

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

IOWA RSA-7, L.P.,
IOWA 8-MONONA, L.P.,
IOWA RSA-10, GENERAL PARTNERSHIP,
CELLULAR INC. NETWORK CORP.,
DES MOINES MSA, GENERAL PARTNERSHIP,
DUBUQUE MSA, L.P.,
GTE WIRELESS OF THE MIDWEST, INC.,
IOWA RSA #4, L.P.,
IOWA RSA #5, L.P.,
OMAHA CELLULAR TELEPHONE COMPANY,
SIOUX CITY MSA, L.P.,
SOUTHWEST CO. WIRELESS, L.P.,
WATERLOO MSA, L.P., and
VERIZON WIRELESS (VAW) LLC.
(each of these companies are d/b/a VERIZON
WIRELESS)

DOCKET NO. FCU-06-10
(Iowa Code § 477C.7)

ORDER OPENING DOCKET

(Issued January 24, 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

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.”

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.

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.

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.

Each of the following companies submitted a quarterly report for the months of July, August, and September 2005: Iowa RSA-7, L.P., Iowa 8-Monona, L.P., Iowa RSA-10, General Partnership, Cellular Inc. Network Corp., Des Moines MSA, General Partnership, Dubuque MSA, L.P., GTE Wireless of the Midwest, Inc., Iowa RSA #4, L.P., Iowa RSA #5, L.P., Omaha Cellular Telephone Company, Sioux City MSA, L.P., Southwest Co. Wireless, L.P., Waterloo MSA, L.P., and Verizon Wireless (VAW) LLC. All of these companies are doing business as Verizon Wireless. In each quarterly report, line counts for the month of July were omitted. Additionally, no assessment payment was submitted with the reports for the month of July 2005.

The Board's staff has attempted to investigate any rationale for the omitted information and assessment payments for the month of July. During conversations with contact personnel from the companies, staff was informed that because the companies did not begin collecting the assessment from its customers until August 2005, the assessment payment was not made for the month of July.

Wireless carriers were made subject to the dual party relay assessment by Senate File 264 of the most recent session of the General Assembly, which amended Iowa Code § 477C.7(2) to provide, in relevant part, as follows:

2. The total assessment shall be allocated as follows:
 - a. Wireless communications service providers shall be assessed three cents per month for each wireless communications service number provided in this state.

The amendment of § 477C.7(2) became effective on July 1, 2005, pursuant to Iowa Code § 3.7(1). Therefore, the dual party relay assessment became applicable to wireless carriers on that date. The assessment statute is silent regarding the ability or right of wireless carriers to recover this assessment from their customers.

Although the Board is unable to conceive of any argument that a wireless carrier's failure to collect 3 cents from each of its Iowa customers somehow relieves the carrier of the duty to pay the assessment, it will provide each of these companies doing business as Verizon Wireless an opportunity to submit evidence to the contrary.

The Board directs each of these companies to either (a) submit prefiled testimony in support of its (apparent) claim that it is not required to pay the assessment for July 2005, or (b) file the information and submit the assessment payment by no later than January 31, 2006.

IT IS THEREFORE ORDERED:

1. Docket No. FCU-06-10 is opened to review compliance with the Board's June 17, 2005, order in Docket No. Iowa Code § 477C.7, by Iowa RSA-7, L.P., Iowa 8-Monona, L.P., Iowa RSA-10, General Partnership, Cellular Inc. Network Corp., Des Moines MSA, General Partnership, Dubuque MSA, L.P., GTE Wireless of the Midwest, Inc., Iowa RSA #4, L.P., Iowa RSA #5, L.P., Omaha Cellular Telephone Company, Sioux City MSA, L.P., Southwest Co. Wireless, L.P., Waterloo MSA, L.P.,

and Verizon Wireless (VAW) LLC. (each of these companies are d/b/a VERIZON WIRELESS).

2. Iowa RSA-7, L.P., Iowa 8-Monona, L.P., Iowa RSA-10, General Partnership, Cellular Inc. Network Corp., Des Moines MSA, General Partnership, Dubuque MSA, L.P., GTE Wireless of the Midwest, Inc., Iowa RSA #4, L.P., Iowa RSA #5, L.P., Omaha Cellular Telephone Company, Sioux City MSA, L.P., Southwest Co. Wireless, L.P., Waterloo MSA, L.P., and Verizon Wireless (VAW) LLC shall remit to the Board by January 31, 2006, a report of the numbers in service for the month of July 2005. Additionally, an assessment payment equal to 3 cents per month per number providing service in Iowa shall be submitted with the report. Alternatively, prefiled testimony in support of an apparent claim that no assessment was due for July 2005 may be filed on January 31, 2006.

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 24th day of January, 2006.