

P-442/ED-89-1054 GRANTING A VARIANCE AND DEFERRING OPERATOR SERVICE
DEPRECIATION STUDY

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 AT&T Communications of the Midwest, Inc.'s Request For Exemption From Filing Depreciation Studies With the Minnesota Public Utilities Commission

ISSUE DATE: June 1, 1990

DOCKET NO. P-442/ED-89-1054

ORDER GRANTING A VARIANCE AND DEFERRING OPERATOR SERVICE DEPRECIATION STUDY

PROCEDURAL HISTORY

On March 22, 1989, the Commission ordered AT&T Communications of the Midwest, Inc. (AT&T or the Company) to file a remaining life depreciation study on September 1, 1989 in Docket No. P-442/ED-88-634.

On November 22, 1989, the Company filed an informational depreciation proposal with the Minnesota Department of Public Service (the Department) that it had filed with the Federal Communications Commission (FCC) on February 15, 1989.

On January 23, 1990, the Company filed its request for an exemption from depreciation filings.

On May 22, 1990, the matter came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

By rule, the Commission requires telephone companies to review their depreciation rates annually to determine whether they are still generally appropriate. Minn. Rules, part 7810.7500. However, Stat. § 237.22 (1988) restricts the regulation of depreciation to noncompetitive services. Accordingly, if the Company is correct in its assertion that all of its services are subject to emerging competition, it will be exempt from the annual depreciation filing requirement.

Although the Company has elected under Minn. Stat. § 237.58, subd. 1 (1988) to be governed by

the procedures applied to emergingly competitive services, the Commission is not prepared to affirm at this time that all the Company's services are subject to emerging competition. In particular, the status of the Company's operator services as a competitive service has been questioned. This issue has not been settled and is the subject of a separate proceeding before the Commission. In the Matter of the Application for Authority to Provide Alternate Operator Services in Minnesota, Docket No. P-999/CI-88-917. Therefore, the Commission will deny the Company's request for exemption from the filing requirements of Minn. Rules, part 7810.7500.

Instead, the Commission finds that the circumstances warrant a variance pursuant to Minn. Rules, part 7830.4400 and will grant the Company a one-year variance from the filing requirements of Minn. Rules, part 7810.7500.

Minn. Rules, part 7830.4400 authorizes the Commission to grant a variance when a) enforcement of the rule would impose an excessive burden upon a party affected by the rule, b) granting the variance would not adversely affect the public interest, and c) granting the variance would not conflict with standards imposed by law. The Commission finds that the threefold standard established by Minn. Rules, part 7830.4400 for granting a variance is met in this case:

A. Enforcement of the Rule Would Impose an Excessive Burden: During the one-year delay provided by the variance, the Commission expects that the exact nature of the Company's services will be determined so as to clarify what services, if any, remain subject to the filing requirement. In light of this expectation and the current doubtful status of its services and filing obligation, to require the Company to submit depreciation filings at this time would impose an excessive burden upon the Company.

B. Granting the Variance Would Not Adversely Affect the Public Interest: The interests of no rate-payers or other telephone companies are prejudiced by a one-year delay in the filing of the Company's depreciation information. For example, the services in question constitute a relatively small portion of the Company's services. The Commission's review of the Company's depreciation practices and rates for these services are unlikely to affect the prices charged for those services.

C. Granting the Variance Would Conflict With No Standard Imposed By Law: There is no legal requirement other than the Commission's own rule that obligates telephone companies to file annual depreciation studies.

ORDER

1. AT&T Communications of the Midwest, Inc.'s request for exemption from the depreciation filing requirements under Minn. Rules, part 7810.7500 is denied without prejudice.
2. AT&T Communications of the Midwest, Inc. is granted a variance from the requirements of Minn. Rules, part 7810.7500, deferring its filing obligations under this rule for a period of one year.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)