

P-3008/M-94-197 ORDER APPROVING RATE REDUCTIONS AND REQUIRING
SEPARATE ACCOUNTING FOR INTRASTATE LONG DISTANCE SERVICE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Tariff Modification
Requested by the TACIP Board

ISSUE DATE: July 21, 1994

DOCKET NO. P-3008/M-94-197

ORDER APPROVING RATE REDUCTIONS
AND REQUIRING SEPARATE
ACCOUNTING FOR INTRASTATE LONG
DISTANCE SERVICE

PROCEDURAL HISTORY

On September 26, 1989, the Commission issued an Order in Docket No. P-3008/NA-89-140 authorizing the Telecommunications Access for Communications-Impaired Persons Board (TACIP or the Board) to operate as a long distance carrier. The Order also approved the Board's proposed rates for long distance calls: \$0.25 per minute for weekday calls between 8:00 a.m. and 5:00 p.m. and \$0.19 per minute at any other time.

On February 28, 1994, the Board filed a request to reduce its long distance rates. The matter was assigned to this docket and is being handled separately from other TACIP-related matters.¹

On May 10, 1994, the Minnesota Department of Public Service (the Department) filed its report and recommendation in this matter.

On June 28, 1994, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

Background

The TACIP Board was created by the Minnesota Legislature in 1987 to establish and maintain special programs that allow the telephone network to become fully accessible to people with speech or hearing impairments.

The Commission has found that the TACIP Board is a telephone company as defined in Minn. Stat. § 237.01, subd. 2 (1992).² As such, the TACIP Board is required to file its tariff with the

¹ See, e.g., TACIP's efforts to implement a billing system (Docket No. P-3008/CI-92-1261) and TACIP's proposed budget for fiscal year 1995 (Docket No. P-3008/CI-94-403).

² In the Matter of a Request for a Certificate of Authority to Resell Long Distance Service, Docket No. P-3008/NA-89-140, ORDER GRANTING CERTIFICATE OF AUTHORITY (September 26, 1989).

Commission and the Department and the Commission has the responsibility to review TACIP's rates to ensure that they are fair and reasonable (Minn. Stat. § 237.07) and that they are in accordance with TACIP's mandate. Regarding the specific TACIP mandate, the Commission has the responsibility to see that the TACIP surcharge is used to accomplish goals specified in the TACIP legislation. Minn. Stat. § 237.54 (1992).

TACIP's Proposed Intrastate Rates

TACIP proposed the following rates for intrastate toll service:

- \$0.24 per minute for weekday calls between 8:00 a.m. and 5:00 p.m.
- \$0.14 per minute for calls at any other time

The access cost of providing intrastate long distance service is around \$0.17 per minute of use and the per message cost for billing and collection is \$0.55. On the basis of the estimated traffic volume shown with TACIP's 1995 budget filing, the Board's proposed rates for intrastate long distance service will not cover the cost of providing that service. The proposed TACIP rates would provide a negative contribution of approximately \$3,000 per year.

For public policy reasons, the Commission will approve TACIP's proposed intrastate toll rates even though they are below costs. While economic theory suggests that prices should be set at the long run incremental costs of the service, the Commission recognizes that there are cases where social goals and Commission policies allow rates that are below the long run incremental cost. See, for example, the Commission's approval of public interest type services such as public payphone usage rates and directory assistance.

In this case, the proposed rate reduction is a step towards providing functionally equivalent services. Functional equivalency is required by the Americans With Disabilities Act (ADA) and the Federal Communications Commission (FCC). The FCC rules require that users of telecommunications relay services such as TACIP provides not pay rates greater than the rates paid for functionally equivalent voice communications services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to the point of termination.

As a precaution, however, the Commission will review the size of the negative contribution attributable to intrastate long distance service when it approves the annual TACIP budget. To assist that review, the Commission will require TACIP to include in its future annual budgets a separate accounting of the revenue and expenses attributable to intrastate long distance service.

TACIP's Proposed Interstate Rates

While the Commission's authority would not ordinarily extend to interstate rates, the Commission may have a responsibility to see that TACIP's interstate activities are not funded from the TACIP surcharge.

According to TACIP, it has an obligation under the TACIP legislation to provide relay service for interstate calls and that such activity is properly supported with funds generated by the TACIP surcharge.

The Department did not dispute TACIP's right to provide interstate service, which is generally outside the Commission's jurisdiction. Further, the Department acknowledged that TACIP provides easier, faster, and less expensive interstate connections for its customers than is provided by other interstate toll carriers. The Department asserted, however, that interstate service is not part of the TACIP mandate and hence, should not be supported with funds generated by the TACIP surcharge.

Because it viewed TACIP's below cost provision of interstate service as inevitably tapping into the TACIP fund, the Department initially objected to TACIP's below cost interstate rates. The Department withdrew its objection, however, when it learned that TACIP now receives reimbursements from the National Exchange Carriers Association (NECA) for provision of interstate relay service at a present rate of \$1.70 per conversation minute. Rate revenue plus the NECA reimbursement are more than enough to cover TACIP's total average costs for interstate service. In view of the increased demand for interstate toll service stimulated by the proposed lower rates, TACIP anticipates a positive annual contribution from interstate toll services of \$24,000.

In these circumstances, no utilization of TACIP surcharge funds to support below cost interstate rates appears imminent. Hence, the propriety of any such utilization need not be determined at this time.

The Commission will approve TACIP's proposed interstate toll rates, but will monitor the situation. The Commission will direct TACIP to include in its yearly review a report and explanation of any change in contribution level experienced with respect to its interstate toll service.

Finally and to remove any doubt, the Commission clarifies that it has *not* determined the issue raised by the Department whether funds from the TACIP surcharge may be properly used to defray interstate service. Before utilizing any funds from the TACIP surcharge to defray any portion of the costs of providing interstate toll service, TACIP must seek and obtain Commission approval. At that time, the Commission will determine the propriety of this use of TACIP surcharge funds.

ORDER

1. TACIP's proposed intrastate rates are approved. In its future annual budgets, the Board shall include a separate accounting of the revenue and expenses attributable to intrastate long distance service.
2. TACIP's manner of funding its interstate service (rate revenues and NECA reimbursement) is also approved. In its yearly review, the Board shall include a report

and explanation of any change in contribution level experienced with respect to its interstate toll service. If the Board wishes to utilize any funds from the TACIP surcharge to defray any portion of the costs of providing interstate toll service, TACIP shall seek and obtain Commission approval.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)