

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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<p>IN RE ARBITRATION OF:</p> <p>SPRINT COMMUNICATIONS COMPANY L.P.,</p> <p style="padding-left: 100px;">Petitioning Party,</p> <p style="text-align:center">v.</p> <p>IOWA NETWORK SERVICES, INC.,</p> <p style="padding-left: 100px;">Responding Party.</p>	<p style="text-align:center">DOCKET NO. ARB-06-2</p>
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**ERRATA ORDER AND ORDER REVISING PROCEDURAL SCHEDULE**

(Issued June 19, 2006)

On May 17, 2006, Sprint Communications Company L.P. (Sprint) filed a petition with the Utilities Board (Board) requesting the Board arbitrate certain terms and conditions of a proposed Interconnection Agreement between Sprint and Iowa Network Services, Inc. (INS). Sprint filed its request pursuant to Iowa Code § 476.3 and 199 IAC § 6.2.

On May 31, 2006, the Board issued an "Order Docketing Petition For Arbitration And Scheduling Telephone Conference." The Board's order erroneously stated that Sprint's petition was filed pursuant to the provisions of Board rules 199 IAC 38.4(3) and 38.7(3) and 47 U.S.C. § 252(b). That statement was incorrect.

The Board hereby corrects its mis-statement; Sprint's petition was filed pursuant to state law, not federal law.

In the May 31 order, the Board initiated the arbitration process of 199 IAC 38.7 by scheduling a telephone conference call with the parties for the purposes specified in 199 IAC 38.7(3)"g," including a discussion of a procedural schedule that would allow the Board to issue an arbitration decision within the time frame specified in 47 U.S.C. § 252. However, those Board rules only apply to arbitration under federal law; they are not directly applicable to proceedings brought pursuant to state law. Accordingly, the Board is not bound by the time deadlines of the federal statute.

Moreover, it appears Sprint's petition may raise a new issue regarding the Board's authority to arbitrate interconnection issues pursuant to state law. The Board finds it would be helpful if the parties were to brief that issue, if they believe that it is an issue, and a schedule for that purpose will be established.

Finally, in the May 31 order, the Board took note of a proceeding pending before the United States District Court for the District of Kansas that involves issues that the Board believed, at that time, were likely to be raised in this proceeding,<sup>1</sup> creating a risk of parallel proceedings involving some of the same issues. On that basis, the Board included in its order a discussion of the Younger abstention

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<sup>1</sup> Iowa Network Services, Inc., v. Sprint Communications Co., L.P., Civil Action No. 06-2182-CM, U.S. District Court for the District of Kansas.

doctrine<sup>2</sup> and asked the Court to consider that doctrine in deciding what it was going to do in the case before it.

It is now clear that the docket before the Board is based upon state law, while the case before the Court appears to be primarily based upon federal law. Broadly speaking, the two matters still appear to involve the same ultimate issues: How should the terms and conditions of an interconnection agreement between Sprint and INS be determined and what should those terms and conditions be? However, the alleged jurisdictional basis of the two matters is different; the Court may wish to consider that difference, if it decides to consider Younger abstention at all.

**IT IS THEREFORE ORDERED:**

1. The "Order Docketing Petition For Arbitration And Scheduling Telephone Conference" issued in this docket on May 31, 2006, is corrected to state that the petition for arbitration filed on May 17, 2006, by Sprint Communications Company L.P. was filed pursuant to Iowa Code § 476.3 and 199 IAC 6.2.
2. On or before June 29, 2006, INS Network Services, Inc., may file an answer or other response to Sprint's petition. The pleading should include a brief addressing any issues INS may have with respect to the Board's authority to hear this matter under state law.
3. On or before July 13, 2006, Sprint may file a response to the INS pleadings.

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<sup>2</sup> Younger v. Harris, 401 U.S. 37 (1971).

4. The Board's General Counsel is directed to forward a copy of this order to the United States District Court for the District of Kansas in Iowa Network Services, Inc. v. Sprint Communications Company L.P.

**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 19<sup>th</sup> day of June, 2006.