

ISSUE DATE: September 16, 1997

DOCKET NO. P-5378/NA-96-741

ORDER ACCEPTING STIPULATION AND PERMITTING WITHDRAWAL OF
APPLICATION FOR CERTIFICATE OF AUTHORITY

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Gregory Scott
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an Application for Authority to
Provide Long Distance Services as a
Telecommunications Carrier in Minnesota
Pursuant to Minn. Stat. § 237.74, Subd. 12

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PROCEDURAL HISTORY

On June 27, 1996, Athena International, L.L.C. (Athena or the Company) filed an application for authority to provide intrastate interexchange toll services as a telecommunications carrier in Minnesota.

On January 29, 1997, the Department of Public Service (the Department) filed comments expressing concern regarding Athena's financial condition. The Department recommended that the Commission disapprove the Company's application for authority.

On February 18, 1997, Athena filed reply comments.

On April 11, 1997, the Department filed supplemental comments again recommending disapproval of the petition.

On June 11, 1997, the Department and Athena signed a Stipulation. In the Stipulation, Athena agreed to pay a sum to the State of Minnesota and the parties jointly requested that the Commission allow Athena to withdraw its petition for a certificate of authority.

On September 2, 1997, the Stipulation and request to withdraw the petition were brought before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. FACTUAL BACKGROUND

On June 27, 1996, Athena filed an application seeking Commission authority to provide interexchange toll services in Minnesota, pursuant to Minn. Stat. § 237.74, subd. 11.

On or about August 16, 1997, while Athena's application was pending, a sales agent submitted \and the Company accepted 14 orders for long distance service in Minnesota. Athena later refunded the total amount of unauthorized long distance charges (\$328.29) to the appropriate customers and ended its relationship with the sales agent who submitted the unauthorized orders. The Company did not switch the customers to their previous carriers until March 21, 1997.

II. THE PROPOSED STIPULATION

In the Stipulation, the parties agreed to the following major points:

- Athena will now and forever refrain from violating Minnesota statutes, rules, or Orders.
- Athena will pay to the State of Minnesota the sum of \$500.00 in lieu of any possible penalty under Minn. Stat. § 237.461. Athena does not admit that its actions would justify the application of a penalty.
- The parties request that the Commission permit Athena to withdraw its request for a certificate of authority at this time, and allow Athena to resubmit a request for authority at a later date.

III. COMMISSION ACTION

Since Athena has refunded any amount it received for unauthorized service in Minnesota, and all customers have been switched to their previous carriers, no customer has been harmed by the unauthorized service.

Athena has promised to comply with all relevant Minnesota statutes, rules and Commission Orders. Athena has further agreed to pay into the State of Minnesota a sum of \$500 in lieu of any penalty proceeding. The Department and Athena have agreed that the Stipulation will settle all claims between the parties.

The Commission finds that the terms of the settlement agreement are reasonable and acceptable. The Commission will accept the parties' Stipulation and will allow Athena to withdraw its petition for a certificate of authority. Athena is free to resubmit a petition in the future.

ORDER

1. The Commission accepts the Stipulation entered into by the Department of Public Service and Athena International, L.L.C., attached to this Order as Exhibit A.
2. The Commission grants Athena's request to withdraw its petition for a certificate of authority.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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