



Iowa General Assembly

2004 Legal Updates

Legislative Services Agency – Legal Services Division

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Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

TELEPHONE SERVICE CHARGES

Filed by the Iowa Supreme Court
September 15, 2004

AT&T Communications of the Midwest, Inc. v. Iowa Utilities Board

<http://www.judicial.state.ia.us/supreme/opinions/20040915/index.asp>

Overview. The Iowa Supreme Court found that the Iowa Utilities Board (Board) has broad statutory authority to regulate telephone service charges assessed by local exchange carriers when providing connections to long distance "interexchange" carriers. However, the Court also ruled that the Board exceeded its statutory authority in waiving the application of an existing rule which required the assessment of a special connection charge.

Factual Background. This case arose because of a dispute involving telephone service charges involving three types of telephone service providers: two types of local exchange carriers (LECs), incumbent local exchange carriers (ILECs), and nonrate-regulated local exchange carriers known as competitive local exchange carriers (CLECs), and interexchange carriers (IXCs) which provide long-distance service. AT&T is an IXC which purchases access service from LECs. Generally, IXCs complete telephone connections through the centralized equal access services of Iowa Network Services (INS) which acts as a coordinating agent on behalf of its members. In 1989, INS entered into an agreement with AT&T to provide centralized equal access to AT&T through participating LECs. Later, AT&T adopted and announced a policy not to order services from the CLECs whose rates were higher than ILECs. The CLECs continued to provide and charge AT&T for services. In mid-1999 AT&T refused to pay the CLECs and they filed a complaint with the Board under Iowa Code section 476.11 which authorized the Board to determine terms and procedures for toll connections between two or more telephone companies. AT&T contended that the CLECs used their bottleneck monopolies over access to individual end users to extort higher prices from IXCs.

Procedural Background. The Board determined AT&T was in violation of Iowa Code sections 476.101(9) and 477.11 for refusing to accept and pay for the disputed access services. It also held that AT&T had constructively ordered the access services. The Board also held that the CLECs access charges were not just, reasonable, and nondiscriminatory as required by Iowa Code section 476.3. The Board ordered the CLECs to file new rates and not to assess the required three-cent-per-minute common carrier line (CCL) charge. In issuing the order, the Board waived one of its own administrative rules, 199 IAC 22.14, which requires that all intrastate access tariffs include the CCL charge. The Board refused to apply its order retroactively.

Upon review, the District Court for Polk County affirmed in part and reversed in part the Board's decision. It held the Board exceeded its statutory authority and violated due process when it examined the reasonableness of the CLECs' access rates, and that it lacked statutory authority to waive the CCL charge. AT&T appealed the district court's decision to the Iowa Supreme Court which affirmed in part and reversed in part the district court's decision.

Analysis and Conclusion. The Iowa Supreme Court found that the Board has broad authority under Iowa Code section 476.11 to regulate telephone service charges and its review of the access charges were within that authority. It found no violation of due process, noting that the parties had thoroughly participated in contesting the issue during the Board hearing. The Court noted that although the Board could have ordered the retroactive application of the reduction of service charges in its order, it was not compelled to do so. The Court upheld the district court's determination that AT&T was bound to purchase the CLECs' intrastate access services, and must pay the charges assessed for past services. The

Court agreed with the district court that 199 IAC 1.3 which authorized the Board to grant a waiver from one of its own rules, was beyond the statutory authority delegated to the Board. The Court remanded the case to district court, and ordered that court to return the case to the Board to proceed in a manner consistent with the Supreme Court's opinion.

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