



## **Special Report**

### **August 10, 2017**

## **IUB Deregulates Retail Local Exchange Service**

Yesterday, the IUB issued its long-awaited [Order in the Deregulation docket](#) that has consumed so much industry interest over the past several years.

In its Order, the IUB deregulates retail local exchange service quality in Iowa, including nearly all customer service requirements, specific service quality standards, and provisions relating to discontinuation of service.

In making its ruling, the IUB ruled that retail LEC service was subject to “effective competition” and it said that “for the vast majority of Iowans, local exchange voice wireline service is subject to effective competition and should be deregulated pursuant to Iowa Code § 476.1D.”

The deregulation is not total – the IUB found that certain regulations involve “essential communications services” that meet the test for continued service regulation despite a finding of effective competition, including hearing and resolving customer complaints and making assessments for the Dual-Party Relay Services fund and Board expenses.

The Board further ruled that certain statutory requirements on LECs are unaffected by deregulation, including 911 services, regulation of alternative operator services, slamming and cramming, and utility crossings of railroad right-of-way.

Finally, the Board made clear that its deregulation applies only to retail local exchange voice communication service and does not affect the Board’s continuing jurisdiction over intrastate access services and other wholesale services, AOS, service territories, and other wholesale matters.

Throughout the proceedings, the Alliance forcefully urged the IUB to deregulate retail LEC service in a technology-neutral manner, and this goal was accomplished.

Combined with the Board’s [January 2017 Order](#) deregulating voice service provided via internet protocol, this Order nearly removes all Board’s authority to regulate the retail operations of LEC service providers.

[Click here](#) to read the Board’s August 9, 2017 Order Deregulating Retail Local Exchange Service Quality.

## **Analysis of the Impact of Deregulation**

During this proceeding and several prior proceedings, the IUB analyzed each of the rules in Chapter 22 and the obligations placed on LECs by the Iowa Code and it asked for comment on the potential impact of deregulation on several services and requirements. The Alliance provided extensive comments on each of these, and in all important respects, the IUB agreed with the Alliance position in this Order.

In its Order, the IUB gave a comprehensive summary of the impact of its decision to deregulate on each of these.

### **1. Rules/Obligations No Longer in Effect**

The IUB stated that its deregulation means that the following Board rules are no longer in effect and will not be enforced effective August 9, 2017:

- **LEC responsibility to study and evaluate its records to ensure satisfactory customer service**, Rule 22.2(1).
- **General service requirements**, including assignment of numbers, ordering, and transferring service, and adjacent exchange service, Rule 22.3.
- **Standards of quality of service**, including rules relating to service connections, held orders, service interruption and restoration, and emergency operation, Rule 22.6.
- **Protective measures** to reduce hazards to customers and employees, Rule 22.7.
- **Discontinuance of service** to an exchange or part of an exchange, Rule 22.16.
- **Resale of service**, Rule 22.17.

The IUB will open a rulemaking to formally eliminate those rules.

### **2. IUB to Continue to Hear Customer Complaints**

The Board ruled that “The public interest will best be served if the Board retains jurisdiction to hear and address customer complaints regarding the quality and availability of local exchange services.”

To accomplish this, the Board will continue to hear and investigate customer complaints alleging inadequate service quality, considering the specific facts and circumstances of each such situation, with the goal of ensuring that either the customer has a choice of providers or that the only available service provider offers reliable access to service.

The IUB recognized that it need not maintain service quality rules such as those relating to standards for measures like outage response times, service line extensions, and others.

In addition, the IUB retained rules relating to the processing of customer complaints, including 22.4(1)(b), which requires that customers must be informed, at least annually, of their option to file complaints with the Board. It eliminated most of Rule 22.4, keeping only the following customer relations rules in place 22.4(1)(a)(1), 22.4(1)(a)(4), 22.4(1)(a)(5), 22.4(1)(b), 22.4(1)(c), 22.4(3)(a), 22.4(3)(c), 22.4(4), 22.4(5), and 22.4(6).

Wireline customer complaints will continue to be heard by the Board but complaints regarding wireless, satellite, broadband, and other services must be transferred to the Attorney General's office. The Alliance had urged the IUB to treat retail LEC complaints the same as retail VoIP complaints.

### **3. Certificates Are Now Voluntary**

Initially, the Board noted that the Iowa Code provision relating to certificates (§ 476.29) was automatically repealed effective July 1, 2017, and thus the potential impact of deregulation on certificates of public convenience and necessity appears to be moot.

While discussing the legislative repeal, the IUB said that “ICA makes a persuasive argument that some form of certificate is important, and even essential, to certain tasks required to offer local exchange communications services to the public and the public interest requires that they continue in some form.” IUB went on to say that “Accordingly, and in recognition of the value the industry attaches to certification, the Board will offer the industry the option to continue to use the historical CPCN process on a voluntary basis at this time, but will investigate and implement alternative processes that will fulfill the identified needs while reducing the regulatory burden on market entry.”

The IUB ruled that LECs seeking a certificate of public convenience and necessity may voluntarily apply for a certificate by filing a petition meeting the requirements of Iowa Code § 476.29 (repealed effective July 1, 2017). The Utilities Board will review the applications pursuant to those standards until an alternative mechanism is implemented.

### **4. COLR Eliminated**

The Board ruled that a formal COLR obligation is unnecessary, given its retention of certain customer complaint authority and ETC obligations.

### **5. Discontinuance of Service Rule Eliminated**

One of the rules that was eliminated concerns “discontinuance of service” to an exchange or part of an exchange. This means that the IUB will no longer require notice or need to give approval when a LEC converts a customer from copper to fiber.

### **6. Railroad Right-of-Way Crossings Unchanged**

The Board specifically stated that deregulation will not affect the ability of telecommunications providers to make use of the railroad crossing provisions in Iowa Code 476.27.

### **7. Registrations Kept** (for now)

The Board will continue to require registrations from telecommunications providers until it investigates and implements more streamlined and efficient alternative mechanisms.

### **8. Annual Reports Kept** (for now)

The Board will continue to require annual reports so that it can gather information to calculate assessments for DPRS and remainder assessments until it investigates a more efficient alternative to gather the information.

### **9. 911 Unchanged**

The Board said that its deregulation had no impact over the existing laws and rules governing 911 and emergency services.

## Summary of Continued Board Authority

The Board specifically states that after its deregulation, it retains authority over the following:

- **Customer complaints** regarding service quality or lack of service
- **Dual Party Relay Service assessments**
- **Duties and authority delegated by the FCC**
- **Registration requirements** for telecommunications carriers
- **Utilities Board assessments.** The IUB said the Iowa Code does not allow it to change the assessment methodology due to deregulation, and that even after deregulation the Board will still have some jurisdiction over landline voice communication service, intercarrier disputes, and issuance of certificates and registrations.

### Rules Still in Effect

To enforce the retained authority, the following rules from Chapter 22 are still in effect and will be enforced:

- **General information** (waivers, definitions, and past deregulation actions), Rule 22.1
- **Form of tariffs**, Rule 22.2 stays in effect though 22.2(1) is eliminated
- **Content of wholesale tariff filings proposing rate changes**, Rule 22.12
- **Intrastate access charge application, tariff procedures, and rates**, Rule 22.14
- **Interexchange utility service and access**, Rule 22.15
- **Alternative operator services**, Rule 22.19
- **Service territories**, Rule 22.20 (linked to certificates of public convenience and necessity)
- **Slamming and Cramming**, Rule 22.23 --the Board said its jurisdiction over slamming and cramming complaints survives deregulation because of Iowa Code 476.103
- **Numbering resources**, Rule 22.24

## Next Steps—Member Meetings

The Alliance will continue to evaluate this Order to analyze any nuances and other impacts on member companies. We will distribute additional information when it becomes available.

We understand that this Order may generate a lot of questions regarding “what is the real impact of this on my business.”

Therefore, the Alliance Regulatory Committee is planning to host **two member update and Q&A sessions.**

The first member update will be a conference call that will be scheduled soon after next week’s Regulatory Relations Committee meeting.

The second will be an in-person meeting held at the conclusion of the Envision conference at the Des Moines Airport Holiday Inn the afternoon of **Thursday, September 14<sup>th</sup>**. The Dereg Update/Q&A session will be free of charge both for attendees of the Envision Conference and for those who are not registered, but wish to attend the Dereg session only. More details to come soon.

For further information, please contact [Dave Duncan via email](#) or phone 515-867-2091.