

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

---

|  |   |
|--|---|
| <p>IN RE:</p> <p>AVENTURE COMMUNICATIONS<br/>TECHNOLOGY, LLC,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">v.</p> <p>NORTHWEST IOWA TELEPHONE, LLC,</p> <p style="text-align:center">Respondent.</p> | <p style="text-align:center">DOCKET NO. FCU-06-43</p> |
|--|---|

---

**ORDER PROPOSING TO CANCEL HEARING**

(Issued July 14, 2006)

On May 24, 2006, Aventure Communications Technology, LLC (Aventure), a competitive local exchange carrier (CLEC), filed with the Utilities Board (Board) a petition for declaratory order, a complaint against Northwest Iowa Telephone, LLC (NWIT), and a request for termination of NWIT's rural exemption. Aventure states NWIT is an incumbent local exchange carrier (ILEC) and a subsidiary of Long Lines, a communications services company that provides through its various entities local, long distance, video, Internet, and various carrier-to-carrier services.

Aventure claims NWIT has refused to negotiate terms and conditions for interconnection and exchange of traffic with Aventure and that such refusal interferes with its ability to enter the marketplace. Aventure asked the Board to issue

declaratory orders to assist in obtaining NWIT's good faith cooperation and in Aventure's introduction of competing services in northwest Iowa.

In the complaint portion of its filing, Aventure states that if the Board finds declaratory relief improper, the Board should find NWIT in violation of various provisions of Iowa Code §§ 476.100 and 476.101 and certain Board rules and order NWIT to comply with the rules and other obligations.

Finally, in its request to terminate NWIT's rural exemption, Aventure states it has reason to believe NWIT will rely on the rural exemption of 47 U.S.C. § 251(f) as a defense in this matter. Aventure asks that the Board terminate NWIT's rural exemption.

On May 31, 2006, the Board issued an " Order Declining to Issue Declaratory Order, Docketing Complaint, Establishing Expedited Procedural Schedule, and Opening Inquiry." The procedural schedule required that Aventure file its prepared direct testimony on June 14, 2006, followed by NWIT's prepared testimony on June 28, 2006, and by Aventure's reply testimony on July 5, 2006. Optional prehearing briefs were to be filed on July 19, 2006, with hearing scheduled to commence on July 26, 2006, and simultaneous posthearing briefs due on August 2, 2006.

Aventure filed its prepared direct testimony on June 14, 2006, as scheduled. NWIT has not filed any testimony in this docket, on June 28<sup>th</sup> or at any other time. Aventure filed reply testimony on July 5, 2006, also as scheduled. Based upon the fact that only one party has submitted any testimony, it appears that there may be no

material fact issues to be decided in this case. If that is correct, then it is unnecessary to hold a hearing in this matter and the parties can proceed directly to briefing. (Iowa Code §17A.10A.) Accordingly, the Board is proposing to cancel the hearing scheduled for July 26, 2006, and modify the briefing schedule.

If no party files an objection to this proposal, then the hearing will be canceled and the prefiled testimony and exhibits will be admitted to the evidentiary record without further order. In addition, the briefing schedule will be modified to require simultaneous initial briefs on July 21, 2006, and simultaneous reply briefs on August 2, 2006.

If an objection is filed that establishes that there are material factual issues that the Board must decide, then the procedural schedule will remain as is, unless the Board orders otherwise. However, any objection must explain the alleged fact issues in sufficient detail to establish that a hearing in this matter is, in fact, necessary. An objection that merely alleges the existence of factual disputes, without explaining the nature of the disputes and how resolution of the disputes will be assisted by holding a hearing, will be denied.

**IT IS THEREFORE ORDERED:**

1. On or before July 18, 2006, any party may file an objection to the following proposed amended procedural schedule. If no objection is filed, then the amended procedural schedule shall be adopted without further order of the Board. If an objection is filed, then the amended procedural schedule will not be adopted without further order and, in the absence of such an order, the schedule established

by order issued May 31, 2006, shall continue in effect. The proposed amended procedural schedule is as follows:

- a. On or before July 21, 2006, the parties may file initial briefs.
  - b. Any party desiring to file a reply brief may do so on or before August 2, 2006.
  - c. The hearing scheduled for July 26, 2006, will be canceled.
2. In the event the hearing is canceled pursuant to this order, the prefiled direct and rebuttal testimony, and any associated exhibits and workpapers, filed by Aventure Communications Technology, LLC, on June 14, 2006, and July 5, 2006, is admitted to the evidentiary record.
  3. General Counsel is directed to fax this order to counsel for the parties upon issuance.

**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 14th day of July, 2006.