

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NO. TF-06-344
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**ORDER APPROVING TARIFF IN PART, REJECTING IN PART**

(Issued January 25, 2007)

On December 29, 2006, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed with the Utilities Board (Board) a proposed tariff that would increase single line flat-rated residential and business service rates in Iowa Telecom's rate-regulated exchanges pursuant to Iowa Code § 476.1D(1)(c). In support of its proposed tariff, Iowa Telecom submitted copies of the notice that was sent to all affected customers. Iowa Telecom proposes an increase of \$1.60 for residential service rates, which would increase the monthly rate for single line, flat-rated residential service to \$19.99. Iowa Telecom also proposes an increase of \$2.17 for business service rates, which would increase the monthly rate for single line, flat-rated business service to \$37.96.

On January 12, 2007, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to Iowa Telecom's proposed tariff. Consumer Advocate asserts that the proposed rate for single line flat-rated residential rates violates the provisions of Iowa Code § 476.1D(1). Consumer

Advocate states that the statute establishes an explicit \$19 per month cap on single line flat-rated residential service and that the inflation-based increase is not specifically identified as one of the few exceptions to the cap. It is Consumer Advocate's position that telecommunications utilities that elect price regulation under this statute may increase the residential single line flat-rate by \$1 per year, and also increase the rate by an additional percentage based on the change in the gross domestic product price index and by exogenous factors approved by the Board, but the final rate may not exceed the \$19 per month limit.

On January 18, 2007, Iowa Telecom filed a resistance to Consumer Advocate's objection. In support of its resistance, Iowa Telecom states that prior to July 1, 2005, Iowa Code § 476.97 permitted inflation-based increases to regulated local exchange rates. Iowa Telecom asserts that § 476.1D(1) establishes an elective scheme for the increase of rates that involves two independent criteria: (1) an elective \$1 per month, per year increase with the provision that the residential rate shall not exceed \$19 per month prior to July 1, 2008; and (2) an inflation-based increase. It is Iowa Telecom's position that the \$19 residential price cap restrains only the elective, non-data based annual \$1 residential rate increases and that the inflation-based increases are independent of the \$1 adjustments.

### **Discussion**

Iowa Telecom's proposed tariff includes rate increases for both single line flat-rated residential and business rates. Consumer Advocate does not object to Iowa

Telecom's proposed rate increase for business service. The increase will result in a monthly rate that is allowed by Iowa Code § 476.1D(1). Therefore, the Board will approve Iowa Telecom's proposed increase to single line flat-rated business rates.

The issue raised by Consumer Advocate regarding Iowa Telecom's proposed increase to single line flat-rated residential rates is one of statutory interpretation, that being whether the \$19 rate cap for residential service identified in § 476.1D(1) is exclusive of inflation-based increases.

Iowa Code § 476.1D(1) states in relevant part as follows:

The initial single line flat-rated residential monthly service rates may be increased by an amount not to exceed one dollar per twelve-month period beginning July 1, 2005, and ending June 30, 2008. The initial single line flat-rated business monthly service rates may be increased by an amount not to exceed two dollars per twelve-month period beginning July 1, 2005, and ending June 30, 2008. However, the single line flat-rated residential service rate shall not exceed nineteen dollars per month and the single line flat-rated business service rate shall not exceed thirty-eight dollars per month prior to July 1, 2008, not including charges for extended area service, regulatory charges, taxes, and other fees. Each telephone utility's extended area service rates shall not be greater than the corresponding rates charged by the telephone utility as of January 31, 2005. The board shall determine a telephone utility's extended area service rates for new extended area service established on or after July 1, 2005. If a telephone utility fails to impose the rate increase during any twelve-month period, the utility shall not impose the unused increase in any subsequent year. In addition to the rate increases permitted pursuant to this section, the telephone utility may adjust its single line flat-rated residential and business service rates by a percentage equal to the most recent annual percentage

change in the gross domestic product price index as published by the federal government. (emphasis added)

Iowa Telecom claims that the phrase "[i]n addition to the rate increases permitted pursuant to this section" indicates that the Legislature intended for the \$19 cap to apply only to the \$1 residential rate increases and that inflation-based increases are excluded from that cap and can cause the residential rate to exceed \$19 per month.

The language of the statute, however, expressly states that single line flat-rated residential service shall not exceed \$19 per month prior to June 30, 2008. The statute also expressly provides that the \$19 per month price cap does not include "charges for extended area service, regulatory charges, taxes, and other fees." Inflation-based increases are not included in the list of cap exceptions identified in the statute. By listing the exceptions to the cap and by failing to include "inflationary increases" or similar language in the list of exceptions, the Legislature expressed its intent that the \$19 cap should include inflationary increases.

Iowa Telecom's reliance on the phrase "[i]n addition to the rate increases permitted pursuant to this section" is misplaced. That language permits inflationary increases in addition to the \$1 and \$2 increases, but does not create an exception to the statutory cap.

Because Iowa Telecom's proposed increase to single line flat-rated residential service rates exceeds the \$19 per month price cap explicitly identified in § 476.1D(1)

(2007), Iowa Telecom's proposed tariff for residential service is not in compliance with the statute and that portion of the tariff will be rejected.

**IT IS THEREFORE ORDERED:**

1. The proposed tariff filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on December 29, 2006, is approved with respect to business service rates as described in this order.

2. The proposed tariff filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on December 29, 2006, is rejected with respect to residential service rates as described in this order.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

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Dated at Des Moines, Iowa, this 25<sup>th</sup> day of January, 2007.