

P-1589/CT-92-19 ORDER GRANTING AUTHORITY TO PROVIDE CUSTOMER-  
OWNED PAY TELEPHONE SERVICE IN MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of an Application  
by the Locker Room Bar for  
Authority to Provide Coin-  
Operated Telephone Service in  
the State of Minnesota

ISSUE DATE: June 26, 1992

DOCKET NO. P-1589/CT-92-19

ORDER GRANTING AUTHORITY TO  
PROVIDE CUSTOMER-OWNED PAY  
TELEPHONE SERVICE IN MINNESOTA

**PROCEDURAL HISTORY**

On January 7, 1992, the Locker Room Bar (the Bar) filed an application for authority to provide pay telephone services in Minnesota.

On February 20, 1992, the Department of Public Service (the Department) filed a letter with the Commission requesting clarification of Minn. Stat § 237.067 which exempts certain telephone service providers from most of Chapter 237. The Department indicated that it was delaying the processing of four pay telephone applications for lack of such clarification. The Department stated that on March 9, 1992 it would send a letter to customer-owned pay telephone applicants advising them that the Department believes that Minn. Stat. § 237.067 excludes customer-owned pay telephone providers from the requirement of obtaining a certificate of authority from the Commission if the payphone in question is owned and operated in an individual hotel, motel, restaurant, lodging house, boarding house, resort, or place of refreshment.

On February 26, 1992, Commission Staff responded to the Department's letter, advising the Department to prepare and submit a report and recommendation for each of the COCOT applications that were pending. The letter also advised the Department not to send its proposed letter to the COCOT applicants until the Commission interpreted Minn. Stat. § 237.067.

On April 4, 1992, the Department submitted its Report of Investigation and Recommendation regarding the Bar's application for authority.

On June 2, 1992, the Commission met to consider this matter.

### FINDINGS AND CONCLUSIONS

The Department recommended that the Commission find that the Bar does not need a certificate of authority to provide pay-telephone service in Minnesota because it is an establishment exempted from that requirement by Minn. Stat. § 237.067 (Supp. 1991). The Department proposed that future COCOT providers would be treated as follows:

1. All COCOT providers would file an application for authority.
2. Department staff would review the applications and determine which involved establishments were exempt from the authority application process by Minn. Stat. § 237.067 (Supp. 1991).
3. Those applicants determined by the Department to be exempt from the authorization process would receive a letter from the Department explaining the requirements, along with copies of the statute and the Commission's Order pertaining to the new statute.
4. Those applicants determined by the Department not to be exempt from the authorization would be reviewed under the current process.

#### Certificate of Authority Requirement

Having examined the statute in question, the Commission finds that the Bar is not exempt from the requirement that it obtain a certificate of authority from the Commission to provide pay-telephone service in Minnesota. Because of this finding, consideration of the Department's proposed process is moot. Applications for customer-owned pay telephone authority will continue to receive the current Department review and submission to the Commission for approval.

The general rule is that no one may provide telephone service in the State of Minnesota without securing a certificate of authority to do so from the Commission. Minn. Stat. § 237.16 (1990). The Commission has found that this requirement applies to the provision of customer-owned pay telephone service to the public.<sup>1</sup> A recently enacted statute provides an exception to

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<sup>1</sup> In the Matter of the Complaint by Airport Systems, Inc., Tonka Tools, Inc. and Country Village Spur Upon Refusal of Northwestern Bell Telephone Company to Allow Attachment of

that general rule. The statute in question, Minn. Stat. § 237.067 (Supp. 1991), states:

**Subd. 2. Exemption; conditions.** An [individual hotel, motel, restaurant, lodging house, boarding house, resort, or place of refreshment licensed under Chapter 157] that **provides telephone service to its patrons on the premises of the establishment** is not subject to regulation under this chapter, except that the establishment:

- (1) shall comply with the requirement of section 237.06 that rates charged must be fair and reasonable;
- (2) shall provide notice of charges and service providers to patrons as required in section 325F.99; and
- (3) is subject to the complaint and investigation procedures of section 327.081. (Emphasis added.)

The Commission finds that the plain meaning of this statute is that the listed establishments do not need a certificate of authority to provide on-premises telephone services to their customers. To the extent that a listed establishment proposes to provide telephone services to its customers on-premises, it may do so without a certificate of authority from the Commission.

In this case, the Bar is a listed establishment. However, the Bar has requested authority to provide pay-telephone service not merely to its patrons on the Bar's premises, but anywhere in Minnesota. As such, the Bar requested authority that is clearly beyond the limited statutory exemption. Even if the Bar merely proposed on-premises pay telephone service, it would be required to obtain a certificate of authority since the Bar's pay telephone would not be restricted to serving patrons, as required by the statute, but would be available to guests, employees, members or any other member of the public with access to the pay telephone.

Based on this analysis, the Commission finds that Minn. Stat. § 237.067 (Supp. 1991) does not exempt the Bar from the requirement of obtaining a certificate of authority to provide pay telephone service within the State of Minnesota.

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Customer-Owned Coin Operated Telephones, Docket No. P421/C-82-4645, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (June 29, 1984).

Merits of the Bar's Application

The Commission's requirements for the common payphone are set forth in the customer-owned coin-operated complaint Order cited in footnote 1. The Commission finds that the Bar has met those requirements and will grant it authority to provide pay telephone service in Minnesota.

To clarify the authority granted, the Bar will be authorized to operate standard pay telephones at its current premises and at any subsequent location(s) in Minnesota. This authority does not include authority to use "store and forward" technology in connection with any such authorized payphone. "Store and forward" technology acts as a computerized alternative operator service (AOS). The potential for end-user abuse through high surcharges is currently under investigation in Docket No. P-999/CI-91-22. Because concerns regarding "store and forward" technology are unresolved at this time, the Commission will condition the Bar's certificate of authority upon no provision of the "store and forward" or any other form of operator service.

ORDER

1. The application of The Locker Room Bar (the Bar) for authority to provide pay telephone service at the Bar (403 Roosevelt Avenue, Coleraine, Minnesota) and at any subsequent location(s) in Minnesota is granted.
2. Use of any type of "store and forward" technology or  
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3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)