

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: NEW ACCESS COMMUNICATION, LLC	DOCKET NO. WRU-03-47-3512
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ORDER GRANTING WAIVER

(Issued September 2, 2003)

On August 4, 2003, New Access Communication, LLC (New Access), filed with the Utilities Board (Board) a request for a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. New Access is a long distance telecommunications provider in Iowa. No objection to the request has been filed.

In support of its request, New Access states that it intends to acquire the assets and customers of Ciera Network Systems, Inc. (Ciera). Ciera is a long distance telecommunications provider with more than 100 customers in Iowa. New Access states that it intends to give notice to all of Ciera's customers regarding the acquisition by letter. The letter will inform customers of the change in service provider and that there will not be a change in the rates, terms, and conditions of services provided to Ciera's customers. The letter will also provide a toll-free number for customers to speak to New Access about the transfer.

New Access requests a waiver of subrule 22.23(2), which would require individual verification of each customer's agreement to the proposed change in the customer's service. To grant the waiver, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.23(2) should be granted based on the Board's review of the information provided by New Access. The Board finds that it would be an undue hardship for New Access to obtain over 100 individual authorization verifications for the change in service providers. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all of Ciera's customers will receive notice of the acquisition, the customers' rates and service will not be changed, and the customers will be afforded an opportunity to change providers if they choose to do so.

IT IS THEREFORE ORDERED:

The waiver request filed by New Access Communication, LLC, on August 4, 2003, is granted. The verification requirement of 199 IAC 22.23(2) for unauthorized

changes in telecommunications service is waived with respect to the acquisition by New Access Communications, LLC, of the Iowa assets and customers of Ciera Network Systems, Inc.

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 2nd day of September, 2003.