

P-407, 421/CP-90-777 ORDER ADOPTING RATES FOR POLLING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Petition for  
Extended Area Service From the  
Tower Exchange to the Virginia,  
Ely, and Embarrass Exchanges

ISSUE DATE: September 22, 1992

DOCKET NO. P-407, 421/CP-90-777

ORDER ADOPTING RATES FOR POLLING

**PROCEDURAL HISTORY**

On October 20, 1990, subscribers in the Tower exchange filed a petition for extended area service to the Virginia, Ely, and Embarrass exchanges.

On October 22, 1991, the Commission issue its ORDER REQUIRING REVISED TRAFFIC STUDIES, COST STUDIES AND PROPOSED RATES. The Commission found that Tower was adjacent to Virginia and Embarrass but postponed deciding whether it was also adjacent to Ely. The Commission required GTE Minnesota (GTE), the telephone company serving the petitioning Tower exchange to file new traffic studies for all three routes and directed GTE and U S West Communications, Inc. (USWC) to file proposed rates for any route meeting the statutory traffic requirement.

On November 12, 1991, GTE filed the required traffic studies, which showed that only the Tower-Virginia route met the statutory traffic requirement.

On January 14, 1992, both GTE (serving the petitioning Tower exchange) and USWC (serving the petitioned Virginia exchange) filed their proposed rates for the Tower-Virginia route.

On March 13, 1992, the Commission issued its ORDER GRANTING TIME EXTENSIONS allowing USWC to correct errors in calculating its cost studies in several pending EAS cases, including this case.

On March 27, 1992, USWC filed corrected cost studies and proposed rates and GTE filed its revised rates on April 2, 1992.

On May 11, 1992, the Minnesota Department of Public Service (the Department) filed its report and recommendations and USWC filed its response on April 2, 1992.

The Commission met to consider this matter on September 8, 1992.

## FINDINGS AND CONCLUSIONS

### **A. Proposed Tower to Ely EAS Route**

This route posed the unique question of whether exchanges that do not share a common boundary but are separated only by unassigned territory are adjacent within the meaning of the EAS statute, Minn. Stat. § 237.161 (1990). In its most recent substantive consideration of this route, the Commission decided not to decide that unique adjacency question unless and until it was clear that the route met the other threshold statutory requirement: adequate traffic. ORDER REQUIRING REVISED TRAFFIC STUDIES, COST STUDIES AND PROPOSED RATES (October 22, 1991) at page 2.

Upon receipt and consideration of the traffic data for this route, it appears that the route fails to meet the traffic criteria. Since failure to meet either of the threshold criteria is fatal, the adjacency question becomes moot and the Commission will reject this route without determining the adjacency question.

### **B. Proposed Tower to Embarrass EAS Route**

In its earlier Order, the Commission found that this route met the adjacency requirement. The Tower and Embarrass exchanges shared a common boundary. ORDER REQUIRING REVISED TRAFFIC STUDIES, COST STUDIES AND PROPOSED RATES (October 22, 1991) at page 2. However, subsequently filed traffic studies show that there is insufficient traffic between Tower and Embarrass to meet the equally essential traffic requirement. Accordingly, this proposed route will be rejected.

### **C. Proposed Tower to Virginia EAS Route**

The Commission has found in a previous Order that the Tower-Virginia route meets the first threshold requirement, adjacency. ORDER REQUIRING REVISED TRAFFIC STUDIES, COST STUDIES AND PROPOSED RATES (October 22, 1991) at page 2. Now in this Order, the Commission finds, based on traffic data subsequently filed by GTE, that it also meets the second threshold requirement: adequate traffic. Minn. Stat. § 237.161, subd. 1 (1990).

The Commission will proceed, therefore, to determine whether the petition meets the final requirement: adequate subscriber support. Before polling Tower subscribers, however, the Commission will adopt EAS rates to appear on the ballots to inform subscribers regarding the rates that they will experience if EAS is approved.

The Department has raised two issues regarding the proposed rates that this Order will address: the cost of money and revenue apportionment.

## 1. Cost of Money

The Department asserted that the return on equity (ROE) figure used by USWC in its cost study is too high. The Department urged the Commission to require USWC to refile its cost study using a lower ROE proposed by the Department or simply adopt rates using the Department's ROE. The Department predicted that adopting rates based on USWC's ROE would not leave the Company income neutral as required by the statute, but would increase the Company's income from these routes.

These are the same arguments that the Commission considered and rejected when it adopted EAS rates for North Branch, Cambridge, and Buffalo. See, e.g. In the Matter of the Petition of Certain Subscribers in the North Branch Exchange for Extended Area Service to the Minneapolis/St. Paul Metropolitan Calling Area, Docket No. P-421/CP-86-272, ORDER ADOPTING RATES FOR POLLING (May 22, 1992). Subsequently, the Commission considered and rejected the Department's request, based on the same arguments, that the Commission reconsider its decision in those three dockets. See, e.g. In the Matter of the Petition of Certain Subscribers in the North Branch Exchange for Extended Area Service to the Minneapolis/St. Paul Metropolitan Calling Area, Docket No. P-421/CP-86-272, ORDER DENYING PETITION FOR RECONSIDERATION AND REHEARING (August 18, 1992).

In rejecting the Department's recommendation on this point in this case, the Commission finds that the ROE used by USWC is within the bounds of reasonableness. In fact, the difference between the Department's proposed ROE and the ROE used by USWC is so insignificant that it would not result in different rates.

At the same time, the Commission will clarify that in approving EAS rates based on a cost study that includes a particular ROE figure it is simply finding that this particular return on equity figure is adequate in the context of determining EAS rates for polling. Because of the unique circumstances and goal of EAS rate setting, the Commission's finding here is not precedent for the company's return on equity in its next rate case. In the context of a general rate case, the Commission will approve a rate of return that is appropriate based on the facts presented at that time.

## 2. Allocation of EAS Costs

With regard to apportioning EAS costs between petitioning and petitioned exchanges, the EAS statute divides EAS petitions into two groups: petitions for EAS to the metropolitan calling area (MCA) and all other EAS petitions. For petitions to the MCA, the statute mandates that the petitioning exchange rates defray 75% of the costs of providing EAS. For other petitions, however, the statute leaves to the sound discretion of the Commission what percentage (between 50 and 75%) of EAS costs the petitioning exchange will be required to defray in its rates.

Minn. Stat. § 237.161, subd. 3 (a) (1990) states in pertinent part:

When the proposed extended service area is not the metropolitan calling area, the commission shall determine the apportionment of costs, provided that between 50 and 75 of the costs must be allocated to the petitioning exchange.

The Department and USWC argued that because the EAS implementation process allows Tower subscribers to vote whether EAS will be installed but denies the same opportunity to subscribers in the petitioned local calling area, it is fair that Tower subscribers defray the maximum statutory amount of EAS costs, i.e. 75% of those costs. The Department has made this same argument in several previous EAS rate setting cases.

The Commission has never found this argument persuasive.<sup>1</sup> The legislature did not establish a link between voting and payment of 75% of the costs. According to the statutory process, subscribers in the petitioning exchange are always the only subscribers polled. Since the legislature stated that rates for non-metro petitions could be set between 50 and 75 percent, it is clear that the legislature intended other factors to control the percentage of costs to be allocated to the petitioning exchange.

In making the allocation determination, the Commission considers the interests of all parties to determine a fair and equitable rate, as required by Minn. Stat. § 237.161, subd. 3 (b) (1990). In so doing, the Commission considers such factors as the comparative benefits that installation of EAS will bring to the exchanges in question, the comparative burden borne by the exchanges under various apportionment plans. As noted in previous Orders considering this question, the benefits to be derived from the proposed EAS are not totally one-sided. After all, toll free calling from Tower to Virginia would not simply benefit the calling party in Tower. It would also benefit the Virginia recipients of those calls. Further, analysis of the benefit must take into account not only the number of calls currently placed between the petitioning exchange and Virginia, but must also consider the value to Virginia of the additional calls from the petitioning exchange that EAS will stimulate. Finally, it is likely that the proposed EAS will also stimulate additional calling from the petitioned exchange to the petitioning exchanges.

In this case, the subscriber base of the petitioning exchange is significantly smaller than that of the petitioned Virginia exchange. Tower has 1,413 access lines and Virginia has 12,743

---

<sup>1</sup> For a similar discussion and analysis of this issue see: In the Matter of a Petition for Extended Area Service From the Loman Exchange to the International Falls, Ericsburg, and Ranier Exchanges, Docket No. P-407/CP-90-547, ORDER ADOPTING RATES FOR POLLING (March 25, 1992).

lines in service. As a consequence, the impact of EAS costs on Tower subscribers will be much greater than on Virginia subscribers. In light of this disparate impact and the comparative value of the service to the two exchanges, the Commission finds that a 60/40 allocation of EAS expenses between the petitioning and petitioned exchanges is appropriate and will result in fair and reasonable rates.

### 3. Commission Action

The Commission will adopt rates for polling consistent with its decisions herein to use USWC's ROE figure in calculating Tower's EAS rates and to allocate to Tower 60 percent of the costs of providing EAS service between Tower and Virginia.

Following this Order, the Commission will proceed to poll the Tower subscribers to see if a majority of those responding to the poll support the installation of EAS between Tower and Virginia. The EAS rates adopted for Tower in this Order will appear on the ballots distributed to Tower subscribers.

### ORDER

1. The Commission hereby adopts EAS rate additives for the EAS route proposed between Tower and Virginia. The rates adopted are as follows:

TOWER		VIRGINIA	
<u>Class of Service</u>	<u>Rates</u>	<u>Class of Service</u>	<u>Rates</u>
Residential	\$ 3.18	1FR	\$ .20
Business	\$ 6.37	1FR Key	\$ .22
		2FR	\$ .17
		1FB	\$ .53
		1FB Key	\$ .55
		Trunk	\$ .60
		Semi Pub	\$ .53

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

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)