

P-999/CI-88-917 DENYING PETITIONS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of the Applications for  
Authority to Provide Alternate Operator  
Services in Minnesota

ISSUE DATE: September 5, 1990

DOCKET NO. P-999/CI-88-917

ORDER DENYING PETITIONS

**PROCEDURAL HISTORY**

On October 26, 1988, the Commission issued its ORDER CONSOLIDATING DOCKETS AND NOTICE AND ORDER FOR HEARING. The Order initiated a generic investigation into the provision of Alternative Operator Services (AOS) in Minnesota and referred the matter to the Office of Administrative Hearings (OAH) for a contested case proceeding. The Commission directed the OAH to conduct a contested case hearing and determine, among other things, whether AOS is in the public interest and whether the service is emergingly competitive under Minn. Stat. § 237.59 (1988).

On April 10, 1989, the parties involved in the contested case proceeding filed a Stipulation of Agreement, with the Administrative Law Judge, (ALJ). As a result of the Stipulation, the evidentiary hearings before the ALJ were cancelled and the contested case proceeding was suspended.

On June 9, 1989, the ALJ filed his Findings of Fact, Conclusions of Law, Recommendation and Memorandum with the Commission.

On September 7, 1989, the Commission met to consider the ALJ's Report and the Stipulation. At the meeting, the Commission heard oral comments from the parties regarding the Stipulation. The Commission decided at the end of the meeting that it needed additional information before making a final decision in the matter.

On September 28, 1989, the Commission published a list of thirteen (13) questions to which the parties were asked to respond by October 19, 1989. The Commission received separate responses from the following parties: the Minnesota Department of Public Service (the Department), Residential Utilities Division-Office of the Attorney General (RUD-OAG), International Telecharge, Inc. (ITI), Teleconnect Long Distance Services and Systems Company (Teleconnect), National Telephone Services (NTS), Operator Assistance Network (OAN), Northwestern Bell Telephone Company (NWB) and MCI Communications, Inc. (MCI).

On November 20, 1989, the Commission met to further consider the Stipulation and the additional

comments that the parties had filed.

On January 12, 1990 the Commission issued its ORDER MODIFYING PROPOSED STIPULATION OF SETTLEMENT AND ADOPTING STIPULATION OF SETTLEMENT AS MODIFIED. The Order modified and approved, as modified, the Stipulation that was presented to the Commission by the ALJ. The Commission concluded that the provision of Alternative Operator Services would be in the public interest only when provided in the manner prescribed in the Stipulation, along with the modifications made by the Commission.

On January 22, 1990, four parties - Teleconnect, ITI, NTS and OAN filed separate petitions for reconsideration of the Commission's January 12, 1990, Order. The petitioners urged the Commission to eliminate some of the modifications the Commission made to the original stipulation. Specifically, the parties wanted the Commission to eliminate the modifications that would have required operator service providers to:

- post their rates by every telephone that uses their operator service
- post the percentage or actual dollar amount the providers pay to host facility owners in the form of commissions
- show their names on the bills they send to end users

On March 21, 1990, the Commission met to consider the petitions for reconsideration of its January 12, 1990 Order.

On April 16, 1990, the Commission issued its Order, ORDER GRANTING RECONSIDERATION, VACATING COMMISSION ORDER, AND REMANDING MATTER TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR FURTHER PROCEEDINGS. In the Order, the Commission remanded the proceeding to the Office of Administrative Hearings for further proceedings. The Order directed the ALJ to further investigate all the issues that were identified by the Commission when the matter was first referred to the OAH, including whether AOS is in the public interest and whether it is fully competitive, emerging competitive or noncompetitive under Minn. Stat. § 237.59. In addition, the Order directed the ALJ to investigate whether the payment of commissions by operator service providers to host facilities was legal and appropriate.

On May 20, 1990, the ALJ held a prehearing conference and on May 29, 1990 the ALJ issued a prehearing Order which outlined the schedule and procedures to be followed during the (second) contested case hearing.

### **AT&T's Petition and AOS Resolution Options**

On March 8, 1990, AT&T filed an objection to the statutory assessment of expenses made against it by the Commission in this docket.

On May 17, 1990, AT&T filed a response to a legal memorandum prepared for the Commission by its counsel dated May 8, 1990.

On May 22, 1990, the Commission met to consider AT&T's March 7, 1990 petition. The Commission directed its Staff to evaluate alternatives for resolving the AOS case and to set up a hearing at which the Commission would consider those alternatives. The Commission deferred consideration of AT&T's petition for further consideration at such hearing.

### **Teleconnect's Petition**

On May 7, 1990, Teleconnect filed a petition with the Commission requesting the Commission to sever Teleconnect from the AOS proceeding and grant it permanent approval to offer operator services to call-aggregator locations' customers. In the alternative, Teleconnect requested that the Commission sever Teleconnect from the AOS proceeding and open a new docket to investigate appropriate procedures under which fully-certified, full service interexchange carriers ("IXCs") may offer operator services in Minnesota.

On or before May 27, 1990, the following parties filed comments on Teleconnect's petition: the Department of Public Service, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), AT&T, and MCI.

### **Issues Consolidated for Hearing**

On July 16, 1990, the Commission gave notice to all parties of its intention to consider alternative resolutions to the AOS case as well as the petitions of AT&T and Teleconnect at a meeting of the Commission to be held August 1, 1990.

On July 27, 1990, following the Commission's announced intent to review this matter and upon a joint motion from the Department and the Residential Utility Division of the Office of the Attorney General (RUD-OAG), the ALJ entered an order in the contested case suspending the schedule for the contested case that had been established in his Order of May 25, 1990.

On August 1, 1990, the Commission met to consider these matters.

## FINDINGS AND CONCLUSIONS

### Options for Resolving Issues Referred for Contested Case Hearing

In its April 16, 1990 Order in this matter, the Commission remanded this matter to the Office of Administrative Hearings (OAH) for full development of five issues in a contested case proceeding:

- \* whether AOS is in the public interest;
- \* if so, how should it be regulated;
- \* whether AOS is subject to either effective competition or emerging competition under Minn. Stat. § 237.59;
- \* whether commissions paid to host facilities by AOS providers affect rates and are legal; and
- \* the technical feasibility of blocking intrastate AOS calls.

At its August 1, 1990 meeting, the Commission met to determine whether the parties and the Commission could reach agreement on stipulations that would resolve some or all of these major issues.

At the meeting, discussion focused on four options to continuing with the contested case proceeding. Options discussed were:

1) to adopt the original stipulation as proposed by the parties; 2) to initiate a rulemaking procedure to develop rules for the provision of AOS; 3) to adopt the original stipulation with several modifications; and 4) to stay proceeding with the contested case until the Federal Communications Commission (FCC) concludes its current rulemaking proceeding regarding AOS.

The Commission will reject Option 1 (adoption of the original stipulation) because the Commission continues to have the concerns that led the Commission to modify the original stipulation. In addition, the original stipulation did not resolve a key issue, the competitive status of AOS. In its December 16, 1988 Order in this matter, the Commission noted that resolution of the competitive status of AOS was central to a determination of what regulation would be appropriate for AOS. Moreover, even the original stipulation is unacceptable to all the parties that the Commission seeks to have bound by the stipulation.

The Commission will reject Option 2 (initiation of a rulemaking procedure) because where, as here, the nature of the service is disputed, determination of whether a service is classified as "competitive" or "non-competitive" requires a contested case hearing (Minn. Stat. § 237.59 (1988)) and even a non-controversial rulemaking would take a minimum of 9 months to conclude. In the meantime, current problems associated with operator services would remain unaddressed until the rule became effective. In fact, it is more likely that this would become a controversial rulemaking which would require even more time and possibly require a contested case proceeding to resolve the same issues that are before the ALJ at this time.

The Commission will reject Option 3 (adoption by the Commission of the original stipulation with modifications and proposal of that new stipulation to the parties) because the parties have indicated strong opposition to several of those modifications. The Commission will not propose a stipulation known to contain provisions that are unacceptable to the parties.

Finally, the Commission will reject Option 4 (staying the contested case proceeding until the FCC completes its rulemaking regarding AOS). First, the FCC rulemaking is not likely to resolve a key question in this case, whether AOS is a non-competitive service or a service subject to effective competition within the meaning of Minn. Stat. § 237.59 (1988). Second, the unknown length of time involved in the FCC's rulemaking appears incompatible with the Commission's intention to address the current problems associated with operator services. Third, the proposed option that the Commission stay the contested case proceeding is in the nature of a motion which the Commission is specifically prohibited from entertaining. Minn. Rules, part 1400.7600 provides in part:

No motions shall be made directly to or decided by the agency subsequent to the assignment of a judge and prior to the completion and filing of the judge's report unless the motion is certified to the agency by the judge.

Having considered and rejected the proposed options for resolving this matter, the Commission finds that no purpose would be served by seeking the return of this matter from the OAH prior to completion of the contested case proceeding and receipt of the ALJ's report.

The Commission will take this opportunity, however, to address issues raised in the course of the discussion of resolution options by parties questioning the nature of the proceeding, the notice appropriate for such proceeding and the apportionment of costs for such proceeding.

### **Clarification of Issues**

**Nature of the Proceeding:** From its inception, this has been a generic docket addressing issues of relevance to and proposing to make determinations that will bind, not merely the "alternative" operator service providers whose applications provided the initial impetus for this docket, but all telephone companies that provide operator service to captive customers. The Commission's concern has always focused on the plight of "captive" customers calling from locations such as motels, hotels, etc. regardless of whether the provider was "alternative" (e.g. Elcotel LD\*OS, Inc.) or "traditional" (e.g. AT&T). Accordingly, measures adopted by the Commission as a result of these proceedings to ensure the quality of their telephone service and reasonable rates to the end-users of operator services will apply to all parties who provide operator service on a presubscribed basis for calls made from telephones owned by call-aggregators (e.g. hotels, motels, hospitals and pay telephones whose customers tend to be transient).

**Terminology:** misplaced emphasis upon the word "alternative" in the phrase "Alternative Operator Service" (AOS) may lead to misapprehending the scope of the Commission's concern and aim in this docket. A phrase that more accurately designates the subject of these proceedings is: Operator Services to Captive Customers (OSCC) in Minnesota. Any reference to "AOS" in this or previous Commission Orders should be understood to include operator services to captive

customers<sup>1</sup> in Minnesota regardless of the nature of the provider<sup>2</sup>.

**Notice and Parties to the Proceeding:** Prior to the Commission's August 1, 1990 meeting, the Commission's information and belief was that the only providers of operator services to captive customers in Minnesota were Interexchange Carriers (IXCs). Accordingly, only telephone companies that provided or resold both interLATA and intraLATA long distance service were considered affected by the matter and regularly served with notice of Commission proceedings regarding this docket. It now appears that there may be some additional OSCC providers in Minnesota. Accordingly, parties who may be engaged in that activity, including local exchange carriers (LECs), will receive notice of Commission activity in this docket henceforth. Parties are advised that a party to the Commission proceeding does not automatically become a party to the contested case proceeding currently pending before the ALJ but must petition the ALJ to intervene pursuant to Minn. Rules, part 14.6200.<sup>3</sup>

**Assessment of Costs for These Proceedings:** As noted previously, the Commission believed prior to the August 1, 1990 meeting that the only providers of operator services to captive customers in Minnesota were Interexchange Carriers (IXCs) and therefore the only telephone industry parties to the proceeding were IXCs. In accordance with Commission policy, then, the cost of these proceedings to-date have been properly allocated to the IXCs. However, it now appears that some non-interLATA service providers provide operator services to captive customers. Moreover, even those telephone companies not currently providing OSCC have the potential for providing such service and for that reason will be subject to the determinations in this docket. Accordingly, the costs of future proceedings will be assessed against the total intrastate telephone industry.

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<sup>1</sup> A "captive customer" is an end-user of a telephone owned by a call-aggregator who has contracted (presubscribed) with an operator service provider to provide operator assisted calls (i.e. operator service) from that telephone. Call-aggregators, sometimes referred to as "transient locations", include: hotels, motels, hospitals, college dormitories, airports, and payphone providers. Such an end-user is captive because its responsibility to pay for telephone service is severed from the authority to select the provider of that service. The end-user of a presubscribed telephone provided by a call-aggregator incurs the responsibility to pay for an operator assisted telephone call without having the ability to select the identity of the operator service provider.

<sup>2</sup> For a similarly broad definition of AOS focusing on the nature of the service and the captive status of the end-users, see the Commission's definition of Alternative Operator Services (AOS) in its January 12, 1990 ORDER MODIFYING PROPOSED STIPULATION OF SETTLEMENT AND ADOPTING STIPULATION OF SETTLEMENT AS MODIFIED, page 3.

<sup>3</sup> Persons wishing to become formal parties to the contested case proceeding shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200. Only parties allowed as intervenors will be placed on the service list for that proceeding.

## **Teleconnect's Petition**

### **Background: Prior Commission Decisions**

On May 26, 1988, Teleconnect filed a petition proposing to provide operator services for its individual long distance customers as well as for patrons of hotels, motels, hospitals and users of pay telephone service. Docket No. P-478/M-88-359.

On July 12, 1988, the Department filed its Report of Investigation and recommendation with the Commission, recommending approval of Teleconnect's request to provide operator services to its individual customers but that the Commission deny Teleconnect's request to provide operator services to hotels, motels, hospitals, and private pay phones until certain consumer concerns were addressed.

On October 26, 1988, the Commission consolidated the docket for Teleconnect's petition (Docket No. P-478/M-88-359) with the docket regarding a similar petition from Central Corporation (Docket No. P-478/M-88-241) and referred the matter for contested case hearing. In so doing, the Commission expressed broad purposes for the proceeding. The Commission stated that the consolidated proceeding would provide

...the broad public interest information needed to assess the impact alternative operator services may have on Minnesota telephone users. In the Matter of an Application for a Certificate of Authority and Tariff Filing by Central Corporation, d/b/a Central Long Distance Corporation, for Provision of Long Distance and Alternative Operator Services, Docket No. P-485/NA-88-241 and In the Matter of a Tariff Filing By Teleconnect Company to Introduce Operator Services and Rates, Docket No. P-478/M-88-359, ORDER CONSOLIDATING DOCKETS AND NOTICE AND ORDER FOR HEARING (October 26, 1988), page 3.

The Commission further noted that the contested case proceeding would assist the Commission in determining

...whether rate regulation of AOS providers is necessary to protect the interest of consumers and whether the benefits of rate regulation outweigh the burdens of rate regulation. October 26, 1988 Order at page 4.

On November 9, 1988, the Department filed a Request for Clarification of the October 26, 1988 Order. The Department asked the Commission to clarify that the contested case hearing would not be limited to the two companies named in the Order but would be a generic proceeding concerning all similar pending applications.

On December 16, 1988, the Commission granted the Department's Request for Clarification. The Commission consolidated dockets for the pending applications from American Operator Services, Inc., d/b/a National Telephone Services (Docket No. P-482/NA-88-584), United States Telephone Services (Docket No. P-482/NA-88-584), United States Transmission Services (Docket No. P-460/M-88-528), Long Distance/USA, Inc. (Docket No. P-499/NA-88-858, International Telecharge, Inc. (Docket No. 479/M-88-381), Automated Communications, Inc. (Docket No. P-494/NA-88-625) and Elcotel LD\*OS, Inc. (Docket No. P-3002/NA-88320) and referred for the consolidated docket

to the OAH for contested case hearing.

In addition, the Commission specifically rejected a "case-by-case" approach to the public interest and emerging competition issues, characterized this proceeding as "generic," and clarified its method of proceeding as follows:

Based in part upon its resolution of the more general issues affecting all petitions, the Commission at the end of this proceeding will reach individual determinations on each petition. December 16, 1988 Order at page 3.

## **Analysis of Teleconnect's Petition**

Teleconnect has requested that the Commission sever it from further proceedings before the OAH and grant permanent approval to Teleconnect's operator service tariff filing. In the alternative, Teleconnect requested that the Commission sever Teleconnect from this docket and open a new docket to investigate the appropriate procedures to be followed by all fully-certified, full-service interexchange carriers (IXCs) in the provision of operator services.

The Commission declines to grant these requests for the following reasons.

Teleconnect's request for individual handling misconstrues the nature of this docket and the goals that the Commission seeks to accomplish through this docket. In its December 16, 1988 Order in this matter, upon request from the Department for clarification of its October 26, 1988 Order, the Commission consolidated the dockets of the several petitioners, established this as a generic docket, and referred this matter for contested case hearing. From then on, the Commission's focus in this docket has not been solely the merits of the individual petitioners, but the generic questions whether long distance operator service from transient locations was in the public interest and if so, how it should be regulated. In the Matter of the Applications for Authority to Provide Alternate Operator Services in Minnesota, Docket No. P-999/CI-88-917, ORDER ACCEPTING WITHDRAWAL OF PETITION, CONSOLIDATING DOCKETS AND NOTICE AND ORDER FOR HEARING (December 16, 1988).

At the same time, the Commission has granted interim authority to petitioners who met certain consumer protection requirements during the pendency of the proceeding. Specifically, the Commission granted Teleconnect interim authority to provide operator services from transient locations on December 23, 1988. In the Matter of an Application for a Certificate of Authority and Tariff Filing by Central Corporation, d/b/a Central Long Distance Corporation, for Provision of Long Distance and Alternative Operator Services, Docket No. P-485/NA-88-241, In the Matter of a Tariff Filing By Teleconnect Company to Introduce Operator Services and Rates, Docket No. P-478/M-88-359, and In the Matter of the Applications for Authority to Provide Alternate Operator Services in Minnesota, Docket No. P-999/CI-88-917, ORDER AFTER RECONSIDERATION GRANTING INTERIM AUTHORITY TO TELECONNECT COMPANY TO PROVIDE OPERATOR SERVICES (December 23, 1988).

From that date to present and continuing until further order of the Commission, Teleconnect has had interim authority to provide operator service to transient locations in Minnesota.

Viewed in the context of the Commission's goals and process established for this docket, Teleconnect's request for expedited individual treatment is out of place. Individual treatment for Teleconnect at this time would not be in keeping with the Commission's reasonable regulatory decision reflected in its December 16, 1988 Order. In addition, it would not be appropriate to grant permanent authority to any company for a service that the Commission has not yet found to be in the public interest.

The Commission reaffirms the process that it announced in its December 16, 1988 Order. First, the Commission will determine whether it is in the public interest to allow companies other than AT&T to provide OSCC. Second, the Commission will establish the industry-wide standards for the provision of OSCC. Third, and only if the Commission has determined that OSCC by providers

other than the traditional OS provider (AT&T) is in the public interest if regulated in accordance with certain standards, the Commission will determine on a case-by case basis whether each individual petitioner will be granted authority to provide OSCC in Minnesota<sup>4</sup>.

### **AT&T's Petition**

On February 14, 1990, the Commission levied an assessment against AT&T for expenses billed to the Commission by the Office of Administrative Hearings (OAH) for services provided by the OAH during the period that the matter was initially assigned to the OAH, i.e. from the date of the Commission Order assigning the case to the OAH, December 16, 1988, through June 9, 1989 when the ALJ filed his Findings of Fact, Conclusions of Law, Recommendation and Memorandum with the Commission.

On March 8, 1990, AT&T filed a timely objection to this assessment pursuant to Minn. Stat. § 237.295, Subd.3 (1988). AT&T's filing is in the nature of a petition to be relieved of the assessment. AT&T asserted that the Commission lacks authority under Minn. Stat. § 237.295 (1988) to assess any expenses against AT&T in this matter. According to AT&T, the proceeding is an applicant proceeding and, since AT&T is not an applicant but a mere intervenor in this proceeding, it may not be assessed.

AT&T acknowledges that it participated in the contested case before the ALJ as an intervenor and further acknowledges that costs under the statute were appropriately assessed if the proceedings were generic<sup>5</sup>.

In support of its position that this was not a generic proceeding, AT&T argues that it always considered this to be applicant proceedings, that it participated in the contested case as an intervenor, and that it signed the original stipulation specifically indicating its intervenor status and that it did not consider itself bound by the terms of the stipulation it was signing.

It is clear, however, that this proceeding has been generic from the outset:

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<sup>4</sup> See the Commission's Order in this matter dated December 16, 1988 which states at page 3:

Based in part upon its resolution of the more general issues affecting all petitions, the Commission at the end of this proceeding will reach individual determinations on each petition.

<sup>5</sup> In its May 16, 1990 letter to the Commission, AT&T states in part:

...the language of the statute is clear that only those telephone companies that are Applicants, named Respondents by the Commission, or that are participating in generic proceedings can be assessed fees under the statute.

\* The Commission's October 26, 1988 Order consolidated two petitions from alternative providers of operator service: Central and Teleconnect.<sup>6</sup> Commission determination of the common issues raised by those two petitions would clearly impact upon all providers of operator service in Minnesota. In consolidating these two petitions, the Commission stated that the consolidated proceeding would provide

...the broad public interest information needed to assess the impact alternative operator services may have on Minnesota telephone users. In the Matter of an Application for a Certificate of Authority and Tariff Filing by Central Corporation, d/b/a Central Long Distance Corporation, for Provision of Long Distance and Alternative Operator Services, Docket No. P-485/NA-88-241 and In the Matter of a Tariff Filing By Teleconnect Company to Introduce Operator Services and Rates, Docket No. P-478/M-88-359, ORDER CONSOLIDATING DOCKETS AND NOTICE AND ORDER FOR HEARING (October 26, 1988), page 3.

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<sup>6</sup> Teleconnect now denies that it is a "pure" alternative provider. It maintains that the fact that it provides a wide range of other telephone services sets it apart from the other petitioners. Teleconnect's articulated distinguishing characteristic does not remove it from the group of petitioners in this docket (providers of operator services to captive customers or OSCC providers) that do not as yet have permanent authority to provide this service in Minnesota).

The Commission further noted that the contested case proceeding would assist the Commission in determining

...whether rate regulation of AOS providers is necessary to protect the interest of consumers and whether the benefits of rate regulation outweigh the burdens of rate regulation. October 26, 1988 Order at page 4.

\* On December 16, 1988, the Commission summarized its October 26 Order stating:

In its October 26 Order the Commission ordered a contested case hearing to address whether operator services are in the public interest when offered in the manner requested by Central and Teleconnect. The hearing would also provide information for the Commission to determine if the service is subject to emerging competition as defined in Minn. Stat. § 237.59 (Supp. 1987). December 16, 1988 Order at page 3. (Emphasis added.)

\* In its December 16, 1988 Order, the Commission retained a focus upon those key issues and specifically underlined generic, industry-wide scope of the proceeding by consolidating the petitions of six additional alternative providers of operator service into a new docket and assigning it the traditional generic docket number (P-999). The Commission's Order specifically refers to the case as "[t]his generic proceeding...." (December 16, 1988 Order at page 3.

The nature of the issues identified for determination by the Commission in this docket established the generic nature of this proceeding. The Commission's determination of whether or not operator service as proposed by the "alternative" providers is in the public interest and, hence, whether or not the Commission will allow it in Minnesota directly impacts the traditional operator service providers. Quite simply, this decision will determine the operator service landscape by determining whether or not AT&T will have the "alternative" providers as competition. It is unlikely that this fact has been lost upon AT&T. Likewise, a Commission determination regarding the competitive status of operator services provided by these "alternative" providers will bear directly on the proper classification of operator service provided by the traditional providers of operator service. Furthermore, the Commission's specific designation of the proceeding as generic in its December 16, 1988 Order places the matter beyond dispute.

Under these circumstances, AT&T was correctly assessed a share of the costs of this generic proceeding. Accordingly, the Commission will deny AT&T's objection to assessment.

AT&T initially objected to being assessed at all and did not dispute the particular rate at which it was assessed. While assessment of AT&T could have been made on the basis of its share of the OS market where its share is 95%, the Commission finds that its assessment on the basis of its share of the intrastate interLATA market (85%) is not unreasonable and will not disturb the assessment at that rate.

In oral argument before the Commission, AT&T proposed in the alternative that the cost of the AOS proceeding should be recovered through the general recovery process whereby all telephone companies in Minnesota are assessed a portion of the total cost. In so proposing, AT&T shifts the argument to how generic the proceedings were.

AT&T's alternate request that all Minnesota telephone companies be assessed for the costs of this matter incurred to-date will be denied. However, as indicated previously, the cost of future proceedings in this matter will be assessed against all telephone companies in Minnesota. As indicated previously in this Order, prior to the August 1, 1990 hearing, the only telephone industry parties regularly served notice of Commission proceedings in this matter were IXCs. The Commission took this action on the belief that these companies were the only OSCC providers in Minnesota and hence the only parties affected by the proceedings. In such circumstances, the Commission's decision to assess only those parties was reasonable. Moreover, it would be unfair to assess all Minnesota telephone companies for these proceedings as AT&T requests.

It now appears that the circle of OSCC providers currently or potentially extends beyond this group. For all future Commission proceedings in this matter, therefore, the Commission will serve notice of all Commission proceedings upon all telephone companies in Minnesota and assess them the costs of all parts of this industry-wide generic proceeding, including future proceedings before the OAH<sup>7</sup>.

### **ORDER**

1. The petition of Teleconnect Long Distance Services and **S y s t e m s C o m p a n y** (Teleconnect) to be severed from this docket and granted permanent authority to provide operator service to captive customers (OSCC) in Minnesota or, in the alternative, to be severed from this docket and for the Commission to establish a separate docket to investigate the appropriate procedures to be followed by all fully-certified, full-service interexchange carriers in the provision of OSCC is denied.

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<sup>7</sup> Minnesota telephone companies are liable for assessment of future costs in this matter, including a proportionate share of the costs of the proceeding before the ALJ, solely because of the industry-wide generic nature of this matter and in an amount based upon their respective share of industry-wide revenue. The fact of their liability and the amount thereof is not affected by the level of their actual participation in proceedings before the Commission or the ALJ and is not avoided through non-participation in the proceedings. Further, telephone companies should note that they will not receive notice of proceedings before the ALJ from the Commission or automatically from the ALJ unless they formally intervene in that proceeding. A party to the Commission's proceeding in this matter does not automatically become a party to the contested case proceeding currently pending before the ALJ but must petition the ALJ to intervene pursuant to Minn. Rules, part 14.6200.

2. The petition of AT&T Communications of the Midwest, Inc. (AT&T) to be relieved of an assessment of costs in this matter is denied.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)