

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>GE BUSINESS PRODUCTIVITY SOLUTIONS, INC., AND BUSINESS PRODUCTIVITY SOLUTIONS, INC.</p>	<p>DOCKET NO. WRU-04-49-596</p>
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ORDER GRANTING WAIVER

(Issued November 24, 2004)

On October 25, 2004, GE Business Productivity Solutions, Inc. (GEBPS), and Business Productivity Solutions, Inc. (BPS), filed with the Utilities Board (Board) a joint application for a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. Both GEBPS and BPS are long distance telecommunications providers in Iowa. No objection to the request has been filed.

In support of the request, GEBPS and BPS state that they entered into an asset purchase agreement whereby BPS's parent company, Eschelon Telecom, Inc. (ETI), agreed to purchase substantially all of the assets of GEBPS, including its Iowa customer base. The applicants also state that upon completion of the transaction, ETI will immediately transfer GEBPS's Iowa customer base to BPS. The applicants also state that they intend to notify GEBPS's Iowa customers of the transition to BPS and that there will not be a change in the rates, terms, and conditions of service

provided to those customers transferred to BPS. Moreover, the applicants state that customers being transferred to BPS will be advised of their right to select another carrier.

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 GEBPS and BPS. The Board finds that it would be an undue hardship for BPS to obtain 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 GEBPS's customers will receive notice of BPS's acquisition, their service will be essentially unchanged, and they will be afforded an opportunity to change providers if they choose to do so.

IT IS THEREFORE ORDERED:

The waiver request filed by GE Business Productivity Solutions, Inc., and Business Productivity Solutions, Inc., on October 25, 2004, is granted. The verification requirement of 199 IAC 22.23(2) for unauthorized changes in telecommunications services is waived.

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 24th day of November, 2004.