

P-3052/NA-91-117 ORDER TO CEASE AND DESIST AND FILE A REPORT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner
Darrel Peterson	Commissioner

In the Matter of the Application of Telecommunications Link, Inc. for Authority to Resell Intrastate Long Distance	ISSUE DATE: January 3, 1992
	DOCKET NO. P-3052/NA-91-117

In the Matter of the Application of Telecommunications Consultants, Inc. for Authority to Resell Intrastate Long Distance	DOCKET NO. P-1423/NA-91-230
	ORDER TO CEASE AND DESIST AND FILE A REPORT

**PROCEDURAL HISTORY**

On February 28, 1991, Telecommunications Link, Inc. (TCL) filed an application for a certificate of authority to resell intrastate long distance service.

On March 22, 1991, Telecommunications Consultants, Inc. (TCI) filed an application for a certificate of authority to resell intrastate long distance service.

On October 17, 1991, TCL by letter and TCI by telephone withdrew their applications.

On October 28, 1991, the Minnesota Department of Public Service (the Department) filed its recommendations regarding these petitioners. The Department recommended that the Commission issue a cease and desist Order against both TCL and TCI.

On December 4, 1991, TCL withdrew its opposition to the Department's recommendation that the Commission issue a cease and desist Order against it.

On December 24, 1991, the Commission met to consider this matter.

**FINDINGS AND CONCLUSIONS**

In its investigation of the TCL and TCI petitions, the Department found that TCL began to market intrastate long distance service on its own without a certificate of authority sometime in August or September 1990, some six months before it filed for authority

to do so, and continued, without authority, to seek contracts for intrastate long distance service after the date it filed for a certificate of authority. Regarding TCI, the Department found that it was the parent company of TCL until December 1990 so that for several months (August - December 1990) its subsidiary (TCL) was marketing intrastate telecommunications service without authority to do so.

In its December 4, 1991 letter, TCL acknowledged that it had actually resold intrastate long distance service during an unspecified period of time. TCL stated that "neither TCL or anyone on its behalf will bill anyone for intrastate long distance service provided by Sprint through TCL." Emphasis added.

Broad as it appeared, TCL's disavowal of the unauthorized activity was incomplete. It did not state that it had not already billed and collected for some unauthorized service nor did it state that it would not assign or had not assigned any accounts receivable to a third party. And despite its close ties with TCL, TCI has offered no assurance of non-involvement in unauthorized activity whatsoever.

To preclude further unauthorized provision of telecommunications service in Minnesota by these parties and to prevent them from benefiting from their illegal activity, the Commission will issue a Cease and Desist Order against both TCL and its former parent company, TCI. The Order will not only preclude TCI and TCL from any additional unauthorized activity, it will also forbid them to retain any revenue that they may have received or may receive in connection with the provision of this unauthorized service. To be comprehensive, TCL and TCI will not be allowed to receive or retain revenue received directly from the customers or from assignment of any accounts receivable based on this unauthorized activity. To assist in the monitoring of this proscription, TCI and TCL will be required to file with the Commission relevant information and provide notice to their customers as more fully set forth in the Ordering Paragraphs.

### ORDER

1. Telecommunications Link, Inc. (TCL) and Telecommunications Consultants, Inc. (TCI) are hereby ordered to cease and desist from the provision of telecommunications service in Minnesota. The term "provision of telecommunications service" is broad and includes any activity in which the company holds itself out to the public or any member thereof as providing or able to provide any telecommunications service to the public.
2. The receipt of compensation, directly or indirectly, in connection with their provision of telecommunications services in Minnesota by either TCL or TCI is prohibited.

3. Any compensation received or to be received directly or indirectly by TCL or TCI in connection with their provision of telecommunications services in Minnesota may not be retained by either company.
4. Within 30 days of this Order, each company shall file a report with the Commission that
  - a. lists each customer to whom it sold telecommunications service in Minnesota and for each customer provides the name, address and phone number, amount billed and the value, according to the contract, of any unbilled but provided service, and the amount received by the company to date from that customer for such service;
  - b. contains a Customer Notice informing customers that TCL and TCI have sold them telecommunications service without authority and, as such, they have no obligation to pay TCL or TCI for any such unauthorized service; and
  - c. an affidavit that it has mailed a copy of such notice to each customer to whom it sold telecommunication service to in Minnesota.
5. Within 30 days of this Order, any company that has arranged to have some or all the customers to whom it sold telecommunications service without authority billed for such service by a third party, that company's report shall
  - a. identify the third party by name, address and phone number;
  - b. provide the details of that arrangement, including the date it was made and amount of compensation received or to be received from the third party;
  - c. provide a copy of a Notice informing any such third party that due to their lack of authority to provide telecommunications service in Minnesota TCL or TCI had no right to collect from any customer; and
  - d. provide an affidavit that it has mailed a copy of such notice to each such third party.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)