

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

<p>IN RE:</p> <p>2007 TELECOMMUNICATIONS MARKET MONITORING SURVEY FOR RETAIL LOCAL VOICE SERVICES AND HIGH- SPEED INTERNET ACCESS SURVEY</p>	<p>DOCKET NO. NOI-07-3</p>
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**ORDER INITIATING INQUIRY AND GRANTING CONFIDENTIALITY**

(Issued July 2, 2007)

**BACKGROUND**

This docket is being opened for the purpose of surveying the level of local exchange service competition and the availability of broadband access in Iowa. As described below, the Utilities Board (Board) has conducted separate surveys of these services in the past, but is now combining them. The local voice service survey is the result of the Board's deregulation of many local exchange services.

On May 7, 2004, the Board initiated a deregulation proceeding on its own motion, pursuant to Iowa Code § 476.1D (2003) and 199 IAC 5.3(1) (2003) and identified as Docket No. INU-04-1, to consider whether local exchange service to business customers in 21 specific Iowa communities was subject to effective competition and should be deregulated. The Board also proposed to consider whether residential second line service throughout Iowa was subject to effective competition and should be deregulated.

On December 23, 2004, the Board issued its "Final Decision and Order" in that proceeding and determined that effective competition was present in 20 of the 21 identified communities and deregulated residential and business local exchange service in those markets. Also as part of the December 23, 2004, order, the Board retained service quality regulation over all telecommunications service providers in those communities pursuant to Iowa Code § 476.1D(5) and noted that it would continue to monitor the markets identified in the December 23, 2004, order through the use of competition surveys.

In 2005, new legislation, identified as House File 277 (HF 277), amended Iowa Code §§ 476.1D and 476.55. The amended statutes relate to the deregulation of retail rates for most local exchange communications services in Iowa except for single line flat-rated residential and business rates. Rates for these services were initially set at the corresponding rates charged by each rate-regulated utility as of January 31, 2005. Those monthly rates could then be increased by up to \$1 per year for residential service, or \$2 per year for business service, plus inflation, up to specified caps, beginning on July 1, 2005, through June 30, 2008. Effective July 1, 2008, the retail rate jurisdiction of the Board shall not be applicable to most local exchange services unless the Board elects to extend its jurisdiction for a period of not more than two years, if such an action is necessary for the public interest.

On May 13, 2005, the Board initiated a second deregulation proceeding on its own motion, pursuant to Iowa Code § 476.1D (2005) and 199 IAC 5.3(1) (2005) and

identified as Docket No. INU-05-2, to consider whether single line flat-rated residential and business local exchange service in 31 Iowa communities should be deregulated. The Board also sought comments regarding the nature of Qwest Corporation's "QPP" product as a replacement for unbundled network element platform (UNE-P) arrangements in interconnection agreements with competitive carriers and whether Voice over Internet Protocol (VoIP), wireless service, or cable telephony should be considered comparable to or substitutions for wireline service.

On December 5, 2005, the Board issued its "Final Decision and Order" in that proceeding and determined that effective competition was present in 20 of the 31 identified communities. Accordingly, the Board deregulated single line flat-rated residential and business local exchange rates in those markets. Also as part of the December 5, 2005, order, the Board retained service quality regulation over all telecommunications service providers in those communities pursuant to Iowa Code § 476.1D(5) and noted that it would continue to monitor the markets identified in the December 5, 2005, order through the use of competition surveys.

The broadband access survey is the result of a legislative directive. In 2000, the Iowa General Assembly passed legislation, identified as Senate File 2433, requiring the Board and the Department of Economic Development (DED) to submit to the General Assembly a joint report "with recommendations to ensure that high-speed broadband internet access is available to rural areas of the state where such access is not currently available." In compliance with that legislative mandate, the

Board and DED submitted a report in October 2000 assessing the statewide availability of high-speed Internet access and offered recommendations to ensure access to high-speed Internet service in rural Iowa. Responding to the recommendations contained in the October 2000 report, the Board conducted subsequent assessments and issued reports in February 2002, May 2003, December 2004, and March 2006.

### **NOTICE OF INQUIRY**

In order to continue its monitoring of telecommunications markets and the availability of high-speed broadband Internet access in Iowa, the Board will initiate this inquiry to collect data from local telecommunications service providers, as well as the cable providers, wireless providers, and satellite companies most likely to offer high-speed Internet access in Iowa. Data collection will be conducted through the use of one combined survey instrument.

The survey that will be sent to all local service providers, cable providers, wireless providers, and satellite companies, identified as the "2007 Telecommunications Market Monitoring Survey for Retail Local Voice Services and High-Speed Internet Access Survey," will be used to obtain an overview of the status of local exchange competition in Iowa and to assess the availability of high-speed Internet access in all parts of the state. A copy of the survey is attached to this order.

The Board requests that each company receiving a copy of this order complete the appropriate survey or surveys using data available as of June 30, 2007, and return it to Board staff on or before August 20, 2007.

Once the Board has reviewed the initial responses, it will determine if additional questions need to be addressed and, if so, in what format. The Board is appointing Larry Stevens as the Inquiry Manager for this docket. Survey responses should be sent to the address listed on the survey; additional comments and questions about the docket should be addressed to Mr. Stevens, (515) 281-4725, or via e-mail, Larry.Stevens@iowa.gov.

### **CONFIDENTIAL TREATMENT**

In this proceeding, the Board requests survey responses from all local voice service providers and the cable providers, wireless providers, and satellite companies most likely to offer high-speed Internet access in Iowa. These responses will likely include information that may be considered trade secrets or that is otherwise entitled to confidential treatment under Iowa law. Therefore, the Board will grant confidential treatment for the information submitted in the updated survey responses pursuant to Iowa Code §§ 22.7(3) and 22.7(6) and will issue a protective order, similar to that used in Docket Nos. INU-04-1 and INU-05-2, to outline the conditions under which submitted information will be received and maintained.

Iowa Code § 22.7(3) provides confidential treatment for trade secrets that are recognized and protected as such by law. The material requested of the carriers

includes specific line count information. Based on past applications for confidential treatment filed by numerous carriers seeking protection of the line count information, the Board finds that line count information constitutes a trade secret under Iowa Code § 550.2(4) as it derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means, by a person able to obtain economic value from its disclosure. The Board finds that this information, if released, would provide an advantage to competitors.

Iowa Code § 22.7(6) provides confidential treatment to public records that are reports to government agencies and which, if released, would give advantage to competitors and serve no public purpose. Again, based on past applications for confidential treatment involving the same type of information, the Board finds that the responses to the survey constitute a report to a government agency and the Board finds that the release of the information would serve no public purpose.

At this time, the Board anticipates that orders or reports issued in this docket will not discuss or include individual company confidential information. However, orders or reports will include aggregated information and other information in a format such that it will not be possible to reconstruct company-specific confidential information with any degree of precision. However, it is too early to predict the precise requirements of the orders or reports, so the Board expressly reserves the right to use any of this information in its orders or reports, if necessary. Before using

any confidential information in a manner that might reveal it to the public, the Board will give the affected company or companies notice pursuant to 199 IAC 1.9.

### **ORDERING CLAUSES**

#### **IT IS THEREFORE ORDERED:**

1. An inquiry identified as Docket No. NOI-07-3 is initiated to monitor the telecommunications markets and assess the availability of high-speed broadband Internet access in Iowa.
2. Responses to the surveys described in this order are to be filed with the Board on or before August 20, 2007.
3. The information contained in the survey responses shall be held confidential by the Board subject to the provisions of 199 IAC 1.9(8)"b"(3).

#### **UTILITIES BOARD**

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Margaret Munson  
Deputy Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 2<sup>nd</sup> day of July, 2007.