

P-407/CP-93-785 ORDER CONSTRUING PETITIONED ROUTES AND REQUIRING
TRAFFIC STUDIES

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
Dee Knaak

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition for Extended Area
Service Between Big Falls, Little Fork,
Kabetogamma, and International Falls

ISSUE DATE: April 4, 1994

DOCKET NO. P-407/CP-93-785

ORDER CONSTRUING PETITIONED
ROUTES AND REQUIRING TRAFFIC
STUDIES

PROCEDURAL HISTORY

On August 16, 1993, the Commission received an extended area service (EAS) petition signed by subscribers in four exchanges: Big Falls, Little Fork, Kabetogamma, and International Falls. The petition was ambiguous as to which specific EAS routes were desired.

On September 23, 1993, the Minnesota Department of Public Service (the Department) wrote a letter to the petition sponsor requesting additional information regarding all the EAS routes the petitioners desired. The Department staff also tried to reach the sponsor by telephone and left a message inviting the sponsor to return the call. No response was received, either to the letter or to the telephone call.

On January 12, 1994, the Department filed a letter summarizing its analysis of the requested routes and recommended the Commission order GTE-Minnesota (GTE or the Company) to file traffic studies for specific routes.

On March 29, 1994, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. Construing the Petition

The Commission prefers petitions that clearly identify the petitioned and petitioning exchanges. When, as here, the petition is ambiguous, the Commission aims to give effect to the petitioners' intentions to the extent that those intentions can be reasonably determined and are consistent with the process adopted by the legislature for establishing EAS in Minnesota.

The EAS statute, Minn. Stat. § 237.161 (1992), directs the Commission to accept and process requests for EAS that come from individual exchanges, not from two or more unrelated exchanges or from local calling areas. An exchange so identified is referred to as the petitioning exchange.

B. Identifying the Petitioning Exchanges

In this matter, the petition contains signatures of subscribers in four different exchanges: Big Falls, Little Fork, Kabetogamma, and International Falls. Potentially, then, each of these four exchanges could be viewed as a petitioning exchange.

Two of the four potential petitioning exchanges, however, Kabetogamma and International Falls, will be eliminated as a practical matter because even if they were clearly identified as petitioning exchanges, the petition does not contain an adequate number of signatures from those exchanges. The EAS rule requires that at least 15 percent of the subscribers must sign the petition before it will qualify for further consideration. In this case, then, EAS routes from the Kabetogamma exchange and International Falls exchange will not be pursued.

However, a sufficient number of subscribers from the other two exchanges (the Big Falls exchange and the Little Fork exchange), signed the petition. Therefore, because it is clear that the signatories sought to establish *some* new EAS routes, the Commission will treat these exchanges as petitioning exchanges and consider further whether it can determine what EAS route these petitioners seek.

C. Identifying the Petitioned Exchanges

The petition listed International Falls, Kabetogamma, Ericsburg, Ranier, and Big Falls as exchanges to which EAS was requested. Therefore, these exchanges will be treated as petitioned exchanges.

The Commission finds that in light of the substantially greater distance between Big Falls and Kabetogamma and the fact that Little Fork lies between Big Falls and Kabetogamma, it would be inappropriate to infer an intent in Big Falls signatories to establish EAS to Kabetogamma.

Having made a reasonable construction of the petition, the Commission will now proceed to determine whether any of the requested routes meet the adjacency requirement of the EAS statute.

D. Adjacency

Minn. Stat. § 237.161, subd. 1 (1992) requires that a petitioning exchange be contiguous with the local calling area or exchange to which EAS is sought. An analysis of the adjacency status of the two petitioning exchanges in this matter (Little Fork and Big Falls) follows. The routes identified as meeting the adjacency requirement will be accepted for further consideration by the Commission.

● **Little Fork**

1. Little Fork's Adjacency to the Petitioned International Falls, Ericsburg and Ranier Exchanges

The Little Fork exchange shares a common border with the International Falls exchange. This makes Little Fork adjacent to one of the petitioned exchange in this matter, International Falls.

In addition, Little Fork's adjacency to International Falls also renders it adjacent (via the local calling area method of adjacency) to any exchange in a local calling area which includes International Falls.

Since International Falls is part of a local calling area containing Ericsburg and Ranier, Little Fork meets the adjacency requirement with respect to Ericsburg and Ranier if the petition is viewed as a request for EAS from Little Fork to the International Falls-Ericsburg-Ranier local calling area. The Commission will interpret the petition in this manner because the petition clearly indicates an intention to establish EAS between Little Fork and the Ericsburg and Ranier exchanges.¹

2. Little Fork's Adjacency to the Petitioned Kabetogamma Exchange

The Little Fork exchange is separated from the Kabetogamma exchange by unassigned territory. The question whether this alignment meets the adjacency requirement has not been previously decided by the Commission. In the only previous Order addressing this question, the Commission did not have to resolve it because the petitioning exchange did not meet the traffic requirement and the petition was denied on that ground.²

There is no question that Little Fork is adjacent to Kabetogamma in the sense that the two exchanges are closely proximate to each other with no exchange lying between them. The fortuity that GTE, the telephone company serving both Little Fork and Kabetogamma, has left some territory between the two exchanges unserved should not detract from the essential adjacency of these exchanges. The adjacency requirement serves as an indicia of or as proxy for the previously required "community of interest" between petitioning and petitioned exchanges. By its nature, sparsely populated unassigned territory does not represent an intervening community between Little Fork and Kabetogamma that would interrupt the community of interest between Kabetogamma and Little Fork.

Accordingly, the Commission finds that it is a reasonable application of the adjacency requirement to view Little Fork as adjacent to Kabetogamma within the meaning of the EAS statute.

3. Little Fork's Adjacency to the Petitioned Big Falls Exchange

As in the previously considered route, Little Fork is only separated from the Big Falls exchange by unassigned territory. For the same reasons presented in the discussion of Little Fork to Kabetogamma, the Commission finds that the Little Fork and Big Falls exchanges are adjacent

¹ To satisfy the adjacency requirement with respect to Ranier and Ericsburg through this method, of course, Little Fork will be required to qualify for EAS to *all* the exchanges comprising that local calling area, i.e. including International Falls.

² In the Matter of a Petition for Extended Area Service From the Tower Exchange to the Virginia, Ely, and Embarrass Exchanges, Docket No. P-407, 421/CP-90-777, ORDER ADOPTING RATES FOR POLLING (September 22, 1992), page 2.

for purposes of the EAS statute.

- **Big Falls**

1. **Big Falls' Adjacency to the Petitioned International Falls, Ericsburg, and Ranier Exchanges**

The Big Falls exchange is separated from the International Falls exchange only by unassigned territory. It is, therefore, as previously analyzed, adjacent to International Falls within the meaning of the EAS statute. Big Falls' adjacency to International Falls also renders it adjacent, via the local calling area method of adjacency, with any exchange in a local calling area containing International Falls.

Since International Falls is part of a local calling area containing Ericsburg and Ranier, Big Falls meets the adjacency requirement with respect to Ericsburg and Ranier if the petition is viewed as a request for EAS to the International Falls-Ericsburg-Ranier local calling area. The Commission will interpret the petition in this manner because the petition clearly indicates an intention to establish EAS between Big Falls and the Ericsburg and Ranier exchanges.³

2. **Big Falls' Adjacency to Little Fork**

As with routes previously considered in this matter, Big Falls is only separated from the Little Fork exchange by unassigned territory. For the same reasons presented in the discussion of Little Fork to Big Falls, the Commission finds that the Big Falls and Little Fork exchanges are adjacent for purposes of the EAS statute.

E. Commission Action

Based on the foregoing analysis, the Commission will accept the petition and process it as construed in this Order. The Commission will direct GTE, the Company serving the Big Falls and Little Fork exchanges, to file traffic studies for the routes identified for further consideration in this matter.

ORDER

1. The extended area service (EAS) petition filed in this matter is accepted as construed in this Order.
2. Within 45 days of this Order, GTE Minnesota (GTE or the Company) shall file traffic studies containing at least six and preferably 12 months of traffic data on the following routes:
 - Little Fork to the International Falls-Ericsburg-Ranier local calling area
 - Little Fork to Kabetogamma
 - Little Fork to Big Falls
 - Big Falls to the International Falls-Ericsburg-Ranier local calling area

³ To satisfy the adjacency requirement with respect to Ranier and Ericsburg through this method, of course, Big Falls will be required to qualify for EAS to *all* the exchanges comprising that local calling area, i.e. including International Falls.

- Big Falls to Little Fork

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)