

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: COMTEL TELCOM ASSETS LP	DOCKET NOS. TCU-05-17 TF-05-311, WRU-05-49-3825 (SPU-05-23)
---------------------------------------	--

**ORDER GRANTING APPLICATION, APPROVING CONCURRENCE IN MAPS,
APPROVING TARIFF, GRANTING WAIVER, AND ISSUING CERTIFICATE**

(Issued February 21, 2006)

On November 23, 2005, VarTec Telecom, Inc., Excel Telecommunications, Inc., and VarTec Solutions, Inc. (together, the VarTec Companies), along with Comtel Telcom Assets LP (Comtel), filed with the Utilities Board (Board) a joint application for consent to transfer assets. The parties have entered into a transaction that will result in the discontinuance of service in Iowa by the VarTec Companies and continuance of service by Comtel. The Board considered the parties' application for consent to transfer assets as a joint application for discontinuance of service, identified the matter as Docket No. SPU-05-23, and, on December 14, 2005, issued an order docketing and suspending the application pending clarification of the date the VarTec Companies will discontinue service and Comtel will begin service.

Along with the joint application for discontinuance of service, Comtel filed an application for a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 (2005), stating its intention to provide local exchange service in Iowa. The application has been identified as Docket No. TCU-05-17. Comtel has provided

financial statements and the qualifications of its company officers and has stated it will support a 2-PIC dialing methodology for dialing parity. Comtel also filed a statement indicating it will use thousand-block number pooling to the extent it is technically feasible to do so. Comtel states notice of its application was provided to all affected carriers. No objections to the application were received.

Also on November 23, 2005, Comtel filed a proposed local exchange tariff for Board approval. Comtel's proposed tariff and revisions filed on February 16, 2006, were identified as TF-05-311.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest."

The Board has reviewed Comtel's application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. The Board also finds it is in the public interest to approve Comtel's application.

Comtel states it intends to provide local exchange service to customers in the exchange areas served by Qwest Corporation (Qwest) and asks for approval to concur with the exchange and service areas contained in tariffs as filed with the Board by Qwest. Iowa Code § 476.29(4) requires that each certificate define the service territory in which landline local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing

maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board that show exchange boundaries. The Board finds that Comtel has complied with the requirements of the statute and rule by concurring in the exchange maps of Qwest.

Comtel also requests a waiver of certain Board rules. The waiver request was identified as Docket No. WRU-05-49-3825. Comtel requests a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform systems of accounts. Comtel states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board will grant this waiver because records kept in accordance with GAAP are acceptable for a competitive local exchange service provider.

Comtel also requests that the requirements of 199 IAC 18.2 be waived. This rule requires that a regulated public utility keep its records in Iowa. Comtel states this requirement would be burdensome because it maintains its operations in Dallas, Texas. The Board will grant the waiver based on Comtel's statement that it will make the records available to the Board upon request at any place designated by the Board.

Finally, Comtel requests a waiver of 199 IAC 22.3(1), which would require Comtel to independently publish a directory. The Board will grant the waiver based on Comtel's statement that it will arrange for its customers to be included in the directories published in the areas in which it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant waivers if it finds, based upon clear and convincing evidence, that application of the rule would pose undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests described above and finds that each waiver meets the criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. Other competitive carriers have been granted similar waiver requests. The Board finds no substantial legal rights of any person are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds there will be substantially equal protection for health, safety, and welfare provided since the actions waived will be accomplished notwithstanding the waivers.

The Board has reviewed the proposed tariff filed on November 23, 2005, and the revisions filed on February 16, 2006, and finds that the revised tariff substantially complies with Board rules for the filing and processing of tariff pages. Notice was provided to all affected carriers. The Board will approve the tariff effective the date of this order and issue Comtel a certificate of public convenience and necessity concurrent with this order.

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience and necessity filed by Comtel Telcom Assets LP on November 23, 2005, is granted.
2. The concurrence by Comtel Telcom Assets LP in the maps and boundaries of Qwest Corporation is approved.
3. The tariff filed by Comtel Telcom Assets LP on November 23, 2005, as revised on February 16, 2006, identified as TF-05-311, is approved effective the date of this order.
4. The request for waiver of 199 IAC 16.5(2), 18.2, and 22.3(1), identified as Docket No. WRU-05-49-3825, is granted as described in this order.
5. A certificate, identified as Certificate No. 0302, is being issued to Comtel Telcom Assets LP concurrently with 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 February, 2006.