

ISSUE DATE: November 16, 1999

DOCKET NO. P-5316,407/PA-99-1239

ORDER GRANTING PETITIONS TO INTERVENE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayner
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the GTE Sale of Exchanges

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PROCEDURAL HISTORY

On August 27, 1999, a Joint Petition was filed by Citizens Utilities Company (Citizens) and GTE Corporation (GTE) and their respective subsidiaries, Citizens Telecommunications Company of Minnesota, Inc.(Citizens Minnesota) and Contel of Minnesota, Inc. d/b/a GTE Minnesota (GTE Minnesota) seeking Commission approval of the sale of GTE Minnesota's local telephone operations and associated assets in Minnesota to Citizens Minnesota.

On September 14, 1999, the Commission held a docket management conference and, at the request of the parties, reconvened on September 21, 1999. At the conference, the Commission approved the following schedule:

October 6, 1999:	Petitions to Intervene Due
October 20, 1999:	Replies to Petitions to Intervene Due
October 26, 1999:	Commission Hearing on Petitions to Intervene
February 25, 2000:	Initial Comments Due
March 17, 2000:	Reply Comments Due
April, 2000:	Commission Hearing

On October 6, 1999, AT&T Communications of the Midwest (AT&T) filed a petition to intervene and Runestone Telephone Association and Local Access Network, LLC (Runestone and LAN) filed a joint petition to intervene.

The Commission met on October 26, 1999 to consider this matter.

FINDINGS AND CONCLUSIONS

I. LEGAL STANDARD FOR INTERVENTION

Minn. Rules, Part 7829.0800, subp. 2 establishes four categories of interveners. The Rule requires the Commission to allow a person to intervene if the person fits any of the following four

categories:

- Category 1. the person is specifically considered by statute to be interested in the particular type of matter at issue;
- Category 2. the person is specifically declared by statute to be an interested party;
- Category 3. the outcome of the proceeding will bind or affect the person with respect to an interest peculiar to that person, as distinguished from an interest common to the public or other ratepayers in general, or
- Category 4. the person's interests are not adequately represented by one or more other parties participating in the case.

II. COMMISSION ANALYSIS

At the hearing on this matter, the Department and the OAG took the same positions regarding the intervention petitions of AT&T and Runestone/LAN that they took recently regarding several intervention petitions in Docket No. P-3009, 3052, 5096, 412, 3017/PA-99-1192, i.e. that they did not have the resources to adequately represent the petitioners' interests in the proceeding.

Based on this information as well as the petitioners' petitions and arguments, the Commission concludes that the petitioners qualify under Category 4: persons whose interests are not adequately represented by one or more other parties participating in the case. Minn. Rules, Part 7829.0800, subp. 2 (4). Since qualifying under any of the four established categories entitles a petitioner to intervenor status, the Commission need not address whether the petitioners also qualify as Category 3 interveners.

The Commission notes that in any instance in which Category 4 is asserted as the basis for intervention, a logical question is whether or not the petitioner's interest is adequately represented by the government agencies (the Department and the OAG) who are parties as a matter of right in the proceeding. Minn. Rules, Part 7829.0800, subp. 3.

In this case, both government agencies (the Department and the OAG) stated for the record that they will not be able to adequately represent the interests of these petitioners and indicated that they welcomed their assistance as interveners in developing a complete record. While the Commission is certainly not required to accept the statements of the government agencies as dispositive, the Commission finds no reason in this case to second-guess the accuracy of the agencies' self-assessment.

The Commission also believes, based on information in their petitions, that each of these petitioners occupies an adequately distinct relationship to each other and to GTE and Citizens Minnesota (proponents of the proposed sale) so that neither of these petitioners can adequately represent the other.

III. COMMISSION ACTION

In these circumstances, the Commission will allow the petitioners to intervene in this matter.¹

ORDER

1. The petition of AT&T Communications of the Midwest to intervene in this matter is granted.
2. The joint petition to intervene filed by Runestone Telephone Association and Local Access Network, LLC (Runestone and LAN) is granted.
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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¹ For a similar analysis and result, see the Commission's decisions to grant the intervention petitions filed by AT&T Communications of the Midwest (AT&T), Rhythms Links Inc. (Rhythms), Covad Communications (Covad), Cady Telemanagement, Inc. (Cady) and McLeodUSA (McLeod) in Docket No. P-3009, 3052, 5096,421, 3017/PA-99-1192, ORDER GRANTING PETITIONS TO INTERVENE, DENYING OTHERS, AND GRANTING PARTICIPANT STATUS (October 25, 1999).