

P-999/CI-85-582ACCEPTING COMPLIANCE FILING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	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 22, 1990

DOCKET NO. P-999/CI-85-582

ORDER ACCEPTING COMPLIANCE
FILING

PROCEDURAL HISTORY

On November 2, 1987 the Commission issued its FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER AND ORDER INITIATING SUMMARY INVESTIGATIONS in this matter. That Order established intrastate switched access charges as the mechanism by which long distance carriers would compensate local exchange carriers for local access.

The November 2 Order also required Northwestern Bell Telephone Company (Northwestern Bell or the Company), which became the designated carrier for intraLATA toll, to include in its toll rates the same level of contribution it recovered from the access charges it imposed on other toll carriers. This was done both to guard against subsidization of the Company's toll service by its local service and to prevent the Company from enjoying an unfair advantage over intraLATA toll competitors, who would have to pay the Company access fees for any calls originating or terminating in Bell exchanges.

The Company duly filed documentation purporting to demonstrate that its intraLATA toll rates recovered the required level of contribution.

The Department of Public Service (the Department) filed comments recommending that the Commission reject the filing, on grounds that the Company included only intraLATA toll routes between Bell exchanges in determining the required level of contribution. This approach included only Northwestern Bell's toll costs in determining appropriate contribution levels. Since the access charges of independent local exchange carriers are often higher than Bell's, the contribution levels computed by the Company were higher (and the resulting toll rates lower) than they would have been if non-Bell access charges had been included. The Department believed these lower rates

might inhibit intraLATA competition.

AT&T Communications of the Midwest and MCI also filed comments recommending that the compliance filing be rejected. MCI also objected because the Company's rates for different mileage bands did not recover identical proportions of the contribution recovered overall.

The Minnesota Independent Coalition filed comments disputing Northwestern Bell's characterization of independent local exchange carriers' access charges as high. The Coalition also stated that the Company's failure to include the access charges of all local exchange carriers in its comparison of toll and access contribution levels might distort the results of the comparison.

The Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments supporting the Company's position. The RUD-OAG argued that, at this stage in the evolution of intraLATA competition, requiring a higher level of contribution would raise the Company's intraLATA toll rates with no competitive effect. The RUD-OAG also argued that the Company had made a good faith effort to comply with the Order and that the Commission had approved toll rates in the past using Bell's access charges as a proxy for the access charges of all local exchange carriers.

The matter came before the Commission on November 9, 1989.

FINDINGS AND CONCLUSIONS

The Commission will accept and approve Northwestern Bell's filing as in compliance with the November 2, 1987 Order, recognizing that experience with intraLATA toll competition, as it develops, may require re-examination of this issue at a later date.

Recovery in the Aggregate or by Mileage Bands

The Commission has rejected the contention that toll rates must recover costs on a mileage band by mileage band basis in the past, and the Commission continues to reject it here. See, for example, In the Matter of the Petition of AT&T Communications of the Midwest, Inc. to Increase its Rates for Telephone Service Offered Within the State of Minnesota, FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER, May 23, 1988. See also, Minn. Stat. § 237.60, subd. 4 (Supp. 1989).

Basis for Determining Required Contribution

Three intervenors objected to determining the required level of contribution on the basis of Bell's toll costs alone and argued contribution for toll should be based on composite toll costs representing the access charges of all local exchange carriers throughout the state. The Commission disagrees.

A literal reading of the Order supports the Company's position. Paragraph 16, page 62, reads as follows:

Within 60 days from the issuance date of this Order, NWB shall file with the Commission and serve upon the Department of Public Service, the Attorney General's Office and any other party who requests a copy of this compliance filing, detailed material and supporting documentation which shows that NWB includes in its toll rates the same level of contribution, on average, as it recovers, on average, from intrastate access charges imposed by it on other toll carriers.

This language requires the Company to include in its toll rates a level of contribution equal to the contribution from the access charges it imposes on other companies. It does not appear to require the Company to include in the equation access charges imposed on it by other companies. The filing therefore clearly constitutes a good faith effort to comply with the Commission's Order.

Even apart from the language of the Order, basing the required contribution on the Company's own toll costs is a reasonable approach. It meets the first goal of the contribution requirement, preventing subsidization of the Company's toll services by its local services. The Company has demonstrated that its toll rates are set at a level which in the aggregate provides full recovery of the costs of providing toll service as the designated carrier.

It is harder to gauge the impact of using the Company's own access charges on the second goal, ensuring fair competition. In this context it is useful to remember, however, that the Commission has approved the use of Bell's access charges as a proxy for all access charges in the past, most notably in AT&T's last general rate proceeding. AT&T, FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER, May 23, 1988. The sheer volume of traffic in Bell exchanges has tended to make Bell's access charges the touchstone in calculating access costs for toll carriers. Therefore, it is appropriate to allow Bell to use its toll costs as a proxy for all toll costs the Company incurs as designated carrier.

Finally, the Commission agrees with the RUD-OAG that, given the nascent status of current intraLATA toll competition, requiring contribution to be based on composite access charges would have virtually no competitive effect. Since requiring the use of composite access charges would not further the goal of fostering intraLATA toll competition, and since the other goal of preventing cross-subsidization has already been met, there would be no practical benefit from rejecting the use of the Company's own toll costs.

Issue to Be Re-examined

The Commission notes that intraLATA toll competition is a developing sector of the telecommunications market. New developments in technology, in the industry, or in the marketplace could compel changes in the method of calculating contribution approved today. Similarly, Commission decisions on related matters, such as intraLATA presubscription, could so alter the

competitive environment as to require such changes. The Commission will re-examine contribution levels in light of these developments as they occur. The existing record, and existing conditions, however, require the decision reached today.

ORDER

1. Northwestern Bell Telephone Company's compliance filing, discussed above, submitted to demonstrate that its intraLATA toll rates recover the same level of contribution it recovers from its switched access charges, is accepted and approved.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson
Acting Executive Secretary

(S E A L)