

P-407, 421, 401, 532/CP-91-237 ORDER ADOPTING RATES FOR POLLING

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 a Petition for
Extended Area Service from
Cherry Grove to Preston and
Harmony/Granger

ISSUE DATE: September 22, 1992
DOCKET NO. P-407, 421, 401,
532/CP-91-237

ORDER ADOPTING RATES FOR POLLING

PROCEDURAL HISTORY

On March 20, 1991, subscribers in the Cherry Grove exchange filed a petition seeking extended area service (EAS) to the Preston exchange and a petition seeking EAS to the Harmony/Granger local calling area. Cherry Grove is served by GTE Minnesota (GTE), Preston is served by US WEST Communications, Inc. (US WEST), and the Harmony/Granger local calling area is served by Harmony Telephone Company (Harmony) and Ace Telephone Company (Ace).

On January 22, 1992, the Commission issued its ORDER REQUIRING FURTHER FILINGS in the above-captioned matter. In that Order the Commission found that the Cherry Grove petitions met the first criterion of the Minnesota EAS statute, Minn. Stat. § 237.161 (1992): Cherry Grove is contiguous to the Preston exchange and is also contiguous to the Granger/Harmony local calling area because Cherry Grove and Granger share a common boundary. The Commission also found that both proposed EAS routes sustained sufficient traffic to fulfill the second criterion of the EAS statute. The third criterion under the EAS statute is an affirmative response to EAS by a majority of subscribers responding to a poll. The Commission therefore ordered GTE, US WEST, Harmony and Ace to file the traffic studies, cost studies and proposed rates necessary for polling subscribers regarding the two EAS routes.

Between April 6 and May 13, 1992, the telephone companies submitted their required filings.

On May 26, 1992, the Department of Public Service (the Department) filed its report and recommendation. The Department supplemented its filing on May 28, 1992.

US WEST filed comments on June 11, 1992; Harmony filed comments on June 15, 1992.

The matter came before the Commission for consideration on August 25, 1992.

FINDINGS AND CONCLUSIONS

I. The Cherry Grove to Preston EAS Route

Cost of Money

In its comments the Department argued that the return on equity (ROE) used by US WEST in its cost studies was too high. The Department recommended that the Commission require US WEST to file new cost studies using a lower ROE developed by the Department.

The Commission finds that US WEST's proposed cost of money is within the bounds of reasonableness. The Commission also notes that the Department's proposed change to US WEST's ROE would not alter the resulting rates for the Cherry Grove to Preston EAS route. The Commission will not require US WEST to revise its cost studies to reflect the Department's recommendation.

The Commission wishes to clarify that acceptance of a particular ROE for the purpose of EAS cost studies does not necessarily mean that the Commission will approve the same ROE in the company's next general rate case. In each general rate case, the rate of return including ROE must be determined based upon the facts presented at that time.

Revenue Allocation

Under Minn. Stat. § 237.161, the Commission must apportion the costs of providing extended area service between the petitioning exchange and the petitioned exchange or local calling area. When the petitioned exchange is other than the metropolitan local calling area, the Commission must allocate between 50% and 75% to the petitioning exchange. In its report the Department recommended that the Commission apportion costs between Cherry Grove and Preston on a 75%/25% basis.

The Commission finds that a 60%/40% cost apportionment between Cherry Grove and Preston is appropriate. In so deciding, the Commission has looked at such factors as the comparative benefits and burdens borne by the exchanges and the fact that Preston as well as Cherry Grove will benefit from EAS. The Commission has also looked at the fact that the subscriber base in Cherry Grove (at approximately 280 access lines) is much smaller than in Preston (at approximately 1,100 access lines), which results in a greater financial impact upon Cherry Grove subscribers than upon Preston subscribers. The Commission will assign a 60%/40% cost apportionment between Cherry Grove and Preston.

II. The Cherry Grove to Harmony/Granger EAS Route

Affected Telephone Company

Minn. Stat. § 237.161, subd. 3 (b) requires the Commission to establish rates that are income neutral for each affected telephone company at the time at which the Commission determines the EAS rates. The statute does not define the term "affected telephone company." In its report dated May 26 and May 28, 1992, the Department argued that US WEST, the intraLATA toll provider between Cherry Grove and Harmony/Granger, is an affected telephone company and thus must remain income neutral. Harmony agreed with the Department.

In a clear line of cases the Commission has found that interexchange carriers (IXCs) are not affected telephone companies within the meaning of the EAS statute.¹ The Commission has found that the term "affected telephone company" refers solely to the local exchange companies (LECs) that serve the petitioning exchange and the petitioned exchange or local calling area. When the EAS statute is read as a whole, it is clear that the legislature did not intend to apply the term "affected telephone company" to companies serving solely as toll providers, nor to require that the EAS rates be set to maintain the income neutrality of companies in such situations. The statute focuses entirely on EAS as a local service. The term "interexchange company" appears nowhere in the entire statute. On the contrary, terms evincing a local focus appear throughout the statute, such as "exchange," "local calling area," "the telephone company serving the petitioning exchange," a list of costs incurred by a local exchange company installing EAS, "the petitioning exchange," "the telephone company serving the added exchange," "a local telephone exchange that is newly included," "a telephone company that provides local telephone service in an exchange that is included."

In these circumstances, it would be unreasonable to assume that the legislature abruptly switched focus in subd. 3 (b) of the EAS statute and intended a characterizing phrase ("affected telephone company") to include a company whose sole relationship to the exchanges in question is as an IXC.

Accordingly, the Commission will require the EAS rates for the Cherry Grove to Harmony/Granger route to be calculated without

¹ See, for example, In the Matter of a Petition for Extended Area Service from the Hokah Exchange to the La Crosse, Wisconsin Local Calling Area, Docket No. P-401/CP-89-951, ORDER DETERMINING THE STATUS OF INTEREXCHANGE CARRIERS UNDER MINN. STAT. § 237.171, SUBD. 3 (b), November 21, 1991. This Order and two other similar Orders were reaffirmed upon reconsideration on January 29, 1992, Docket Nos. P-401/CP-89-951, P-421/CP-87-352, P-407, 421/CP-87-216, ORDER DENYING PETITIONS FOR RECONSIDERATION.

regard to the toll contribution US WEST has provided to the local exchange companies as an IXC among these exchanges.

Ace Telephone Company's Request for Denial of the Cherry Grove/Granger Petition

Ace Telephone Company asked that the Commission deny the Cherry Grove/Granger portion of the EAS petition. Ace argued that Granger subscribers had not requested EAS, fewer than 50% of Granger subscribers make calls to Cherry Grove in a month, and the EAS additive for Granger subscribers would be unduly high in such a situation. There are approximately 70 access lines in Granger, 883 access lines in Harmony and 1100 access lines in Cherry Grove.

While the Commission notes the concern of Granger subscribers, who may see their rates rise even though they did not petition for EAS, there is no basis for a denial of the Cherry Grove/Granger part of the EAS petition. Granger and Harmony are two contiguous exchanges who have EAS to each other and are thus a local calling area. Cherry Grove is not adjacent to Harmony, with whom it seeks EAS, but is adjacent to Granger. Minn. Stat. § 237.161 clearly allows a petitioning exchange to petition for EAS to a local calling area. If the three statutory criteria are fulfilled and the petitioning exchange otherwise conforms to the EAS statute, EAS will be granted under the statute between the petitioning exchange and the petitioned exchange or local calling area. The statute does not contemplate denial of an EAS petition based upon the fact that a petitioned exchange is not a willing party, or upon the fact that benefits to a petitioned exchange may be uncertain or even nonexistent. The Commission will therefore not deny the Cherry Grove/Granger portion of the EAS petition. Finally, the Commission notes that traffic stimulation from the EAS route between Cherry Grove and Harmony/Granger may bring greater benefits to Granger subscribers than they had contemplated.

Cost Apportionment Between Cherry Grove and the Harmony/Granger Local Calling Area

The Department recommended a cost apportionment between Cherry Grove and Harmony/Granger of 75%/25%. At the August 25, 1992 Commission meeting, a representative of Harmony Telephone Company requested that Harmony's subscribers be polled separately so that they might express their reluctance to join the Cherry Grove to Harmony/Granger EAS route.

In this case, the Commission agrees with the Department that the cost allocation between Cherry Grove and Harmony/Granger should be set at 75%/25%. One of the petitioned exchanges, Granger, has a significantly smaller subscriber base than has Cherry Grove, the petitioning exchange. If tested under the EAS statutory traffic criterion, Granger subscribers would not pass the traffic threshold with Cherry Grove. Neither Granger nor Harmony

subscribers have expressed an interest in attaining EAS with Cherry Grove. For these reasons, the Commission will apportion costs of providing extended area service between Cherry Grove and the Granger/Harmony local calling area on a 75%/25% basis.

Again, the Commission notes the concern of some Harmony subscribers who may not wish to become part of the Cherry Grove to Granger/Harmony EAS route. The EAS statute, however, clearly refers to polling in the context of polling subscribers **of the petitioning exchange**. As discussed previously, the statute does not provide for denial of a petition based upon the fact that a majority in the petitioned exchange may not favor EAS. The Commission will not poll Harmony subscribers.

Cost Apportionment Between Granger and Harmony

As proposed by the telephone companies, rates for each exchange in the Granger/Harmony local calling area would be decided independently. Thus, with a 75%/25% cost allocation, rates for Granger subscribers would be developed with a 25% cost basis and rates for Harmony subscribers would be developed with a 25% cost basis.

Another method of apportioning costs would be to assign 25% of the cost to the Granger/Harmony local calling area, then allocate costs between the exchanges according to some formula such as billable minutes or number of access lines. Minn. Stat. § 237.161 is silent regarding apportionment of EAS costs between exchanges in a petitioned local calling area. The Commission notes that in this case there are approximately 880 access lines in the Harmony exchange and approximately 70 access lines in the Granger exchange. Granger subscribers account for approximately 17% of total billable minutes from the Granger/Harmony local calling area; Harmony subscribers account for approximately 83% of billable minutes.

The Commission will assign 25% of the EAS cost to the Granger/Harmony local calling area, then apportion the cost of providing EAS between Harmony and Granger on the basis of the relative number of access lines. This method of apportionment has the benefit of being clear and easily calculated. In this case there is not a dramatic disparity between percentages calculated by access lines and percentages calculated by billable minutes. The Commission notes, however, that methods for future apportionments of EAS costs between exchanges in local calling areas will be decided on a case by case basis.

III. Commission Action

For the Cherry Grove to Preston EAS route and the Cherry Grove to Granger/Harmony EAS route, the Commission will adopt rates for polling consistent with the decisions in this Order.

ORDER

1. The Commission hereby adopts EAS rate additives for the EAS route proposed between Cherry Grove and Preston as follows:

Cherry Grove

Residential	\$3.35
Business	6.70

Preston

1 FR	.44
1 FR Key	.46
2 FR	.34
1 FB	1.10
1 FB Key	1.15
Trunk	1.26
Semi Pub	1.10

2. The Commission hereby adopts EAS rate additives for the EAS route proposed between Cherry Grove and Granger/Harmony as follows:

Cherry Grove

Residential	\$8.05
Business	16.10

Granger

Residential	\$.75
Business	1.13

Harmony

Residential	\$.79
Business	.96

3. GTE shall cooperate fully with Commission staff and Commission contractors to expedite the polling of Cherry Grove subscribers. As part of this cooperation, GTE shall upon request provide Commission staff or Commission contractors with a customer list for the Cherry Grove exchange and associated information in a timely fashion.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

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