

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE ARBITRATION OF:

SPRINT COMMUNICATIONS COMPANY L.P.,

Petitioning Party,

vs.

ACE COMMUNICATIONS GROUP, CLEAR LAKE INDEPENDENT TELEPHONE COMPANY, FARMERS MUTUAL COOPERATIVE TELEPHONE CO. OF SHELBY, FARMERS TELEPHONE COMPANY, FARMERS MUTUAL TELEPHONE COMPANY, GRAND RIVER MUTUAL TELEPHONE CORPORATION, HEART OF IOWA COMMUNICATIONS COOPERATIVE, HEARTLAND TELECOMMUNICATIONS COMPANY OF IOWA d/b/a HICKORYTECH, HUXLEY COMMUNICATIONS, IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM f/k/a GTE MIDWEST, KALONA COOPERATIVE TELEPHONE, LA PORTE CITY TELEPHONE COMPANY, LEHIGH VALLEY COOPERATIVE TELEPHONE ASSOCIATION, LOST NATION-ELWOOD TELEPHONE COMPANY, MINBURN TELECOMMUNICATIONS, INC., ROCKWELL COOPERATIVE TELEPHONE ASSOCIATION, SHARON TELEPHONE, SHELL ROCK TELEPHONE COMPANY d/b/a BEVCOMM c/o BLUE EARTH VALLEY TELEPHONE COMPANY, SOUTH CENTRAL COMMUNICATIONS, INC., SOUTH SLOPE COOPERATIVE TELEPHONE COMPANY, SWISHER TELEPHONE COMPANY, VAN BUREN TELEPHONE COMPANY, INC., VENTURA TELEPHONE COMPANY, INC., VILLISCA FARMERS TELEPHONE COMPANY, WEBSTER CALHOUN COOPERATIVE TELEPHONE ASSOCIATION, WELLMAN COOPERATIVE TELEPHONE ASSOCIATION, and WEST LIBERTY TELEPHONE COMPANY d/b/a LIBERTY COMMUNICATIONS,

Responding Parties.

DOCKET NO. ARB-05-2

**RECONSIDERATION OF ORDER GRANTING IN PART AND DENYING IN PART  
MOTION TO COMPEL**

(Issued October 6, 2005)

On March 31, 2005, Sprint Communications Company L.P. (Sprint) filed a petition with the Utilities Board (Board) requesting arbitration of certain terms and conditions of a proposed interconnection agreement between Sprint and several rural incumbent local exchange carriers,<sup>1</sup> hereinafter referred to as the RLECs.

On September 7, 2005, the RLECs filed "Responding Parties' Motion to Compel or, in the Alternative, Motion to Strike and Motion for Leave to Submit Supplemental Testimony." In their filing, the RLECs request that Sprint be required to respond to Data Request Nos. 1 and 9. Further, the RLECs informed the Board of a potential dispute regarding the provision of an unredacted version of the contract between Sprint and MCC Telephony of Iowa, Inc.

A response was filed by Sprint on September 12, 2005. On September 16, 2005, the RLECs filed a reply to the response of Sprint. On September 28, 2005, the Board issued its "Order Granting in Part and Denying in Part Motion to Compel."

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<sup>1</sup> Ace Communications Group, Clear Lake Independent Telephone Company, Farmers Mutual Cooperative Telephone Co. of Shelby, Farmers Telephone Company, Farmers Mutual Telephone Company, Grand River Mutual Telephone Corporation, Heart of Iowa Communications Cooperative, Heartland Telecommunications Company of Iowa d/b/a HickoryTech, Huxley Communications, Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom f/k/a GTE Midwest, Kalona Cooperative Telephone, La Porte City Telephone Company, Lehigh Valley Cooperative Telephone Association, Lost Nation-Elwood Telephone Company, Minburn Telecommunications, Inc., Rockwell Cooperative Telephone Association, Sharon Telephone, Shell Rock Telephone Company d/b/a BEVCOMM c/o Blue Earth Valley Telephone Company, South Central Communications, Inc., South Slope Cooperative Communications Company, Swisher Telephone Company, Van Buren Telephone Company, Inc., Ventura Telephone Company, Inc., Villisca Farmers Telephone Company, Webster Calhoun Cooperative Telephone Association, Wellman Cooperative Telephone Association, and West Liberty Telephone Company d/b/a Liberty Communications.

On September 29, 2005, Sprint filed a motion for reconsideration of the order concerning the motion to compel. The Board ordered Sprint to produce the contracts between Sprint and Wide Open West, Time Warner Cable, Wave Broadband, and Blue Ridge Communications. Sprint indicates in its motion that it does not know how long it would take to gain the cooperation of all four cable companies to produce the contracts. As an alternative, Sprint strikes the testimony of James Burt at lines 477 to 482.

As the RLECs point out in their response, filed October 4, 2005, Sprint's principal rationale for reconsideration of the Board's May 26, 2005, "Order Granting Motions to Dismiss" is for the Board to consider the argument that Sprint is a common carrier because of the allegation that Sprint provides its services indifferently to all potential users. In support of that allegation, Sprint argues, among other things, that it is offering the same or similar services to other users. As long as that continues to be one of the underlying premises of the Sprint argument, the RLECs have the right to review the terms and conditions under which Sprint provides its services to those other users.

The Board agrees with the RLECs that notification to the cable companies that production of the contracts was being requested should have been made at the time the data requests were received (August 26, 2005). Sprint should not have waited to make those contacts until after the Board issued its order compelling production. Further, the protective agreement that was filed as Exhibit 2 to Sprint's response to

the motion to compel on September 12, 2005, is not limited to the production of one document. It appears the protective agreement is adequate to cover all documents in the proceeding that contain proprietary or confidential information and can be applied to the contracts in question.

On October 5, 2005, Sprint filed a supplement to its motion for reconsideration indicating that if the Board denies Sprint's motion for reconsideration, Sprint requests that the Board order that the four contracts be produced in the same way and under the same terms as the MCC Agreement was produced; specifically, the contracts should be reviewed on an "attorney eyes only" basis and dollar amounts and dates should be redacted.

In a response to the supplement filed on October 6, 2005, the RLECs agree that the protective agreement should govern the production of the four contracts. Counsel for the RLECs has agreed to review those redacted contracts, as with the MCC agreement, on an attorney's eyes only basis with the specific dollar amounts and dates redacted. This appears to resolve this issue and the Board will not address it further.

**IT IS THEREFORE ORDERED:**

The "Motion for Reconsideration of the Board's Order Granting in Part and Denying in Part the Motion to Compel," filed September 29, 2005, by Sprint Communications Company L.P. is denied as discussed in this order.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 6<sup>th</sup> day of October, 2005.