

P-407, 421/CP-87-747 AFTER RECONSIDERATION DENYING VARIANCE REQUESTS AND ESTABLISHING FILING TIMETABLE

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: May 4, 1989

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

ORDER AFTER RECONSIDERATION  
DENYING VARIANCE REQUESTS AND  
ESTABLISHING FILING TIMETABLE

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 telephone companies serving the exchanges, Northwestern Bell Telephone Company (Northwestern Bell) and Contel of Minnesota (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. Both companies proposed to include an allowance for lost toll contribution.

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

On February 2, 1989 the Commission deferred consideration of the petition and the variance requests until the conclusion of the legislative session. This was done because the Legislative Commission to Review Administrative Rules had indicated it considered EAS a matter on which the Commission should look to the Legislature for policy guidance. The Commission was reluctant to act on this petition, since legislative developments this session could change the standards for granting EAS or for calculating EAS rates.

The Department and Iron Trail United Communities requested reconsideration of the decision to defer consideration of the petition.

### FINDINGS AND CONCLUSIONS

The Commission believes there is no longer a substantial likelihood of receiving legislative guidance on the policy issues raised by this petition before the end of this legislative session. There is therefore no longer any reason to defer action on this petition or the variance requests filed by the Companies. The Commission will deny the variance requests and require the filing of cost studies and proposed rates within 90 days of the date of this Order.

The Commission agrees with the Department and the Residential Utilities Division of the Office of the Attorney General that it would be inappropriate to vary the "basis of rates" rule in this case. The Companies do not seek variances because they believe they face problems different from those of other companies subject to the rule. The Companies seek variances because they believe the rule is wrong. This is not grounds for a variance.

Variances exist to give the Commission the flexibility it needs to apply uniform regulatory standards to companies with vastly different characteristics. The purpose of variances is to allow the Commission to make exceptions to rules in particular situations where it would be inequitable or counterproductive to apply them. Variances are not vehicles for changing rules.

The Commission will grant the Companies 90 days to file cost studies and proposed rates meeting the requirements of Minn. Rules, part 7815.0900, subp. 2.

### ORDER

1. The petitions for reconsideration filed by Iron Trail United Communities and the Department of Public Service are hereby granted.
2. The Commission will no longer defer consideration of the EAS petition of Iron Trail United Communities as contemplated in its Order of February 2, 1989.
3. The requests of Northwestern Bell Telephone Company and Contel of Minnesota to vary the rate calculation provisions of Minn. Rules, part 7815.0900, subp. 2 are hereby denied.
4. Within 90 days of the date of this Order, Northwestern Bell Telephone Company and Contel of Minnesota shall file cost studies and proposed rates meeting the requirements of Minn. Rules, part 7815.0900, subp. 2.

5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen  
Executive Secretary

(S E A L)