

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

IN RE:  AMENDMENTS TO TELEPHONE SERVICE REGULATIONS [IAC 199 22]	DOCKET NO. RMU-2014-0003
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**RESPONSE TO BOARD ORDER**

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, files these comments in response to the Iowa Utilities Board’s (IUB) request for input regarding the effects of S.F. 2195 on the Board’s telephone rules set forth in 199 IAC Chapter 22. Among other things, S.F. 2195 amends provisions of Iowa Code ch. 476 (2013) to remove the requirement that local exchange carriers file retail tariffs with the Board, and removes telephone utilities from requirements regarding public utilities affiliates.

Although some services and facilities have been completely deregulated by the Board, the most basic service residential and business services were deregulated by the legislature as to rates but not service. Iowa Code § 476.1D (2013). The Staff Report, appended to the Board’s order closing its inquiry docket into telecommunications regulation, noted that “detariffing of local exchange services would in no way undermine the Board’s authority over local exchange service quality.” Docket No. NOI-2013-0001, “Order Closing Docket” (IUB Oct. 18, 2013), Appendix at 48-49. Local exchange carriers (LECs) would continue to abide by the same statutes and rules that govern service quality, but tariffs setting forth the specific policies and requirements under which the LECs offer service would no longer need to be filed and approved

by the Board. *Id.* Amendment of ch. 22 will require the removal of rules that refer to the “tariff” requirement, but the Board should be careful to retain relevant standards which should govern the conduct of the LECs’ business. Removal of the word “tariffs” in 199 IAC 22.1(5) should not lessen the obligation to “to provide telephone service to the public in its service area in accordance with the rules” adopted by the Board. End-user customers need to be able to find and evaluate the terms under which service is offered; that need is even more important now that the Board will not be reviewing and approving tariffs containing those terms.

Similarly, the current requirements as to the content of tariffs set forth in 199 IAC 22.2(3) *et seq.* does not relieve the LECs of keeping its terms of service current, unambiguous, and available to customers either through a website or by mail upon request. The specific format of a tariff is no longer required, but the underlying purpose of informing customers of the terms and conditions of service, allowing them to make an informed decision and minimizing misinterpretation and disputes, remains a valid and important objective. For example, 199 IAC 22.2(5) sets forth the required “content of tariffs.” Most of the items listed, however, are important considerations to end-user customers, including such items as billing periods and late payments, EAS availability, extension rules and payments for construction, deposit and disconnection rules, etc. Both the LEC and the customer benefit when these points, previously addressed in tariffs, are clearly set forth by the LEC in an accessible document which remains current. OCA agrees with the Board that rules containing minimum customer standards and liability limits would be appropriate so that both customers and LECs understand what should be available to customers.

Many of those standards are already set forth in 199 IAC 22.4 “Customer Relations,” 22.5 “Telephone utility service standards,” and 22.6 “Standards of quality of service.” When the

Board considers adoption of minimum service standards, the Board should remain as technology-neutral as possible. In general, the technological and engineering differences between the different types of voice services are (and should be) transparent to customers. Further, the Board should try to put in place standards that apply to wireline, VoIP, cable VoIP and other types of services whenever possible so that major amendments are not required after the transition to an all-IP network expected by the end of this decade.

Another issue that will need to be addressed is how to amend a LEC's service territory when tariffs are no longer required. 199 IAC 22.2(5) "f" currently requires LECs to list in their tariffs the exchange areas they serve. Once a LEC is granted a certificate of public convenience and necessity, it has only had to request approval of a proposed amendment to its tariff list of exchanges (rather than its certificate) to expand its service offering. The convenience of a tariff amendment rather than a certificate amendment has promoted competition, while still ensuring that the Board was aware of the service territories of LECs. In recent years, however, complaint dockets have revealed that a few carriers were providing service in exchanges which had not been approved and were not providing service in exchanges where they were authorized to do so. As a result, OCA believes it is important that the Board create a procedure, however streamlined to encourage expansion of competition in all exchanges, designed to permit Board approval of the list of exchanges where LECs claim to provide service. The Board's suggestion in *Re: Great Lakes Communications Corp.*, Docket No. SPU-2011-0004, *slip op.* at 21 (IUB May 13, 2014) that a simple procedure to seek amendment of a certificate could be adopted is well taken and could easily accomplish the goal. If resources permitted, the Board could provide the listing of the LECs available in exchanges throughout Iowa in an accessible format on its website. This issue would require the revision of 199 IAC 22.20 "Service territories."

The Board has also noted that its current intrastate access rules at 199 IAC 22.14 no longer comply with current FCC orders and rules. The FCC's preemption of most aspects of prospective terminating switched access charges on intrastate interexchange traffic has very recently been affirmed by the Tenth Circuit. *In re: FCC 11-161*, No. 11-9900, *slip op.* (10<sup>th</sup> Cir. 2014), but the FCC has stated that it expects the states to play a role in the transition to bill-and-keep for terminating access. The current rules should be reviewed and amended to bring them into compliance with federal requirements. Similarly, the Board's rules for Alternate Operator Services (AOS) at 199 IAC 22.19 includes inmate calling services, which has been under review by the FCC recently. The Board's rules should be reviewed to see if revisions are necessary to comply with federal requirements.

Finally, OCA suggests that the Board undertake the review and amendment of its rules in smaller single-topic rulemakings rather than in an omnibus proceeding. Ch. 22 covers a far-ranging list of subjects, many of which could be reviewed separately from other topics, allowing the interested parties to direct their attention and resources on the details of each topic and the efficacy of the proposed rule language in achieving the Board's goals. Parties who did not believe that a topic affected them would not participate, allowing those who are interested to focus their attention in each docket on a limited number of issues. The Board may want to consider convening informal meetings or workshops on individual topics, which may be the most efficient way to seek input prior to the initiation of a formal rulemaking. OCA intends to participate on behalf of telephone customers in all proceedings going forward, and appreciates

this opportunity to provide input to the Board at this time.

Respectfully submitted,

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