

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 a Summary Investigation Into
IntraLATA Toll Access Compensation for
Local Exchange Carriers Providing Telephone
Service Within the State of Minnesota

ISSUE DATE: January 11, 1988

DOCKET NOs. P-999/CI-85-582

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ORDER AFTER RECONSIDERATION

PROCEDURAL HISTORY

On November 2, 1987, the Minnesota Public Utilities Commission (the Commission) issued its Findings of Fact, Conclusions of Law and Order and Order Initiating Summary Investigations (November 2 Order) in the above-named proceeding. Several parties to that proceeding petitioned the Commission for reconsideration of its November 2 Order.

Upon review of the issues presented in the petitions for reconsideration, the Commission makes the following Findings, Conclusions and Order.

FINDINGS AND CONCLUSIONS

The Commission will make its findings and conclusions on each issue raised in the petitions for reconsideration separately by issue.

I. Revenue Neutrality

Central Telephone Company (Centel), Continental Telephone Company (Contel), Northwestern Bell Telephone Company (NWB) and United Telephone Company (United) petitioned the Commission to reconsider and revise its November 2 Order regarding the issue of revenue neutrality.

Centel, Contel, NWB and United made the following arguments in support of their position that the Commission reconsider and revise its decision on this issue:

- (1) That in Docket No. P-421/CI-83-203 et al (the "203" docket), the initial intrastate access charge proceeding, the Commission authorized an increase or a decrease in local service rates in order to maintain the existing revenue stream being received by each local exchange carrier (LEC). However, the November 2 Order reduced precisely the same access revenue stream that was increased in the "203" docket;
- (2) That the Commission anticipated that local rates would be affected by its decisions in this proceeding. In its December 31, 1985 Notice and Order for Hearing in this docket, the Commission made several statements indicating its awareness that local rates would be affected. Further, the Commission ordered that notice of the proceeding be made in the legal newspapers in the service areas of all LECs which are parties to the proceeding;
- (3) That it has long been held in Minnesota that reducing a company's revenues without an appropriate rate hearing is an illegal and unconstitutional confiscation;
- (4) That the Administrative Law Judge concluded that revenue neutrality was mandated in this proceeding;
- (5) That the Commission has recognized the principle of revenue neutrality in previous rate design proceedings. By definition, a rate design proceeding is one that evaluates one or more specific rates, as opposed to a general rate case, in which all rates and a company's entire operations are reviewed. To the extent that revenue neutrality is to be achieved in this proceeding, it must be through local rate increases;
- (6) That the rejection of the concept of revenue neutrality would result in confiscation of a substantial amount of its revenues.

In their replies to the petitions, the Residential Utilities Division of the Office of the Attorney General (RUD-AG) and the Minnesota Department of Public Service (DPS) argued that the November 2 Order is consistent with the principle of revenue neutrality. The Commission agrees. There was no information in the record of this proceeding as to whether the telephone companies were either under earning or over earning. The Commission resolved this problem by giving the pre-rate-regulated telephone companies an opportunity to file a general rate case. The Commission has not abandoned revenue neutrality but has merely prevented the concept from becoming a device for raising rates unrelated to the rates under consideration.

In its discussion of the principle of revenue neutrality, the Commission stated at pages 6-7 of the November 2 Order:

Revenue neutrality means that the Company's final rates adopted through the proceeding should generate the same revenues as the Company's overall rates entering the case did. However, the principle of revenue neutrality shall not become a device for raising rates

unrelated to the rates under consideration in the investigation when no inquiry was made into the propriety of those rates or the revenues collected from those rates. This is particularly true when the rates being raised are basic local service rates. Since this proceeding was about toll and toll access rates, changes to rates other than those related to toll service should require additional scrutiny.

Therefore, after determining the amount of non-traffic sensitive (NTS) costs to shift out of toll service, the Commission stated at page 37 of the November 2 Order:

The Commission will require that if any LECs with less than 30,000 subscribers propose to recover the NTS cost shift out of toll from local ratepayers that such proposals be justified in a filing to the Commission and the DPS. If any LECs with 30,000 or more subscribers propose to recover NTS costs from local ratepayers such proposals must be justified in a general rate case. No shift of NTS costs to local ratepayers shall occur without prior Commission approval. This requirement will not preclude or prevent any changes to local rates arising out of rate adjustments due to the Tax Reform Act of 1986.

Using 1987 figures, Centel estimated that its net revenue loss as a result of this proceeding would be \$2,798,048. By factoring in its estimated tax savings offset of \$1,325,946 from the Tax Reform Act in Docket No. P-405/M-87-430, Centel estimated its net revenue loss to be \$1,472,102 using 1987 figures.

Contel indicated that, because of the Commission's Order Approving Stipulation in the Tax Reform Act, Docket No. P-407/M-87-431, it did not presently anticipate a need to adjust local rates to compensate for access revenue losses.

United calculated that the effects of the Commission's November 2 Order would result in a reduction of its revenue in 1987 from toll, access and billing and collection services by \$3,949,771. After adjusting for effects of the Tax Reform Act stipulation in

Docket No. P-430/M-87-437, United estimated its 1987 revenues would still be reduced by \$1,956,408.

The Commission agrees that a utility may not be deprived of revenues previously found necessary to cover the cost of service without a review of all factors that were considered in the creation of the rates in the first instance, including in some cases the rate base, revenues, expenses or rate of return. Minnesota Power's Transfer of M.L. Hibbard Units 3 and 4 Boilers and Related Facilities, 399 N.W.2d 147 (Minn. App. 1987); Intrastate Switched Access Charges Proposed by Northwestern Bell Telephone Company, 402 N.W.2d 242 (Minn. App. 1987). However, the Commission also finds that adequate time exists between the issuance date of the November 2 Order and the effective date of the designated carrier plan for those companies that may under earn their overall revenue requirement to file a general rate case and have interim rates put into effect.

The Commission finds that the November 2 Order is consistent with the concept of revenue neutrality. The Commission concludes that it will deny reconsideration of this issue.

II. Cap on Revenue Shift from Toll to Local

In their petitions for reconsideration, several parties, including the Minnesota Independent Coalition (MIC), the RUD-AG, United and the DPS, recommended that the Commission adopt a cap on the amount of costs shifted from toll access to local service.

AT&T Communications of the Midwest (AT&T/MW) and NWB argued that the adoption of a cap was unnecessary and inappropriate. According to AT&T/MW and NWB, caps are not appropriate due to the minor changes in intrastate access charge cost allocations approved.

The Commission is aware that the effects of its decisions on LECs in this proceeding will vary by company. The Commission will review, on a case-by-case basis, any proposed increase to local rates. For those LECs with fewer than 30,000 subscribers, the DPS will investigate and bring to the attention of the Commission any increase in local rates that appears excessive.

Review of proposed increases in local rates on a case-by-case basis will ensure the interests of each LEC's local ratepayers are protected from unjust and unreasonable local rate changes resulting from this proceeding. Therefore, the Commission concludes that it will deny reconsideration on the issue of adopting a cap on the amount of any shifts from toll to local service.

III. Intrastate Access Revenue Requirement

A. Test Year

Contel, NWB and the MIC requested clarification of the test year to be used in the compliance filings.

For the benefit of the parties, the Commission will clarify that the test year to be used by the Non-

Bell Exchange Companies (NBECs) in computing their access revenue requirements shall consist of a minimum of nine months of actual 1987 data and shall use the federal and state income tax rates in effect for 1988. The Commission finds that all NBECs should have nine months of actual 1987 data available. The Commission also finds that use of 1988 tax rates is appropriate because it is a known and measurable change.

B. Weighted Rate of Return

In their petitions for reconsideration, NWB and the MIC submitted clarifications on the calculation of the weighted rate of return. While the Commission agrees with the methodology used by NWB and the MIC, the Commission believes that the most recent figures available should be used. Therefore, the Commission clarifies that the weighted rate of return to be used by the non-pre-rate-regulated LECs in determining their intrastate access revenue requirement is 11.59 percent. This weighted average was calculated as follows:

<u>Company</u>	<u>Authorized ROR</u>	<u>Total 100.1 Dollars</u>	<u>% of 100.1 Dollars</u>	<u>Weighted ROR</u>	
Centel 12.09%		\$ 94,370,686	3.16	.38	
Contel 10.22%		\$ 176,402,449	5.91	.60	
United 12.28%		\$ 135,045,280	4.53	.56	
NWB	11.63%	<u>\$2,578,673,655</u>		<u>86.40</u>	<u>10.05</u>
TOTAL	--	<u>\$2,984,492,070</u>		<u>100.00</u>	<u>11.59</u>

C. New FCC Parts 32 and 36

Ordering paragraph 4(b) of the November 2 Order required all cost-based NBECs to use Federal Communications Commission (FCC) Part 67, adjusted for intrastate purposes, to establish their respective intrastate access revenue requirement. Part 67, however, was amended by the FCC and became new Part 36 in an Order released on May 1, 1987 in CC Docket Nos. 78-72, 80-286, and 86-297, FCC 87-134. The changes to Part 67 were made to bring the Separations Manual (Part 67) into conformance with the FCC's revised Uniform System of Accounts (which is new Part 32).

Part 36 took effect on January 1, 1988, although the FCC's decision to amend Part 67 is now under reconsideration.

For the purposes of clarification, several parties raised the issue of which methodology, Part 67 or the new Part 36, the Commission intended cost-based NBECs to use for compliance in this proceeding.

The Commission finds that use of Part 67 should be continued until the FCC finalizes its decisions on changes to the separations manual and those changes and the impact on intrastate jurisdictional revenue requirements can be evaluated by the Commission and all interested parties.

Although Part 36 took effect on January 1, 1988, the FCC recently established (in an order issued October 15, 1987) a new joint board to evaluate possible revisions of Part 36. One of the most controversial issues regarding possible amendment to Part 36 is the allocation factor for marketing expense and whether access revenues should be excluded or included. The FCC originally excluded access revenues from its Part 36 rules but reversed itself on an interim basis when the National Association of Regulatory Utility Commissioners (NARUC) and the United States Telephone Association protested that exclusion of access revenues in the allocation factor for marketing expense would result in a nationwide shift of \$475 million in revenue requirements to the state jurisdiction. A recent update placed the shift amount at over \$740 million. The FCC had believed that its new Part 36, as originally adopted, would result in minimal revenue requirement shifts.

The Commission finds that this is only one example of the uncertainty regarding the true impact of Part 36 on determinations of revenue requirements. It is even more uncertain as to how the differences between Part 67 and Part 36 would affect intrastate revenue requirements if Part 36 was used, adjusted for intrastate purposes, in this proceeding.

The Commission also finds that, in addition to the uncertainty surrounding the impact of Part 36, no evidence exists in the record of this proceeding on the subject of the FCC's rule changes. The record of this proceeding closed on April 20, 1987, which was prior to the May 1, 1987 release of the FCC's order adopting Part 36. Parties had the opportunity, however, to raise the issue of the potential for amendments to Part 67 and the subsequent effects such amendments might have if the Commission adopted Part 67 as a methodology to determine intrastate revenue requirements. No party raised the issue. Therefore, the Commission concludes that it would be inappropriate, as well as premature, to adopt Part 36 at this time without a full and comprehensive evaluation of its impacts on state jurisdictional revenue requirements.

D. Average Schedule Companies' Revenue Requirements

Ordering paragraph 4(d) of the November 2, 1987 Order required all average schedule companies to use their intrastate average schedule of costs for determining their intrastate access revenue requirement. NWB pointed out in its petition for reconsideration and clarification that since the conversion from settlements to Minnesota interLATA access charge arrangements, there have been no total intrastate average schedules in Minnesota; only intraLATA average schedules. NWB and the MIC also suggested that the Commission clarify what methodology intraLATA average schedule

companies should use to develop their intrastate access revenue requirements.

The Commission agrees with the parties that clarification of the methodology to be used by average schedule companies is needed. Therefore, the first line of ordering paragraph 4(d) shall be changed to read as follows:

All average schedule NBEC's shall use their 1987 test year intrastate intraLATA average schedule compensation for the intrastate intraLATA portion of their respective intrastate access revenue requirement and shall use test year 1987 intrastate interLATA access revenue as a surrogate for the intrastate interLATA portion of their respective intrastate access revenue requirement for the purposes of establishing their respective intrastate access revenue requirement.

E. NWB's Revenue Requirement

1. Clarification of NTS and TS Rates

NWB requested that the Commission clarify that NWB is to charge the traffic sensitive (TS) rates established in Docket No. P-421/CI-85-352 (the "352" docket), but that its Carrier Common Line Charge (CCLC) may be changed and reduced in accordance with determinations of the Commission in this proceeding or later dockets.

The Commission finds that its intent was for NWB to use the traffic sensitive rates and CCLC established in the "352" docket, but with the CCLC developed in that proceeding modified in accordance with the decisions made in the November 2 Order. Therefore, the Commission will grant NWB's request for clarification.

2. Further Reductions in NWB's CCLC

NWB requested that the Commission reconsider its decision not to make any adjustments in NWB's CCLC at this time and the Commission's rejection of the "sustainable market theory." NWB explained that many parties supported reductions in the CCLC, that the problem of high access charges results from the artificially inflated CCLC, and that NWB's CCLC is extremely out of line with intrastate CCLCs in surrounding states.

The RUD-AG replied that this issue was thoroughly briefed and argued by the parties and fully and correctly analyzed by the Commission. The RUD-AG recommended that the existing inter-service rate design be maintained and addressed once NWB's overall revenue requirement is determined in Docket No. P-421/CI-86-354 (the Department of Defense petition).

The Commission concurs with the arguments of the RUD-AG on this issue. The Commission will reject NWB's petition for reconsideration of the CCLC. The Commission will, however, clarify the

November 2 Order to add the RUD-AG's recommended language regarding the maintenance of the interservice rate design.

3. Gross Receipts Tax

NWB stated that, as the designated carrier, its gross receipts tax liability will increase. NWB argued that the Commission endorsed the principle of revenue neutrality in this proceeding, however, the Commission's ordering paragraph 4(i) includes no means for NWB to obtain revenues to cover the increased tax expense as part of this proceeding. Therefore, NWB requested that it be directed to file changes in its toll rates, as part of its compliance filing in this proceeding, to cover the increase in gross receipts tax liability NWB will incur as a result of the Commission's Order.

At ordering paragraph 4(i) of the November 2 Order, the Commission stated: "If this proceeding does have the effect of increasing NWB's gross receipts tax expense, NWB is not precluded from immediately filing a miscellaneous case to increase its toll rates to recover the increased expenses." Because the Commission has provided a means for NWB to recover any increased expenses resulting from its role as designated carrier, the Commission will deny NWB's request for reconsideration of this issue.

F. Ancillary Services

After its initial deliberation of the ancillary services issue, the Commission concluded in its November 2 Order that it would detariff billing and collection (B & C) services and operator functions, but maintain traffic recording and identification functions under uniform tariffed rates. The Commission also stated that all ancillary services, including the detariffed services, would remain subject to regulatory oversight.

The Commission also ordered that the revenue requirements associated with and the revenues generated by the detariffed ancillary services would be included in the calculation of the CCLC.

Several parties asked for reconsideration and clarification of the accounting treatment of the detariffed ancillary services ordered by the Commission. In its reconsideration petition, the RUD-AG argued that the Commission had failed to provide adequate accounting protections to prevent cross-subsidization of the detariffed services by the general ratepayer. The RUD-AG recommended that the Commission give companies the following accounting options:

- (1) Exclude the revenue requirement related to the detariffed ancillary services from all regulated activities, such that any gain or loss from these services become the responsibility of the shareholders; or,
- (2) Retain in the revenue requirement to be recovered through the CCLC, the expenses and investment related to the detariffed ancillary services, but offset the CCLC revenue requirement by the greater of the revenues generated by the detariffed ancillary services or their embedded costs.

NWB argued that the Commission's treatment of detariffed ancillary services was inconsistent with its treatment of non-access and access-related services provided under contract. In its November 2 Order, the Commission had allowed the costs associated with those services to be excluded from each LEC's calculation of its intrastate toll access revenue requirement and the calculation of the CCLC. NWB recommended that the Commission exclude expenses and revenues associated with the detariffed ancillary services from the calculation of the CCLC.

NWB objected to the optional plans recommended by the RUD-AG characterizing them as well-meaning, but difficult to monitor. NWB also argued that the RUD-AG's options would create

unnecessary complications and would create greater opportunities for inappropriate recoveries resulting in subsidies.

The Commission finds that parties have raised legitimate concerns about the accounting treatment to be applied to the detariffed ancillary services. The Commission finds that if LECs are allowed to include the revenue requirement and revenues associated with the detariffed ancillary services in the calculation of their CCLC, toll carriers may subsidize the services, services which in some instances they may not use. The Commission will reconsider its decision on this issue.

After review of the reconsideration arguments, the Commission finds that it has basically two options:

(A) The Commission can order that all revenues, investment, expenses and revenue requirement associated with the detariffed services be excluded entirely from all regulated services of each LEC; or,

(B) The Commission can order that the detariffed ancillary services be treated the same as NWB's CENTRON services, i.e. each LEC would be required to file a price list for the detariffed services, and price the services to recover at least cost.

The Commission finds that two other options -- one, to include detariffed ancillary services revenues, investment, expenses and revenue requirement in the non-CCLC intrastate toll access revenue requirement and two, to adopt the RUD-AG's option (2) as described above are not consistent with the Commission's decision in the November 2 Order to exclude the costs associated with access-related and non-access services under contract from each LEC's intrastate toll access revenue requirement and the CCLC calculation. The Commission will reject these options.

Regarding the options under consideration by the Commission, option A is the RUD-AG's option (1). The Commission finds that this option would exclude the revenue requirement, expenses and investment associated with the detariffed services from all regulated activities. This would have the effect of removing the detariffed ancillary services from rate base regulation, eliminating the possibility of any benefits of contribution from the detariffed services to other regulated activities, but also eliminate the possibility of regulated services subsidizing any loss associated with the detariffed services.

Selecting option A would carry the spirit of Minn. Stat. §237.59, subd. 1 (3) (Supp. 1987) to apply to the accounting treatment of the detariffed ancillary services. This section defines billing and collection services as subject to emerging competition. This section is applicable only, however, if a company elects to be regulated under the statute. But the Commission, in the spirit of this section, detariffed billing and collection and operator services in its November 2 Order.

By selecting option A, the Commission would not be deregulating the now-detariffed ancillary services. Rather, this accounting treatment means reduced regulation of rates, but more stringent separations treatment of assets, expenses and revenues attributable to competitive services offered in conjunction with a company's non-competitive services.

The Commission finds that under option B, the detariffed ancillary services would be treated in a manner similar to the treatment ordered by the Commission for NWB's CENTRON services (see the Commission's Findings of Fact, Conclusions of Law and Order issued September 11, 1984 and Order Denying Reconsideration and Amending Order issued December 31, 1984 in Docket Nos. P-421/M-83-466, P-421/M-84-24, 25 and 26). There, the Commission detariffed CENTRON services, but kept the revenue requirement, expenses and investment associated with CENTRON in the regulated rate base and books of account. The Commission allowed NWB to negotiate CENTRON contracts freely, but required NWB to price CENTRON to recover at least cost, with any contribution tied to market conditions and to maintain price lists for CENTRON services in lieu of tariffs. This decision allowed the regulated services, rather than shareholders, to obtain the benefit of any contribution from CENTRON services above its cost, but ensured that the regulated services would not subsidize CENTRON at rates below cost.

The Commission finds that selecting option B would mean the revenues, expenses and investment associated with the detariffed ancillary services would remain in the regulated books of account and would be included in the determination of rate base, upon which the company would earn a regulated rate of return. However, as long as the Commission retained oversight to ensure the price of the detariffed ancillary services recovers at least cost, ratepayers would not be subsidizing prices set below cost.

The Commission finds that by requiring all LECs to price the detariffed ancillary services at levels at or above cost, the ratepayer would be protected from cross-subsidization and all contribution generated by the services would stay in the regulated books of account to benefit the general body of ratepayers.

The Commission finds option B to be consistent with the accounting treatment ordered by the Commission to be applied to non-access and access-related services under contract. The Commission concludes it will adopt this option.

To make clear what this consistent treatment is, the Commission will require that the revenue requirement, expenses and revenues generated by non-access and access-related services under contract and the detariffed ancillary services be excluded from the calculation of each LECs intrastate toll access revenue requirement and the calculation of the CCLC, but retained in the regulated base and regulated books of account. The Commission will also order that these services be priced to recover at least cost, with contribution levels set according to market conditions. The Commission will require each LEC to file price lists for the detariffed ancillary services and documentation to demonstrate that the proposed prices recover at least cost.

The Commission will also clarify that NWB should exclude from its \$104 million intrastate access revenue requirement (from Docket P-421/CI-85-352) the detariffed ancillary services revenue requirement.

G. Investments in an LEC Toll Network

NWB requested clarification that the Commission intended that LECs may not include in their access charges to NWB investments in competing LEC toll networks.

In its reply, the RUD-AG stated that NWB's requested clarification was too broad. According to the RUD-AG, an investment made toward a future LEC toll network may also substantially enhance the value of the network to the designated carrier.

The MIC stated that the Commission has authorized the recovery through access rates of investments by NBECs of "only those investments which enhance the value of the network to the designated carrier and other toll carriers." The MIC argued that NWB's requested clarification would reverse this decision.

The Commission agrees with the RUD-AG and the MIC that the language requested by NWB is too broad. The Commission does believe, however, that it should clarify that IXCs can file complaints with the Commission if they believe that the access charges of an LEC include investments which do not enhance the value of the toll network to the toll carrier.

H. Federal High Cost Fund

In its petition for clarification, AT&T/MW stated that all LECs should provide detailed calculations of any subsidies received from the Federal High Cost Fund and of the corresponding reduction of intrastate access revenue requirements by such subsidies.

The MIC opposed AT&T/MW's recommendation because it was not evaluated on the record and required an estimate of a highly speculative intrastate effect.

The Commission agrees with the MIC that AT&T/MW's recommendation was not developed in the record of this proceeding and is, therefore, inappropriate to raise as an issue at this late date. Even if the Commission did allow AT&T/MW's request to be considered at this time, it is the Commission's understanding that in CC Docket 80-286 the FCC directed that any subsidies from the Federal High Cost Fund were to be used to reduce an LEC's local rates and not its intrastate access revenue requirement. The Commission will deny consideration of AT&T/MW's request.

IV. Mirroring of Interstate Access Rates

In its petition for reconsideration, the MIC requested that the prohibition against the mirroring of interstate access tariffs be eliminated for small cost-based LECs. The MIC explained that most small cost-based LECs do not have experience in developing Part 69 access rates. The National Exchange Carriers Association (NECA) has developed the interstate rates used by these LECs; therefore, the development of Minnesota intrastate cost specific Part 69 rates would be a new requirement for small cost-based LECs.

The MIC also argued that, while the Order stated that most cost-based LECs have not mirrored changes in interstate access rates, the record shows that the small cost-based LECs have mirrored changes in all interstate switched access rates. The MIC stated that mirroring of these switched rates was done by small cost-based LECs and continues to be administratively efficient and appropriate because of the relatively large number of rate elements and relatively small amounts of revenue involved.

No party disagreed with the MIC's request.

In the November 2 Order, the Commission required all cost-based NBECs to base their intrastate access tariffs on Minnesota-specific costs. The Commission reasoned that "developing Minnesota specific traffic sensitive (TS) and NTS rates has the advantage of each rate bearing a relationship to stated Minnesota-specific intrastate costs."

While the Commission still supports its original reasoning, it now finds itself balancing the benefits of using Minnesota-specific costs against the costs to the small cost-based LECs of determining such rates. Because of the burden that would be placed on the small cost-based LECs, and because the same revenue requirement will be recovered under both mirrored and Minnesota-specific rates, the Commission will grant the MIC's request for reconsideration and will allow cost-based LECs with less than 15,000 subscribers to mirror their interstate TS access rates to recover their intrastate access revenue requirement.

V. Network Access

A. One-Plus IntraLATA Presubscription Policy

In its petition, NWB requested that the Commission reserve its final decision on all 1-plus intraLATA presubscription and related issues until completion of the work of the study committee in Docket No. P-999/CI-87-697 and related Commission proceedings.

The MIC supported NWB's request regarding 1-plus presubscription. The MIC stated that the mandate of the study committee should not be drawn so narrowly as to preclude the proper assessment and resolution of the policy with technological and economic practicalities.

The DPS and MCI submitted responses opposing NWB's request. The DPS argued that the Commission correctly decided that intraLATA equal access presubscription should be provided and that the Commission should not allow this policy to be reconsidered by the study committee. MCI argued that NWB was attempting to reargue that the Commission should not require 1-plus intraLATA presubscription.

The Commission finds that it will deny the petitions for reconsideration of this issue. The November 2 Order, at page 42, clearly states the Commission's finding that intraLATA equal access presubscription is required for effective competition. Having made such a finding based on the record of this proceeding, it would be inappropriate for the study committee to review that policy. The purpose of the study committee is properly limited to determining the economic and technical barriers that need to be overcome to achieve intraLATA equal access presubscription.

B. Discount for Lack of 1-Plus IntraLATA Presubscription

In its petition, NWB raised three points regarding the discount for the lack of 1-plus intraLATA presubscription to be clarified and/or reconsidered. First, NWB stated that it could not give discounts on intraLATA toll traffic utilizing access from FG-D offices which do not provide 1-plus presubscription because NWB does not have data on IXCs intraLATA minutes of use (MOU). NWB recommended that the Commission direct IXCs to identify and quantify intraLATA toll traffic MOU by NWB central office and to provide both DPS and NWB access to IXC records to audit and confirm IXC quantifications. Second, NWB argued that the Commission should clarify that the 25 percent discount applies only to originating MOU. Third, the Commission should also clarify that the discount is applicable on an interim, not permanent, basis.

Both the DPS and MCI submitted comments in response to NWB's recommendations on this issue. The DPS argued that the Commission should require an IXC to report its MOU to NWB only when the IXC has FG-D connections without 1-plus service and the IXC wishes to recover the 25 percent discount from NWB.

MCI argued that a modification to the existing Order to require IXCs to report information on their intraLATA MOUs was unnecessary. MCI explained that pursuant to NWB's interstate access tariff, NWB already should be able to measure the intraLATA FG-D traffic of IXCs. Additionally, MCI argued NWB already bills customers for all FG-D calls of IXCs that are not billed by IXCs themselves.

MCI also opposed NWB's recommendation that the discount should apply only to originating MOU arguing that NWB provided no information in support of its position. MCI argued that the same rationale should apply to the 1-plus intraLATA discount as the Commission adopted in approving the 55 percent differential for FG-A and FG-B in areas where equal access is not provided. The 55 percent differential is provided on both ends of the call.

The Commission finds that NWB does not currently have data on IXC's intraLATA minutes of use. The Commission also finds that it would be reasonable to require IXC's that want to receive the discount to file their intraLATA minutes of use with NWB.

The Commission will also clarify that the 25 percent discount applies only to originating minutes of use. It is only at the originating end of a call that the lack of 1-plus intraLATA dialing capability is apparent. However, because the record lacked a detailed evaluation of the proper placement and level of this discount, the Commission will direct the DPS to evaluate and make recommendations on the appropriate placement of the discount (i.e. on one end or both ends of the call) as well as the level and appropriateness of the discount itself.

Finally, the Commission will clarify for the parties that the 25 percent discount is interim in nature. As required by the November 2 Order, the DPS will submit a report to the Commission within one year from the implementation date of the discount. Following submission of that report, the Commission will reassess the discount.

VI. Lists of Non-Access Services

In its petition, NWB stated that it may be physically and organizationally impossible for any and all LECs to provide an exhaustive list of each detailed non-access service or contract access service. NWB also stated that providing copies of contracts to cover all existing, new and future unique or non-access arrangements between LECs, and LECs and IXC's, within 60 days of the issuance date of the November 2 Order, would be beyond the capabilities of NWB and other LECs. Therefore, NWB requested that LECs be allowed to file lists of the types of non-access or unique services, and that contracts be filed as they are executed, with any existing contracts filed within 120 days of the Commission's order after reconsideration.

United, GTE North, Inc. (GTE) and the MIC also filed petitions requesting extensions for filing the contracts.

MCI opposed NWB's request that LECs provide only lists of the types of non-access and contract access services.

The Commission finds NWB's request to be reasonable. The filing of lists of non-access and contract access services will be adequate because the LECs will also be filing the executed contracts. Additionally, since no party opposed the request for an extension of time to file the contracts, the Commission will grant the time extension recommended by NWB.

VII. Clarification of Ordering Paragraph Three

For the benefit of all parties, the Commission will grant NWB's request and clarify that the first word of ordering paragraph 3 of the November 2 Order should be "Each" instead of "All."

VIII. Compliance Timing

A. Extension of Time for Submitting Compliance Filings

In their petitions, Contel, the MIC, United, GTE and NWB requested an extension of time for submitting compliance filings in this proceeding. Given the amount and nature of the information required in the compliance filings, the LECs argued that the 60 days provided in the November 2 Order was inadequate.

In its reply to the petitions, AT&T/MW argued that the effective date of all access charge tariffs should stay fixed at January 2, 1988. AT&T/MW argued that reasonable extensions of time to allow LECs to properly develop their access tariffs should be allowed, but appropriate adjustments should be made so that the total 1988 impact is the same as if the tariffs took effect January 2, 1988.

Due to the extensive amount of data required in the compliance filings, and the changes made to the November 2 Order on reconsideration, the Commission will extend the dates for the submission of compliance filings and the due dates of the committees' reports. The date for the submission of the filing required by ordering paragraph 4 of the November 2 Order shall be extended to 60 days from the issuance date of this Order. The time periods for the submission of the various committees' reports shall be the same, but shall be effective from the issuance date of this Order, rather than from November 2, 1987.

The Commission will reject AT&T/MW's recommendation that the effective date of all access charge tariffs stay fixed at January 2, 1988. AT&T/MW's recommendation would require that all LECs make adjustments to their access tariffs to ensure that the total 1988 impact would be the same as if the tariffs took effect January 2. However, the Commission finds that the process of adopting the designated carrier plan is already complex. Any perceived benefits of AT&T/MW's recommended retroactive rate setting would be outweighed by the additional complexities that would arise from implementing the recommendation.

B. Extra 30 Days For NWB To File Its CCLC and the Effective Date of the Designated Carrier Plan

The Commission finds that NWB's request that it be allowed an additional 30 days beyond the approval date of the LECs' access tariffs to file its CCLC is reasonable. The Commission finds that NWB as the designated carrier, and thus the major intraLATA access customer of the LECs, needs the additional time to review the approved LECs' tariffs and their reductions in NTS costs in order to calculate its CCLC.

The Commission also gives notice to parties that granting NWB's request for an additional 30 days effectively extends the implementation of the designated carrier plan and the two year transition period to 150 days from the issuance date of this Order.

C. Additional Detail in Compliance Filings

In its petition for clarification, AT&T/MW requested that the Commission set minimum documentation standards to establish consistency among the LECs. AT&T/MW suggested that each LEC be required to provide at least the same level of documentation as required by the FCC or NECA for interstate cost based access filings. In addition to the FCC/NECA standards, AT&T/MW recommended that all LECs provide the following specific 1987 test period Minnesota intrastate access detail:

1. total intrastate interLATA access MOU
2. total intrastate intraLATA access MOU
3. total intrastate access MOU
4. items 1, 2, and 3 above by local transport mileage band

The MIC replied that AT&T/MW did not raise the issue of additional detail until its petition for clarification. Therefore, AT&T/MW's request was not evaluated on the record. The MIC also stated that it does not routinely accumulate the information in AT&T/MW's recommended item four.

The Commission agrees with the MIC that AT&T/MW's request has not been evaluated in the record. Further, the Commission finds that the additional information requested by AT&T/MW is information that AT&T/MW can request from the LECs when it reviews the compliance filings that will be submitted in this proceeding. Therefore, the Commission will deny AT&T/MW's petition for clarification of this issue.

ORDER

1. Except as otherwise granted in this Order, reconsideration of the Commission's November 2, 1987 Order is denied.
2. Reconsideration of the following matters is hereby granted:
 - a) The test year to be used by the Non-Bell Exchange Companies in computing their access revenue requirements shall consist of a minimum of nine months of actual 1987 data and shall use the federal and state income tax rates in effect for 1988.
 - b) The weighted rate of return to be used by the non-pre-rate-regulated local exchange companies in determining their intrastate access revenue requirement shall be 11.59 percent.

- c) The first sentence of ordering paragraph 4(d) of the November 2, 1987 Order is change to read as follows:

All average schedule Non-Bell Exchange Carriers shall use their 1987 test year intrastate intraLATA average schedule compensation for the intrastate intraLATA portion of their respective intrastate access revenue requirement and shall use test year 1987 intrastate interLATA access revenue as a surrogate for the intrastate interLATA portion of their respective intrastate access revenue requirement for the purposes of establishing their respective intrastate access revenue requirement.

- d) Northwestern Bell Telephone Company shall use the traffic sensitive rates and CCLC established in Docket No. P-421/CI-85-352, with the CCLC developed in that proceeding modified in accordance with the Commission's November 2, 1987 Order.
- e) Northwestern Bell Telephone Company's interservice rate design shall be maintained and addressed once Northwestern Bell Telephone Company's overall revenue requirement is determined in Docket No. P-421/CI-86-354.
- f) The revenue requirement, expenses and revenues generated by non-access and access-related services under contract and the detariffed ancillary services shall be excluded from the calculation of each local exchange carriers intrastate toll access revenue requirement and the calculation of the CCLC, but shall be retained in the regulated base and regulated books of account.
- g) Non-access and access-related services under contract and the detariffed ancillary services shall be priced to recover at least cost, with contribution levels set according to market conditions.
- h) Each local exchange carrier shall file price lists for the detariffed ancillary services and documentation to demonstrate that the proposed prices at least recover cost.
- i) Northwestern Bell Telephone Company shall exclude from its \$104 million intrastate access revenue requirement established in Docket No. P-421/CI-85-352 the detariffed ancillary services revenue requirement.
- j) Interexchange carriers may file complaints with the Commission if they believe that the access charges of a local exchange company include investments which do not enhance the value of the toll network to the toll carrier.
- k) Cost-based local exchange companies with less than 15,000 subscribers have the option of mirroring their interstate traffic sensitive access rates, with the CCLC residually determined, to recover their intrastate access revenue requirement.
- l) Interexchange carriers with FG-D access and without intraLATA 1-plus

presubscription that wish to receive the 25 percent discount, shall identify and quantify their intraLATA toll traffic minutes of use by Northwestern Bell Telephone Company central office and shall provide both the Department of Public Service and Northwestern Bell Telephone Company access to their records to audit and confirm the quantifications.

- m) The 25 percent discount for lack of 1-plus presubscription in conforming end offices shall be applied only to originating minutes of use and is only for an interim period pending the report of the Department of Public Service. The report of the Department of Public Service shall include the information described in the November 2 Order, as well as the additional information described herein.
 - n) Local exchange companies shall be allowed to file a list of those services each proposes to classify as non-access services to be offered under contract and those features of access where unique circumstances lend themselves to contract. The contracts shall be filed as they are executed, with any existing contracts filed within 120 days of the issuance date of this Order.
 - o) The first word of ordering paragraph three of the November 2, 1987 Order should be "Each" instead of "All."
 - p) The date for submitting the compliance filings required by ordering paragraph four of the November 2, 1987 Order shall be extended to 60 days from the issuance date of this Order.
 - q) The time periods for submission of the committee reports in Docket Nos. P-999/CI-87-695, P-999/CI-87-696, and P-999/CI-697 shall be the time allotted in the November 2, 1987 Order but shall commence with the issuance date of this Order. The Private Line Task Force's report in Docket No. P-999/CI-87-698 shall be submitted no later than December 1, 1988.
 - r) The existing private line compensation arrangements shall continue for a one year transition period effective with the issuance date of this Order.
 - s) Northwestern Bell Telephone Company shall have an additional 30 days beyond the approval date of the local exchange companies' access tariffs to file its CCLC. The approval of this extra 30 days effectively extends the implementation of the designated carrier plan and the two year transition period to 150 days from the issuance date of this Order.
3. Parties wishing to file comments on compliance items arising out of this Order and the November 2, 1987 Order must do so within 30 days of the service date of the specific compliance items, including the reports made by the study committees.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)