

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 Proceeding to Deregulate and Detariff the Embedded Customer Premises Equipment Owned by Non-Bell Telephone Companies Serving Customers Within the State of Minnesota

ISSUE DATE: January 21, 1988

DOCKET NO. P-999/CI-85-68

ORDER AFTER THIRD INTERIM REPORT
AND ORDER INITIATING
ENFORCEMENT PROCEEDINGS

PROCEDURAL HISTORY

On October 26, 1984 the Federal Communications Commission (the FCC) issued its Third Report and Order in FCC Docket No. 81-893 (the Third Order). That Order required the states to adopt plans to detariff all embedded customer premises equipment (CPE) by December 31, 1987.

On January 22, 1986 the Minnesota Public Utilities Commission (the Commission) issued its Order Establishing Final Plan and Granting Conditional Approval and Certification. That Order established a plan, timetables, filing requirements, and enforcement procedures to carry out the detariffing required by the Third Order. The Order was amended and clarified on April 25, 1986 in an Order After Reconsideration. These Orders established a plan for detariffing and requested the Department of Public Service (the DPS) to monitor the companies' compliance with the plan.

The DPS has duly monitored companies' compliance with the plan, filing First and Second Interim Reports earlier in this proceeding. The Commission has issued Orders following those reports, finding some companies to be in compliance and ordering measures to ensure compliance by the remaining companies.

On December 28, 1987 the DPS filed its Third Interim Report, setting forth the compliance status of affected companies and making recommendations on how to secure compliance by all companies.

STATEMENT OF THE ISSUES

The issues before the Commission are the compliance status of those companies which have not yet been determined to be in compliance and what measures should be taken to ensure compliance by all companies.

FINDINGS AND CONCLUSIONS

The DPS Third Interim Report divided the companies which had not been in compliance at the time of the Second Interim Report into four categories.

CATEGORY I COMPANIES

Companies in Category I are listed on Attachment I. These are companies which the DPS believes to be in full compliance. They have supplied all the information required in the December 3 Order After Second Interim Report. The information supplied demonstrates compliance with all requirements of the detariffing plan. The DPS recommends that these companies be certified as in compliance and relieved of further filing requirements under this docket.

The Commission accepts the DPS report as accurate and will accept its recommendation to find these companies in compliance.

CATEGORY II COMPANIES

Companies in Category II are listed on Attachment II. These companies responded to the December 3 Order by stating their intention to detariff on December 31, 1987. The DPS recommends giving these companies thirty days from their detariffing date to supply final compliance data.

The Commission accepts the DPS report as accurate and finds the 30-day period for final compliance filings reasonable. The Commission will so order.

CATEGORY III COMPANIES

The companies in Category III are Barnesville Telephone Company and Wolverton Telephone Company. These companies have supplied neither their tentative deregulation dates nor their final compliance filings. They were ordered to supply this information within ten days in the Commission's December 3 Order After Second Interim Report. Neither company filed with the Commission by or after that date. The DPS recommends that the Commission find them to be in non-compliance.

The Commission finds that these companies have failed to supply information they were ordered to supply in the December 3 Order After Second Interim Report. The Commission finds that the December 3 Order was duly served upon them. They are thus not in compliance with the Commission's and the FCC's Orders in this proceeding.

Because the companies had notice and did not respond, further reminders or Orders from the Commission would be ineffective. The Commission can enforce its Orders through action taken by the Department of Public Service. Minn. Stat. §216A.07, Subd. 2 (1986). The Commission will direct the DPS to begin enforcement proceedings against these companies and to report to the Commission on the status of those proceedings within 20 days of the date of this Order. The Commission leaves to the judgment of the Department the course of action to bring about enforcement.

CATEGORY IV COMPANIES

The companies in Category IV are Danube Telephone Company and Minnesota Lake Telephone Company. Both are small telephone companies, with fewer than 500 access lines each. These companies reported that they have replaced their old CPE with new, unregulated CPE which is being leased by their ratepayers. The companies also reported that they have notified their ratepayers of their right to furnish their own CPE if they wish.

The companies have not, however, complied with the reporting requirements of the Commission's Orders in this docket. The Commission is therefore unable to verify matters such as proper disposition of the old equipment.

The Commission realizes the companies may have acted properly and that their circumstances may justify treatment different in some respects from that set forth in this docket's Orders. To make that determination, however, the Commission needs further information.

The Commission will therefore order that these companies submit the following information within 20 days of the date of this Order:

1. The date the old CPE was replaced with new CPE;

2. A description of the companies' treatment of specialized equipment;
3. A description of any CPE purchase plans offered to ratepayers, including price lists;
4. A description of the companies' accounting treatment of the new CPE, including details of compliance with the FCC's Fifth Order;
5. An itemization of balances in the affected accounts before and after removal of the embedded CPE, with accounting entries showing the CPE's removal and supporting schedules showing the calculation of those amounts;
6. Copies of all notices provided to ratepayers explaining their CPE alternatives;
7. A detailed description of the disposition of the old CPE, including salvage amounts received and how salvage values were determined;
8. The companies' suggestions on how best to resolve this matter and explanations as to why they did not previously request any special treatment they believe is necessary.

ORDER

1. Those companies listed on Attachment I are found to be in compliance with the Commission's detariffing plan and are released from further compliance filings.
2. Those companies listed on Attachment II are ordered to make their final compliance filings under the Commission's detariffing plan by January 30, 1988.
3. Barnesville Telephone Company and Wolverton Telephone Company are found to be in non-compliance with the Commission's Orders in this docket. The Commission hereby directs the Department of Public Service to begin enforcement proceedings against these companies and to report to the Commission on the status of those proceedings within 20 days of the date of this Order.
4. Danube Telephone Company and Minnesota Lake Telephone Company will submit the following information to the Commission within 20 days of the date of this Order:
 1. The date the old CPE was replaced with new CPE;
 2. A description of the companies' treatment of specialized equipment;
 3. A description of any CPE purchase plans offered to ratepayers, including price lists;

4. A description of the companies' accounting treatment of the new CPE, including details of compliance with the FCC's Fifth Order;
5. An itemization of balances in the affected accounts before and after removal of the embedded CPE, with accounting entries showing the CPE's removal and supporting schedules showing the calculation of those amounts;
6. Copies of all notices provided to ratepayers explaining their CPE alternatives;
7. A detailed description of the disposition of the old CPE, including salvage amounts received and how salvage values were determined;
8. The companies' suggestions on how best to resolve this matter and explanations as to why they did not previously request any special treatment they believe is necessary.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)

ATTACHMENT I

Arvig Telephone Co.
Blackduck Telephone Co.
Deer River Telephone Co.
Hancock Telephone Co.
Johnson Telephone Co.
 Linsmore Cooperative Telephone Co.
Lowry Telephone Co.
Northern Telephone Co.
Northland Telephone Com.
Peoples Telephone Co. of Bigfork
Valley Telephone Co.
Winsted Telephone Co.
Wilstrom Telephone Co., Inc.

ATTACHMENT II

Callaway Telephone Co.
Crosslake Telephone Co.
 Gardonville Coop. Telephone Ass'n.
Harmony Telephone Co.
Hills Telephone Co.
Hutchinson Telephone Co.
Lonsdale Telephone Co., Inc.
Norman County Telephone Co., Inc.
Sioux Valley Telephone Co.
Sleepy Eye Telephone Co.
Upsala Cooperative Telephone Ass'n.