

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>QWEST COMMUNICATIONS CORPORATION,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">vs.</p> <p>SUPERIOR TELEPHONE COOPERATIVE; THE FARMERS TELEPHONE COMPANY OF RICEVILLE, IOWA; THE FARMERS & MERCHANTS MUTUAL TELEPHONE COMPANY OF WAYLAND, IOWA; INTERSTATE 35 TELEPHONE COMPANY, d/b/a INTERSTATE COMMUNICATIONS COMPANY; DIXON TELEPHONE COMPANY; REASNOR TELEPHONE COMPANY, LLC; GREAT LAKES COMMUNICATION CORP.; AND AVENTURE COMMUNICATION TECHNOLOGY, LLC,</p> <p style="text-align:center">Respondents.</p>	<p>DOCKET NO. FCU-07-2</p>
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ORDER GRANTING MOTION TO COMPEL

(Issued June 18, 2007)

On May 15, 2007, Qwest Communication Corporation (QCC) filed with the Utilities Board (Board) a motion to compel answers to written discovery propounded upon Reasnor Telephone Company, LLC (Reasnor). In support of its motion, QCC states that on February 20, 2007, and again on March 9, 2007, QCC served Reasnor

with 24 written discovery requests seeking information about Free Calling Service Companies (FCSCs). As part of those discovery requests, QCC defined FCSCs as follows:

"Free Calling Service Company" or "FCSC" means any entity that itself or through an affiliated entity advertises, markets, or provides the ability for consumers to obtain free international calls, free conference calling, free chat line entry or free adult services, or other free service provided through the calling of a telephone number. In addition, any entities to which payments are provided based upon the traffic delivered to the entity are considered a "Free Calling Service Company." Free international calls, free conference calling, free chat room entry, free adult services, or anything of the sort shall be considered "free" for the purposes of this definition even if the customer must pay a fee for making a long distance call to your number.

"Motion to Compel," p. 5 (emphasis omitted).

QCC attached the requests to its motion as well as Reasnor's responses. In responding to QCC's written discovery, QCC states Reasnor answered the requests by stating that the term "FCSC" was vague and ambiguous because it is impossible for Reasnor to know what services are offered by each of its customers, what its customers charge for those services, and whether those services are considered to be "free." QCC also states that its counsel had conversations with Reasnor's counsel and explained that the definition provided in its requests did not require Reasnor's knowledge about what services are offered by its customers or what its customers charge for those services because QCC's definition of FCSC included the phrase "any entities to which payments are provided based upon the traffic delivered

to the entity." In addition, QCC asserts that several of Reasnor's responses suggest that Reasnor offered information in its motion for summary judgment, filed with the Board on March 12, 2007, that adequately answers QCC's discovery requests regarding its business relationship with One Call Conferencing, LLC. QCC claims that the broad description of the business relationship in Reasnor's motion for summary judgment is not responsive to its requests.

On May 25, 2007, Reasnor filed a response to QCC's motion to compel answers to its written discovery requests. In support of its response, Reasnor states that QCC's motion should be dismissed because QCC's initial complaint has not been docketed as required by law and therefore discovery procedures are premature. In addition, Reasnor states that QCC's motion should be dismissed, or at least deferred, until the Board decides Reasnor's then-pending motion for summary judgment. Reasnor also claims that it acted in good faith toward QCC and provided responses to QCC's discovery requests when it was not required to do so.

On June 12, 2007, QCC filed a reply to Reasnor's response as well as a supplemental motion to compel answers to discovery requests propounded on Reasnor. In support of its reply, QCC points out that due to the issuance of a Board order on May 25, 2007, which docketed QCC's complaint and denied Reasnor's motion for summary judgment and motion to defer discovery, all of the arguments Reasnor raised in its response are moot.

As part of its reply, QCC made a supplemental motion to compel Reasnor to provide complete answers to QCC's second set of interrogatories and data requests. QCC did not attach a copy of the second set of discovery requests to its motion. Even though this supplemental motion was filed as part of QCC's reply to Reasnor's response, QCC makes a new motion based on different arguments than those raised in its initial motion. Therefore, the Board will not rule on QCC's supplemental motion in this order and will allow Reasnor the appropriate time to respond to QCC's supplemental motion.

The Board will grant QCC's motion to compel filed on May 15, 2007. The arguments raised by Reasnor supporting its response to QCC's motion to compel are now moot following the issuance of the Board's May 25, 2007, order.

The Board finds that the definition of the term "FCSC" as provided by QCC in its first set of discovery propounded on Reasnor is sufficient to inform Reasnor of the kind of information that QCC is seeking. Therefore, while it may not be possible for Reasnor to know the kinds of services offered by all of its customers or how much its customers charge for those services, Reasnor should be able to discern from QCC's definition of FCSC that QCC is seeking information regarding Reasnor's relationships with any entities to which Reasnor is making, or has made, payments based on call volume. In addition, the Board finds that Reasnor's responses stating that the information QCC seeks was sufficiently provided in Reasnor's motion for

summary judgment are inadequate. At the very least, in each response Reasnor shall reiterate the relevant portion of the information provided in its motion for summary judgment, rather than simply refer to the motion.

Based on these findings, the Board directs Reasnor to provide complete and thorough responses to the discovery requests propounded by QCC on February 20, 2007, and again on March 9, 2007.

IT IS THEREFORE ORDERED:

The "Motion to Compel Answers to Written Discovery Propounded Upon Reasnor Telephone Company" filed by Qwest Communications Corporation on May 15, 2007, is granted as described in this order.

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 18th day of June, 2007.