

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: JB AND SG COMMUNICATIONS, LLC, AND MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.	DOCKET NOS. TCU-06-10 TF-06-302 WRU-06-33-3864 (WRU-06-29-3869)
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**ORDER APPROVING APPLICATION, TARIFF, AND CONCURRENCE IN MAPS;
GRANTING WAIVER; ISSUING CERTIFICATE; AND APPROVING
TRANSFER OF CUSTOMERS**

(Issued December 15, 2006)

On November 7, 2006, JB and SG Communications, LLC (JB and SG Communications), and McLeodUSA Telecommunications Services, Inc. (McLeodUSA), filed with the Utilities Board (Board) a notification of the transfer of McLeodUSA's ATS Division subscribers to JB and SG Communications. The filing was identified as Docket No. TCU-06-10. After the transfer, JB and SG Communications will provide all of the services previously provided by McLeodUSA.

Also on November 7, 2006, JB and SG Communications filed with the Board an application for issuance of a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 (2005) stating its intention to provide local exchange service in Iowa. The application has been identified as Docket No. TCU-06-10. JB and SG Communications has provided financial statements and the qualifications of its company officers and has stated it will support a 2-PIC dialing methodology for dialing parity. No objections to the application were received.

Iowa Code § 476.29(3) authorizes the transfer of a certificate upon approval by the Board. Since JB and SG Communications will be the provider of local exchange service in Iowa upon approval of the transfer, the Board will consider the transfer under the same conditions as it would an application for a certificate.

Also on November 7, 2006, JB and SG Communications filed a proposed local exchange tariff with the Board providing the terms, conditions, and rates for local exchange service in the listed exchanges as described in the exchange maps and boundaries of Qwest Corporation (Qwest). Revisions to the proposed tariff were filed on December 4, 2006. The proposed tariff and its revisions have been identified as TF-06-302.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest."

The Board has reviewed JB and SG Communications' application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. JB and SG Communications has also filed a statement indicating that it commits to utilizing thousand-block number pooling (TBNP), even in areas where TBNP is voluntary, to the extent it is technically feasible to do so.

JB and SG Communications also states that its service area will mirror the exchanges and service area maps of Qwest as they are currently filed and as they may be modified in the future. Iowa Code § 476.29(4) requires that each certificate

define the service territory in which landline local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board that show exchange boundaries. The Board finds that JB and SG Communications has complied with the statutory and rule requirements by concurring in Qwest's exchange maps. The Board finds it is in the public interest to issue a certificate of public convenience and necessity to JB and SG Communications.

JB and SG Communications also requested waivers of Board rules 16.5(2) and 22.3(1), identified as Docket No. WRU-06-33-3864, and 22.23(2), identified as Docket No. WRU-06-29-3869, regarding individual customer verification rules for unauthorized changes in telecommunications services. The recent addition of 199 IAC 22.23(2)"e"¹ 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 16, 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 and finds that the notice submitted by JB and SG Communications appears to satisfy all requirements established by 199 IAC 22.23(2)"e."

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

JB and SG Communications request a waiver of 199 IAC 16.5(2), stating it employs an accounting system in accordance with generally accepted accounting principles (GAAP) rather than the system prescribed by the subrule. The Board finds this waiver should be granted since records kept in accordance with GAAP are acceptable for a competitive local exchange service provider.

JB and SG Communications also request the Board waive 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant this waiver since JB and SG Communications does not have a sufficient number of customers to warrant publishing a directory and JB and SG Communications will provide customer listings to be included in the local directory.

Rule 199 IAC 1.3 states that the Board may grant a waiver if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship and would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests described above and finds that the waivers meet the four criteria of the rule and the evidence in support of the waivers is clear and convincing.

The Board finds that adherence to Board rules 16.5(2) and 22.3(1) would be an undue hardship on a competitive local exchange carrier beginning to do business in Iowa. It would be an undue hardship for JB and SG Communications to publish a directory for just its customers and keep a separate set of accounts. The Board finds there are no substantial legal rights of any person that are affected by these waivers

and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantially equal protection for health, safety, and welfare provided, since the actions waived will be completed under different circumstances.

JB and SG Communications has filed a proposed tariff, identified as TF-06-302. Revisions to the proposed tariff were filed on December 4, 2006. The Board has reviewed the tariff and its revisions and finds that they comply with the Board's rules on filing and processing of tariff pages.

Iowa Code § 476.20(1) states that a utility shall not discontinue service to a community unless permission is obtained from the Board. The Board's rules at 199 IAC 7.1(6) address the discontinuance of service incident to utility property transfer. The Board may grant an application if the Board finds the transferee is ready, willing, and able to provide comparable utility service.

McLeodUSA and JB and SG Communications state that JB and SG purchased the ATS Division facilities from McLeodUSA and that the transfer of service will be virtually transparent to customers. Based on these assurances by McLeodUSA and JB and SG Communications and because the Board has approved JB and SG Communications' application, tariff, and concurrence in Qwest's maps, the Board will approve the transfer of McLeodUSA's ATS Division subscribers to JB and SG Communications.

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience and necessity filed by JB and SG Communications, LLC, on November 7, 2006, is granted.

2. The concurrence in the maps and boundaries of Qwest Corporation is approved.

3. The tariff filed by JB and SG Communications, LLC, on November 7, 2006, as revised on December 4, 2006, is approved effective the date of this order.

4. The waiver of 199 IAC 16.5(2) and 22.3(1), identified as Docket No. WRU-06-33-3864, is granted as described in this order.

5. A certificate, identified as Certificate No. 0309, is being issued to JB and SG Communications, LLC, concurrently with this order.

6. The request for transfer of subscribers of the ATS Division by McLeodUSA Telecommunications Services, Inc., to JB and SG Communications, LLC, filed on November 7, 2006, is approved as described in this order.

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 15th day of December, 2006.