

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  QWEST CORPORATION AND SOUTH SLOPE COOPERATIVE TELEPHONE COMPANY	DOCKET NOS. C-07-246, C-07-251, C-07-252, C-07-256, C-07-257, C-07-265, C-07-266, C-07-270, C-07-271, C-07-272
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**ORDER DENYING REQUESTS FOR  
FORMAL COMPLAINT PROCEEDINGS**

(Issued April 4, 2008)

On or about November 21, 2007, 11 residential and business customers from Cedar Rapids, Oxford, and Solon, Iowa, filed written complaints with the Utilities Board (Board) against Qwest Corporation (Qwest) and South Slope Cooperative Telephone Company (South Slope) for alleged discontinuance of toll-free calling to and from South Slope customers in Oxford, Solon, and Tiffin. The Qwest customers stated that they received a letter from Qwest on or about October 15, 2007, informing them that effective November 15, 2007, calls placed from Cedar Rapids to Oxford, Solon, and Tiffin would be billed as long distance calls and carried by their long distance telephone providers. The customers indicated Qwest advised the change was due to a ruling made by the Board.

Pursuant to the Board's rules for processing customer complaints, Board staff forwarded the complaints to South Slope and Qwest for investigation and response to these allegations. Qwest stated in its response of November 2, 2007, that it was

acting in accordance with a Board order issued in Docket No. FCU-06-25.<sup>1</sup> Qwest stated customers of Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom) in Oxford, Tiffin, and Solon have always been long distance toll calls from Cedar Rapids; however, calls to South Slope customers in those exchanges were not being billed correctly under Qwest tariffs. Qwest stated it sent "goodwill" letters to its customers advising that calls from Cedar Rapids to Oxford, Solon, and Tiffin would be handled as toll calls starting November 15, 2007. Qwest stated there is not an Extended Area Service (EAS)<sup>2</sup> arrangement from Cedar Rapids to Oxford, Solon, and Tiffin. Qwest stated it does have an EAS agreement with South Slope for toll-free EAS from Cedar Rapids to North Liberty.

In its initial response, South Slope did not address the facts that led to the complaints. South Slope only asked the Board to require Qwest to submit for the Board's consideration a request to "discontinue, reduce or impair" South Slope's local service under Iowa Code § 476.20(1).

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<sup>1</sup> On February 1, 2006, Iowa Telecom filed a complaint including a request for declaratory order against South Slope. The complaint was related to South Slope's status as an incumbent local exchange carrier (ILEC) or competitive local exchange carrier (CLEC) in the Oxford, Solon, and Tiffin exchanges. It was docketed as Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, v. South Slope Cooperative Telephone Company, Docket No. FCU-06-25. On January 23, 2007, the Board ruled that South Slope is offering service in the Oxford, Solon, and Tiffin exchanges as a CLEC, not an ILEC. The Board ruled that South Slope must make corrections to industry databases so that Iowa Telecom can properly port telephone numbers within Oxford, Solon, and Tiffin.

<sup>2</sup> EAS is a non-toll service between neighboring telephone exchanges, typically offered pursuant to tariffs filed pursuant to the Board's rules at 199 IAC 22.8.

On December 10, 2007, staff requested additional information from Qwest and South Slope. Qwest responded on December 20, 2007, and South Slope responded on December 21, 2007.

Staff issued a proposed resolution letter on December 31, 2007, based on the complaints and the company responses. At that time, staff concluded that Qwest was in violation of the rules by failing to provide proper notice to the Board of its discontinuance of EAS to customers in Cedar Rapids. Staff cited 199 IAC 22.16, which provides that "prior to discontinuing service, the utility shall file with the board and consumer advocate a notice of intent to discontinue service at least 90 days prior to the proposed date of discontinuance. However, if the utility shows it has no customers for the service it proposes to discontinue, the utility need only file such notice 30 days prior to discontinuance." Based on this rule, staff's proposed resolution found that Qwest improperly discontinued EAS from Cedar Rapids to Oxford, Solon, and Tiffin and therefore directed Qwest to restore the service. The proposed resolution invited the parties to provide any additional information they might have if they disagreed with the outcome.

On January 14, 2008, Qwest provided additional information and requested that staff reconsider the proposed resolution. Qwest pointed out that the alleged EAS service from Cedar Rapids to Oxford, Tiffin, and Solon was never a tariffed service. Therefore, Qwest did not discontinue a service that was being provided pursuant to its tariff. Qwest argued the EAS agreement between South Slope and Qwest applies to Qwest customers in Cedar Rapids only when they call South

Slope's customers in the North Liberty exchange. Qwest stated that calls to customers in Oxford, Tiffin, and Solon were treated as local calls only because the calls appeared to end in the North Liberty exchange (after South Slope made changes to the LERG<sup>3</sup> and NANPA<sup>4</sup> databases). Qwest stated that when the database entries were corrected, calls from Cedar Rapids to South Slope customers in Oxford, Tiffin, and Solon could be identified as interexchange traffic and therefore had to be routed and billed as interexchange calls. Qwest requested that staff reconsider the proposed resolution.

Upon further review, staff issued a revised proposed resolution on February 1, 2008. Staff found Qwest never included EAS or toll-free service from Cedar Rapids to Oxford, Solon, and Tiffin in its tariff. Only the EAS from Cedar Rapids to North Liberty was included in the EAS agreement and the relevant tariffs. There has never been a request filed with the Board to establish toll-free EAS from Cedar Rapids to Oxford, Solon, and Tiffin. Thus, calls from Cedar Rapids to Oxford, Solon, and Tiffin should always have been toll calls; they were treated as EAS calls only because they appeared to terminate in North Liberty. Staff concluded that since this was never a properly tariffed service, the Board's discontinuance of service rules would not apply. Staff also concluded that once the prefixes were changed to show the correct rate centers, the calls would not go through the North Liberty exchange to Oxford, Solon, and Tiffin, so Qwest was able to restore the calls to toll status. Staff informed the

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<sup>3</sup> Local Exchange Routing Guide

<sup>4</sup> North American Number Pooling Administrator

customers of their options, such as filing a request for a call study for EAS to Oxford, Solon, and Tiffin pursuant to 199 IAC 22.8 or using the toll options they have now to make calls to customers in those exchanges.

On February 8, 2008, South Slope filed a request to reinstate staff's original proposed resolution or, if the previous resolution could not be reinstated, to initiate a formal complaint proceeding. South Slope argues that Qwest violated the Board rules because it failed to give proper notice to customers before it discontinued the EAS services in question and no legal basis was given for staff's revised proposed resolution. South Slope also argues that Qwest has an EAS agreement to provide service to South Slope customers in the North Liberty exchange.

Aaron Smith, the complainant in File No. C-07-272, owns Sparkle Wash in Solon. Mr. Smith contacted Board staff to say that his business would lose money because the telephone numbers from Cedar Rapids to Oxford, Solon, and Tiffin are now toll calls. Therefore, he is requesting a formal proceeding. Nancy Kotar, the complainant in File No. C-07-251, is from Cedar Rapids. She contacted Board staff on February 11, 2008, and expressed concern that Qwest did not place a special intercept for calls from Cedar Rapids to Oxford, Solon, and Tiffin telling the person how to dial the call. Ms. Kotar did not file a request for formal proceeding.

Pursuant to Iowa Code § 476.3, the Board must grant a request for formal complaint proceedings if the Board finds there are any reasonable grounds for further investigation of the complaint. Here, the relevant facts have been established, either in the informal complaint files or in other dockets, and are not disputed. The

application of the law to these facts will not be affected by holding an evidentiary hearing. As a result, no purpose would be served by granting formal complaint proceedings, there are no reasonable grounds for further investigation, and the Board will therefore deny the requests.

The relevant events can be described as follows: In the late 1990s, South Slope began offering local exchange service in competition with Iowa Telecom in the Oxford, Tiffin, and Solon exchanges. At that time, it made no difference (from a regulatory standpoint) whether South Slope offered that service by expanding the scope of its existing certificate or by applying for and receiving a separate certificate covering the Oxford, Tiffin, and Solon exchanges. South Slope chose to expand its existing certificate and the Board approved that choice.

Subsequent events made this decision more significant. At some point in time, South Slope caused changes to be made to the LERG and NANPA databases so that its customers in Oxford, Tiffin, and Solon appeared to be located in North Liberty. This caused some practical problems; for example, Qwest was unable to distinguish South Slope's North Liberty customers from South Slope's customers in Oxford, Tiffin, and Solon, so EAS from Cedar Rapids was effectively expanded. Further, Iowa Telecom found it was unable to port telephone numbers from South Slope in the subject exchanges, because number porting is only permitted within a rate center and South Slope's customers in Oxford, Tiffin, and Solon were now assigned to the North Liberty rate center.

During the same general time frame, the Board amended its rules to require that competitive local exchange service providers reduce their charges for exchange access services when offering service in exchanges where the incumbent's access service charges are below certain levels. These rules applied to South Slope's service offerings in Oxford, Tiffin, and Solon, making it necessary to be able to readily identify calls to and from customers in those communities in order to apply the proper access charges.

In order to correct the number porting and access charge problems, the Board found South Slope was offering service as a CLEC in Oxford, Tiffin, and Solon and ordered South Slope to take all steps necessary to implement local number portability so that porting could occur within the boundaries of the Oxford, Tiffin, and Solon rate centers and so that South Slope's access charges in those exchanges could be billed correctly. One additional result of these changes is that Qwest was once again able to properly identify calls from its customers in Cedar Rapids to South Slope's customers in Oxford, Tiffin, and Solon. Qwest therefore took action to restore service as it was prior to the database changes. This was not a discontinuance of service pursuant to Iowa Code § 476.20. Instead, Qwest was taking action to ensure it was, and is, providing service pursuant to the terms of its tariff, as required by § 476.5. This result is required by statute, so there are no reasonable grounds for further investigation of this matter. The requests for formal complaint proceedings will be denied.

In reaching this result, the Board is mindful that Qwest customers in Cedar Rapids will no longer be able to make toll-free calls to South Slope's customers in Oxford, Tiffin, and Solon. The EAS agreement between Qwest and South Slope does not require, or provide for, that service. If the affected customers are interested in creating EAS between those exchanges, they should follow the process set forth at 199 IAC 22.8 to determine whether the service is viable.

**IT IS THEREFORE ORDERED:**

The requests for formal complaint proceedings submitted by South Slope Cooperative Telephone Company on February 8, 2008, and by Aaron Smith, identified as informal complaint C-07-272, are denied.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 4<sup>th</sup> day of April, 2008.