P-401/CP-89-951 ORDER ALLOCATING MAXIMUM COSTS AND DEFERRING ADOPTION OF RATES AND POLLING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner

In the Matter of the Petition for Extended Area Service From the Hokah Exchange to the La Crosse, Wisconsin Calling Area

ISSUE DATE: August 9, 1993

DOCKET NO. P-401/CP-89-951

ORDER ALLOCATING MAXIMUM COSTS AND DEFERRING ADOPTION OF RATES AND POLLING

PROCEDURAL HISTORY

On October 24, 1989, subscribers in the Hokah (Minnesota) exchange filed a petition with the Commission for extended area service (EAS) to the La Crosse and Onalaska (Wisconsin) exchanges, hereinafter also referred to as the La Crosse calling area.[1] Because the La Crosse and Onalaska exchanges are subject to the jurisdiction of the Wisconsin Public Service Commission (Wisconsin PSC), establishment of the proposed interstate EAS area would require coordinated Orders from the Commission and the Wisconsin PSC. To establish the proposed EAS, the Commission would need to direct Ace Telephone Company, the local exchange company serving the Hokah exchange, to make the necessary changes in its exchange and the Wisconsin PSC would need to direct Century Telephone Company, the local exchange company (LEC) serving the La Crosse and Onalaska exchanges, to install the necessary facilities in these two exchanges to provide the EAS service.

In April 1990, the Minnesota legislature enacted a new EAS statute, Minn. Stat. § 237.161 (1990) that changed major aspects of the way the Commission had been processing and evaluating EAS applications.

[1] As a technical matter, the La Crosse calling area consists of the La Crosse, Onalaska, and La Crescent (Minnesota) exchanges. As a matter of convenience, this matter refers to Hokah's petition as being for EAS to the La Crosse calling area though Hokah already has EAS to part of the La Crosse calling area, La Crescent.

On September 21, 1990, the Commission issued its ORDER REQUIRING COST STUDIES AND PROPOSED RATES AND ESTABLISHING A COMMENT PERIOD. Among other things, the Order determined that the Hokah petition met the first two criteria of the new EAS statute, adjacency to the petitioned area[2] and adequate traffic to that area.

During 1991 and 1992, the Minnesota Department of Public Service (the Department) petitioned the Commission to issue and the Commission did issue an interpretation of the "affected telephone company" portion of the new EAS statute, a phrase having relevance to cost studies and proposed rates being prepared for, among others, the Hokah docket.

On November 6, 1992, the Commission issued its ORDER APPROVING TRAFFIC STUDY METHODOLOGY AND REQUIRING FURTHER FILINGS. In that Order, the Commission required Ace Telephone Company (Ace), the local telephone company serving the Hokah exchange, to file a new cost study and proposed rates using an interstate traffic methodology developed and approved in a related docket. The Commission also required all parties to identify any issues that they believed remained to be decided in this case.

On February 5, 1993, Ace filed its cost study and proposed EAS rates for the Hokah exchange. No party identified any other issue requiring Commission resolution.

On April 12, 1993, the Department filed its report and recommendation.

On August 3, 1993, the Commission met to consider this matter.

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[2] Hokah shares a boundary with the La Crosse exchange, albeit its location across the Mississippi River and the state border, and is therefore contiguous or adjacent to it within the meaning of the new EAS statute. Although the EAS statute generally prohibits EAS across state boundaries, an exception is made in instances where the proposed EAS would enlarge an interstate calling area that already existed on April 27, 1990. Since the Minnesota La Crescent exchange (which has EAS with Hokah) had EAS to La Crosse on that date, establishment of EAS between Hokah and La Crosse would merely expand an existing interstate EAS area. Hence, consideration of Hokah's petition is appropriate. Minn. Stat. § 237.161, subd. 5 (1992).

FINDINGS AND CONCLUSIONS

Affected Telephone Companies

Minn. Stat. § 237.161, subd. 3 (b) (1992) requires the Commission to establish EAS rates that are income neutral for each "affected telephone company." The Department reiterated its contention that this statute requires the Commission to set rates that keep all the interexchange carriers serving the petitioning exchange and the petitioned La Crosse local calling area (as well as the LECs serving those exchanges) income neutral.

In an earlier Order in this matter and in several subsequent Orders in other dockets, the Commission has considered and rejected the Department's argument.[3] The Commission has found that the statutory phrase "affected telephone company" only refers to the LECs serving the exchanges which comprise the proposed new EAS area. In rates set for this matter, then, the "affected telephone companies" whose incomes will be maintained neutral will be Ace, the LEC serving the petitioning Hokah exchange and Century Telephone Company (Century), the LEC serving the La Crosse calling area.

Cost Allocation

Minn. Stat. § 237.161, subd. 3 (a) (1992) provides that when, as here, the proposed EAS area is not in the Minneapolis/St. Paul metropolitan local calling area, the Commission must allocate between 50 and 75 percent of the EAS costs to the petitioning exchange. The Department recommended that the Commission allocate the statutory maximum (75 percent) to the Hokah exchange because its subscribers will have the opportunity to vote whether the proposed EAS route should be established or not.

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[3] The November 21, 1991 Hokah Order provided extensive analysis of the statute in question, Minn. Stat. § 237.161, subd. 3 (b) (1990). Hokah expressly interpreted the term and held that an interexchange company that carries toll traffic over proposed routes is not an affected company. The holding in the Hokah Order was upheld on reconsideration and has not been overturned by any subsequent Commission Order. In addition, the Commission has applied the Hokah precedent in several other EAS dockets: Winnebago, Docket No. P-403/CP-89-930, ORDER (July 2, 1992); Easton, Docket No. P-519, 403/CP-89-703, ORDER (July 6, 1992); Hallock-Kennedy, Docket No. P-407/CP-91-373, ORDER APPROVING RATES FOR POLLING (July 6, 1992); Sherburn-Fairmont, Docket No. P-405/CP-89-1080 (August 18, 1992); and Monticello, Docket No. P-404, 421, 430, 407, 405, 520, 426/CP-89-1039 (December 4, 1992).

The Commission has repeatedly rejected the Department's argument that the ability of subscribers in the petitioning exchange to vote on the matter mandates assessment of maximum costs to those subscribers.[4] By statute, subscribers in the petitioning exchange are always the only ones to vote. If the legislature had intended the voters to shoulder 75 percent of the costs, it would not have given the Commission discretion to allocate a smaller portion of the costs (as low as 50 percent) to those subscribers. Clearly, the legislature intended that the Commission would consider additional factors in deciding what percentage (between 50 and 75 percent) of the EAS costs subscribers in the petitioning exchange should bear.

Accordingly, the Commission has considered additional factors in this matter. First, the Commission is impressed by the fact that subscribers in the Hokah exchange make more than ten times the number of calls to the La Crosse LCA than vice versa. Second, there are regulatory issues which complicate the amount of costs that the La Crosse LCA may be assessed. The Commission is mindful that the La Crosse LCA (with the exception of the La Crescent exchange) is subject to the jurisdiction of the Wisconsin PSC and that the Wisconsin Administrative Code, PSC 167.07(2) provides that in cases such as the Hokah to La Crosse petition (where the calling volume data ratio is greater than 10:1), the total revenue requirement should be allocated to the exchange originating the larger calling volume.[5]

In light of the difference in calling volumes and the fact that cooperation between the two Commissions involved in this potential EAS route will be required, it would appear appropriate for the Commission to go as far as the Minnesota statute allows, i.e. to allocate the full 75 percent to Hokah.

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[4] See In the Matter of a Petition for Extended Area Service From the Arlington Exchange to the Gaylord Exchange, Docket No. P-405, 421/CP-91-503, ORDER ADOPTING RATES FOR POLLING (July 26, 1993). In that Order, the Commission stated: "The opportunity to vote is a consideration, but as indicated in previous dockets where the Department has made this argument, the Commission does not find this consideration dispositive." For a similar discussion and analysis 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).

[5] The Wisconsin provision indicating that 100 percent of the proposed EAS route's costs be borne by Hokah is a regulation subject to variance. Hence, the Wisconsin PSC would appear to have greater flexibility on this point than the Commission, whose upper restriction (75 percent to the petitioning Hokah exchange) is statutory.

Commission Action

In these circumstances, the Commission has determined that the EAS rates for the Hokah-La Crosse proposed EAS route should 1) provide income neutrality only for the involved LECs (Ace and Century) and 2) be based on an allocation of the statutory maximum, 75 percent of the EAS costs, to the Hokah exchange.

However, the ultimate feasibility of the proposed route depends on the ability and willingness of the Wisconsin PSC to move the matter forward with respect to the LEC subject to its jurisdiction, Century. Therefore, the Commission will defer proceeding to poll Hokah subscribers and even defer setting rates for Hokah, pending the decision of the Wisconsin PSC regarding collection of the balance of the EAS costs involved in this proposed EAS route.

The Commission would commend for consideration by the Wisconsin PSC the view that La Crosse would surely benefit from the increased calling to La Crosse from Hokah that the proposed EAS would stimulate. It is not only the callers but the called who stand to benefit. It is to be anticipated that EAS to La Crosse would serve to heighten the stature of LaCrosse as the major medical, consumer, entertainment, and indoor recreation center for Hokah subscribers.

ORDER

1. Extended area Service (EAS) rates for the Hokah exchange which are in line with the decisions made in this Order regarding the "affected telephone company" issue and the inter-exchange cost allocation issue are as follows:

Business Rate	$12.45
Residence Rate	8.30

2. Adoption of these rates is deferred and the polling of Hokah subscribers is likewise deferred, pending the decision of the Wisconsin Public Service Commission (Wisconsin PSC) regarding collection of the balance of the EAS costs involved in this proposed EAS route.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)