

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  RURAL IOWA INDEPENDENT TELEPHONE ASSOCIATION AND IOWA TELECOMMUNICATIONS ASSOCIATION; ALPINE COMMUNICATIONS, L.C., ET AL.; AND COON VALLEY COOPERATIVE TELEPHONE ASSOCIATION, INC., ET AL.	DOCKET NOS. SPU-04-3 SPU-04-5 SPU-04-6
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**ORDER DENYING APPLICATIONS FOR REHEARING, MODIFYING ORDER,  
AND CLARIFYING ORDER**

(Issued November 24, 2004)

On October 6, 2004, the Utilities Board (Board) issued its "Final Decision and Order" in these combined dockets. On October 26, 2004, the Rural Iowa Independent Telephone Association (RIITA) and the Iowa Telecommunications Association (ITA) filed a joint "Application for Rehearing" of the Board's order, requesting reconsideration and clarification on certain matters as well as a modification of the local number portability (LNP) deployment schedules for 19 rural incumbent local exchange carriers (ILECs).

Also on October 26, 2004, Hills Telephone Company (Hills) filed an "Application for Rehearing" requesting a delay of its Board-ordered LNP deployment schedule. Hills was also included in the group of 19 rural ILECs listed in RIITA's and ITA's joint application. No objections to the applications were filed.

In their joint application, RIITA and ITA specifically request the Board reconsider its October 6 order and (1) clarify the effective date of the suspension period, (2) place all companies with MITEL switches in the appropriate grouping, (3) clarify the effective suspension period for Group 5, (4) eliminate the presence of an independent cable television provider as a determining factor, and (5) use cost information in conjunction with the number of wireless carriers in an exchange and not as an independent criterion. Each issue raised by RIITA and ITA for reconsideration, in addition to Hills' request, will be discussed individually below.

#### **EFFECTIVE DATE**

RIITA and ITA request the Board clarify whether the LNP deployment extensions described in the Board's October 6 order are to be applied from the date of that order or from the May 24, 2004, compliance date established by the Federal Communications Commission (FCC).

The established compliance dates are to be measured from the issuance of the Board's October 6, 2004, order. Therefore, all compliance dates discussed in the "Final Decision and Order" in these combined dockets are to be measured from the issuance of that order.

#### **MITEL SWITCHES**

In their joint application, RIITA and ITA list eight additional rural ILECs that are currently operating with switches manufactured by MITEL:

Farmers Cooperative Telephone Co. – Dysart  
Griswold Cooperative Telephone Co.  
Miller Telephone Co.

Woolstock Mutual Telephone Co.  
Coon Creek Telephone Co.  
North English Cooperative Telephone Co.  
Stratford Mutual Telephone Co.

RIITA and ITA request that these eight companies be moved into Group Three in accord with the Board's October 6 order.

The MITEL switch information for the eight identified ILECs was not provided to the Board during the regular proceedings in these combined dockets. The Board could not include the companies in the appropriate group when the companies failed to provide the Board with the necessary information in a timely manner. However, fairness and consistency dictate that these listed ILECs, which are currently operating with MITEL switches, be moved into Group Three and be given an extension of up to 18 months, subject to possible further extension as described in the Board's October 6 order.

#### **GROUP FIVE COMPLIANCE DATE**

Pursuant to the October 6 order, the companies identified in Group Five, none of which have wireless carriers providing service in their service areas, are required to provide LNP within six months of receiving a bona fide request (BFR) from a wireless carrier. The companies that comprise Group Two, all of which have one or two wireless carriers providing service in their service areas, were given 12 months to provide LNP. RIITA and ITA note that a Group Five company that receives a BFR from a wireless carrier could be required to provide LNP before a Group Two company. RIITA and ITA request a clarification of the October 6 order, stating that

Group Five companies will not be required to provide LNP sooner than 12 months from the date of the October 6, order.

It was the Board's intent to allow the companies in Group Five a longer period in which to comply with the FCC's LNP requirements. Therefore, the Board clarifies its final order by stating that the companies in Group Five will be granted a suspension and requiring these companies to provide LNP within six months of receiving a BFR, but no earlier than 12 months from October 6, 2004.

### **INDEPENDENT CABLE TELEVISION SYSTEMS**

In their joint application, RIITA and ITA contend that the mere presence of a cable television system with the potential to offer facilities-based competition does not justify rapid LNP deployment. RIITA and ITA assert that it is unreasonable to require customers of small ILECs to pay a monthly charge for LNP solely because a cable company may provide service in their area sometime in the future. RIITA and ITA suggest that the Board should at least be aware of some reasonable probability that the cable television system will be operational as a communications service prior to October 6, 2005, before placing certain companies into Group One. RIITA and ITA request that Clarksville Telephone Company (Clarksville), Lone Rock Cooperative Telephone Company (Lone Rock), Van Buren Telephone Co. (Van Buren), and Wyoming Mutual Telephone Co. (Wyoming) be moved from Group One into other groups because the sole criterion that places them in Group One is the presence of an independent cable television system in their service areas.

RIITA and ITA state that the record is incorrect regarding the presence of a cable television system in Clarksville's service area; Clarksville is actually served by a cable television service operated by Butler-Bremer Mutual Telephone Co. RIITA and ITA suggest that Clarksville be moved to Group Two. Based on this new information, the Board finds that Clarksville is currently not being served by an independent cable television system and, therefore, will be moved to Group Two as requested.

RIITA and ITA state that Lone Rock has been placed in Group One solely because of the existence of Starcom as the cable television provider in its service area. RIITA and ITA state that Starcom is a wholly-owned subsidiary of River Valley Telephone Cooperative (River Valley) and that Starcom indicates it has no present intent to provide competitive local exchange service through its cable operations. RIITA and ITA support this assertion with the affidavit of Ivan Dalen, General Manager of River Valley. RIITA and ITA request that Lone Rock be moved to Group Five.

Based on this new information, the Board finds that Lone Rock is not served by an independent cable television system. As a result, Lone Rock should be moved from Group One. However, the underlying record demonstrates that the Lone Rock exchange is currently being served by at least one wireless carrier.<sup>1</sup> Therefore, Lone Rock will be moved to Group Two pursuant to the criteria established in the Board's October 6 order.

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<sup>1</sup> See "Exhibit C" filed by Wireless Coalition for Intermodal Portability on July 30, 2004.

RIITA and ITA state that Van Buren and Wyoming have been placed in Group One solely because of the existence of an independent cable television system in their service areas. RIITA and ITA argue that the Board over-emphasizes the significance of competition resulting from the presence of these independent cable systems in these areas. RIITA and ITA state that the cable systems represent only the possibility of wireline-to-wireline competition, which is not at issue in this proceeding. RIITA and ITA request Van Buren and Wyoming be moved to Group Two.

The Board finds that Van Buren and Wyoming should remain in Group One. Both Van Buren's and Wyoming's service areas are served by independent cable systems and are served by two wireless carriers. In its October 6, 2004, order, the Board determined that the presence of several wireless carriers or the existence of an independent cable television system in a company's service area can be an important consideration in determining whether to delay compliance with the Federal LNP mandate. The combination of the cable system and multiple wireless carriers in these areas means local exchange competition, and therefore LNP usage, is relatively likely in these areas. Under these circumstances, a maximum six-month suspension from the date of the October 6, 2004, order is appropriate, leaving these companies in Group One.

### **LNP COSTS**

RIITA and ITA state that the Board's determination of a level of cost that would constitute a "significant adverse economic impact on users" or which is "unduly

burdensome" is an arbitrary criterion for Group One. RIITA and ITA state that six companies, Ace Telephone Company (Ace), Alpine Communications (Alpine), Citizens Mutual Telephone Company (Citizens), Shell Rock Telephone Company (Shell Rock), Peoples Telephone Company (Peoples), and Mabel Cooperative Telephone Company (Mabel), all have LNP implementation costs of \$1 per month per line or less, but there is no benefit in providing LNP, so they should be granted a longer extension. RIITA and ITA request that these companies be moved to other groups because the only criteria placing them in Group One is a low cost for implementing LNP.

Four of these six companies, specifically Ace, Alpine, Citizens, and Shell Rock, each demonstrated LNP costs of \$1 per month per line or less, but each has at least one wireless carrier and an independent cable television system providing service in their service areas. The presence of these alternatives is an indicator that the Federal LNP mandate is likely to be beneficial in these exchanges in the near future. Therefore, the Board finds that these companies should remain in Group One.

Peoples demonstrated monthly LNP costs below \$1 but it has two wireless carriers providing service in its service area. Peoples also indicated that it is being served by a switch owned by FiberComm, L.C. (FiberComm). FiberComm's switch is LNP-capable and, according to the record in this proceeding, Peoples is in the

process of completing contracts for service order administration and LNP query.<sup>2</sup>

Therefore, the Board finds that Peoples should remain in Group One.

Mabel demonstrated LNP costs below \$1. It also has an independent cable television system providing service in its service area, but it appears on this record that wireless carriers are not providing service in Mabel's service area. This indicates a reduced likelihood that LNP will be useful in the Mabel exchange in the near future. The Board finds that Group Five is therefore a better fit for Mabel than Group One. Group Five will require Mabel to provide LNP within six months of receiving a BFR, but no earlier than 12 months from October 6, 2004.

#### **HILLS TELEPHONE COMPANY**

Hills supports its request for rehearing by stating that it is owned by Alliance Communications (Alliance), which operates in the four Hills exchanges in Iowa and to six exchanges in South Dakota. Hills states that Alliance also owns Splitrock Properties, Inc. (Splitrock), and that its Iowa host switch is part of a cluster that includes another switch in South Dakota. Hills asserts that the cost estimates for implementing LNP that were submitted by Hills in this proceeding were based on the assumption that switch upgrade costs would be shared between Hills and Sioux Valley Telephone (Sioux Valley) (the previous owner of Hills), while administrative costs would be shared among Hills, Alliance, and Splitrock.

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<sup>2</sup> See "Exhibit 2" filed by RIITA and ITA on August 6, 2004.

Hills states that on September 30, 2004, the South Dakota Public Utilities Commission issued orders granting Alliance and Sioux Valley until December 31, 2005, to implement intermodal LNP. Hills asserts that the South Dakota order stated either company could petition to extend the suspension by filing a request before October 1, 2005. As part of its request for rehearing in this proceeding, Hills filed new stand-alone LNP cost estimates for the Hills exchanges in Iowa. This new information was supported by the affidavit of Don Snyders, General Manager for Hills, filed on November 12, 2004. Hills requests that the Board suspend its requirement to implement LNP until the affiliated South Dakota companies deploy LNP.

The original record in this proceeding demonstrated that Hills had LNP costs of less than \$1 per line per month, two wireless carriers providing service in its service area, and no independent cable television system. Based on these criteria, Hills was placed in Group One. The new information filed by Hills on October 26, 2004, asserts an LNP cost of \$1.14 per line per month. Using the grouping criteria from the October 6 order, the new projected cost data would move Hills to Group Two.

Hills, however, seeks a suspension of LNP deployment until such a time as its affiliated South Dakota companies deploy LNP. The South Dakota companies have an option to petition to extend the LNP suspensions beyond the ordered date of December 31, 2005. Thus, if the Board were to grant Hills' request to tie Iowa LNP deployment to South Dakota deployment, it would be uncertain as to when LNP would ever be deployed by Hills in Iowa. This situation would be unfair to the

wireless carriers providing service in the Hills exchanges and could result in an unnecessary delay of LNP implementation in Iowa based upon factors that are unique to South Dakota. Finally, granting Hills' request would amount to delegating the Board's duty to our colleagues at the South Dakota commission. For all of these reasons, the Board will not grant Hills' request. Instead, the Board will move Hills into Group Two, based on the grouping criteria from the Board's October 6, 2004, order.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. The applications for rehearing filed by the Rural Iowa Independent Telephone Association, Iowa Telecommunications Association, and Hills Telephone Company on October 26, 2004, are denied.
2. The Board's "Final Decision and Order" issued October 6, 2004, is clarified and modified as described 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 24<sup>th</sup> day of November, 2004.