

P-407, 421/CP-92-1415 ORDER REQUIRING TRAFFIC STUDIES

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
Garrison to Nokay Lake and
Brainerd

ISSUE DATE: May 7, 1993

DOCKET NO. P-407, 421/CP-92-1415

ORDER REQUIRING TRAFFIC STUDIES

PROCEDURAL HISTORY

On December 17, 1992, the City of Garrison filed a petition for extended area service (EAS) with the Commission.

On March 8, 1993, the Minnesota Department of Public Service (the Department) filed a recommendation that the Commission dismiss the petition and close the docket.

On April 20, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

Construction of the Petition

The Commission must first determine what EAS route or routes have been requested in this matter. A cover letter from the City of Garrison accompanying the petition stated that the petition sought EAS between Garrison and the following exchanges: Brainerd, Nokay Lake, Bennetville, and Onamia. However, 15 of the 26 petition forms bearing subscriber signatures requested EAS from Garrison to Brainerd. The other nine petition pages bore no indication of what EAS route was requested. Minn. Rules, Part 7815.0700 indicates that it is the petition (a form supplied by the Department) that controls rather than a cover letter accompanying the petition. In this case, therefore, the route designated on 15 pages bearing customers' signatures takes precedence over the expression appearing in the cover letter. This approach comports with the rule and is, moreover, manifestly reasonable. In short, it follows the signers' expressed intent, i.e. to seek the EAS route appearing on the document they signed.

Sufficiency of the Petition

Next, the Commission must determine whether the petition is signed by a sufficient number of Garrison customers. Minn. Rules, Part 7815.0700 requires that the petition must be signed by 600 or 15 percent of the customers in the petitioning exchange. The rule also appears to require that each page bearing signatures must contains a statement indicating the specific EAS route that the signatories desire. In this case, the counting is complicated by the fact that 9 of the 25 pages of signatures provided no such information. Due to this defect, these pages would appear invalid. The Commission need not rule on that point in this Order, however, because there are enough customer signatures on the fifteen pages that clearly list a desired route: Garrison to Brainerd.

Adjacency

The final question for this Order is whether a petition seeking EAS between Garrison and Brainerd meets the adjacency requirement of the EAS statute. By statute, the petitioning exchange (Garrison) must be

...contiguous to an exchange or local calling area to which extended area service is requested in the petition. Minn. Stat. § 237.161, subd. 1 (a) (1) (1992).

The Garrison exchange is completely separated from the Brainerd exchange by the Nokay Lake exchange. Therefore, the Garrison and Brainerd exchanges are not adjacent. However, because the Nokay Lake exchange has EAS to Brainerd, the Nokay and Brainerd exchanges form a local calling area (LCA). Because of its shared border with the Nokay exchange, therefore, Garrison is adjacent to an LCA that contains Brainerd. To expedite this matter consistent with the Commission's understanding of the signatories' ultimate intent, therefore, the Commission will interpret the petition as requesting EAS to the Brainerd-Nokay LCA and find that, as such, it meets the statute's adjacency requirement.¹

¹ The alternative, to deny this petition for lack of adjacency between Brainerd and Nokay and require submission of a new petition specifically directed to the Brainerd-Nokay LCA, would delay these proceedings for no tangible benefit.

Commission Action

Having found that the petition, as interpreted herein, meets the statute's adjacency requirement, the Commission will proceed to determine whether the petition meets the second requirement: adequate traffic.²

To provide a basis for that determination, the Commission will direct GTE Minnesota, the local exchange company serving the petitioning exchange (Garrison) to submit traffic studies. Also, since Garrison is in the St. Cloud LATA while Nokay Lake and Brainerd are in the Brainerd/Fargo LATA, the interexchange carrier (IXC) serving the Garrison to Brainerd and Garrison to Nokay Lake routes (AT&T Communications, Inc.) will be required to file traffic reports.

Future Processing of this Matter

If traffic data show sufficient traffic between Garrison and the Brainerd-Nokay LCA, the Commission will proceed to require cost studies and proposed rates³, set EAS rates, and poll Garrison subscribers regarding the proposed route. As in all cases where the Commission has found adjacency by reason of the petitioner's shared border with an LCA, Garrison subscribers will have to approve EAS to the entire Nokay/Brainerd LCA. Likewise, Garrison's EAS rates (which would appear on the ballots distributed to Garrison's subscribers) would be set to recover its apportioned costs of providing EAS to Nokay Lakes as well as to Brainerd.

ORDER

1. Within 45 days after this Order, GTE Minnesota (the local exchange company serving the Garrison exchange) shall file traffic studies of traffic from Garrison and the Brainerd/

² The EAS statute requires that at least 50 percent of the customers in the petitioning exchange (Garrison) make one or more calls per month to the exchange or local calling area to which EAS is requested. Minn. Stat. § 237.161, subd. 1 (a) (3) (1992).

³ If the filing of cost studies and proposed rates is ordered, the parties will be required to propose resolutions for the problem that Garrison is a **692** exchange in the 612 area while another exchange in the 218 area is also a **692** exchange: Cross Lake.

Nokay Lake local calling area.

2. Within 45 days after this Order, AT&T Communications, Inc., the interexchange carrier (IXC) serving the Garrison to Brainerd and Garrison to Nokay Lake interLATA routes, shall file traffic studies of the traffic they carry between those exchanges.
3. The traffic studies filed pursuant to Ordering Paragraphs 1 and 2 shall show the number of customers making zero calls, the number of customers making one call, and the number of customers making more than one call from Garrison to the Nokay/Brainerd LCA.
4. Within 10 days after the filing of the traffic studies, the Minnesota Department of Public Service (the Department) shall file a report. The report shall indicate the percentage of the Garrison customers who make one or more calls from Garrison to the Nokay/Brainerd LCA.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)