

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: WESTERN WIRELESS LLC, d/b/a CELLULAR ONE	DOCKET NO. FCU-06-2 (Iowa Code § 477C.7)
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**ORDER OPENING DOCKET AND GIVING NOTICE
PURSUANT TO IOWA CODE § 476.51**

(Issued January 18, 2006)

On April 6, 2005, Governor Vilsack signed into law an act, identified as Senate File 264 (SF 264), which amended Iowa Code § 477C.7. SF 264 became effective on July 1, 2005. The amendment related to the funding of the dual party relay service (DPRS) and the method of assessment on telecommunications carriers providing telephone service in the state of Iowa. Among other things, the amendment requires that wireless communications service providers pay part of the cost of the DPRS.

On June 17, 2005, the Utilities Board (Board) issued an "Order Requiring Reporting and Assessment and Granting Confidentiality" in Docket No. Iowa Code § 477C.7. In that order, the Board described the situation and directed wireless communications providers to make certain filings.

Under the previous law, the DPRS was funded through an assessment that was allocated one-half to local exchange telephone utilities and one-half to a group consisting of interexchange carriers (IXCs), centralized equal access carriers, and alternative operator service (AOS) companies. The new law re-allocates the

assessment by requiring that wireless communications service providers pay 3 cents per month per wireless communications service number provided in Iowa; the remainder of the assessment is allocated proportionally based on intrastate revenue, one-half to local exchange service providers and one-half to the group of IXCs, centralized equal access providers, and AOS companies.

To enable the Board to allocate the remainder assessment as accurately as possible, the order of June 17, 2005, directed wireless service providers to submit quarterly reports that include specific retail line count information and estimates of future retail line counts as well as payment for the assessed cost at 3 cents per number per month.¹ The Board directed that initial reports, without any payments, be submitted on or before June 30, 2005, providing an actual number of retail lines being used by wireless service provider in Iowa as of May 31, 2005. The Board further ordered that each wireless service provider file subsequent quarterly reports and corresponding assessment payments with the Board within 30 days after the close of each calendar quarter. Reports and payments are therefore due on or before October 31, January 31, April 30, and July 31 for the previous calendar quarter.

¹ Iowa Code § 477C.7(4) (2005) specifies that, "telecommunications carriers subject to assessment shall provide the information requested by the board necessary for implementation of the assessment."

In recognition of administrative burdens associated with the implementation of the amended statute, the Board established a *de minimus* exception that requires wireless telecommunications service providers that have less than 200 lines² in Iowa throughout a calendar quarter to submit quarterly reports to the Board, but exempts them from submitting an assessment payment.

Iowa Code § 476.51 (2005) states that a public utility which, after written notice by the Board of a specific violation, violates the same provision of an order of the Board, is subject to civil penalties of not less than \$100 or more than \$2,500 per violation. If the utility willfully violates the same provision of a Board order, the civil penalty is not less than \$1,000 or more than \$10,000 per violation. A wireless communications service provider that fails to file reports or submit assessment payments pursuant to the Board's June 17, 2005, order may be subject to those penalties.

Western Wireless LLC, d/b/a Cellular One (Cellular One), filed the initial report identifying company contact information and specific line count information as of May 31, 2005, as required by the Board's June 17, 2005, order. However, the Board's staff has noted a large discrepancy in the reported number of lines when compared to numbers obtained directly from Neustar, Inc. (Neustar), the North American Numbering Plan Administrator, regarding the assigned number resources of wireless carriers in Iowa.

² The Board clarified that it was seeking only line count information for retail lines that are currently in use in Iowa during the months being reported. Further, the Board defined "wireless communications service number" as a revenue-producing telephone number used by a wireless communications service provider.

Further, Cellular One did not file a report for the quarter ending September 30, 2005, which was due on October 31, 2005. Additionally, no assessment payment was submitted.

It appears that Cellular One has violated the portion of the June 17, 2005, order requiring that wireless telecommunications service providers in Iowa remit a report of the numbers in service each month of the quarter ending September 30, 2005, as Cellular One has failed to remit an assessment payment equal to 3 cents per month per number providing service in Iowa. Accordingly, Cellular One shall remit to the Board by January 31, 2006, a report of the numbers in service for the months of July, August, and September 2005, along with the regular report for the last quarter of 2005. Additionally, an assessment payment equal to 3 cents per month per number providing service in Iowa shall be submitted with each of the reports. Cellular One shall also submit to the Board by January 31, 2006, a written explanation of the difference between the assigned number resources on file with Neustar and the line counts submitted to the Board in the June 30, 2005, report. In the alternative, Cellular One shall submit, on or before January 25, 2006, prefiled testimony showing cause why it should not be found in violation of the Board's order of June 17, 2005.

IT IS THEREFORE ORDERED:

1. Docket No. FCU-06-2 is opened to review compliance with the Board's June 17, 2005, order in Docket No. Iowa Code § 477C.7 by Western Wireless LLC, d/b/a Cellular One.

2. Western Wireless LLC, d/b/a Cellular One, shall file with the Board by January 31, 2006, an explanation between the assigned number resources on file with Neustar and the line counts submitted to the Board in the June 30, 2005, report.

3. Western Wireless LLC, d/b/a Cellular One, shall remit to the Board by January 31, 2006, a report of the numbers in service for the months of July, August, and September 2005. Additionally, an assessment payment equal to 3 cents per month per number providing service in Iowa shall be submitted with the report.

4. Western Wireless LLC, d/b/a Cellular One, is hereby given notice pursuant to the provisions of Iowa Code § 476.51 of the apparent violations of the Board's June 17, 2005, order as described in this order and of the requirements for corrective action directed in this order. Failure to comply with this direction for corrective action may result in a civil penalty action. If the company disagrees with this finding of violation, it shall, on or before January 25, 2006, submit prefiled testimony and exhibits in support of its position.

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 18th day of January, 2006.