

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  BUTLER-BREMER MUTUAL TELEPHONE COMPANY AND CLARKSVILLE TELEPHONE COMPANY	DOCKET NOS. TCU-06-9 WRU-06-28-319
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**ORDER APPROVING JOINT APPLICATION FOR DISCONTINUANCE OF  
SERVICE, AUTHORIZING TRANSFER OF CERTIFICATE, AND  
GRANTING WITHDRAWAL OF REQUEST FOR WAIVER**

(Issued December 6, 2006)

On November 1, 2006, Butler-Bremer Mutual Telephone Company (Butler-Bremer) and Clarksville Telephone Company (Clarksville) filed with the Utilities Board (Board) a joint application for discontinuance of service and transfer of certificate pursuant to Iowa Code §§ 476.20 and 476.29. The filing indicates that Butler-Bremer and Clarksville are merging and the merger will result in the discontinuance of service by Clarksville and the assumption or continuance of service by Butler-Bremer. The joint applicants request the transfer of Clarksville's certificate to Butler-Bremer.

The filing states that Clarksville is a wholly-owned subsidiary of Butler-Bremer and is authorized to provide local telephone service in the Clarksville, Iowa, exchange. The filing also states that Butler-Bremer is presently certified to provide local exchange service in other exchanges in Iowa and that it is ready, willing, and able to provide comparable service to the Clarksville exchange.

In support of this request, the applicants state that it is in the best interest of both companies to operate as a single corporation. In addition, the applicants assert

that there will not be any actual discontinuance of service since Butler-Bremer will provide uninterrupted service to Clarksville's customers upon the completion of the merger.

Butler-Bremer and Clarksville request that Certificate No. 0169, issued to Clarksville on May 9, 1997, be terminated and Certificate No. 0022, issued to Butler-Bremer on May 31, 1994, be amended to include the service area originally served by Clarksville. Both Butler-Bremer and Clarksville have served proper notice on Clarksville's customers pursuant to 199 IAC 22.23(2)"e" and have informed customers that there will not be a change in the rates, terms, and conditions of service provided to Clarksville's customers.

The Board will approve the joint request of Butler-Bremer and Clarksville to amend their certificates. An order canceling Clarksville's certificate (Certificate No. 0169) is being issued concurrently with this order and will become effective upon the withdrawal of Clarksville's existing tariff. An amendment to Butler-Bremer's certificate (Certificate No. 0022) to reflect the addition of the Clarksville, Iowa, exchange originally served by Clarksville is also being issued concurrently with this order.

Also on November 1, 2006, the applicants requested the Board grant a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. The waiver request was identified as Docket No. WRU-06-28-319.

The recent addition of 199 IAC 22.23(2)"e"<sup>1</sup> eliminates the need for individual customer verification in situations of a sale or transfer of all or part of a telecommunications carrier's customer base. Therefore, on November 22, 2006, the applicants filed an addendum to their initial filing wherein they withdrew their request for waiver and committed to comply with the newly-adopted notice procedures set forth in 199 IAC 22.23(2)"e." Based on the applicants' stated commitment to the procedures of 199 IAC 22.23(2)"e," the Board will approve the withdrawal of the applicants' request for waiver.

In connection with the transfer, the joint applicants state they will require a waiver from the Federal Communications Commission (FCC) of the FCC's study area requirements. It has been the FCC's policy not to accept a waiver petition unless the state regulatory agency indicates that it does not object to changes in the study area boundaries. In previous transfers of this type, the Board has affirmatively stated that it does not object to the FCC granting a study area waiver.<sup>2</sup> The Board finds that it is appropriate to make the same statement in this docket.

**IT IS THEREFORE ORDERED:**

1. The joint request filed by Butler-Bremer Mutual Telephone Company and Clarksville Telephone Company on November 1, 2006, to amend their certificates of public convenience and necessity is approved.

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<sup>1</sup> See In re: Revised Rules for Telecommunications Providers, "Order Adopting Rules," Docket No. RMU-05-6 (issued November 29, 2005).

<sup>2</sup> See, for example, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom and Norway Rural Telephone Company, "Order Approving Joint Application for Discontinuance of Service and Authorizing Transfer of Certificate," Docket No. SPU-02-2, ordering clause 4, issued March 12, 2002.

2. An order canceling Certificate No. 0169, issued to Clarksville Telephone Company on May 9, 1997, is being issued concurrently with this order and will become effective upon the withdrawal of its existing tariff.

3. An order amending Certificate No. 0022, issued to Butler-Bremer Mutual Telephone Company on May 31, 1994, reflecting the addition of the Clarksville, Iowa, exchange originally served by Clarksville Telephone Company is being issued concurrently with this order.

4. The withdrawal of the joint request for waiver filed on November 1, 2006, identified as Docket No. WRU-06-28-319, as requested on November 22, 2006, is approved.

5. The Board affirmatively states that it does not object to the request that a study area waiver be granted by the FCC.

**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 6<sup>th</sup> day of December, 2006.