

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  SPRINT COMMUNICATIONS COMPANY L.P.	DOCKET NO. SPU-05-21
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**ORDER DENYING REQUEST FOR RECONSIDERATION  
AND CLARIFICATION**

(Issued April 14, 2006)

On December 29, 2005, Sprint Communications Company L.P. (Sprint) filed with the Utilities Board (Board) a request to withdraw its local exchange tariff. On January 11, 2006, the Board issued an order canceling Sprint's tariff. As part of the January 11 order, the Board noted that withdrawal of a local exchange tariff usually results in the simultaneous cancellation of a carrier's certificate of public convenience and necessity and, as such, allowed Sprint 30 days to show cause why its certificate should not be cancelled.

On February 6, 2006, Sprint filed its response, requesting that the Board allow Sprint's certificate to remain in effect or, in the alternative, issue an "Order in Lieu of Certificate" that would provide Sprint all the rights and privileges of a certificate holder. On February 13, 2006, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed a response in opposition to Sprint's request.

On March 3, 2006, the Board issued an order canceling Sprint's certificate and issuing Sprint an "Order in Lieu of Certificate" to provide Sprint with sufficient rights,

privileges, and obligations associated with a certificate to enable Sprint to provide wholesale services and obtain numbering resources. As part of the order, the Board noted that the issuance of an "Order in Lieu of Certificate" to Sprint was 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 communications environment.

On March 20, 2006, Iowa Telecom filed an application for reconsideration and/or clarification of the Board's March 3, 2006, order. Specifically, Iowa Telecom requests that the Board reconsider and rescind the portion of the order that grants Sprint any rights ordinarily given to certificated companies. In support of its request for reconsideration, Iowa Telecom states that an "Order in Lieu of Certificate" is a document that is not provided for in any of the Board's rules. Iowa Telecom also suggests that because the March 3, 2006, order provides Sprint with the rights, privileges, and obligations associated with a certificate, Sprint should comply with Board rules regarding a certificated provider and notify competitors, file an exchange map identifying the exchanges where it proposes to serve, and identify the services that it proposes to provide. Iowa Telecom also requests that the Board clarify its order to explicitly state the services and the exchanges to which the "Order in Lieu of Certificate" applies.

On March 29, 2006, Sprint filed a response to Iowa Telecom's application for reconsideration. In its response, Sprint states that the "Order in Lieu of Certificate"

issued March 3, 2006, does not confer the right to Sprint to serve retail end user customers without a certificate and does not apply to Sprint outside the context of a wholesale business model. As such, Sprint states that the order does not need to be clarified to identify any specific services or exchanges and that any other certification requirements in the Board's rules are not applicable.

The Board will deny Iowa Telecom's request for reconsideration and clarification. The Board stated in its March 3, 2006, order that its decision to issue an order in lieu of a certificate to Sprint was "consistent with the General Assembly's intent in Iowa Code § 476.95, which requires that the Board exercise regulatory flexibility in a changing communications environment."<sup>1</sup> Therefore, while the Board's rules may not explicitly provide for the issuance of an order in lieu of a certificate, the statutory requirement to exercise regulatory flexibility provides the Board with sufficient authority to issue such an order.

In addition, the March 3, 2006, order clearly stated that Sprint is no longer providing local exchange service in Iowa and therefore is not eligible to obtain a certificate of public convenience and necessity pursuant to Iowa Code § 476.29,<sup>2</sup> which is required to provide retail wireline service. Rather, Sprint intends to provide wholesale service, a service that is not regulated by the Board. Because Sprint is not eligible to obtain a certificate, Sprint's compliance with Board rules regarding

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<sup>1</sup> *In re: Sprint Communications Company L.P.*, "Order Canceling Certificate and Issuing Order in Lieu of Certificate," Docket No. SPU-05-21, issued March 3, 2006, pp. 3-4.

<sup>2</sup> *Id.*, at 2-3.

certificated companies is unnecessary, including the identification of all exchanges where Sprint intends to provide its wholesale services.

The Board finds that its March 3, 2006, order adequately addressed the issues raised in this docket and that Iowa Telecom has not provided sufficient information to cause a reconsideration of the order. Therefore, the Board will deny Iowa Telecom's request for reconsideration and clarification.

**IT IS THEREFORE ORDERED:**

The "Application for Reconsideration and/or Clarification" filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on March 20, 2006, is denied.

**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 14<sup>th</sup> day of April, 2006.