

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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IN RE:  KENTUCKY DATA LINK, INC.	DOCKET NOS. TCU-06-2 WRU-06-4-3835
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**ORDER IN LIEU OF CERTIFICATE**

(Issued March 31, 2006)

On January 31, 2006, Kentucky Data Link, Inc. (KDL), filed with the Utilities Board (Board) an application for a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 and a request for waiver of the requirements of 199 IAC 16.5, 18.2, and 22.3. The application is identified as Docket No. TCU-06-2; the waiver request is identified as Docket No. WRU-06-4-3835. In support of its application, KDL states that it plans to offer dedicated transport and data services to enterprise customers and other common carriers.

On March 22, 2006, KDL filed a request to withdraw its application and request for waiver, as the services proposed by KDL do not qualify for certification under § 476.29. As an alternative to obtaining a certificate, KDL requests an order from the Board in lieu of a certificate similar to that issued to Level 3 Communications, LLC (Level 3), on June 20, 2005, in TF-05-31, and to LMDS Holdings, Inc. (LMDS), on March 20, 2006, in Docket No. TCU-06-3. The Board notes that the issuance of such an order would provide KDL essentially all of the rights and privileges of a certificate holder, other than authorization to offer land-line local telephone service in Iowa.

The Board has reviewed the application and supporting information filed by KDL and finds that the wholesale business plan described therein is similar to that of Level 3 and LMDS. The Board recognizes that for a telecommunications provider to obtain telephone numbering resources from the North American Numbering Plan Administrator, the rules of the Federal Communications Commission require that carrier to be authorized to provide service in the state where the carrier seeks numbering resources.<sup>1</sup> The Board finds that KDL appears to be situated similarly to Level 3 and LMDS and should be authorized to exercise interconnection rights under 47 U.S.C. § 251 and to obtain telephone numbering resources in its own name for use in providing the services KDL described in its application. Therefore, the Board will grant the request and issue this order in lieu of a certificate. The Board finds this action is consistent with the General Assembly's intent as expressed in Iowa Code § 476.95, which requires that the Board exercise regulatory flexibility in a changing telecommunications environment.

**IT IS THEREFORE ORDERED:**

1. The Board will grant the request filed by Kentucky Data Link, Inc., to withdraw its application for a certificate of public convenience and necessity and will issue this order in lieu of a certificate to provide Kentucky Data Link, Inc., with sufficient rights, privileges, and obligations associated with a certificate of public convenience and necessity issued pursuant to Iowa Code § 476.29 and 47 U.S.C. § 251 to enable Kentucky Data Link, Inc., to provide wholesale services as proposed

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<sup>1</sup> See 47 C.F.R. § 52.15(g)(2)(i).

in its application filed January 31, 2006, all subject to complaint, investigation, and any rules the Board may adopt in the future.

2. The Board will withdraw the waiver request filed by Kentucky Data Link, Inc., on January 31, 2006, and close Docket No. WRU-06-4-3835.

**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 31<sup>st</sup> day of March, 2006.