

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QUALITY OF SERVICE REPORTING BY ELIGIBLE TELECOMMUNICATIONS CARRIERS [199 IAC 39]	DOCKET NO. RMU-05-4
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ORDER ADOPTING RULES

(Issued October 21, 2005)

Pursuant to the authority of Iowa Code §§ 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) is adopting the amendments attached hereto and incorporated herein by reference. On February 21, 2005, the Board issued an order in Docket No. RMU-05-4, In re: Quality of Service Reporting by Eligible Telecommunications Carriers, "Order Commencing Rule Making." In the rule making, the Board proposed to amend 199 IAC 39 so as to require designated eligible telecommunications carriers (ETCs) to provide quality of service reporting to the Board.

"Notice of Intended Action" was published in IAB Vol. XXVII, No. 19 (3/16/05) p. 1267, as ARC 4064B. Written comments were filed on or before April 4, 2005, by the following seven participants: Cox Iowa Telcom, LLC (Cox); Iowa Telecommunications Association (ITA); Rural Iowa Independent Telephone Association (RIITA); U.S. Cellular Corporation (U.S. Cellular); Iowa Wireless Coalition, which consists of WWC License, LLC, d/b/a Cellular One, NPCR, Inc.,

d/b/a Nextel Partners, and Midwest Wireless Iowa, LLC (collectively referred to as the Coalition); Qwest Corporation (Qwest); and the Consumer Advocate Division of the Department of Justice (Consumer Advocate). A public hearing to receive oral comments on the proposed amendments was held on May 11, 2005.

Telecommunications carriers that wish to receive federal universal service funding must be designated as an ETC. State commissions have the primary responsibility of making that designation. See 47 U.S.C. § 214(e)(2). The Board's current rules in 199 IAC 39 outline the requirements a telecommunications carrier must meet when applying to the Board for an ETC designation.

The Federal Communications Commission (FCC) has identified four criteria that must be met before the Board designates an ETC. Those criteria, enumerated in 199 IAC 39.2, require that a prospective ETC must:

- 1) Offer the services supported by the federal universal service fund;
- 2) Offer services using its own facilities or a combination of its own facilities and resale (47 CFR § 54.301(c) provides that "own facilities" includes purchased unbundled network elements);
- 3) Advertise the availability of the supported services; and
- 4) Offer the services throughout the designated service area.

In addition, an ETC must also offer an unspecified minimum amount of local exchange service, defined in usage minutes, at no additional cost to customers. See 199 IAC 39.2(1)"b."

Since the issuance of the Board's February 21, 2005, order in this rule making, the FCC adopted additional requirements for ETC proceedings in CC Docket No. 96-45, issued March 17, 2005.¹ In this order, the FCC encourages state commissions to adopt its recommendations regarding the analysis of ETC designation applications and to adopt its annual certification reporting requirements.

The proposed rules in this proceeding overlap in part with the recommended guidelines identified in the FCC's "Report and Order," but overall, the FCC has adopted more specific reporting requirements. The FCC's "Report and Order" is similar to the Board's proposed rules in two respects. First, both the "Report and Order" and the proposed rules establish specific annual reporting requirements specifically relating to quality of service, namely local usage, access to emergency services, answer time, and retail locations. Second, both the FCC and the Board's proposed rules require an ETC to certify annually that it is offering a local usage plan comparable to that being offered by the incumbent local exchange carrier (ILEC) in the relevant service areas. The similarities end there, however, as the FCC's "Report and Order" recommends several annual reporting and certification requirements for ETCs that were not addressed in this proceeding. These requirements include, but

¹ See In the Matter of Federal State Joint Board on Universal Service, "Report and Order," CC Docket No. 96-45, issued March 17, 2005.

are not limited to, a demonstration of commitment to provide service throughout the ETC's designated service area to all customers making a reasonable request for service; the submission of a five-year plan describing proposed improvements to the ETC's network; certification that the ETC is complying with applicable service quality standards and consumer protection rules; certification that the ETC is able to function in emergency situations; and certification that the ETC acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

Due to the overlap between the FCC's "Report and Order" and the Board's proposed rules in this proceeding, the Board will adopt only a few of the proposed reporting requirements contained in the notice of intended action. The Board anticipates initiating a subsequent rule making to address the reporting requirements, eligibility requirements, public interest determinations, and annual certifications that were raised in the FCC's "Report and Order." As such, the Board will not adopt the proposed rules regarding coverage and build-out plans, service connection delays, and detailed outage reports, as they are better reviewed in the subsequent rule making.

The Board will, however, adopt the proposed rules regarding local usage, access to emergency services, answer time, and retail locations. The Board notes that with respect to its proposed rule regarding access to emergency services, the Coalition asserted that the focus of the rule should be on where an ETC is providing

automatic numbering information (ANI) and automatic location information (ALI) as part of its E-911 services. The Board agrees with the Coalition's assertion and will amend the proposed rule to reflect the Coalition's suggestions.

In addition, with respect to answer time reporting, the Coalition asserts that it is impossible for wireless carriers to track answer-time data because call centers operate on a regional or national basis and there is no way to distinguish a call coming from Iowa or another state. The Coalition suggests revising the proposed rule to track average hold time for all callers, not just Iowa customers. The Board finds that this suggestion is a reasonable one and will amend the proposed rule to reflect the Coalition's suggestions.

Finally, with respect to retail locations reporting requirements, the Coalition recommends expanding the rule to include the ETC's telephone numbers, hours of service, and Web addresses. The Coalition also recommends clarifying the proposed rule to address carrier owned retail locations. The Board finds this suggestion to be reasonable and will amend the proposed rule to reflect the Coalition's suggestions.

These rules will be deemed effective December 14, 2005. However, the first reports from eligible carriers shall be filed with the Board pursuant to these rules on or before September 1, 2006.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-05-4, is adopted.
2. The Executive Secretary is directed to submit for publication in the 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/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 21st day of October, 2005.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) gives notice that on October 21, 2005, the Board issued an order in Docket No. RMU-05-4, In re: Quality of Service Reporting by Eligible Telecommunications Carriers [199 IAC 39], "Order Adopting Rules," by which the Board adopted amendments to paragraph 39.3(1)"b" and new paragraph 39.5 regarding the requirement of quality of service reporting to the Board by eligible telecommunications carriers (ETCs) regarding those services that are supported by the federal universal service fund.

Notice of Intended Action was published in the IAB Vol. XXVII, No. 19 (3/16/05) p. 1267, as ARC 4064B. Written comments were filed on or before April 5, 2005. A public hearing to receive oral comments on the proposed amendments was held on May 11, 2005.

Written comments were filed by the following seven parties: Cox Iowa Telcom, LLC; Iowa Telecommunications Association; Rural Iowa Independent Telephone Association; U.S. Cellular Corporation; Iowa Wireless Coalition, which consists of WWC License, LLC, d/b/a Cellular One, NPCR, Inc., d/b/a Nextel Partners, and Midwest Wireless Iowa, LLC; Qwest Corporation; and the Consumer Advocate Division of the Department of Justice. A summary of the comments filed and the amendments adopted can be found in the Board's order located on the Board's Web site, www.state.ia.us/iub, or hard copy

in the Board's Records Center, 350 Maple Street, Des Moines, Iowa, 50319-0069. The Board determined based upon a recent order by the Federal Communications Commission (FCC) and the submitted comments that the proposed amendments to 199 IAC 39.3(1)"b" should be adopted with modification and new rule 39.5 should also be adopted with modification.

These amendments are intended to implement Iowa Code section 476.2 and 47 U.S.C. § 214(e) and amends Chapter 39 – Universal Service.

These amendments will become effective December 14, 2005. The first reporting by eligible carriers shall be submitted to the Board on or before September 1, 2006. The following amendments are adopted.

ITEM 1. Amend paragraph 39.3(1)"b" to read as follows:

b. Eligible carriers that do not file tariffs with the Board shall include the Link-up and Lifeline offerings in their agreements to provide service to customers. These eligible carriers shall file with the Board copies of their current customer service agreements.

ITEM 2. Add new rule 199—39.5(476) to read as follows:

199—39.5(476) Quality of service reporting by eligible telecommunications carriers. Carriers designated by the utilities board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e) must measure and report to the board quality of service performance for the criteria listed below. Quality of service reporting shall be provided annually in a format determined by the board.

1. Local usage. The amount of minutes of service provided each month, without any additional charge, as part of the ETC-eligible service.

2. Access to emergency services. A listing of each area in Iowa where the eligible carrier currently provides Phase I and Phase II E-911.

3. Answer time. The average time that each customer is left on hold when calling an eligible carrier's customer service center, regardless of the location from which the customer is calling.

4. Retail locations. The number, location, hours of service, and telephone number for each carrier-owned retail location in Iowa, as well as the eligible carrier's Web address and toll-free customer service number.

October 21, 2005

/s/ John R. Norris

John R. Norris
Chairman