

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  IOWA TELECOMMUNICATIONS ASSOCIATION	DOCKET NOS. TF-07-139 WRU-07-20 WRU-07-21-293 (TF-07-125)
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**ORDER DENYING REQUESTS TO DOCKET TARIFF,  
CONSOLIDATING OBJECTIONS, AND GRANTING WAIVERS**

(Issued September 14, 2007)

**PROCEDURAL HISTORY**

On July 25, 2007, the Iowa Telecommunications Association (ITA) filed with the Utilities Board (Board) a tariff revision, identified as TF-07-139, which included revisions that relate to changes made in the National Exchange Carrier Association (NECA) interstate access services tariff and the NECA Access Handbook previously approved by the Federal Communications Commission (FCC).

On August 7, 2007, Sprint Communications Company L.P. (Sprint) and Verizon Business (Verizon) each filed an objection to ITA's prepared revision. In support of their resistances, Sprint and Verizon assert that the changes to the NECA Handbook generally incorporate the tariff changes also at issue in TF-07-125, to which Sprint and Verizon previously objected. Sprint and Verizon also state that the Board issued an order on July 30, 2007, which docketed TF-07-125 and because

part of TF-07-139 relates to the same issues in TF-07-125, the Board should docket TF-07-139.

Also on August 7, 2007, Sprint and Verizon filed a request for waiver of 199 IAC 22.14(5)"a," which requires an interexchange carrier (IXC) objecting to intrastate access tariffs to serve all carriers who choose to concur in the ITA tariff. Sprint and Verizon state that they made diligent, good faith efforts to determine who should be served pursuant to 199 IAC 22.14 and that neither the Board Web site nor the ITA Web site provided any service lists. Sprint and Verizon state that to determine which of the local exchange carriers (LECs) in Iowa concur with the ITA tariff they would have to review individual tariffs, which would be unduly burdensome. In addition, Sprint and Verizon argue that since the independent LECs simplify their filings by concurring in an association tariff, then an IXC should also be allowed to benefit from the existence of the association and be required to only serve the ITA rather than all independent LECs. As such, Sprint and Verizon request waiver of 199 IAC 22.14(5)"a," identified as Docket Nos. WRU-07-20 and WRU-07-21-293.

On August 15, 2007, ITA filed a resistance to Sprint's and Verizon's objections. ITA states that the changes proposed in TF-07-139 do not constitute tariff changes that are to be approved by the Board. Rather, ITA states that the changes in TF-07-139 are informational and merely incorporate changes made to NECA Tariff No. 5, but do not affect Iowa intrastate rates and charges. ITA also states that

TF-07-139 is a guide to NECA Access Tariff No. 5 and since it does not propose any change to an applicable Iowa intrastate tariff, it is not subject to docketing.

### **DISCUSSION**

With respect to Sprint's and Verizon's requests for waiver of 199 IAC 22.14(5)"a," the Board must find based upon clear and convincing evidence, that the requests meet the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.14(5)"a" should be granted based on the information provided by Sprint and Verizon. The Board finds that it would be an undue hardship for Sprint and Verizon to determine which LECs concur with the ITA tariff, as this could only be done by reviewing each LEC's tariff separately to assemble a service list. This would require a review of over 200 separate tariffs. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have all been afforded since the LECs that concur in the ITA tariff must monitor what is happening to it so that they can implement the rate increases and other changes once they are effective. Therefore, the Board will grant Sprint's and Verizon's

requests for waiver and require Sprint and Verizon to serve only those entities that appear in, and become parties to, this docket.

With respect to the proposed tariff changes, the Board agrees with Sprint and Verizon that some of the changes made to the switched access rates in TF-07-139 are also currently at issue in TF-07-125. In an order issued on August 30, 2007, in TF-07-125, the Board identified the proposed switched access increase, specifically the Board's jurisdiction over that increase, as an issue to be briefed by the parties. Because the same issue appears to be contested in TF-07-139, the Board will consolidate Sprint's and Verizon's objections to TF-07-139 into the open docket identified as TF-07-125.

In its August 30, 2007, the Board did not suspend TF-07-125 pending the completion of its investigation into the issues raised by Sprint and Verizon. As such, the Board will not suspend TF-07-139 as requested and will allow it to become effective subject to investigation in Docket No. TF-07-125.

### **ORDERING CLAUSES**

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

1. The objections to Iowa Telecommunications Association's proposed tariff (identified as TF-07-139) filed by Sprint Communications Company L.P. and Verizon Business on August 7, 2007, are consolidated into TF-07-125 as described in this order.

2. The requests to docket TF-07-139 filed by Sprint Communications Company L.P. and Verizon Business on August 7, 2007, are denied.

3. The requests for waiver filed by Sprint Communications Company L.P. and Verizon Business on August 7, 2007, identified as Docket Nos. WRU-07-20 and WRU-07-21-293, respectively, are 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 14<sup>th</sup> day of September, 2007.