

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  QWEST CORPORATION	DOCKET NO. WRU-05-52-272
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**ORDER GRANTING TEMPORARY WAIVER OF RULES 199 IAC 16.5 AND 16.9,  
AND GRANTING RELIEF FROM DEPRECIATION ORDER**

(Issued May 17, 2006)

On December 9, 2005, Qwest Corporation (Qwest) filed with the Utilities Board (Board) a request for permanent waiver of the accounting rules found in rules 199 IAC 16.5 and 16.9, and the application of accounting rules developed in an April 11, 1997, order in Docket No. DPU-96-1 that established depreciation rates for telephone plant. The waiver request has been identified as Docket No. WRU-05-52-272.

Rule 199 IAC 16.5 adopts a particular version of the Uniform System of Accounts (USOA) with certain modifications for local exchange telephone utilities under the Board's jurisdiction. Paragraph 199 IAC 16.5(2)"a" provides that all rate-regulated local exchange utilities shall keep their accounts in a manner that is consistent with the USOA as modified by subrules 16.5(1) through 16.5(47). Paragraph 16.5(2)"c" requires local exchange utilities that are not rate-regulated to keep their revenue accounts in a manner that is consistent with the USOA. Rule 199 IAC 16.9 allows telephone utilities to use accrual accounting for post-employment benefits other than pension if three specified conditions are met.

Qwest states that the two accounting rules were adopted when Qwest and other local exchange utilities were subject to cost-of-service regulation and rates were established in general rate case proceedings. Qwest states that it is no longer subject to cost-of-service ratemaking and the Iowa specific requirements in the two rules are no longer necessary and serve no purpose. To comply with these two accounting rules requires significant additional costs and resources which competitors are not required to expend, according to Qwest.

Qwest states that its last cost-of-service rate case was in 1995. In 1998, Qwest adopted price plan regulation pursuant to Iowa Code § 476.97. Qwest states that its business and retail local exchange services have been removed from retail rate regulation except for single line flat-rated residential and business service rates under the provisions of Iowa Code § 476.1D (2005 Supp). Pursuant to the recent statutory changes, the two remaining regulated services are price-capped until July 1, 2008, at which time they will also not be subject to the Board's retail rate jurisdiction, unless that price-cap regulation is extended by the Board.

Qwest states that the Iowa-specific requirements in rule 16.5 require it to keep its books for its Iowa operations differently than required under Federal Communications Commission (FCC) regulations. Rule 16.5 requires Qwest to follow an outdated version of FCC accounting requirements and to deviate from the FCC requirements to comply with the modifications found in subrules 16.5(1) through 16.5(47).

Qwest states that the requirements of rule 16.9 also require it to comply with conditions and funding for post-employment benefits that are different than those

imposed by the FCC. This requires Qwest to account for and fund these benefits differently for Iowa regulatory purposes than it does for FCC regulatory purposes. Qwest seeks to follow one set of accounting rules for both the FCC and Iowa in order to avoid the additional cost of maintaining two sets of accounts.

Qwest also seeks a waiver of the requirements ordered in Docket No. DPU-96-1 to the extent that order requires Qwest to maintain Iowa-specific depreciation records for its telephone plant in Iowa. These requirements are different than the requirements imposed on Qwest by the FCC. A waiver will eliminate the cost of maintaining two sets of records for Iowa assets.

Qwest states that similar waivers have been granted in North Dakota, South Dakota, Idaho, and Utah. In those states Qwest follows current FCC regulations for accounting. Qwest is requesting a permanent waiver since under a temporary waiver there would be the possibility it would once again become subject to the two rules.

To waive a rule the Board must find, based upon clear and convincing evidence, that the four criteria in 199 IAC 1.3 are met. Those criteria are: 1) the application of the rule would pose an undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions waived are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded after the waiver.

The Board finds that Qwest has presented clear and convincing evidence that the continued application of the two rules, 16.5 and 16.9, would pose an undue hardship on Qwest operations. The rules were promulgated during a time of cost-of-service regulation that is no longer applicable to Qwest in Iowa. Qwest has operated

under a price regulation plan since 1998 and has deregulated prices for all of its services except flat-rate residential and business rates. It does not appear that Qwest will be returning to cost-of-service regulation in the foreseeable future and the specific requirements for Qwest's Iowa operations are no longer warranted. A waiver of the two rules will reduce costs and conserve resources.

Granting the waiver will not prejudice the substantial legal rights of any person. Rules 16.5 and 16.9 only affect the way Qwest is required to keep its accounting records. The provisions of rules 16.5 and 16.9 are not specifically mandated by statute and substantially equal protection of public health, safety, and welfare will be afforded after the waiver since Qwest will be subject to FCC accounting regulations.

The Board will not grant a permanent waiver of the rules for Qwest. The Board is reviewing the two accounting rules and will be proposing amendments to those rules based upon the waiver granted Qwest. If a rule is to be waived on a permanent basis, then it is probably time to amend the rule. Meanwhile, the temporary waiver will allow Qwest to discontinue keeping the separate Iowa specific accounting records until the Board has completed the rule making process.

The Board will grant Qwest permanent relief from the depreciation rates required to be kept pursuant to the Board's order in Docket No. DPU-96-1. The depreciation rates were used to calculate a revenue requirement under cost-of-service ratemaking procedures. The order was issued before Qwest entered into its price regulation plan and long before the recent amendments to Iowa Code § 476.1D. Under a price regulation plan, depreciation rates are not required to

calculate regulated rates, so the depreciation rates are no longer serving any purpose.

**IT IS THEREFORE ORDERED:**

1. Qwest Corporation is granted a temporary waiver of rules 199 IAC 16.5 and 16.9, as described in this order. The waiver shall continue until the Board completes a rule making proceeding to consider amending or eliminating these rules.
2. Qwest Corporation is granted permanent relief from the requirements for maintaining Iowa specific depreciation rates as required in Docket No. DPU-96-1.

**UTILITIES BOARD**

/s/ John R. Norris

ATTEST:

/s/ Margaret Munson  
Executive Secretary, Deputy

/s/ Curtis W. Stamp

Dated at Des Moines, Iowa, this 17<sup>th</sup> day of May, 2006.