

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>
---	----------------------------

**ORDER DENYING MOTION TO DISMISS MOOT COMPLAINT,
GRANTING SUPPLEMENTAL MOTION TO COMPEL, DENYING MOTION FOR
RECONSIDERATION, GRANTING MOTION TO EXTEND HEARING, AND
SETTING AMENDED PROCEDURAL SCHEDULE**

(Issued July 3, 2007)

On February 20, 2007, Qwest Communications Corporation (QCC) filed with the Utilities Board (Board) a complaint against the above named Respondents,

asserting in part that the Respondents are engaging in a fraudulent practice by creating a scheme that involves free conference calls, chat rooms, adult content calling, podcasts, voice mail, and international calling services. QCC's complaint alleges that the Respondents are charging QCC excessive rates to route calls to companies that advertise these free services and then provide kickbacks of a portion of the terminating access revenues to these free calling service companies (FCSCs).

On June 8, 2007, Reasnor Telephone Company, LLC (Reasnor), filed with the Board a motion to dismiss the complaint filed by QCC on February 20, 2007, on grounds of mootness. In support of its motion, Reasnor states that it began providing intrastate access service to QCC in January 2006, after acquiring the Reasnor, Iowa, exchange from Sully Telephone Association, Inc. Reasnor asserts that since January 2006, Qwest has paid Reasnor a total of \$6,123.92 for intrastate access service. Reasnor states that it decided to moot QCC's complaint, without admitting liability, by providing QCC with a full credit for the entire amount that QCC has paid to Reasnor for intrastate access service. Reasnor also states that it will not continue to bill QCC in the future for intrastate access service for the termination of conference calls, unless Reasnor obtains an order from the Board authorizing it to do so. Reasnor asserts that the full credit given to QCC is the maximum amount that the Board could award QCC, therefore, QCC's complaint against Reasnor is moot and should be dismissed.

On June 19, 2007, QCC filed a resistance to Reasnor's motion to dismiss. As part of its resistance, QCC states that according to its data, Reasnor began charging

QCC terminating access charges prior to January 2006, as asserted by Reasnor. QCC states that because of the discrepancy in starting date, the amount of money that Reasnor has paid to QCC is subject to question. QCC also asserts that Reasnor's attempt to moot QCC's complaint ignores QCC's claim of discrimination in the provision of local exchange service and fails to address the issues of declaratory and prospective relief.

The Board will deny Reasnor's motion to dismiss. Despite Reasnor's credit to QCC, there is a genuine issue of material fact regarding the amount. Reasnor claims that it began assessing QCC intrastate switched access service charges in January 2006. QCC counters that Reasnor began assessing access service charges to QCC prior to January 2006. Since a factual dispute remains before the Board regarding the timing of the access charge assessment and consequently of the amount of the credit, QCC's complaint is not moot and the Board cannot grant Reasnor's motion. Moreover, even if the credit issue were resolved, QCC has made other claims that would not be resolved by a credit alone, so even a larger credit would not make the matter entirely moot. Reasnor's motion to dismiss will be denied.

On June 12, 2007, QCC filed a supplemental motion to compel Reasnor to provide complete answers to its second set of interrogatories and data requests. QCC states that in response to QCC's second set of written discovery, Reasnor mischaracterizes the nature of QCC's discovery requests and argues that the requests are overbroad, burdensome, and not relevant, claiming that QCC's inquires should be limited to intrastate traffic. QCC asserts that its second set of discovery

requests were designed to elicit information regarding the issues raised in QCC's complaint, namely discriminatory conduct in the provision of local services, the practices of any incumbent local exchange carrier (ILEC) in Iowa regarding its tariffs filed with the Board, whether an ILEC is charging terminating access charges without terminating the traffic locally, and whether intrastate services are appropriately set forth in tariffs and are sold pursuant to tariff terms. QCC asserts that the Board has jurisdiction to hear all of these issues. In addition, QCC states that even if a particular type of traffic falls outside the Board's jurisdiction, specifically interstate traffic, discovery is not restricted so long as it is reasonably calculated to lead to the discovery of admissible evidence.

On June 22, 2007, Reasnor filed a resistance to QCC's supplemental motion to compel. Reasnor used its resistance to QCC's motion primarily as an opportunity to argue in support of its motion to dismiss. Reasnor also states that QCC's complaint is moot because QCC received a full credit with respect to intrastate calls and because of Reasnor's agreement to refrain from billing QCC for intrastate conference calls in the future. Reasnor argues that since QCC's complaint is moot, the Board should deny QCC's supplemental motion to compel and reconsider the Board's June 18, 2007, order in this docket requiring Reasnor to fully respond to QCC's first set of discovery requests.

The Board will grant QCC's supplemental motion to compel filed on June 12, 2007. The arguments raised by Reasnor supporting its responses to QCC's supplemental motion are now moot following the Board's previous discussion

regarding Reasnor's motion to dismiss. The Board will also deny Reasnor's request to reconsider the Board's June 18, 2007, order because the Board has determined that QCC's complaint is not moot.

The Board finds that QCC's second set of discovery requests were reasonably designed to elicit information regarding the issues raised in its complaint and that the Board has jurisdiction to hear all of these issues. In addition, the Board finds that QCC's discovery requests need not be restricted to intrastate traffic as long as requests regarding interstate traffic are reasonably calculated to lead to the discovery of admissible evidence as provided for in Iowa Rule of Civil Procedure 1.503(1). Based on these findings, the Board directs Reasnor to provide complete and thorough responses to the second set of discovery requests propounded by QCC on Reasnor.

On June 12, 2007, QCC filed a motion to extend the hearing date in this proceeding. Pursuant to the procedural schedule issued by the Board on May 25, 2007, the hearing in this proceeding is scheduled to begin on September 19, 2007. In support of its request to continue the hearing date, QCC states that it has served discovery requests on all of the eight respondents in this matter. In addition, QCC states that it has served 25 parties with subpoenas for additional discovery. QCC states that it must gather the information requested, and assimilate and analyze the information. QCC asserts that this work cannot reasonably be completed under the existing procedural schedule. No objection to QCC's motion has been filed.

The Board has reviewed QCC's request and finds that it is reasonable. Since there is no objection to QCC's request, the Board will grant the motion and extend the hearing date until October 23, 2007. An amended procedural schedule will be established accordingly.

IT IS THEREFORE ORDERED:

1. The motion to dismiss filed by Reasnor Telephone Company, LLC, on June 8, 2007, is denied as described in this order.
2. The supplemental motion to compel filed by Qwest Communications Corporation on June 12, 2007, is granted as described in this order.
3. The motion for reconsideration filed by Reasnor Telephone Company, LLC, on June 22, 2007, is denied as described in this order.
4. The motion to extend the hearing in this proceeding filed by Qwest Communications Corporation on June 12, 2007, is granted as described in this order.
5. The procedural schedule in this docket is amended to reflect the following changes:
 - a. Qwest Communications Corporation (QCC) and any intervenors aligned with QCC shall file prepared direct testimony, with supporting exhibits and workpapers, on or before August 6, 2007.
 - b. Respondents and any intervenors aligned with them shall file rebuttal testimony, with supporting exhibits and workpapers, on or before September 4, 2007.

c. Qwest Communications Corporation and any intervenors aligned with QCC shall file reply testimony, with supporting exhibits and workpapers, on or before September 24, 2007.

d. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 9 a.m. on Tuesday, October 23, 2007, in the Board's hearing room, 350 Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request appropriate arrangements.

e. Any party desiring to file a brief may do so on or before November 19, 2007.

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Margaret Munson
Executive Secretary, Deputy

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 3rd day of July, 2007.