

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott	Chair
Edward A. Garvey	Commissioner
Marshall Johnson	Commissioner
LeRoy Koppendrayner	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of Reliant Energy Minnegasco's
Petition for Approval of an Affiliated Interest
Agreement between Reliant Energy
Minnegasco and Reliant Energy
Communications, Inc.

ISSUE DATE: October 26, 2001

DOCKET NO. G-008/AI-01-55

ORDER DENYING APPROVAL

PROCEDURAL HISTORY

On January 12, 2001 Reliant Energy Minnegasco (REM or the Company), a division of Reliant Energy Resources Corp. (RER), filed a petition for approval of an affiliated interest agreement (Agreement) between REM and Reliant Energy Communications Inc. (RECI), a Reliant Energy Company, for long distance telecommunications services.

On March 26, 2001, the Department of Commerce (DOC) filed comments recommending that approval of the Agreement be denied.

On April 5, 2001, REM filed reply comments.

The matter came before the Commission on October 11, 2001.

FINDINGS AND CONCLUSIONS

I. The Legal Standard

Transactions between public utilities and their affiliates are governed by Minn. Stat. § 216B.48 and Minn. Rules, parts 7825.1900-7825.2300.

Minnesota Statutes § 216B.48, subd. 3 states in part:

...The commission shall approve the contract or arrangement made or entered into ... only if it clearly appears and is established upon investigation that it is reasonable and consistent with the public interest.

II. The Agreement

The Agreement with RECI is for two years, from January 1, 2001 to January 1, 2003. It provides that the long distance service provided to REM will actually be purchased from MCI Worldcom and resold by RECI.

III. REM's Position

In June of 2000, when RER's contract for long distance service with Intermedia Communications expired, the Company elected to solicit bids from vendors, including RECI.¹ REM solicited proposals from several vendors for long distance service to verify that the pricing in RER's corporate bid for service to REM was competitive. REM looked first for reliability and dependability. It then considered price as well as billing options, rerouting of toll-free calls on short notice, and pricing for emergency on-site assistance. REM required both switched and dedicated inbound and outbound service. Within these services, both interstate and intrastate service was required.

REM indicated that the lowest bidder came in \$570.00 lower than RECI. REM did not consider that difference material and stated that it chose RECI based on its dependability, responsiveness and administrative ease. REM argued that because RECI provides service to the rest of Reliant Energy it believed it would be more attentive to REM's needs than a provider of service to only REM. Further, REM argued that REM could handle the billings through normal intercompany accounts rather than having to process checks to a third party vendor, thus decreasing REM's administrative burden.

IV. Position of the DOC

The DOC argued that the Agreement should not be approved because the Company has not shown that the rejection of the lowest cost bidder was reasonable and that the proposed Agreement is in the public interest.

The DOC argued that the lowest reliable bidder was not offered the contract and REM has not shown that there were other factors, such as cost or service quality advantages that supported this decision. The DOC concluded that the only reason that RECI was awarded the contract was because of its affiliate status.

REM indicated that it made its selection of RECI based on dependability, responsiveness and administrative ease. The DOC argued that REM provided no support for its position that RECI would be more dependable than another bidder. Rather, REM recognized that telephone long distance service is highly dependable regardless of the provider and in this case RECI would be purchasing long distance from a wholesaler and reselling it to REM.

¹ RECI is a new long distance service provider, beginning service in January 2000.

Further, the DOC indicated that there was no evidence to support REM's contention that better service would be provided just because the companies were affiliates.

The DOC also indicated that since other bids, including the non-affiliate lowest bid, offered customized billing that would save the Company time and money on a monthly basis, it was questionable whether RECI offered any significant administrative advantages over other bids.

V. Commission Action

The Commission agrees with the DOC that the record does not support that the Agreement is in the public interest and, therefore, it should not be approved.

REM solicited bids from several providers and chose an affiliated company rather than the lowest bidder. The record does not support that there were administrative cost, service quality or reliability issues that would support REM's decision. In fact, the affiliated interest agreement is more costly than the proposal of another bidder with no apparent advantages. This is not reasonable or consistent with the public interest and for this reason approval of the affiliated interest agreement will be denied.

ORDER

1. Approval of Reliant Energy Minnegasco's long distance affiliated interest agreement with Reliant Energy Communications Inc. is denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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