

P-3007/NA-89-76 ORDER GRANTING RECONSIDERATION AND MODIFYING
PREVIOUS ORDER

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 Application of the Minnesota Independent Equal Access Corporation for a Certificate of Public Convenience and Necessity	ISSUE DATE: May 13, 1993 DOCKET NO. P-3007/NA-89-76 ORDER GRANTING RECONSIDERATION AND MODIFYING PREVIOUS ORDER
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PROCEDURAL HISTORY

On January 21, 1993, the Commission issued its ORDER APPROVING COMPLIANCE FILING AND REQUIRING ADDITIONAL FILINGS in the above-captioned matter. In that Order the Commission, among other things, required the Minnesota Independent Equal Access Corporation (MIEAC) to provide interexchange carriers (IXCs) the option of how their 800 traffic would be routed.

On February 10, 1993, MIEAC filed a Petition for Reconsideration or for Stay of the January 21, 1993 Order.

On February 22, 1993, the Department of Public Service (the Department), US WEST Communications, Inc. (US WEST), and AT&T filed comments.

On April 7, 1993, the Department filed a letter containing suggested modifications to Order Paragraph 16 of the January 21, 1993 Order.

This matter came before the Commission for consideration on May 4, 1993.

FINDINGS AND CONCLUSIONS

I. Factual Background

The FCC has required that from May 1, 1993, technology will be implemented which will allow customers to "own" personal 800 numbers that will follow them if they switch carriers. Through this "enhanced 800 service," the customer and the customer's

choice of an interexchange carrier can be identified through the seven digit number following 1-800 (the ten digit look up). Prior to May 1, 1993, "interim 800 service" required that the first six digits (800-xxx) be looked up to determine the customer's chosen IXC.

Prior to the implementation of MIEAC's centralized equal access (CEA), 800 calls were generally routed from independent local exchange company (ILEC) end offices to the US WEST access tandem for the six digit look up. After MIEAC came into being, participating local exchange companies (ILECs) routed their 800 calls to MIEAC's tandem for the six digit look up.

In the January 21, 1993 Order, the Commission allowed MIEAC to keep the revenue it had already derived from the routing of 800 calls through its access tandem. In the future, however, MIEAC would have to provide IXCs the opportunity to decide how the routing would take place. The overall question of MIEAC's control of 800 routing was to be an issue in MIEAC's general rate case, Docket No. P-3007/GR-93-1.

II. The Request for Reconsideration or Stay

MIEAC's petition for reconsideration was directed solely to the portion of the January 21, 1993 Order which concerned the routing of intrastate 800 calls. MIEAC specifically referenced the following portion of the Order at p. 12:

In the meantime, the Commission will allow MIEAC to keep the revenues earned from providing 800 routing service resulting from the final rates approved by the Commission in this Order but will require MIEAC to allow IXCs to have the option of selecting the provider of their 800 routing services unless and until the Commission reaches a different determination in the year two rate proceeding. (Emphasis added.)

MIEAC asked for reconsideration or stay of enforcement of the following portion of Order Paragraph No. 16 of the January 21, 1993 Order:

Following this Order, MIEAC shall provide IXCs the option of how their 800 traffic will be routed.

MIEAC raised the following points in its petition:

1. MIEAC does not have the legal or technical ability to implement the Order as written.

MIEAC stated that the PILECs, not MIEAC, have the responsibility for routing and handling 800 traffic. Because MIEAC cannot compel PILECs to route their 800 traffic in any particular way,

MIEAC cannot be required to abide by Order Paragraph No. 16. MIEAC is incapable of providing IXCs an option on the routing of their 800 traffic.

2. Technology does not allow end office separation of intrastate 800 traffic from interstate 800 traffic under current interim 800 service.

MIEAC claimed that it would lose a large quantity of interstate traffic if Order Paragraph No. 16 were implemented for intrastate service. This result would violate MIEAC's rights to provide centralized equal access (CEA) under the interstate tariff.

3. The technology of 800 traffic will change dramatically in May, 1993, and most end offices will require routing of all 800 traffic to a single access tandem.

MIEAC therefore urged the Commission to avoid imposing changes before May which would interfere with the smooth transition to enhanced 800 service.

III. Comments of the Department

In its February 22, 1993 comments, the Department agreed that MIEAC does not control the PILECs' routing of 800 calls. The Department stated that a dispute on the routing of 800 traffic, if one should exist, is between the PILEC and the IXC. The Department disagreed with MIEAC's assertion that MIEAC's authority to provide CEA necessarily includes the authority to provide 800 routing. The Department also questioned the scope of MIEAC's authority over interstate 800 routing under the interstate tariff.

The Department proposed the following modifications to the January 21, 1993 Order:

Delete the following two sentences from Order Paragraph 16:

Following this Order, MIEAC shall provide IXCs the option of how their 800 traffic will be routed. In MIEAC's year two rate proceeding, MIEAC shall address whether it should have monopoly control over the routing of 800 traffic for PILEC exchanges and shall have the burden of proof in that regard.

Substitute the following two sentences:

If an IXC desires to obtain direct routing of 800 traffic from the PILEC, the IXC should request such routing from the PILEC. If the PILEC and IXC do not agree on the terms of the interconnection, the IXC may file a complaint under Minn. Stat. § 237.12.

According to the Department, the modified Order Paragraph reflects the fact that MIEAC lacks the technological means to control 800 traffic routing from PILECs. The language will allow a process which will remain unchanged after enhanced 800 service is required on May 1, 1993. Before and after the May 1 implementation date, IXCs desiring direct routing of 800 traffic from a PILEC through the ten digit look up will request such routing from the PILEC. If the PILEC refuses to route other than through the MIEAC tandem, or otherwise fails to come to an agreement with the IXC, the IXC may bring a complaint before the Commission. MIEAC will not be required to ensure that IXCs have 800 traffic routing options.

In its April 7, 1993 letter to the Commission, the Department indicated that MIEAC had agreed to the proposed language substitution for part of Order Paragraph No. 16, with slight modifications. One modification was the limitation of the language to intrastate 800 traffic. The Department stated that AT&T and US WEST also agreed to the modified language, which now read:

If an IXC desires to obtain alternate routing of intrastate 800 traffic from the PILEC, rather than from MIEAC, the IXC can request such routing from the PILEC. If the PILEC and IXC do not agree on the terms of the alternate routing, the IXC may file a complaint under Minn. Stat. § 237.12.

IV. Commission Analysis

The Commission finds the Department's language, as modified by MIEAC, acceptable, and will implement the substitution of this language for the relevant portion of Order Paragraph No. 16.

The language reflects the agreement of the parties to this proceeding. It acknowledges the technological realities of 800 transport service. The agreed upon wording will enable a smooth transition to enhanced 800 service to take place. The language removes possible confusion regarding the responsibilities and duties of the parties.

The Commission will grant MIEAC's request for reconsideration to allow the agreed upon modification to the January 21, 1993 Order.

ORDER

1. The Commission grants MIEAC's request for reconsideration to allow the following modification to the January 21, 1993 Order:

The following two sentences are deleted from Order Paragraph No. 16 of the January 21, 1993 Order:

Following this Order, MIEAC shall provide IXCs the option of how their 800 traffic will be routed. In MIEAC's year two rate proceeding, MIEAC shall address whether it should have monopoly control over the routing of 800 traffic for PILEC exchanges and shall have the burden of proof in that regard.

The following two sentences are substituted for the deleted language:

If an IXC desires to obtain alternate routing of intrastate 800 traffic from the PILEC, rather than from MIEAC, the IXC can request such routing from the PILEC. If the PILEC and IXC do not agree on the terms of the alternate routing, the IXC may file a complaint under Minn. Stat. § 237.12.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)