

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

**ORDER REVISING BRIEFING SCHEDULE
AND ESTABLISHING RESPONSE TIME**

(Issued October 19, 2005)

On October 4, 2005, the Utilities Board (Board) issued an order scheduling a prehearing conference in this matter and establishing a briefing schedule. That briefing schedule contemplated a single round of written briefs, due on October 26, 2005. At the prehearing conference, however, the parties indicated they would prefer a somewhat more extended briefing schedule, with initial briefs and reply briefs, if the Court agreed to extend its remand accordingly.

On October 17, 2005, the Court entered an order extending the remand to November 21, 2005. This is sufficient to allow the Board to accommodate the parties' preferred briefing schedule. Initial written briefs will be due on October 28, 2005, and reply briefs on November 2, 2005.

Hearing in this matter was convened on October 18, 2005. At the beginning of the hearing, Sprint Communications Company L.P. (Sprint) asked the Board to take official notice of a tariff filing Sprint made with the Board on October 17, 2005. (The tariff filing is identified as TF-05-286.) The Respondent rural incumbent local exchange carriers¹ objected to Sprint's request, arguing that the proposed new tariff

¹ 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.

pages had been filed only the day before and the Respondents had not had a fair opportunity to review the new information, conduct discovery, and consider whether to request the opportunity to submit additional evidence relevant to the proposed new tariff pages.

The Board overruled the Respondents' objection and took official notice of the tariff filing, but at the same time the Board indicated it would give the Respondents an opportunity to review the new information and respond to it, if they concluded a response is appropriate. At the close of the hearing, the Board and the parties engaged in some discussion regarding the precise terms and conditions of the Respondents' opportunity for review. It is possible that the discussion may not have resulted in complete understanding on the part of the Board and the parties, so this order will clarify the situation.

The Respondents have until Monday, October 24, 2005, to review the proposed new tariff pages, conduct discovery, and respond to the new tariff pages if they believe a response is necessary. Sprint is directed to respond to any discovery requests relating to the proposed new tariff pages in the shortest time possible to make this date workable. The Board is relying on the parties to work in good faith in this respect, but the Board cannot help but note that this situation was created when Sprint chose to file the proposed new tariff pages on the day before the hearing was scheduled to commence, putting the Respondents and the Board in this difficult

position. If further problems arise as a result of this situation, the Board is likely to look first to Sprint to solve them.

Any response filed by the Respondents should be limited to the potential effect of the proposed new tariff pages on the matter before the Board, that is, whether Sprint's proposed activities make it a "telecommunications carrier" for purposes of 47 U.S.C. §§ 251 and 252. However, the Board will not attempt to dictate the form that the response should take. Instead, the Board will expect the Respondents to clearly indicate whether their written response will be adequate or whether the Respondents believe an additional hearing will be required. The Board will give Sprint three days to reply and will then order such additional procedures as the Board finds to be necessary and appropriate. Absent further order of the Board, however, the briefing schedule will remain as established by this order.

IT IS THEREFORE ORDERED:

1. The briefing schedule in this docket is revised as follows: Initial briefs may be filed on or before October 28, 2005, and reply briefs may be filed on or before November 2, 2005.
2. On or before October 24, 2005, the Respondents may file a response to Sprint's proposed tariff filing, identified as TF-05-286. Any such response shall be limited to the possible effect of the proposed new tariff on the issue currently before the Board, that is, whether Sprint's proposed activities make it a "telecommunications carrier" for purposes of 47 U.S.C. §§ 251 and 252.

3. On or before October 27, 2005, Sprint may file a reply to the Respondents' October 24, 2005, response.

UTILITIES BOARD

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 19th day of October, 2005.