

ISSUE DATE: April 4, 2000

DOCKET NO. P-999/CI-93-1176

ORDER ACCEPTING STIPULATION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of a Commission Initiated
Investigation to Establish Requirements for
the Telecommunications Infrastructure in
Minnesota

ISSUE DATE: April 4, 2000

DOCKET NO. P-999/CI-93-1176

ORDER ACCEPTING STIPULATION

PROCEDURAL HISTORY

On May 19, 1994, the Commission issued its ORDER APPROVING SHORT-TERM AND INTERMEDIATE INFRASTRUCTURE RECOMMENDATIONS AS MODIFIED AND ESTABLISHING A COMMENT PERIOD in Docket P-999/CI-93-1176. Ordering Paragraph 9, on page 9, states

By January 1, 2000, all LECs shall deploy ubiquitously throughout the State SS7 trunk signaling for call set up. By January 1, 1998, all LECs shall file plans for SS7 deployment with the Commission or request an extension or waiver.

On September 30, 1999, Contel of Minnesota, Inc. d/b/a GTE Minnesota (GTE) filed a Petition For Modification and Extension requesting that the Commission grant an extension of time to complete the deployment of SS7 technology in 21 of its rural exchanges.

In the period between October 11, 1999, and November 12, 1999, comments were submitted by Citizens Telecommunication Company of Minnesota, Inc. (Citizens) and the Department of Commerce (Department). GTE submitted reply comments and an addendum to its reply comments.

On December 22, 1999, the Commission issued its ORDER DENYING REQUEST FOR TIME EXTENSION TO DEPLOY SS7 TECHNOLOGY. This Order also placed GTE on notice that failure to meet the Commission's December 31, 1999 deadline would result in the Commission considering issuing a show-cause order why GTE should not be liable for penalties for violating the Commission Order.

On December 22, 1999, GTE submitted a Compliance Filing in Anticipation of a Commission Order.

On January 7, 2000, Citizens submitted a commitment to deploy SS7 technology in light of its

impending asset purchase of GTE's operations in Minnesota.

On February 4, 2000, the Commission requested comments on the appropriateness of penalties in this matter.

On March 3, 2000, GTE and the Department submitted a Stipulation as a settlement agreement in this matter.

On March 21, 2000, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

I. Legal Standard

The statute directs that the Commission may accept a settlement upon finding that it is in the public interest and is supported by substantial evidence.¹

II. Position of the Parties

A. GTE

In its compliance filing of December 22, 1999, GTE stated that SS7 technology in 21 switches in Minnesota would not be deployed by December 31, 1999, as previously required by Commission Order.² GTE made the decision to replace the existing VIDAR switches with Nortel DMS 10 switches, except for Oslo which will become part of the Warren, DCO switch. For this reason, SS7 technology for call set-up would not be deployed in all 21 exchanges until July 26, 2000. GTE indicated its intention to notify the Commission when SS7 technology was available in all switches in Minnesota.

GTE revised its projected service dates in an exhibit to the Stipulation Agreement of March 3, 2000 between the Department and GTE. In that Agreement, GTE indicated that one-third of the 21 Vidar-equipped exchanges will have new switches in service by May 2000, another one-third will be in service by June 2000, and the remaining one-third will be in service by July 2000.

B. The Stipulation Agreement between the Department and GTE

In this agreement, GTE, in lieu of penalties under Minn. Stat. § 237.461, and without admission that its actions would justify the application of a penalty, agreed to:

¹ Minn. Stat. § 237.076 , Subd. 2

² ORDER APPROVING SHORT-TERM AND INTERMEDIATE INFRASTRUCTURE RECOMMENDATIONS AS MODIFIED AND ESTABLISHING A COMMENT PERIOD, May 19,1994.

- credit customers in each of 21 exchanges with \$1.00 per access line per month from January 1, 2000, through the month in which the customer's exchange is capable of providing SS7 technology;
- provide, to customers in the affected areas who request it, Caller ID name and number service at no charge for at least three months after the switches become operational;
- provide at no charge a Caller ID display box which the customer may keep;
- inform these customers of their right to request free Caller ID for three months by sending a customer notice, approved by the Department, at least 30 days prior to the effective date for the service;
- remind customers at least fifteen days before the Caller ID free period expires that the free service is expiring.

It was further agreed that customers who continue Caller ID service after the expiration of the free service will pay regular recurring charges and no non-recurring charges for this service.

If GTE sells any of the exchanges in Minnesota affected by this stipulation GTE agreed to make this Stipulation Agreement binding on the purchasing company.

C. Citizens Utilities Company

Citizens Utilities Company (Citizens) has entered into an Asset Purchase Agreement with GTE to acquire GTE's operations in Minnesota. Citizens denied any part in the decision to delay the deployment of SS7 technology and indicated its commitment to completing the SS7 deployment, to the extent it is not completed, when Citizens closes on the property.

III. Commission Action

After the Commission had denied GTE an extension to comply with its 1994 Order requiring the deployment of SS7 technology throughout the State by January 1, 2000, and after giving GTE notice that failure to meet the deadline would result in the Commission considering issuing a show-cause order why GTE should not be liable for penalties for violation of the Commission Order, the Commission solicited comments on the appropriateness of imposing penalties on GTE under Minn. Stat. 237.461 Subd. 2.

It was following these events that GTE and the Department entered into the Stipulation described above.

The stipulation supports the Commission's goal and direction that SS7 technology be deployed statewide. In GTE's petition for an extension, which was denied, GTE asked for an extension until March 31, 2001 to deploy SS7 technology in 21 of its exchanges. In its Compliance filing GTE indicated completion would be by July 26, 2000. In the stipulation, however, GTE has agreed that one-third of the 21 switches would be completed by May, another one third by June, and the remaining one-third by July, 2000.

The evidence clearly supports, and there is no dispute, that GTE did not make the deadlines imposed by the Commission. This has resulted in numerous rural Minnesota customers being denied state of the art technology in the time frame set forth by the Commission. The Commission agrees with the parties, however, that the remedial measures in the stipulation will further the public interest more effectively than penalty proceedings against GTE. These measures will speed the deployment of the SS7 technology in exchanges not yet upgraded and provide monetary compensation and extra services to customers denied state of the art technology after the state-wide deadline. These are all appropriate means of redressing the situation caused by GTE's delays.

ORDER

1. The Commission accepts and adopts the stipulation agreement dated March 3, 2000 jointly submitted by GTE and the Department.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), (651) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).