The Commission met on **Thursday, September 20, 2007**, with Chair Koppendrayer and Commissioners Boyd, Johnson, Pugh and Reha present.

Comment [COMMENT1]: Minutes by Eric Witte and Carol Casebolt. 7 motions were made.

The following matters were taken up by the Commission:

ENERGY AGENDA

E, G-002/D-07-251
In the Matter of Northern States Power Company's Request for Approval of the Annual Review of Remaining Lives Depreciation for Electric and Gas Production and Gas Storage Facilities for 2007

Commissioner Reha moved to approve the filing, including the recommendations of the Minnesota Department of Commerce (the Department) and clarifications included in Northern States Power Company's reply comments.

The motion passed 5 - 0.

TELECOMMUNICATIONS AGENDA

P-421/AM-07-1125
In the Matter of a Request by Qwest Corporation to Disconnect Vycera Communications, Inc.

Commissioner Boyd moved to grant the petition of Qwest Corporation (Qwest) to disconnect Vycera Communications, Inc.

The motion passed 5 - 0.

P-5979/M-07-1011
In the Matter of the Petition filed by Pac-West Telecomm, Inc. to Discontinue the Provision of Telecommunications Services

Commissioner Johnson moved to do the following:

1. Permit Pac-West Telecomm, Inc. (Pac-West), to maintain its conditional certificate of authority to provide local and long distance services.

2. Require Pac-West to submit a letter, within 30 days of the date of issuance of this Order, withdrawing its current tariff.

3. Require Pac-West to re-file a new tariff, as well as satisfying applicable regulatory requirements, before providing local and long distance services.

4. Require Pac-West to file and receive Commission approval of an interconnection agreement before providing local exchange service.

5. Require Pac-West to file and receive Commission approval of a 911 plan before providing voice local exchange services.

The motion passed 5 - 0.

P-421/C-07-1020
In the Matter of Velocity Telephone, Inc. Complaint Against Qwest Corporation for Improper Billing for Dark Fiber

Commissioner Johnson moved to grant the request of Velocity Telephone, Inc., to investigate its complaint against Qwest and to refer the matter to the Office of Administrative Hearings.

The motion passed 3 - 2.

P-999/CI-07-557
In the Matter of Modification of the Lifeline Verification Survey Requirements

Commissioner Koppendrayer moved to do the following:

1. Accept the filings made by all the Eligible Telecommunications Carriers (ETCs).

2. Certify in Docket No. P-999/CI-07-558 *In the Matter of Annual Certifications Related to Eligible Telecommunications Carriers' (ETC) Use of the Federal Universal Service Support* the ETC status of the following companies: Arrowhead Communications Corporation, Callaway Telephone Company, Christensen Communications Company, Clara City Telephone Company, Eagle Valley Telephone, Company, Felton Telephone Company, Inc., Granada Telephone Company, Halstad Telephone Company, Loretel Systems, Inc., Manchester-Hartland Telephone Company, Midwest Telephone Company, Osakis Telephone Company, The Peoples Telephone Company of Bigfork, Pine Island Telephone Company, Sacred Heart Telephone Company, Sherburne County Rural Telephone Company, Sleepy Eye Telephone Company, Starbuck Telephone Company, Twin Valley-Ulen Telephone Company, Wikstrom Telephone Company, Inc., Zumbrota Telephone Company, American Cellular Corporation, RCC Minnesota, Inc. and Wireless Alliance LLC.

3. Take no action to initiate an investigation into how commercial mobile radio services ETCs publicize, market, and implement the Lifeline program in Minnesota.

4. Modify the Lifeline verification procedures as follows:

    A. The number of Lifeline recipients a carrier samples initially depends on the number of Lifeline recipients the carrier serves.

        i. Small carriers (between 1-99 Lifeline recipients) are required to sample 10% of their Lifeline recipients (rounding up) every other year.

ii. Medium carriers (between 100-999 Lifeline recipients) are required to sample 5% of their Lifeline recipients (rounding up) every year.

iii. Large carriers (1000 or more Lifeline recipients) each sample 50 recipients every year.

The sample size in the next year shall increase if a carrier found a larger number of ineligibles in the following manner:

i. Any small carrier that found more than 4% ineligible would lose its chance to skip conducting a survey the next year. The small carrier would again sample 10% of its Lifeline recipients.

ii. Any medium or large carrier that found more than 4% ineligible (but fewer than 8%) would double the base sample size.

iii. Any medium or large carrier that found 8% or more ineligible would triple the base sample size.

The required sample size refers to the number of surveys returned rather than distributed. Surveying 20% more recipients than the sample size will be considered to be acceptable as a safe harbor for ETCs concerned about non-responses.

B. Carriers shall randomly sample Lifeline recipients, except that a carrier shall review its records to assure that a recipient who is in a sample is excluded from the sample the next year. At the option of the ETC, the carrier may review its records so that: (a) a recipient who is in a sample is excluded from future samples for a total of two or three years, and/or (b) a recipient who has enrolled by showing evidence of income eligibility is excluded from future samples for one or two years. A recipient who is excluded from a sample under this section is not counted as being surveyed in any way.

C. A carrier that acquires current proof of eligibility may use that information to avoid dropping a non-responding recipient. The carrier must document the type of proof it has in its possession.

D. A surveyed recipient that has his/her discount discontinued for failure to provide proof of eligibility may only re-enroll in Lifeline within the next year with the same carrier if s/he provides proof of eligibility.

E. Affiliated companies may be treated as a single company for the verification process.

F. Notification to the surveyed recipient shall be accomplished by sending an initial letter allowing the recipient 60 days to submit proof of eligibility, and a second letter two to four weeks later reminding the recipient to submit proof by the designated date. Both letters should contain clear, concise statements notifying the customer that failure to provide proof will result in the recipient losing his/her Lifeline discount and may restrict the recipient's ability to re-enroll in the program unless proof is provided. Finally, the customer's first bill where the Lifeline discount is discontinued, or a letter mailed separately from the bill, should include a notice explaining that the discount has been removed.

G. Reports to the Commission should include (a) the number of Lifeline recipients the carrier has at the time it initiated its verification that year, (b) the number of survey letters sent out, © the number responding that are eligible, (d) the number responding that are ineligible, (e) the number that did not respond, and (f) any non-responding recipients that remain on the program because the carrier has acquired information that the recipient is eligible. All ETCs are to report (a) annually; small carriers with up to 99 Lifeline recipients are exempted from reporting (b) through (e) starting with the 2009 filings and every other year thereafter.

H. Schedule for 2007 and the future: ETCs shall report the verification results of that year to the Commission each year in the report filed on or before September 1, subject to any applicable exemptions for small companies. ETCs shall conduct the 2007 survey in Minnesota as the base year, even if the ETC used the base year procedure for 2006.

I. The Commission has adopted Lifeline verification procedures other than the default process, and the FCC default procedures no longer apply to Minnesota ETCs.

J. Procedures will be reviewed in the future. Due to changes in the program, or experience with verification, these procedures will be reviewed and may be revised.

The motion passed 5 - 0.

P-999/M-07-558
In the Matter of Annual Certifications Related to Eligible Telecommunications Carriers' (ETC) Use of the Federal Universal Service Support

Commissioner Koppendrayer moved to do the following:

1. Certify, based on the information provided, that all the petitioning ETCs will use the Federal High-Cost Universal Service Support received in 2008 only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

2. Require the companies listed in Attachment 2 of the Department's comments to submit, within 30 days of the Commission's Order, a compliance filing consisting of a progress report detailing the status of projects which they identified as priority projects for the years 2006-2007 in Docket No. P-999/M-06-616 *In the Matter of Annual Certifications Related to Eliglble Telecommunications Carriers (ETCs) Use of the Federal Universal Service*

Support.

3. Accept the Minnesota Independent Coalition's late filing, but take no action to change the ETC certification process.

The motion passed 5 - 0.

P442, *et al*./C-04-235
In the Matter of the Complaint of the Minnesota Department of Commerce for Commission Action Against AT&T Regarding Negotiated Contracts for Switched Access Services

Commissioner Johnson recused himself and left the meeting.

Chair Koppendrayer moved to do the following:

1. Adopt the recommendation of Administrative Law Judge (ALJ) Steve M. Mihalchick to grant Department's Motion for Summary Disposition and find that AT&T Communications of the Midwest (AT&T) did knowingly and intentionally violate Minnesota statutes and rules in its provision of intrastate switched access services to MCImetro Access Transmission Services LLC (now d/b/a Verizon Access Transmission Services) and MCI Communications Services, Inc. (now d/b/a Verizon Business Services) (collectively, MCI).

2. Adopt the ALJ's penalty recommendations in the amount of $552,000.

3. Take no action regarding the illegal rates charged by AT&T while the Second Unfiled Agreement was in effect.

4. Adopt the ALJ's findings and conclusions regarding trade secret materials.

5. Adopt the findings, conclusions and recommendations in the June 1, 2007, ALJ's Recommendation on Motion for Summary Disposition, Findings of Fact, Conclusions of Law, and Recommendation (ALJ's Report), with the following modifications:

    A. The finding of knowing and intentional violations of law are supported both by the evidence before the ALJ at the initial phase of the proceeding as well as by evidence elicited during the penalty phase of the proceeding.

    B. Whereas the ALJ's Report states at page 15 that AT&T and MCI "had entered into many such agreements in Minnesota and around the country," the Commission would say that AT&T had entered into many such agreements in Minnesota and around the country, including the agreements with MCI.

    C. Whereas the ALJ's Report states in the last sentence of page 21 that "AT&T and MCI violated the law and they simply will have to deal with the consequences...," the Commission would say that *to the extent* AT&T and MCI violated the law, they will have to deal with the consequences.

D. While the ALJ's Report states at page 21, footnote 52, that MCI sought to keep the Second Unfiled Agreement secret, the Commission acknowledges that MCI now agrees that the agreement should be treated as a public document.

E. While the ALJ's Report discusses a variety of conduct by various divisions of AT&T, both within and beyond Minnesota, the conduct of AT&T's local service division in Minnesota is sufficient to justify the ALJ's legal conclusions and penalty recommendations.

6. Refrain from initiating investigations or revisiting prior decisions related to this matter on its own motion at this time.

The motion passed 4 - 0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: NOVEMBER 28, 2007

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Burl W. Haar, Executive Secretary