

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>MCC TELEPHONY OF IOWA, INC., AND SPRINT COMMUNICATIONS COMPANY L.P.,</p> <p style="text-align:center">Petitioners,</p> <p style="text-align:center">v.</p> <p>SPENCER MUNICIPAL UTILITIES,</p> <p style="text-align:center">Respondent.</p>	<p>DOCKET NO. FCU-05-70</p>
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ORDER GRANTING DISMISSAL AND CLOSING DOCKET

(Issued December 30, 2005)

On November 18, 2005, MCC Telephony of Iowa, Inc. (MCC), and Sprint Communications Company L.P. (Sprint) filed with the Utilities Board (Board) a "Complaint and Request for Injunctive Relief and Expedited Schedule" (the Complaint). MCC and Sprint allege that Spencer Municipal Utilities (SMU) is engaging in prohibited and anticompetitive acts.

Specifically, MCC and Sprint allege that MCC is a competitive local exchange carrier (CLEC) providing service in the exchange that serves the city of Spencer, among others, relying in part on wholesale services from Sprint to provide MCC's retail service. SMU is also a CLEC serving the city of Spencer as well as certain surrounding areas.

On or about November 3, 2005, MCC became aware that some SMU customers were only able to complete calls to MCC numbers in the same local exchange by dialing 1+ and, presumably, incurring toll charges. According to the complaint, Sprint has offered a "traffic exchange agreement" to SMU, which was not accepted.

An answer was filed on November 30, 2005, in which SMU did not deny the calling pattern analysis described in the complaint, but did deny that there were any violations of law. According to the answer, neither Sprint nor MCC made any contact with SMU concerning the intent of MCC to commence service in the Spencer exchange, nor did either make any arrangements with SMU for exchanging traffic with SMU prior to MCC's offering and providing service to customers in the SMU exchange.

On December 19, 2005, MCC and Sprint filed a request to dismiss the complaint against SMU, without prejudice, stating that since the date of the filing of the complaint, "MCC and Sprint have learned that SMU has started rating and routing calls correctly from SMU customers to MCC customers in the same local calling area." (Dismissal Without Prejudice, p. 1.) In addition, the filing notes that SMU and Sprint are currently negotiating an agreement to exchange local traffic.

The Board will grant MCC and Sprint's request to dismiss the complaint without prejudice.

IT IS THEREFORE ORDERED:

The "Dismissal Without Prejudice" filed on December 19, 2005, by MCC Telephony of Iowa, Inc., and Sprint Communications Company L.P. is granted and this docket is closed.

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 30th day of December, 2005.