

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

AVENTURE COMMUNICATION
TECHNOLOGY, L.L.C., an Iowa
corporation,

Plaintiff,

vs.

IOWA UTILITIES BOARD, Utilities
Division, Department of Commerce;
ROBERT B. BERNTSEN, KRISTA K.
TANNER, and DARRELL HANSON, in
their Official Capacities as Members of
the Iowa Utilities Board and not as
Individuals,

Defendants.

No. C 10-4074-MWB

**ORDER REGARDING AVENTURE'S
MOTION FOR TEMPORARY
RESTRAINING ORDER**

This case is before the court on Adventure's August 12, 2010, Motion For Temporary Restraining Order (Motion For TRO) (docket no. 41). Adventure filed its Motion For TRO, notwithstanding that the court has already set an expedited briefing deadline for today and expedited telephonic oral arguments for Monday, August 16, 2010, on Adventure's Motion For Preliminary Injunction (docket no. 12). Adventure asserts as the basis for its Motion For TRO that, on August 10, 2010, after it filed this action, the IUB used the rules adopted in the *HVAS Order* that is challenged in this action to suspend Adventure's modified tariff and to calendar it for investigation.

Adventure does not allege, however, that the IUB's August 10, 2010, action poses such an immediate threat to the continuation of Adventure's business that the court must hear Adventure's Motion For TRO before the arguments already set on Monday on Adventure's Motion For Preliminary Injunction. In essence, the court considers Adventure's

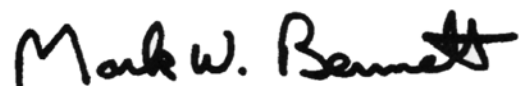
Motion For TRO to be moot. As a practical matter, the court is unwilling to issue any temporary restraining order *ex parte*, at least based on the written arguments that Aventure presents in its brief in support of its Motion For TRO, and the court is simply unable to hear arguments on the Motion For TRO before the arguments on the Motion For Preliminary Injunction already set for Monday.

To the extent that Aventure disagrees with the court's view that the Motion For TRO is moot, Aventure may present to the court arguments concerning the need for a TRO, in addition to the need for a preliminary injunction, at the oral arguments on Monday on the Motion For Preliminary Injunction.

THEREFORE, Aventure's August 12, 2010, Motion For Temporary Restraining Order (Motion For TRO) (docket no. 41) is **denied** without prejudice to reassertion at the telephonic oral arguments on Monday, August 16, 2010, at 8:00 a.m., on Aventure's Motion For Preliminary Injunction. *No party is required to file any written response to Aventure's Motion For Temporary Restraining Order.*

IT IS SO ORDERED.

DATED this 12th day of August, 2010.



MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA