

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INQUIRY INTO REGULATORY REQUIREMENTS FOR ALTERNATIVE OPERATOR SERVICES COMPANIES	DOCKET NO. NOI-2019-0001
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ORDER INITIATING INQUIRY

(Issued August 20, 2019)

INTRODUCTION

The Utilities Board (Board) is initiating an inquiry to evaluate the regulatory framework that applies to alternative operator services (AOS) companies in Iowa. The Board has jurisdiction over the services provided by AOS companies pursuant to Iowa Code § 476.91. The goals of this inquiry are to review the existing regulatory framework regarding AOS in Iowa, consider whether that framework needs to be revised, decide whether new rules need to be adopted, address any new technology, and review any recent changes in related statutes and rules. In this order, the Board identifies a number of topics for discussion. This list should not be considered exclusive or limiting. Any relevant issues related to AOS may be raised in responses or comments.

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PROCEDURAL BACKGROUND

On January 2, 2019, the Board issued an order terminating the rule making in Docket No. RMU-2017-0004, "Rule Making Regarding Inmate Calling Rate Caps [199 IAC chapter 22]" that was originally opened to consider a proposed amendment to Board rules regarding inmate calling services. In the order terminating the rule making, the Board instead directed that "all alternative operator services companies, as defined in Iowa Code § 476.91(1)(a), shall file current tariffs with the Utilities Board for review and approval."

On April 4, 2019, the Board issued a subsequent order that clarified that all AOS companies were required to file proposed new tariffs for Board review. Eleven AOS companies filed proposed new tariffs in response to the Board's orders. On June 14, 2019, the Board issued an order requesting additional information from the 11 AOS companies that had filed the proposed new tariffs. In the June 14, 2019 order, the Board identified 13 additional AOS companies and directed those companies, if the companies wanted to continue to provide telecommunications service in Iowa, to also file proposed new AOS tariffs and responses to the Board's questions.

The Board has reviewed the proposed new tariffs and the responses to the Board's questions and, based upon that review, is opening this inquiry to complete its review of AOS companies in Iowa. The Board considers it important to have a broader review that includes all interested AOS stakeholders, such as the facilities or

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entities that have contracted for AOS, especially in the context of inmate calling services.

The inquiry also seeks to understand any differences in the services offered by AOS providers in different types of facilities. Originally, an AOS company was a service provider in public or institutional facilities such as hotels, hospitals, airports or dormitories. When the AOS industry began, those customers were effectively captive customers of the telecommunications service provider selected by the business or institution. The widespread use of wireless telephones appears to have lessened concerns about AOS in many of these facilities; however, this inquiry will provide the Board the opportunity to understand the current market for AOS.

In addition to a review of AOS in Iowa, the Board is also monitoring proposed changes Congress recently introduced in S. 1764, the Martha Wright-Reed Just and Reasonable Communications Act of 2019, which would amend the Communications Act of 1934 to require the Federal Communications Commission (FCC) to ensure just and reasonable charges for telephone and advanced communications services in correctional and detention facilities. Changes in federal statutes, or FCC regulations, could impact the decisions the Board is considering regarding AOS in Iowa.

The Board intends this inquiry to address issues that apply to AOS companies regarding those companies' obligations to file tariffs with the Board and the overall regulatory framework around AOS in Iowa. The Board will review its procedures for how a company adopts the tariffs of another company when that company is sold or

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transferred to a different entity. The Board will review questions it has about the proposed new tariffs filed by AOS companies in response to recent Board orders.

The Board also intends to use information provided in response to this inquiry to assist with developing the Board's new online portal and telecommunications registration form. The Board seeks to understand how best to define AOS in terms of whether these types of providers function as interexchange carriers, local exchange carriers, a combination of the two, or a completely distinct category that is neither interexchange nor local exchange. The current registration form lists five categories of telecommunications service provided (Local Exchange Service; Interexchange Service; Data Transmission; Alternative Operator Services Only; Other), but AOS companies with seemingly similar service offerings have elected different combinations to describe their service types. The Board seeks comment on why an AOS company would select one, none or a combination of those options. This information will also be useful to help determine how best to collect data pertaining to Dual Party Relay Service assessments, any applicable annual reporting requirements, and compliance with regulatory requirements that may differ according to type of service.

STATUTORY AUTHORITY

While recent deregulation legislation exempted some types of telecommunications service providers from many of the regulatory requirements in

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Iowa Code chapter 476, the Board retains jurisdiction over companies offering AOS.

The statutory provisions in Iowa Code § 476.91 are as follows:

1. 476.91(1) Definitions.
 - a. “Alternative operator services company” means a non-governmental company which receives more than half of its Iowa intrastate telecommunications services revenues from calls placed by end-user customers from telephones other than ordinary residence or business telephones. The definition is further limited to include only companies which provide operator assistance, either through live or automated intervention, on calls placed from other than ordinary residence or business telephones, and does not include services provided under contract to rate-regulated local exchange utilities.”
 - b. “Contracting entity” means an entity providing telephones other than ordinary residence or business telephones for use by end-user customers which has contracted with an alternative operator services company to provide telecommunications services to those telephones.
 - c. “End-user customer” means a person who places a local or toll call.
 - d. “Other than ordinary residence or business telephones” means telephones other than the residence or business telephones of the customer users of the telephones, including but not limited to pay telephones and telephones in motel, hotel, hospital, and college dormitory rooms.
2. 476.91(2) Jurisdiction. Notwithstanding any finding by the board that a service or facility is subject to competition and should be deregulated pursuant to section 476.1, all intrastate telecommunications services provided by alternative operator services companies to end-user customers, using other than ordinary residence or business telephones, are subject to the jurisdiction of the board and shall be rendered pursuant to tariffs approved by the board. Alternative operator services companies shall be subject to all requirements and sanctions provided in this chapter. Contracting entities shall be subject to the requirements of

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any board regulations concerning telecommunications services provided by alternative operator services companies.

3. 476.91(3) Requirements. The board shall adopt and enforce requirements for the provision of services by alternative operator services companies and contracting entities.
4. 476.91(4) Billing by local exchange utilities. Notwithstanding any finding by the board that a service or facility is subject to competition and should be deregulated pursuant to section 476.1, a regulated local exchange utility shall not perform billing and collection functions relating to regulated telecommunications services provided by an alternative operator services company, unless the alternative operator services company has filed a statement with the local exchange utility signed by a corporate officer, or other authorized person having personal knowledge, that all regulated telecommunications services to be billed shall be rendered pursuant to tariffs approved by the board.

INFORMATION TO BE PROVIDED

To initiate the discussion regarding the services provided by AOS companies, the Board is requesting that companies offering AOS, and other interested persons, provide information as described below. Once the Board has reviewed the responses, the Board will determine what additional proceedings are necessary. Additional proceedings may include requests for additional information or a workshop to allow for a discussion of the issues identified. Responses to this order should address any other issues that a person considers relevant for the Board to address in this inquiry.

The information requested is as follows:

1. Should all AOS companies' tariffs have consistent definitions for the services provided, identify the types of facilities where the service is offered, offer the same types of service, offer the

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- same calling options, and contain the same requirements for billing and cancellation of service?
2. What criteria or considerations should the Board use to determine whether rates charged by an AOS company are just and reasonable? This includes the basic rates and any ancillary rates.
 3. Should an AOS company be allowed to offer rates and service for non-correctional facilities that are different from rates and services provided to correctional facilities?
 4. Should agreements between facilities, including state or local correctional facilities, and an AOS company also be filed with the Board, similar to the AOS tariff?
 5. Companies that are providing AOS service are requested to provide a description of that company's current corporate structure and affiliations and whether that company is a successor to a company that previously provided AOS service in Iowa.
 6. What information regarding AOS service should be considered confidential and not available for public inspection?
 7. Are the Board's current registration and billing procedures understandable and are there any issues or questions about those procedures?
 8. When would an AOS company select only one of the options on the current telecommunications registration form (Local Exchange Service; Interexchange Service; Data Transmission; Alternative Operator Services Only; Other) or a combination of options?

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. An inquiry, identified as Docket No. NOI-2019-0001, is opened to address issues regarding alternative operator services in Iowa.

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2. Responses to this order shall be filed on or before 30 days from the date of this order.
3. Replies to responses shall be filed on or before 15 days after responses are due.
4. Notice of this order shall be sent to:
 - a. All telecommunications service providers;
 - b. The Iowa State Sheriffs and Deputies Association;
 - c. The Iowa Communication Alliance;
 - d. All correctional facilities in Iowa;
 - e. The Iowa Department of Corrections;
 - f. The Iowa Office of Ombudsman; and
 - g. The Prison Policy Initiative.

UTILITIES BOARD

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Kelsie Vanderflute

/s/ Richard W. Lozier, Jr.

Dated at Des Moines, Iowa, this 20th day of August, 2019.