

P-421/CP-87-506 ORDER DENYING PETITION FOR RECONSIDERATION AND REHEARING

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 the Petition of Certain Subscribers in the Buffalo Exchange for Extended Area Service to the Minneapolis/St. Paul Metropolitan Calling Area	ISSUE DATE: August 18, 1992 DOCKET NO. P-421/CP-87-506 ORDER DENYING PETITION FOR RECONSIDERATION AND REHEARING
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PROCEDURAL HISTORY

On May 22, 1992, the Commission issued its ORDER ADOPTING RATES FOR POLLING in this matter. In the Order, the Commission found that the return on equity figure used by U S West Communications, Inc. (USWC) was adequate for calculating extended area service (EAS) polling rates. The Commission issued similar Orders on that date adopting polling rates for North Branch (Docket No. P-421/CP-86-272) and Cambridge (Docket No. P-421/CP-86-571).

On June 11, 1992, the Minnesota Department of Public Service (the Department) filed a Petition for Reconsideration and Rehearing challenging the return on equity figure used by USWC in calculating its proposed EAS polling rates.

On August 4, 1992, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

The Department alleged that the Commission had no facts before it on which to base a conclusion that USWC's return on equity figure is correct and results in just and reasonable rates. The Commission disagrees and will deny the Department's petition.

This matter turns on three related issues: 1) the degree of precision required of the return on equity figure in the context of incremental cost studies used in setting EAS polling rates; 2) the burden of proof in this matter; and 3) the basis which the Commission must have to approve a return on equity figure in such a context.

Degree of Precision

The use of the word "correct" to describe the return on equity figure requires clarification. In this context, the word does not mean a figure that is arrived at with mathematical precision and, hence, unquestionably superior to all others. The Commission clarifies that the return on equity figure must be appropriate and reasonable rather than correct.

The Department acknowledged that principle when it argued that alternative figures (USWC's currently authorized 12 percent return on equity and the 11.45 percent figure calculated by the Department) were both appropriate.

Burden of Proof

The Department incorrectly alleged that USWC had the burden of proof in this matter. It is true that when a telephone company petitions for authority to increase its rates, it has the burden of showing the reasonableness of those rates and the reasonableness of each component of its proposed rates. In that context, failure to bear such burden will result in denial of the petition and continuation of the current rates or rates that the Commission finds are fair and reasonable. However, in the EAS context, the telephone company is not the petitioner. The Commission has a statutory duty to establish EAS rates before polling subscribers in the petitioning exchange. The rates filed by USWC [and those filed by the Department, for that matter] are in response to an Order of the Commission to assist the Commission in meeting that statutory responsibility. In such a case, it is not accurate to describe USWC as having the burden of proof and erroneous to focus solely on what USWC placed in the record in support of the return on equity figure approved by the Commission.

Basis for the Commission's Determination

In this case, therefore, the focus of inquiry expands beyond what USWC placed in the record in support of the return on equity figure to include other factors considered by the Commission in approving that figure. Ample considerations support the Commission's finding. Among those considerations are the following:

1. The cost of money is only one factor in an incremental cost study. Using a lower cost of money would not have a significant impact upon USWC's forward looking incremental cost study or proposed rates.
2. The 13.4 percent return on equity figure is consistent with but lower than the sharing threshold adopted by the Commission in USWC's incentive plan case. In that case, the

Commission found that it would be appropriate for the Company to earn up to a 13.5 percent return on equity before it would be required to begin sharing its earnings with ratepayers. In the Matter of Northwestern Bell Telephone Company's, d/b/a U S West Communications, Proposed Incentive Regulation Plan, Docket No. P-421/EI-89-860, ORDER AFTER RECONSIDERATION AND CLARIFYING ORDER OF JUNE 7, 1990, 8.

3. The cost of money is not the only estimated figure appearing in EAS cost studies. Several other factors also must be estimated: the stimulation factor used to calculate the amount of additional facilities required by EAS is based on an estimate of increased traffic volume; expenses to operate and maintain EAS; depreciation, income taxes, ad valorem taxes and business fees.
4. Misestimation of any or all of these factors would not result in irrevocable harm. The statutory cap on EAS recovery applies: the company must remain income neutral. Minn. Stat. § 237.161, subd. 3 (b) (1990). If the rates adopted result in USWC overearning, the Department can request the Commission to review these rates.

In addition, as part of its response to the Department's petition for reconsideration, USWC submitted information regarding the process it used in calculating the 13.4 percent figure. USWC indicated that it applied both the discounted cash flow and the capital asset pricing model to three groups of companies, the seven RBOCs, independent telephone companies and comparable risk non-regulated companies. USWC also checked its figure against an estimate of the expected return on the market average of stocks and the risk and return differential between common stocks and bonds. The Department did not dispute the reasonableness of USWC's approach in calculating this figure. While it would have been the better practice for USWC to provide this information with its original filing, the information clearly supports the reasonableness of the 13.4 percent figure.

ORDER

1. The Petition for Reconsideration and Rehearing filed by the Minnesota Department of Public Service is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

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