

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: REVISIONS TO AFFILIATE REPORTING RULES [199 IAC 31]	DOCKET NO. RMU-05-3
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ORDER ADOPTING AMENDMENT

(Issued May 17, 2005)

Pursuant to Iowa Code §§ 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100 (2005), the Utilities Board (Board) adopts the amendment attached hereto and incorporated herein by reference. The amendment is to 199 IAC 31, which contains affiliate reporting requirements. This proceeding has been identified as Docket No. RMU-05-3.

The amendment specifies information to be reported to the Board by any incumbent local exchange carrier (ILEC) that serves customers in the same territory as a competitive local exchange carrier (CLEC) with which it is affiliated. The rule making arose out of a proceeding known as Qwest Communications Corporation, Docket No. TCU-03-13, in which the Board approved the request of a CLEC to amend its certificate to expand its service territory to include the entire state of Iowa, including areas served by its affiliated ILEC. This was the first time the Board had received such a request. The Board determined the amendment in this rule making is necessary to allow it to monitor the effects an arrangement of this type may have on customers and competition.

The amendment adds two items to existing affiliate reporting requirements in 199 IAC 31. New rule 31.4 requires any ILEC that provides service in the same service territory as a CLEC with which it is affiliated to file with the Board information specified in the rule. New subrule 31.4(1) requires the ILEC to file all commercial agreements between the ILEC and its affiliated CLEC as they are made and defines "commercial agreements" as including, but not limited to, agreements not otherwise included as a part of the filed interconnection agreement between the ILEC and affiliated CLEC.

New subrule 31.4(2) requires an ILEC providing service in the same territory as its affiliated CLEC to supplement its annual filing with specified information about transactions between the ILEC and affiliated and nonaffiliated CLECs.

On March 16, 2005, the Board published a "Notice of Intended Action" in the Iowa Administrative Bulletin containing the proposed amendment, see IAB Vol. XXVII, No. 19 (3/16/05) p. 1266, ARC 4065B. No oral presentation was scheduled or requested.

Written comments addressing the proposed amendment were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Cox Iowa Telcom, L.L.C (Cox), the Rural Iowa Independent Telephone Association (RIITA), and Qwest Corporation (Qwest). Cox and RIITA support the proposed amendment. Consumer Advocate states it is necessary for the Board to broaden the scope of the proposed rule making in light of recent retail rate deregulation pursuant to 2005 Iowa Acts, House File 277. Consumer Advocate urges the Board to modify

the proposed amendment to require reporting by every provider of local exchange telecommunications services, including providers of wireless communications service, cable telephony services, and Voice-over Internet Protocol services.

Qwest's position is that the proposed amendment is not necessary after rate deregulation pursuant to House File 277 and because there are sufficient existing state and federal reporting requirements and prohibitions of discriminatory behavior between Qwest and its affiliates.

The Board has considered the comments of the parties and concludes that the proposed amendment is necessary to enable it to monitor the effects on competition of an ILEC and affiliated CLEC doing business in the same service territory. Retail rate deregulation pursuant to House File 277 does not reduce the need for these rules, but rather increases it. Retail rates are being deregulated because retail competition is expected to continue to increase. This makes it even more important for the Board to take reasonable steps to protect and promote the growth of retail competition. The Board concludes the amendment is reasonable and does not duplicate existing state or federal requirements.

The Board does not agree with Consumer Advocate that this is the appropriate time to broaden the application of these reporting requirements. If the Board finds at a later date that it needs more information to effectively assess the state of local exchange telecommunications competition in Iowa after retail rate deregulation, it will initiate a separate proceeding for that purpose.

The Board will adopt the amendment as published in the "Notice of Intended Action" in the Iowa Administrative Bulletin, as IAB Vol. XXVII, No. 19 (3/16/05) p. 1266, ARC 4065B.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-05-3, is adopted.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

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 17th day of May, 2005.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100 (2005), the Utilities Board (Board) gives notice that on May 17, 2005, the Board issued an order in Docket No. RMU-05-3, In re: Revisions to Affiliate Reporting Rules [199 IAC 31], "Order Adopting Amendment." The order adopted an amendment which was published under Notice of Intended Action in IAB Vol. XXVII, No. 19 (3/16/05) p. 1266, as ARC 4065B.

The amendment is made to 199 IAC 31, which contains utility affiliate reporting requirements. The purpose of the amendment is to give the Board information it needs to monitor the effects of allowing a competitive local exchange carrier (CLEC) to provide telecommunications service in the same service area as an incumbent local exchange carrier (ILEC) with which it is affiliated.

Written comments were filed by the Rural Iowa Independent Telephone Association, Cox Iowa Telcom, L.L.C., the Consumer Advocate Division of the Department of Justice, and Qwest Corporation. The comments did not result in any changes to the amendment. The Board's order adopting the amendment can be found on the Board's Web site, www.state.ia.us/iub.

The amendment will become effective July 13, 2005.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 476.73, 476.74, and 476.100.

The following amendment is adopted.

Renumber rules 199—31.4(476) to 199—31.8(476) as 199—31.5(476) to 199—31.9(476) and adopt **new** rule 199—31.4(476) as follows:

199—31.4(476) Additional filing requirements for affiliated telecommunications service providers. In addition to information provided to or filed with the board pursuant to this chapter, any incumbent local exchange carrier (ILEC) that provides service in the same service territory as a competitive local exchange carrier (CLEC) with which it is affiliated shall file with the board the information specified in this rule. "Service territory" refers to the area defined by the applicable telephone exchange area boundary maps on file with the board.

31.4(1) Commercial agreements filed. An ILEC shall file with the board all commercial agreements between the ILEC and its affiliated CLEC as they are made. For purposes of this subrule, "commercial agreements" includes, but is not limited to, agreements not otherwise included in and filed with the interconnection agreement between the ILEC and its affiliated CLEC.

31.4(2) Supplement to annual filing. An ILEC shall include the following information as part of its annual filing pursuant to rule 199—31.3(476):

- a. The number of local numbers ported by the ILEC to nonaffiliated CLECs.
- b. The number of local numbers ported by the ILEC to its affiliated CLEC.

c. The number of unbundled network element loops (UNE-Ls) provided by the ILEC to nonaffiliated CLECs.

d. The number of UNE-Ls provided by the ILEC to its affiliated CLEC.

e. The number of unbundled network element platforms (UNE-Ps), or their equivalent, provided by the ILEC to nonaffiliated CLECs.

f. The number of UNE-Ps, or their equivalent, provided by the ILEC to its affiliated CLEC.

g. The number of resale access lines provided by the ILEC to nonaffiliated CLECs.

h. The number of resale access lines provided by the ILEC to its affiliated CLEC.

i. The number of central office collocation sites provided by the ILEC to nonaffiliated CLECs.

j. The number of central office collocation sites provided by the ILEC to its affiliated CLEC.

May 17, 2005

/s/ John R. Norris

John R. Norris
Chairman