

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Petition of AT&T  
Communications of the Midwest, Inc. to  
Change Its Rates for Telephone Service  
Offered Within the State of Minnesota

ISSUE DATE: January 8, 1988

DOCKET NO. P442/EM-87-494

ORDER DENYING PETITION FOR  
RECONSIDERATION

PROCEDURAL HISTORY

On October 29, 1987, the Minnesota Public Utilities Commission (Commission) issued its Findings of Fact, Conclusions of Law and Order in the above-captioned matter. In that Order, Private Line Service (PLS) rates were increased by \$1.5 million in addition to other rate increases. The rate increases were based on an incremental cost study submitted by AT&T Communications of the Midwest, Inc. (AT&T).

On November 20, 1987, the Minnesota Department of Administration (DOA) filed its Petition for Reconsideration. The Petition argues that the Commission incorrectly found that the AT&T cost study accurately reflects AT&T's cost of providing PLS. The DOA claims that evidence presented to the Commission in Docket No. P-442/EM-87-494 demonstrates the incorrect application of costs to the local channel portion of PLS. The DOA also claims that competition does not exist for this type of service because AT&T is the only provider of interexchange interLATA channel services within Minnesota.

On November 30, 1987, AT&T replied to the Petition of the DOA. AT&T argued that the DOA had not raised any new issue of law or fact. AT&T claimed that the Commission found that the cost study properly calculates local channel cost. According to AT&T, this issue was fully addressed in its reply comments filed on September 22, 1987 at pages 6 thru 8. AT&T also noted that the DOA Petition was not filed within the required 20 day period.

On November 30, 1987, the Minnesota Department of Public Service (DPS) filed its response to the DOA Petition. The DPS argued that the cost study properly calculates the cost of local channel services as explained in the DPS's reply comments filed September 22, 1987 at pages 1 thru 2. Therefore, the DPS claimed that the DOA presented no new argument on this issue. Further, the DPS claimed that the legislature found PLS to be a competitive service and, therefore, the Commission should not consider this argument for reconsideration.

After the PLS rate increases went into effect on October 1, 1987, approximately 20 customers contacted the Commission to protest the increases. Mr. LaVerne Vassar, who became an additional party to the case, has been in contact with Commission staff. Mr. Vassar believes the increases unfairly burden customers such as himself and other business owners who do not have viable alternatives for this type of service.

## FINDINGS AND CONCLUSIONS

The DOA presented two reasons for its request for reconsideration: 1) the Commission should have found that AT&T's cost study does not accurately reflect the Company's cost of providing private line services; 2) the Commission should not have found that private line services are competitive because AT&T is the only Company offering interexchange intrastate PLS in Minnesota.

### Cost Study

The first issue the Commission must address is whether AT&T's cost study accurately reflects the cost of providing PLS. The DOA claimed that AT&T incorrectly calculated the local channel portion of PLS by including channel mileage costs along with access charges. AT&T's cost study uses a Northwestern Bell Telephone Company's (NWB) special access tariff for mileage charges in their local access cost calculation. The DOA stated that this mileage charge is not a proper cost to provide a local channel. The DOA believes that all mileage should appropriately be billed as a mileage rate element and not as part of local channel access.

The Commission finds that AT&T's access cost will include NWB channel mileage charges when the AT&T point of presence is in a different city than the customer location. Therefore, AT&T's cost study properly includes mileage in accordance with NWB's access tariff. Moreover, as discussed in the Commission's October 29, 1987 Order, DPS analysis supports a finding that AT&T's cost study accurately calculates AT&T's incremental cost for PLS. Therefore, the Commission finds that AT&T's cost for a local channel should properly include NWB mileage charges and is verifiable by looking at NWB's access tariffs. The Commission concludes that the DOA's arguments regarding the cost study should be rejected.

### Competition

The second issue before the Commission is whether interexchange intrastate PLS is an emerging competitive service. The DOA believes the Commission should not have found that interexchange intrastate PLS is a competitive service. According to the DOA, AT&T is the only subscriber for NWB special access service used to provide AT&T's PLS service. The DOA stated that there are no other providers who offer interexchange interLATA channel services throughout the State. AT&T and the DPS refute this claim, arguing that the Minnesota Legislature determined that PLS

is currently an emerging competitive service and should be regulated in accordance with the provisions of Minn. Stat. Sections 237.57 thru 237.68 ( Supp. 1987).

The Commission finds that the Minnesota Legislature has addressed this issue. Minn. Stat. Section 237.59, subd 1 (Supp. 1987) states:

The following services provided by the telephone company are subject to emerging competition unless and until reclassified as noncompetitive or subject to effective competition under this section:...(12) interLATA and intra- LATA private line services.

AT&T has elected pursuant to Minn. Stat. Section 237.58 (Supp. 1987) to be subject to Minn. Stat. Section 237.59, subd. 1 (Supp. 1987). The Commission notes that Minn. Stat. Section 237.59, subd. 10 (1987) provides a procedure and standards for the reclassification of an emerging competitive service as a noncompetitive service with rate regulation. The DOA has not sought a reclassification of PLS, nor has it attempted to meet the standards set forth in the reclassification section of the statute. Therefore, the Commission concludes that PLS is an emerging competitive service and will deny the DOA's request.

Petitions for Reconsideration are subject to the provisions of Minn. Rules 7830.4100. In accordance with these rules, the Commission finds that no new issues or arguments were presented in DOA's Petition, and concludes that the October 29, 1987 Order is lawful and reasonable. Therefore, the Commission will deny DOA's Petition for Reconsideration having fully considered the issues and arguments in the earlier stages of this proceeding.

### ORDER

1. Department of Administration's Petition for Reconsideration is denied on the basis that no new arguments or issues were raised.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)