

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
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Issue Date: NOV. 2, 1987

In the Matter of Northwestern  
Bell Telephone Company's Revised  
Tariff for Services Provided to  
Radio Common Carriers

Docket No. P-421/M-86-816

In the Matter of MCI/Cellcom's  
Refusal to Pay Charges

Docket No. P-421,RP-40/M  
86-332

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER, AND ORDER CLOSING  
RELATED DOCKET

BACKGROUND

The terms Radio Common Carrier (RCC), Conventional RCC, and Cellular RCC are used throughout this case. The term Radio Common Carrier refers to all companies that provide paging or mobile telephone service to the public. Conventional RCCs and Cellular RCCs are subsets of the larger set of all RCCs. The terms conventional and cellular refer to the type of technology the carriers use to provide their service to the public.

Conventional RCCs provide both paging and mobile telephone services. The mobile telephone service provided by Conventional RCCs is called Improved Mobile Telephone Service (IMTS). IMTS requires a separate radio frequency for every mobile telephone conversation in a given area. Because the number of radio frequencies is limited, relatively few customers can make mobile telephone calls at one time on an IMTS system. There are approximately 16 Conventional RCCs operating in Minnesota. The Conventional RCCs were represented in this case by the Minnesota Radio Common Carrier Association (MRCCA).

Cellular RCCs provide mobile telephone service using cellular radio technology. Cellular radio technology allows the same radio frequency to be used to make mobile telephone calls in several different parts or cells of an area at the same time. Thus, the cellular RCC systems have greater call capability and

can serve a greater number of customers at one time. There are only two Cellular RCCs operating in Minnesota at this time. Those carriers are Minnesota Cellular Telephone Company and NewVector. Both Minnesota Cellular and NewVector actively participated in this case.

The rates Conventional and Cellular RCCs charge their customers are not regulated by the Minnesota Public Utilities Commission (Commission). The rates Northwestern Bell Telephone Company (NWB) charges the RCCs for interconnecting with NWB's system are regulated by the Commission.

### PROCEDURAL HISTORY

On June 5, 1985, the Commission issued its Initial Order in the previous RCC Case, Docket No. P-421/M-84-429. The Order directed NWB to submit a revised tariff for Radio Common Carriers that was consistent with eight Commission policy decisions.

On November 4, 1985, NWB submitted its revised tariff for RCCs with accompanying testimony and cost studies. On November 26, 1985, the Commission ordered that NWB's revised RCC tariff be set for contested case hearing in this case, Docket No. P-421/M-85816.

Evidentiary hearings were held from June 9 through June 13, 1986 before Administrative Law Judge Richard DeLong. Six parties participated in this case. Those parties are:

1. Northwestern Bell Telephone Company (NWB);
2. Minnesota Cellular Telephone Company (Minnesota Cellular), formerly MCI Cellcom Cellular;
3. NewVector Communications, Inc. (NewVector), a U. S. West Company;
4. Minnesota Radio Common Carrier Association (MRCCA);
5. Minnesota Department Of Public Service (DPS); and,
6. Residential Utilities Division of the Attorney General's Office (RUD-AG).

NewVector and Minnesota Cellular are Cellular RCCs. The MRCCA represented the Conventional RCCs operating in Minnesota in this proceeding.

At the evidentiary hearings NWB and the Conventional RCCs presented a proposed settlement resolving all issues between NWB and the Conventional RCCs. The ALJ accepted the proposed settlement for consideration. The evidentiary hearings continued, but were limited to issues regarding NWB's proposed tariff for Cellular RCCs.

The ALJ certified the proposed settlement between NWB and the Conventional RCCs to the Commission without a recommendation in an Order dated September 8, 1986. The ALJ also issued his Report and Recommendation regarding NWB's proposed Cellular RCC tariff on September 8, 1986. The ALJ recommended that NWB's proposed Cellular RCC tariff be denied.

The Commission subsequently scheduled oral arguments and deliberations in this case for March 1987. However, the parties asked that the oral argument and deliberations be rescheduled to allow NWB and the Cellular RCCs to negotiate a settlement. The Commission granted an informal extension as requested by NWB and the Cellular RCCs.

NWB and the Cellular RCCs submitted a proposed settlement resolving all issues in this case to the Commission on July 10, 1987. As part of the proposed settlement, NWB and Minnesota Cellular agreed to dismiss all claims in a separate proceeding, In the Matter of MCI/Cellcom Cellular's Refusal to Pay Charges, Docket No. P-421,RP-40/M-86-322, and requested that the complaint docket be closed.

The Commission solicited comments and allowed reply comments on both the proposed settlement for Conventional RCCs and the proposed settlement for Cellular RCCs.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### I. Cellular RCCs

As a result of negotiations between NWB, NewVector and Minnesota Cellular, NWB now proposes that the Company's settlement and individual contracts with Cellular RCCs, and associated cellular tariffs, be approved in lieu of the cellular tariffs NWB initially proposed in this case.

The proposed settlement addresses three main aspects of interchanging calls between NWB and Cellular carrier networks. Those aspects are: 1) charges for interconnecting circuits or facilities between NWB's switching office and the switching offices of Cellular RCCs; 2) charges for completing local exchange calls originated by Cellular RCC customers using NWB's local network; and, 3) charges for completing intraLATA toll

calls originated by RCC customers using NWB's intraLATA toll network. Cellular RCCs will make separate interconnection arrangements with interLATA carriers.

The proposed settlement provides that the cost of the circuits between NWB's and the Cellular RCCs switching offices be divided between NWB and the Cellular RCCs on a percentage basis of forecasted call volume generated by each company's customers. The settlement includes a minimum billing provision for the interconnecting circuits that applies if the Cellular RCC does not generate the minimum call volume agreed to.

The settlement establishes usage sensitive charges for local exchange calls originated by Cellular RCC customers that are completed using NWB's local exchange network. The charges were calculated by beginning with NWB's existing usage rates for local measured service (LMS). The LMS usage rates were adjusted to remove the cost associated with certain functions that are performed by NWB for LMS but are performed by Cellular RCCs for calls originated by Cellular RCC customers.

The settlement establishes a charge of \$0.08 per minute for completing toll calls originated by Cellular RCC customers over NWB's intraLATA toll network. This charge is based on the assumption that the average distance of toll calls will be 75 miles. The settlement also includes a provision for quarterly adjustments of this rate to reflect the actual average distance of toll calls in the future.

NWB summarized the pricing rationale for the rates contained in the proposed Cellular RCC settlement as follows. The contract NWB negotiated with the Cellular RCCs acknowledges their status as carriers and accommodates the integration of the cellular switching systems with NWB's switched network as end offices. It also recognizes each carrier's responsibility to provide facilities to carry traffic from its network to the other carrier's network.

The proposed local usage and toll rates incorporated in the settlement agreement reflect a uniform pricing plan for cellular carriers operating in Minnesota with a Type 2 interconnection arrangement. NewVector has agreed to change its present interconnection to a Type 2 interconnection as Minnesota Cellular has. The proposal is in concert with the FCC rulings for Type 2 interconnection agreements.

The proposed rates cover cost and allow the cellular carriers to purchase only needed services by removing unnecessary functions such as recording and rating. The proposed rates for local usage and intraLATA toll were computed by beginning with the same cost elements and rate structure as for toll message services and local measured service. The following components were subtracted

from the costs: recording, rating, business office inquiry, operator handled calls, and uncollectibles which reflect the services not provided to the cellular carriers. The remaining costs were used to develop the proposed rates.

The proposed rate of \$0.08 per minute for intraLATA toll calls is based on calls terminating within seventy-five miles of the cellular switch. The settlement requires a quarterly true-up of intraLATA toll based on the terminating end office to allow for a rate adjustment when the average distance exceeds seventy-five miles.

Maintenance charges, as set forth in the settlement, are the same as those used by NWB for providing maintenance service to interexchange carriers.

At this time all parties support, and recommend that the Commission adopt, the proposed settlements, contracts and associated tariffs for Cellular RCCs.

The Commission finds that NWB is a duly authorized Common Carrier by wire and radio engaged in providing telecommunications services in Minnesota. Minnesota Cellular and NewVector are duly authorized cellular Common Carriers by radio engaged in providing one or more public land mobile services in Minnesota. The Commission has jurisdiction of the rates NWB charges Minnesota Cellular and NewVector pursuant to Minn. Stat. Chap. 237.

The record reflects that in entering into negotiated contract agreements, NWB, and the Cellular RCCs compromised some of their positions regarding appropriate business relationships and rates. Nevertheless, Cellular RCCs will not be subsidized by other NWB customers because the proposed rates, although not necessarily cost based, exceed the Company's cost to provide the services. The Commission finds that the negotiated agreements between NWB and the Cellular RCCs establish appropriate rates and an appropriate business relationship between them. The Commission concludes that approval of these agreements and associated tariffs will promote the efficient resolution of this dispute over these miscellaneous rates and are reasonable and in the public interest.

## II. CONVENTIONAL RCCs

NWB proposes that the settlement, individual contracts with Conventional RCCs, and associated tariffs resulting from negotiations in 1986 be adopted in lieu of NWB's original proposal in this proceeding. All parties, except the DPS, recommend that the Commission adopt the proposed settlements, contracts, and associated tariffs for Conventional RCCs.

The proposed settlements recognize that Conventional RCCs require two different types of service from NWB. Conventional RCCs that provide paging service require essentially one-way service, while Conventional RCCs that provide Improved Mobile Telephone Service require two-way service.

Conventional RCCs that provide radio paging service require oneway wire facilities that connect the RCC's switching office to the NWB central office and blocks of telephone numbers that the RCC can assign to individual paging customers. NWB customers then can reach a RCC paging customer by dialing a seven digit local telephone number. The settlements provide that these RCCs pay the same rates for their service that other business customers pay for Direct Inward Dialing Service. Thus, the settlements propose that RCCs providing paging service pay the same rates, over a three year period, that have been approved by the Commission for other customers that receive similar service.

Conventional RCCs that provide Improved Mobile Telephone Service require two-way wire facilities that connect the RCC's switching office to NWB's central office. The two-way connection allows the RCC's customers to place mobile calls to NWB's customers and allows NWB's customers to place calls to the RCC's customers. The proposed settlement requires that the interconnecting wire facilities and NWB's completion of mobile calls be provided under usage sensitive rates. The proposed rates for these RCCs are the same rates the Commission has approved for business customers receiving Local Measured Service (LMS). Any toll calls or calls to directory assistance operators made by mobile RCC customers would be billed by NWB at the tariffed toll rates other customers are charged.

The DPS indicated that it could not support the proposed settlement between NWB and the Conventional RCCs. The DPS stated that the settlement proposes usage sensitive rates that conflict with the position the DPS took in this case. The DPS indicated that the proposed business LMS rates were calculated to reflect the cost of providing local exchange service to business customers. The DPS argues that Conventional RCCs impose different costs on NWB than business customers, and therefore, should pay different rates.

The DPS also argues that usage sensitive rates should not be mandatory for Conventional RCCs. In addition the DPS indicated that the ALJ rejected a similar proposal for Cellular RCCs. The DPS argued that applying the ALJ's reasoning should lead to rejection of the proposed Conventional RCC settlement. The DPS indicated it could support rates for Conventional RCCs that were similar to the rates that were proposed for Cellular RCCs.

The MRCCA responded to the DPS's comments stating that the MRCCA had shared the DPS's concerns in the past. However, the MRCCA also indicated that both NWB and the MRCCA compromised some of their positions to bring an end to the series of rate cases where RCC rate issues were not resolved. The MRCCA also indicated that the possibility of protracted litigation, with its attendant expenses, gave both parties incentive to compromise in this situation. Furthermore, the MRCCA argued that non-RCC customers would not be harmed by the settlement because all proposed rates exceed NWB's costs. Finally, the MRCCA indicated that the proposed settlement was for a three year period, and that all rate issues could be reexamined at that time.

NWB also replied to the comments of the DPS. NWB indicated that both the Company and the Conventional RCCs compromised their positions on various issues to reach an overall settlement. NWB believes that the proposed settlement will benefit both NWB and the Conventional RCCs.

At the October 7, 1987 Commission meeting, NWB made a further proposal in an attempt to resolve the DPS's remaining concerns regarding rates for Conventional RCCs. NWB proposed that the usage rates for completing calls from Conventional RCC customers be reduced to reflect a level of contribution that is equal to or lower than the level of contribution contained in the proposed usage rates for Cellular RCCs. The DPS indicated that NWB's proposal reasonably resolved the DPS's concerns regarding the proposed settlement and rates for Conventional RCCs. MRCCA also accepted NWB's proposal. No party opposed NWB's proposal.

The Commission finds that NWB is a duly authorized Common Carrier by wire and radio engaged in providing telecommunications services in Minnesota. The Conventional RCCs represented by the MRCCA are duly authorized Conventional Common Carriers by radio engaged in providing one or more public land mobile radio services in Minnesota. The Commission has jurisdiction of rates NWB charges the Conventional RCCs pursuant to Minn. Stat. Chap. 237.

Further, the Commission finds that the negotiated agreements between NWB and the Conventional RCCs establish appropriate rates and appropriate business relationships between the Conventional RCCs and NWB. The record reflects that in entering into negotiated contract agreements, NWB and the Conventional RCCs each compromised some of their positions regarding appropriate business relationships and rates in order to avoid protracted litigation. Nevertheless, Conventional RCCs will not be subsidized by other NWB customers because the proposed rates, although not necessarily cost-based, exceed NWB's costs.

Finally, the Commission finds that at the time the Conventional RCCs' contract period is over, the Conventional RCCs and NWB may reassert their respective concerns and renegotiate any matter they deem appropriate in light of new developments in technology and regulation. Meanwhile, sufficient incentive exists for Conventional RCCs and NWB to adhere to the compromise contracts in order to avoid the expense and inconvenience associated with protracted litigation.

Therefore, the Commission concludes that approval of these agreements and the associated tariffs, as revised to reflect the modifications proposed by NWB and accepted by the parties on October 7, 1987, will promote the efficient resolution of this dispute over these miscellaneous rates, and that they are reasonable and in the public interest.

### III. Complaint Docket

In the proposed settlement submitted in this case, NWB and Minnesota Cellular agreed to dismiss all actions, and requested that the Commission close all proceedings, in a separate proceeding, In the Matter of the Refusal of MCI/Cellcom to Pay Charges, Docket No. P-421,RP-40/M-86-332.

The Commission finds that NWB and Minnesota Cellular have resolved all issues in Docket No. P-421,RP-40/M-86-332 to their mutual satisfaction. No party opposed the dismissal and closing of this docket. The Commission finds that no party will be harmed by the dismissal and closing of this docket. Therefore, the Commission will order that this docket be closed.

Based on the preceding findings of fact and conclusions of law the Commission makes the following Order.

### ORDER

1. The proposed Connection and Traffic Interchange Agreement contracts between Northwestern Bell Telephone Company and Minnesota Cellular Telephone Company and between Northwestern Bell Telephone Company and NewVector, Minnesota SMSA Limited Partnership, with the associated Cellular Carrier Services Tariff, Pages 1-3, submitted October 6, 1987, are approved. The approved tariff changes will become effective immediately. Northwestern Bell Telephone Company shall submit a final copy of the approved tariff pages reflecting the effective date of the tariff pages to the Minnesota Department of Service within 30 days of the date of this Order.

2. Minnesota Cellular Telephone Company and NewVector shall, within 120 days of the date of this Order, make any changes in interconnection arrangements necessary to implement Type 2 interconnections consistent with the settlement agreements submitted to the Commission in this regard on July 10, 1987 which are approved.
3. The proposed interconnection contracts between Northwestern Bell Telephone Company and the Conventional Radio Common Carriers and the associated Radio Common Carrier Services Tariff, Pages 1-2, submitted October 6, 1987, are approved with the modifications proposed by Northwestern Bell Telephone Company on October 7, 1987. The tariff will become effective 30 days from the date of this Order to allow the carriers to make necessary changes in interconnections and billing. The contracts for interconnection will become effective 30 days from the date of this Order but will terminate on the originally agreed upon date as specified in the contracts. Northwestern Bell Telephone Company shall submit a final copy of the proposed tariff with the modifications discussed on October 7, 1987 to the Minnesota Department of Public Service within 30 days of the date of this Order. Northwestern Bell Telephone Company shall also submit a copy of any revisions of the contracts between Northwestern Bell Telephone Company and the Conventional Radio Common Carriers that are necessary to reflect the modifications in usage rates for Conventional Radio Common Carriers discussed on October 7, 1987 to the Minnesota Department of Public Service within 30 days of the date of this Order.
4. The Local Exchange Tariff, Sheet 4, and General Exchange Tariff, Section 17, Sheet 1 submitted by Northwestern Bell Telephone Company on October 6, 1987 are approved and are effective immediately. Northwestern Bell Telephone Company shall submit a final copy of the approved tariff pages reflecting the effective date of the tariffs to the Minnesota Department of Public Service within 30 days of the date of this Order.
5. The existing agreement governing the interconnection between Northwestern Bell Telephone Company and the Conventional Radio Common Carriers shall terminate 30 days from the date of this Order.
6. The Access Services Tariff submitted to the Commission on September 30, 1983 and approved for the limited purpose of providing Feature Group E Service to NewVector until a uniform tariff was established is cancelled effective 120 days from the date of this Order.

7. The proposed stipulated financial settlement between Northwestern Bell Telephone Company and Minnesota Cellular Telephone Company, McCaw, formerly MCI/Cellcom Cellular, is approved.
8. Docket No. P-421, RP-40/M-86-332, In the Matter of MCI/Cellcom Cellular's Refusal to Pay Charges, is hereby dismissed and closed.
9. This Order is effective immediately

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(SEAL)