

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  VYCERA COMMUNICATIONS, INC.	DOCKET NOS. TCU-05-7 TF-05-128 WRU-05-30-3809
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**ORDER GRANTING APPLICATION, APPROVING CONCURRENCE IN MAPS,  
APPROVING TARIFF, GRANTING WAIVER, AND ISSUING CERTIFICATE**

(Issued July 11, 2005)

On April 21, 2005, Vycera Communications, Inc. (Vycera), filed with the Utilities Board (Board) an application for issuance of a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 (2005), stating its intention to provide local exchange service in the exchanges currently served by Qwest Corporation (Qwest). The application has been identified as Docket No. TCU-05-7. Vycera has provided financial statements and the qualifications of its company officers and has stated it will support a 2-PIC dialing methodology for dialing parity. No objections to the application were received.

Also on April 21, 2005, Vycera filed a proposed local exchange tariff with the Board providing the terms, conditions, and rates for local exchange service in listed exchanges as described in the exchange maps and boundaries of Qwest. Revisions to the proposed tariff were filed on June 17 and June 21, 2005. The proposed tariff and its revisions have been identified as TF-05-128.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest."

The Board has reviewed Vycera's application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. Vycera has also filed a statement indicating that it commits to utilizing thousand-block number pooling (TBNP), even in areas where TBNP is voluntary, to the extent it is technically feasible to do so.

Vycera also states that its service area will mirror the exchanges and service area maps of Qwest as they are currently filed and as they may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which landline local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board that show exchange boundaries. The Board finds that Vycera has complied with the statutory and rule requirements by concurring in the exchange maps of Qwest.

Vycera requests the Board waive the requirements of 199 IAC 16.5(2), 18.2, and 22.3(1). The waiver request has been identified as Docket No. WRU-05-30-3809.

Vycera requests a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform systems of accounts. Vycera states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted, since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider

Vycera also requested the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will grant the waiver based on Vycera's statement that it will make the records available to the Board upon request.

Vycera also requested a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant this waiver based upon Vycera's statement that it will arrange for its customers to be included in the directories published in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant waivers if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship on Vycera because other competitive carriers have been granted similar waiver requests. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantially equal protection for the public health, safety, and welfare provided since the actions waived will be completed under different circumstances.

The Board has reviewed the proposed tariff filed on April 21, 2005, and the revisions filed on June 17 and June 21, 2005, and finds that the revised tariff substantially complies with Board rules for the filing and processing of tariff pages. The tariff contains rates for both business and residential customers. Notice was provided to all affected carriers. The Board will approve the tariff effective the date of this order and issue Vycera a certificate of public convenience and necessity concurrent with this order.

**IT IS THEREFORE ORDERED:**

1. The application for a certificate of public convenience and necessity filed by Vycera Communications, Inc., on April 21, 2005, is granted.
2. The concurrence in the maps and boundaries of the exchanges of Qwest Corporation is approved.

3. The tariff filed by Vycera Communications, Inc., on April 21, 2005, as revised on June 17 and June 21, 2005, identified as TF-05-128, is approved effective the date of this order.

4. The waiver of 199 IAC 16.5(2), 18.2, and 22.3(1), identified as Docket No. WRU-05-30-3809, is granted as described in this order.

5. A certificate, identified as Certificate No. 0295, is being issued to Vycera Communications, Inc., concurrently with this order.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

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Dated at Des Moines, Iowa, this 11<sup>th</sup> day of July, 2005.