

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Marshall Johnson  
Ken Nickolai  
Thomas Pugh  
Phyllis A. Reha

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Department of Commerce's  
Formal Complaint and Request for Commission  
Action Regarding TCG Minnesota, Inc.

ISSUE DATE: July 28, 2006

DOCKET NO. P-5496/C-06-498

ORDER FINDING JURISDICTION,  
GROUNDS TO INVESTIGATE AND  
REQUIRING ANSWER

**PROCEDURAL HISTORY**

On June 7, 2006, the Minnesota Department of Commerce (the Department) filed a complaint alleging that TCG Minnesota, Inc. (TCG), had violated statutes and rules by conspiring to conduct business on terms inconsistent with its tariffs. TCG filed no response.

On June 23, 2006, the Commission gave notice of its intent to address this matter during its meeting on July 6.

The Commission met on July 6, 2006, to consider this matter. TCG did not appear at the hearing.

**FINDINGS AND CONCLUSIONS**

**I. Complaint**

The Department alleges that TCG conspired with MCI World Communications (now MCI Communications Services) to provide its affiliates – Brooks Fiber Communications of Minnesota, Inc.; Intermedia Communications, LLC; MCI Worldcom Communications, Inc.; and TTI National, Inc. (collectively, “MCI”) – with switched access to TCG’s local telecommunications network on terms that were inconsistent with the terms in TCG’s tariffs, and that were concealed from regulators and other telecommunications service providers. In so doing, the Department alleges, TCG discriminated by knowingly and willfully charging, demanding, collecting, and receiving payments according to untariffed rates from MCI while offering, charging, demanding, collecting or receiving tariffed rates from MCI’s competitors. According to the Department, this practice violates Minnesota Statutes §§ 237.07, 237.09, 237.121, subdivision 4, and 237.74; and Minnesota Rules part 7812.2210, subparts 2, 3, 5 and 9; and part 7810.0500, subpart 1.

The Department asks the Commission to rule that TCG knowingly and intentionally violated Minnesota statutes and rules, and to order TCG to pay a penalty of up to \$55,000 for each day of violation as provided by Minnesota Statutes §§ 237.461, subdivision 2; 237.462, subdivision 3; and 237.462, subdivision 2. The Department also notes that the Commission has the authority to suspend or revoke TCG's certificate of authority to provide service in Minnesota as provided by Minnesota Statutes § 237.16.

## **II. Positions of the Parties**

TCG has not responded to the Department's complaints or the Commission's notice of hearing.

## **III. Commission Analysis and Action**

### **A. Filing Requirements**

The Commission has reviewed the Complaint and finds that it fully meets the filing requirements of Minnesota Rules 7829.1700.

### **B. Jurisdiction**

Having reviewed the formal Complaint of the Department, the Commission finds that it has jurisdiction over TCG's provision of intrastate telecommunications services under Minnesota Statutes Chapter 237, including specific grants of jurisdiction codified at Minnesota Statutes § 237.16, 237.081, 237.461, 237.462, and 237.74.

### **C. Grounds to Investigate**

The Commission further finds that there are reasonable grounds to investigate the allegations raised in the Complaint. The Complaint alleges that by charging untariffed switched access rates to MCI, TCG has violated numerous Minnesota statutes and rules.

The issues in this case are whether TCG has violated Minnesota statutes and rules in the provision of intrastate switched access services to MCI and, if it has, what remedial action the Commission should take.

### **D. Service of the Complaint**

Having concluded that it has jurisdiction and that investigation is warranted, the Commission will serve the formal complaint on TCG and order TCG to file an answer within 20 days. Minn. Rules, part 7829.1800, subp. 2 and 4.

### **E. Interested Parties**

Interested parties may submit initial comments within 30 days of the Commission's order and reply comments within 10 days of the end of the initial comment period. Minn. Rules, part 7829.1900, subp. 2 - 5.

The parties shall address the above issues in the course of this proceeding. They may also raise and address other issues relevant to the Complaint.

**ORDER**

1. The Commission hereby accepts the Complaint as meeting the filing requirements.
2. The Commission finds that it has jurisdiction over this matter.
3. The Commission finds that there are reasonable grounds to investigate this matter.
4. The Commission hereby serves the attached Complaint on TCG.
5. The Commission hereby orders TCG to file an answer to the Complaint within 20 days of the date of this Order.
6. Initial comments by interested parties shall be filed within 30 days of this order.
7. Reply comments shall be filed within 10 days of the end of the initial comment period.
8. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)

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