

ISSUE DATE: August 2, 1996

DOCKET NO. P-409/CP-96-463

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ORDER DENYING PETITIONS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner

In the Matter of a Petition for Extended Area
Service Between the Gully and Gonvick
Exchanges

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PROCEDURAL HISTORY

On April 29, 1996, subscribers in the Gully exchange filed a petition for Extended Area Service (EAS) to the Gonvick and Fosston exchanges.

On June 12, 1996, Garden Valley Telephone Company (Garden Valley) filed traffic studies for these routes:

- Regarding the proposed Gully to Gonvick route, 43 percent of Gully subscribers made three or more calls per month to the Gonvick exchange during the five month study period, December 1995 to April 1996.
- Regarding the proposed Gully to Fosston route, 46 percent of Gully subscribers made three or more calls per month to the Fosston exchange during the study period.

On July 9, 1996, Garden City filed a second traffic study, this time basing its percentages on the number of subscribers rather than on the number of access lines. The resulting percentages were unchanged from the previous study.

On July 25, 1996, the petitioner Orlean Agnes filed comments.

On July 30, 1996, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. Summary of Commission Action

The Commission's calling threshold standard is that at least 50 percent of the subscribers in the petitioning exchange must make an average of 3 or more calls per month to the petitioned exchange. This standard was adopted pursuant to the procedure authorized in Minn. Stat. § 237.161, subd. 6 (1994).

In this case, the traffic studies showed that fewer than 50 percent of Gully subscribers made 3 or more calls per month to the petitioned exchanges. A reevaluation of the study results using a slightly different methodology produced the same result.

Accordingly, the petitions for EAS will be dismissed for failure to meet the traffic threshold requirement.

B. Discussion: The Revised Traffic Threshold

In 1994, the Legislature added a subdivision to Minn. Stat. § 237.161 which required that the Minnesota Public Utilities Commission (the Commission) no longer accept petitions for extended area telephone service through June 1, 1996, but instead institute

...a proceeding or series of proceedings to investigate issues related to extended area telephone service and (the commission) shall issue a final order to establish, at a minimum, an orderly and equitable process and standards for determining the configurations of and cost allocations for extended area service in the state. Minn. Stat. § 237.161, subd. 6 (1994).

Pursuant to that statute, the Commission recently completed an industry-wide review of EAS rules regarding the processing of EAS petitions. In its Order of August 22, 1994, the Commission established the parameters of its review of the standards and procedures used in processing petitions for EAS. The Commission allowed any interested party to submit to the Commission by November 30, 1994, a plan for an appropriate local calling scope. The Commission then issued a Notice by December 15, 1994, summarizing the plans that had been filed and any other plans that the Commission believed merited further consideration. Parties had until March 1, 1995, to file responsive comments. Also, during the months of September and October, 1994, the Commission held a series of public forums around the State to explain the case and collect the views of the public.

A position advanced by many of the parties to the proceeding recommended raising the calling threshold to at least 50 percent of the subscribers in the petitioning exchange make 4 or more calls to the petitioned area. Some parties argued that the record supported raising the average number of calls required as high as 8.

Following that review, the Commission issued an October 24, 1995 Order and a February 23, 1996 ORDER AFTER RECONSIDERATION. In its ORDER AFTER RECONSIDERATION, the Commission adopted on a final basis the process for EAS as established in Minn. Stat. § 237.161 (1994) with one exception: the traffic standard for all EAS petitions would be raised to require that at least 50 percent of the subscribers in the petitioning exchange make 3 or more calls to the petitioned exchange.

In making that decision, the Commission stated:

The Commission shares the parties' concern to seek a calling threshold requirement that eliminates petitions that, upon polling, are likely to lack adequate subscriber support. The ability to do so would save the time, energy, and expenses involved in such polling efforts. However, the Commission also continues to have a concern that adopting too high a calling threshold (such as a majority of subscribers in the petitioning exchange making 4 calls per month to the petitioned area, as suggested by the parties) may unfairly eliminate by regulatory fiat some petitions that, had they been allowed to go to ballot, would have proved to be adequately supported by the subscribers.

On reconsideration, the Commission agrees that a uniform calling threshold level statewide is appropriate. However, consistent with the statute and sound policy, the Commission will not quadruple that threshold, as advocated by the parties.¹ The companies' inclination to favor thresholds that maximally reduce the potential of successful EAS petitions is evident. However, the Commission finds that this inclination is not consistent with an even-handed interpretation and application of the EAS statute and would inappropriately substitute a regulatory determination for a vote of the affected subscribers.

Accordingly, the Commission concludes that it is appropriate to raise the calling threshold requirement **statewide** to at least fifty percent of the subscribers making 3 calls per month to the petitioned exchange. This decision is more squarely rooted in the record than the Commission's decision in the October 24, 1995 Order while still balancing the policy concerns underlying that Order. ORDER AFTER RECONSIDERATION (February 26, 1996) at page 6.

C. Analysis: The Petitioner's Request for Consideration

The petitioner acknowledged that the Gully petition did not meet the Commission's calling threshold but requested that the Commission take into consideration the difficulty in meeting that standard and that many subscribers call more than one exchange to meet their needs. The petitioner cited several examples of important calls that are made to the petitioned exchanges.

The Commission understands the need felt by many persons for EAS service and the value that these persons would derive from the installation of EAS. The petitioner speaks well for these persons. In establishing the traffic threshold, however, the Commission has balanced the desirability of EAS service for some versus the burden of paying for that service by all. In addition, the Commission has an interest in avoiding the expense of polling Gully customers (which would be borne by all Gully subscribers regardless of the result) in circumstances

¹ The "consensus position" that many parties presented prior to the October 24, 1995 Order was that the calling threshold should be quadrupled, raised to 4 calls per subscriber per month to the petitioned exchange. In their petitions for reconsideration, the companies continued to favor the higher thresholds and, while acknowledging that the record supported thresholds as low as 2, asserted that the record also supported calling thresholds as high as 8.

where it is unlikely the petition would be supported by a majority of the subscribers. Based on its Statewide experience with EAS petitions, the Commission has found it unreasonable to subject the subscribers to polling costs when the likelihood of subscriber support (as projected from the rate of calling to the petitioned exchange) is as low as it is in this case.

ORDER

1. The petitions for extended area service (EAS) filed in his matter (Gully to Gonvick and Gully to Fosston) are denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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