

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  MIDWEST WIRELESS IOWA L.L.C.	DOCKET NO. 199 IAC 39.2(4)
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**ORDER DISMISSING APPLICATION WITHOUT PREJUDICE**

(Issued April 26, 2005)

On June 13, 2002, Midwest Wireless Iowa L.L.C. (Midwest Wireless) filed with the Utilities Board (Board) an application for designation as an eligible telecommunications carrier (ETC). Midwest Wireless requests ETC designation for the existing rural and non-rural service areas where Midwest Wireless provides service in the entire service area. In addition, Midwest Wireless requests ETC designation for certain rural service areas that Midwest Wireless does not provide service in the entire service area. In its application, Midwest Wireless requests the Board redefine the service areas that Midwest Wireless does not provide service in the entire service area by classifying each wire center of the affected local exchange carriers (LECs) in those exchanges as a separate service area.

On July 12, 2002, the Board issued an order designating ETC status to Midwest Wireless in those areas which Midwest Wireless provides service to the entire exchange. The order was silent as to Midwest Wireless's request to redefine the service areas where Midwest Wireless does not provide service to the entire exchange.

On March 18, 2003, the Board issued an order suspending Midwest Wireless's application pending the outcome of a rule making proceeding intended to simplify the certification of wireless carriers as ETCs in those areas where the wireless carrier does not provide service to the entire service area. On August 25, 2003, the Board issued an "Order Commencing Rule Making" in Docket No. RMU-03-13, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers. On October 31, 2003, Midwest Wireless filed an amended application wherein Midwest Wireless requested the Board process its application during the pendency of the rule making proceeding.

On May 24, 2004, the Board issued an "Order Adopting Rule" wherein the new rule was to become effective July 28, 2004. The new rule altered the information needed by the Board in an application for ETC designation from a wireless carrier. As such, both the original application filed by Midwest Wireless on June 13, 2002, and the amended application filed on October 31, 2003, needed to be modified to comply with the newly-adopted rule.

Since July 2004, Board staff has had several communications with Midwest Wireless regarding the modification of its application. The most recent telephonic communication with Midwest Wireless occurred on February 23, 2005, wherein Midwest Wireless indicated its intent to submit a modified petition to the Board. No amended application has been received pursuant to this recent communication.

As this docket has been open for some time, the Board will dismiss Midwest Wireless's application, without prejudice, within 30 days from the date of this order

unless the Board receives an amended application consistent with the Board's rules. If Midwest Wireless wishes to seek ETC designation beyond the 30-day time limit in those areas where it does not provide service to the entire service area, Midwest Wireless will be required to file a new application.

**IT IS THEREFORE ORDERED:**

The application filed by Midwest Wireless Iowa L.L.C. on June 13, 2002, and amended on October 31, 2003, will be dismissed by the Board, without prejudice, within 30 days of the date of this order unless the Board receives a modified application consistent with Board rules. If the Board does not receive a modified application within 30 days of the date of this order, the application filed by Midwest Wireless Iowa L.L.C. on June 13, 2002, and amended on October 31, 2003, will be dismissed, without prejudice, without any further action by the Board. If a modified application is received within 30 days of the date of this order, the application will not be dismissed without further order of the Board.

**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 26<sup>th</sup> day of April, 2005.