

P-407, P-421/CP-87-747 VARYING TIME REQUIREMENTS AND DEFERRING
CONSIDERATION OF PETITION AND VARIANCE REQUESTS

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 for Extended Area Service from Iron Trail United Communities

ISSUE DATE: February 2, 1989

DOCKET NO. P-407, P-421/CP-87-747

ORDER VARYING TIME REQUIREMENTS AND DEFERRING CONSIDERATION OF PETITION AND VARIANCE REQUESTS

PROCEDURAL HISTORY

On November 10, 1987 Iron Trail United Communities, an association of civic organizations from the communities of Aurora, Bear River, Biwabik, Buhl, Cook, Greaney, Hoyt Lakes, Orr, Palo, and Virginia, filed a petition under Minn. Rules, part 7815.0700 for Extended Area Service (EAS) between themselves and neighboring communities. Following factual investigation, the Commission concluded that 14 of the 74 EAS routes proposed in the petition merited further consideration.

On September 20, 1988 the Commission issued an Order directing the two telephone companies involved, Northwestern Bell Telephone Company (Northwestern Bell) and Continental Telephone Company (Contel), to file cost studies and proposed rates within 90 days. Both companies subsequently requested variances from Minn. Rules, part 7815.0900, subp. 2, which sets forth the methodology for calculating EAS rates. Northwestern Bell requested it be allowed to calculate rates on the basis of current incremental cost, rather than statewide embedded book cost; Contel proposed to use actual cost, with an allowance for lost toll revenues.

The Department of Public Service and the Residential Utilities Division of the Office of the Attorney General opposed both variance requests.

FINDINGS AND CONCLUSIONS

Extended Area Service is an area in which Commission policy, and the social conditions which determine Commission policy, are evolving. The existing EAS rule was enacted in 1980. Since that time major changes have occurred in communications technology, in the telecommunications industry, and in the demographic characteristics of Minnesota's population. These changes have necessitated changes in the Commission's approach to EAS.

In 1987 the Commission proposed revision of the EAS rules, including changing the method for calculating EAS rates to a method based on actual costs. The proposed revisions were withdrawn, however, when the Legislative Commission to Review Administrative Rules indicated it considered EAS a matter on which policy guidance from the Legislature would be appropriate.

The Legislature is now in session, and policy guidance on EAS may be forthcoming within the next few months. Such guidance could be very general, or it could address the very issues on which these two companies seek variances. If the Commission were to process the petitions under current standards, and the Legislature were to change those standards, the Commission would have sent misleading signals regarding their future telephone service to the residents of ten communities. Under these circumstances, the Commission is reluctant to act on the variance requests or on the petition itself.

The Commission concludes that the best approach to this petition and to these variance requests is to defer their consideration until the conclusion of the legislative session. Although the Commission is committed to the prompt resolution of all ratepayer petitions, in this case the danger of misleading the petitioners outweighs the benefit of a prompt response. The Commission will therefore defer consideration of the petition and vary the time requirements for processing EAS petitions set forth in Minn. Rules, part 7815.0800 through 7815.1100. This variance is based upon findings that following the time requirements of the rules would impose an excessive burden on the petitioners and the companies, that varying the time lines will not adversely affect the public interest, and that varying the time lines is not prohibited by law. Minn. Rules, part 7830.4400.

When the Commission again takes up the petition, it will be able to address the issues it raises with a higher level of certainty.

ORDER

1. The time requirements of Minn. Rules, part 7815.0800 through 7815.1100 are varied in regard to the Iron Trail United Communities EAS Petition, to defer consideration of the petition until the conclusion of the legislative session.
2. The Commission will take up the Iron Trail United Communities EAS Petition, including the variance requests submitted by Northwestern Telephone Company and Continental Telephone Company, on or about June 7, 1989.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)