

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 Request by United Telephone Long Distance Company of the Midwest for a Certificate of Authority to Resell Telecommunications Service within the State

ISSUE DATE: April 7, 1988

DOCKET NO. P-481/NA-88-22

ORDER GRANTING CERTIFICATE OF
AUTHORITY TO RESELL
TELECOMMUNICATIONS SERVICE
WITHIN MINNESOTA

FINDINGS AND CONCLUSIONS

On January 8, 1988, United Telephone Long Distance Company of the Midwest (UTLD or the Company) requested a certificate of authority from the Minnesota Public Utilities Commission (the Commission) to resell intrastate, interlata telecommunications services within Minnesota.

In its Report of Investigation and Recommendation dated February 18, 1988, the Minnesota Department of Public Service (DPS) recommended that the Commission approve the request of UTLD for a certificate of authority to resell telecommunications services.

The Commission must decide whether to authorize UTLD as a reseller of intrastate, interlata telecommunications services within Minnesota.

UTLD and United Telephone Company of Minnesota (United of Minnesota) are affiliated companies, having the same parent company, United Telecom. United Telephone Company of Minnesota is a subsidiary of United Telecom. UTLD is a subsidiary of United Telephone Company of Kansas, which is a subsidiary of United Telecom.

UTLD is proposing to offer intrastate interlata long distance service to business and residential customers in United of Minnesota's Chaska, Hastings and Victoria exchanges. The Company intends to provide this service primarily through a facilities agreement with U.S. Sprint. U.S. Sprint is a general business partnership between GTE Company and United Telecom which resulted from the merger of U. S. Telecom (a subsidiary of United Telecom) and GTE Sprint. U.S. Sprint is an

"affiliated interest" and an "affiliated company" of United of Minnesota and UTLD within the meaning of Minn. Stat. §§ 237.65, 216B.48 and 47 Code of Federal Regulations § 31.01-3(e) and (j), based upon the fact that these three companies are under common control of United Telecom.

Subscribers will be able to access UTLD either by preselecting the Company by ballot or by using UTLD's carrier access code and dialing 1 + 0XXX. UTLD will receive access to the local network pursuant to access charges of United Telephone Company of Minnesota.

UTLD will use local installation, repair and service center employees of United Telephone Company of Minnesota under a contract for installation, repair, billing and inquiry services for UTLD customers. United Telephone Company of Minnesota will be compensated for all services it provides for UTLD.

On July 13, 1983, the Commission issued its Order Establishing Reseller Application Requirements in In the Matter of an Investigation by the Minnesota Public Utilities Commission into the Resale and Sharing of Intrastate Wide Area Telecommunications Service, Docket No. P-421/CI-82-619. That Order addressed the resale of long distance telephone services and established fourteen filing requirements for reseller applicants. The Commission finds that UTLD has complied with these filing requirements.

The Commission is guided by Minn. Stat. § 237.16, subd. 4 (1986) which provides that no company shall operate any line, plant or system without first obtaining from the Commission a determination that present or future public convenience and necessity require or will require such operation.

The Commission is concerned with the possibility of cross-subsidization occurring between UTLD and United of Minnesota and with the possibility that UTLD may unfairly benefit from its close association with United of Minnesota.

The Commission notes that UTLD has developed a cost allocation plan that addresses the cross-subsidization issue. The plan covers all costs not handled on a contractual basis and includes dedicated and common costs.

The majority of expenses paid by UTLD are dedicated costs which have been incurred for the exclusive benefit of UTLD and are directly assignable expense. A portion of UTLD's total expenses are common costs incurred by UTLD, United of Minnesota and/or United Telephone Company of Kansas. These costs are covered by the allocation plan.

A small part of UTLD's expenses will be paid on a contractual basis to United of Minnesota. In its Report and Recommendation, the DPS stated that UTLD has promised to submit a cost study showing that the costs are covered by the contractual rates.

Further, the Commission will be able to review these costs in United of Minnesota's next general rate case.

While the Commission is concerned that UTLD may unduly benefit from customer familiarity and affiliation with United of Minnesota, as well as from using that company's name and logo, the

Commission is not convinced that UTLD should be required to pay royalties to United of Minnesota for these benefits.

The Commission finds that the steps taken by UTLD are adequate to address its concerns at this time. However, the Commission will require the DPS to monitor the operation of UTLD for the existence of any cross-subsidization between or among UTLD and its corporate affiliates, to review the royalty issue, and to submit a report to the Commission a year from the issue date of this Order. The Report shall include a recommendation on whether the Commission should initiate an investigation into the operation of UTLD.

If United of Minnesota files a general rate case within a year of the issue date of this Order, the DPS will not be required to submit the report mentioned above. A general rate case provides a full opportunity to examine and analyze the impact of UTLD upon the cost of service of United of Minnesota.

Upon review of the information contained in the UTLD's filing and the Report and Recommendation of the DPS, the Commission finds that UTLD has the requisite economic and physical ability to provide adequate long distance telephone service to its customers. The Commission, therefore, concludes that it is in the public interest to grant UTLD a certificate of authority to resell intrastate, interlata telecommunications services within Minnesota.

Finally, the Commission notes that in order to comply with Minn. Stat. § 237.65 (Supp.1987) on affiliated transactions, United and UTLD are required to maintain records for three years of transactions in excess of \$50,000 with any affiliated company. In determining whether any transaction is in excess of \$50,000, the Company shall include regularly recurring payments under a general or continuing arrangement and such transaction shall not be deemed to be a series of transactions which are individually less than \$50,000.

ORDER

1. United Telephone Long Distance Company of the Midwest is hereby granted a certificate of authority to resell intrastate, interlata telecommunications service within Minnesota.
2. The tariffs submitted by UTLD are hereby accepted and are effective for all rates, terms, and conditions of service offered by UTLD until altered, amended, suspended, or rejected as provided in Minn. Stat. Chap. 237 (1986).
3. Within 30 days of the issue date of this Order, UTLD shall file with the Commission a cost study of its costs paid on a contractual basis to United of Minnesota.
4. Within one year of the issue date of this Order, the DPS shall file the report described above with the Commission. If United Telephone Company of Minnesota files a general rate case within that one year period, the DPS need not file the report.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

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