

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

---

<p>IN RE:</p> <p>QWEST CORPORATION</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">vs.</p> <p>NORTHWEST IOWA TELEPHONE COMPANY, COMMCHOICE OF IOWA, L.L.C., AND LONG LINES METRO, L.L.C.</p> <p style="text-align:center">Respondents.</p>	<p style="text-align:center">DOCKET NO. FCU-04-57</p>
---	---

---

**ORDER DOCKETING FORMAL COMPLAINT AND REQUIRING ANSWER AND  
RESPONSE TO MOTION FOR DEFAULT JUDGMENT**

(Issued April 4, 2005)

On November 19, 2004, Qwest Corporation (Qwest) filed a formal complaint with the Utilities Board (Board) against Northwest Iowa Telephone Company (NWIT), CommChoice of Iowa, L.L.C. (CommChoice), and Long Lines Metro, L.L.C. (Long Lines) (collectively, Respondents). Qwest requests the Board issue an order finding that Qwest is not obligated under ITA Iowa Access Service Tariff No. 1 to pay to Respondents switched access charges or other compensation for Respondents' transport and termination of local and long distance calls placed to Respondents' customers who subscribe to third-party interexchange carriers when that traffic is transited by Qwest. Qwest also requests that the Board find the charges assessed by Respondents are unlawful. Qwest contends that the charges assessed by

Respondents are unjust, unauthorized, unreasonable, unlawful, and are in violation of federal and state statutes and regulations, a Board order, and an interconnection agreement approved by the Board. The formal complaint has been identified as Docket No. FCU-04-57.

Qwest is a "local exchange carrier" as defined by Iowa Code § 476.96(5) and an "incumbent local exchange carrier" (ILEC) as defined as by 47 U.S.C. § 251(h)(1). As an ILEC, Qwest provides local exchange, exchange access, and intraLATA toll services in Iowa. Qwest states that it also provides transit traffic services to third-party wireless and wireline carriers in Iowa pursuant to agreements filed with and approved by the Board. Qwest states that Respondents provide local exchange access and other telecommunications services in certain exchanges in Iowa.

In support of the complaint, Qwest alleges that Respondents have billed Qwest for switched access charges for termination of local and long distance calls placed by subscribers of third-party carriers and transited by Qwest. Qwest states that the calls are delivered by originating carriers to Qwest and then transported, either directly or through Iowa Network Services, Inc. (INS), which is owned by ILECs other than Qwest, to Respondents' subscribers.<sup>1</sup>

Qwest argues that in Docket No. SPU-00-7, *In re: Exchange of Transit Traffic*, the Board rejected arguments that other ILECs (like Respondents) were entitled to collect tariffed access charges for the transport and termination of local traffic from Qwest, or from any other carrier, notwithstanding the fact the originating carriers were

---

<sup>1</sup> Complaint at p. 4.

using a transiting carrier to interconnect indirectly. Qwest states that the Board also held that Qwest had no obligation to provide to the other ILECs (like Respondents) any type of compensation for their transport and/or termination of local traffic originated by third-party carriers but transited by Qwest.<sup>2</sup>

In addition, Qwest points out that it has interconnection agreements with Respondents CommChoice and Long Lines that provide that the originating carriers, not Qwest, are responsible for compensating CommChoice and Long Lines for terminating calls originated by third-party carriers. Qwest contends that the interconnection agreements confirm that CommChoice and Long Lines understood that the Iowa tariff governing their provision of exchange access service for the termination of long distance call imposes the obligation to pay access charges on the originating interexchange carrier, not Qwest.<sup>3</sup>

Qwest specifically asks that the Board issue an order:

(1) Declaring that by seeking to collect from Qwest access charges or other compensation for their transport and termination of local calls placed by subscribers of other carriers and transited by Qwest, Respondents are in violation of 47 U.S.C. §§ 251 and 252, and the Board's decision in Docket No. SPU-00-7;

(2) Declaring that under the Interconnection Agreements, Qwest is not liable to Respondents for access charges or other compensation for their transport and termination of local calls placed by subscribers of other carriers and transited by Qwest, and that by seeking to collect from Qwest access charges or other compensation for such calls, Respondents are in violation of the Interconnection Agreements, and 47 U.S.C. §§ 251 and 252;

---

<sup>2</sup> Complaint at pp. 6-7.

<sup>3</sup> Complaint at pp. 7-9.

(3) Declaring that ITA Iowa Access Service Tariff No. 1 does not and may not lawfully impose liability on Qwest for the transport and termination of calls, including long distance calls, placed by subscribers of third-party carriers and transited by Qwest, and that by seeking to collect access charges or other compensation for such calls from Qwest, Respondents are engaged in unreasonable practices in violation of Iowa law and regulations; and

(4) Such other and further relief as the Board may deem just and proper.<sup>4</sup>

On March 14, 2005, Qwest filed a motion for default judgment. Qwest states that it served a copy of the complaint on Respondents' attorney on November 19, 2004, and that the Board's Records and Information Center served Respondents notice of the complaint on November 22, 2004.<sup>5</sup> Based upon Respondents' failure to file an answer or any other response to the complaint, Qwest asserts that the allegations in the complaint should be deemed admitted, default entered against Respondents, and an order entered granting the relief requested by Qwest.

Subrule 199 IAC 7.5(1) provides that answers to formal complaints shall be filed 20 days after service on the Respondent. The Board's record confirms the statements made by Qwest that service was made by Qwest on Respondents' counsel on November 19, 2004, and that the Board's Records and Information Center sent notice of the complaint to Respondents on November 22, 2004. No answer has been filed as of the date of this order. It is the Board's understanding that counsel for Respondents has indicated to Board staff that no answer will be filed.

---

<sup>4</sup> Complaint at p. 14.

<sup>5</sup> Motion for Default Judgment at pp. 1-2.

The Board will docket the formal complaint filed by Qwest against Respondents. The Board will set a date for the filing of an answer to the complaint and a response to the motion for default judgment. If no answer or response is filed as directed, the Board may enter a default judgment as requested by Qwest.

**IT IS THEREFORE ORDERED:**

1. The formal complaint filed by Qwest Corporation on November 19, 2004, against Northwest Iowa Telephone Company, CommChoice of Iowa, L.L.C., and Long Lines Metro, L.L.C., is docketed for further consideration and identified as Docket No. FCU-04-57.
2. Respondents shall file an answer to the formal complaint on or before April 13, 2005.
3. Any response to the motion for default judgment shall also be filed on or before April 13, 2005.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 4<sup>th</sup> day of April, 2005.