

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  COMM SOUTH COMPANIES, INC.	DOCKET NO. WRU-05-45-3189 (TCU-98-5)
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**ORDER GRANTING WAIVER**

(Issued October 10, 2005)

On September 19, 2005, Comm South Companies, Inc. (Comm South), filed with the Utilities Board (Board) a request for a waiver of 199 IAC 22.16 regarding the discontinuation of service to customers in certain Iowa locations. The request has been identified as Docket No. WRU-05-45-3189. No objection to the request has been filed.

In support of its request, Comm South states that it has filed Chapter 7 bankruptcy and is in the process of liquidating its assets and discontinuing its provision of pre-paid residential and pay telephone service. Comm South states that it provided at least 30 days' notice to its Iowa residential customers informing them that pre-paid residential service would be discontinued effective October 10, 2005. Comm South also states that it provided its pay telephone customers more than 90 days' notice of its discontinuance of service so that those customers could make a transition to another carrier.

Comm South requests a waiver of 199 IAC 22.16, which provides that discontinuance of service cannot take place until 90 days after the filing of a notice of

intent to discontinue. Comm South plans to discontinue service to affected customers within 90 days of the date Comm South filed a notice of intent to discontinue with the Board. To grant the waiver, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.16 should be granted based on the Board's review of the information provided by Comm South. The Board finds that granting the waiver request will not pose an undue hardship on Comm South's customers as those customers have already received notice and opportunity to select an alternative service provider. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all of Comm South's affected customers have received notice of the discontinuance of service and have been afforded a reasonable opportunity to change providers.

**IT IS THEREFORE ORDERED:**

The waiver request filed by Comm South Companies, Inc., on September 19, 2005, is granted as described 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 10<sup>th</sup> day of October, 2005.