa's established exchanges. Consequently, wireless carriers often serve only parts of the historical wireline exchanges in Iowa. In the past, this has prevented wireless carriers from receiving ETC designation for those exchanges that they do not serve in their entirety. The Board proposes to remove this barrier to increase the availability of wireless ETC status, as the service area differences are the result of FCC licensing requirements and do not appear to present any significant cream-skimming concerns.

In addition, the Board's service quality rules currently apply only to wireline carriers. Thus, when wireless carriers provide services supported by the USF, there is no assurance that the customers will receive service that is of reasonable quality. Moreover, it is possible that wireline carriers incur higher expenses to provide service that meets the established quality standards, while wireless carriers do not incur those expenses. If true, this could give wireless carriers an unfair advantage when providing USF-supported services.

Finally, because wireless carriers receive their operating licenses from the FCC and do not file tariffs or similar documents with the Board, the Board does

not normally have immediate access to a wireless carrier's customer service agreement, which details the rates and terms for its USF-funded local calling plans. This information is necessary if the Board is to respond appropriately to customer questions or complaints regarding USF-supported services.

In this docket, the Board proposes to define "service area" for wireless carriers offering USF-supported service, as that area where the wireless company has been licensed by the FCC to provide service, regardless of the established exchange boundaries. (Those historical boundaries will continue to apply to wireline carrier's unless a waiver is granted.) The Board also proposes that its local exchange service quality rules set forth in 199 IAC 22.6 will apply to USF-supported services provided by wireless carriers that have been granted ETC status. Finally, the Board proposes to establish uniform filing requirements for all wireless carriers that include filing documentation of customer service agreements with the Board that is sufficient to detail the rates and terms for USF-supported local calling plans. The adoption of rules specifically regarding ETC designation for wireless carriers will facilitate the process of granting ETC designations for wireless carriers and help ensure uniform treatment of all carriers.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed rule. The statement must be filed on or before November 10, 2003, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make

specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed rules will be held at 10 a.m. on Wednesday, December 10, 2003, in the Board's hearing room at the address listed above. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

The proposed rules are intended to implement Iowa Code section 476.2 and 47 U.S.C. § 214(e), and amends Chapter 39 – Universal Service.

The following amendments are proposed:

ITEM 1. Add paragraph 39.2(5)"c" to read as follows:

c. In the case of a wireless telecommunications carrier, "service area" means that area where the wireless company has been licensed by the FCC to provide service.

ITEM 2. Add section 39.4 to read as follows:

39.4(476) Standards for service quality for wireless carriers attaining designation as an eligible telecommunications carrier.

39.4(1) A wireless carrier that has received designation as an eligible telecommunications carrier shall comply with the service quality rules set forth in 199–22.6(476) with respect to all services provided as an eligible telecommunications carrier.

39.4(2) A wireless carrier that has received designation as an eligible telecommunications carrier shall file with the board documentation of the wireless carrier's customer service agreements that sets out all the rates, terms, and conditions applicable to its ETC-eligible local calling plans.

August 25, 2003

/s/ Diane Munns  
Diane Munns, Chairman