

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the State of
Minnesota's Possible Election to
Conduct Its Own Forward-Looking
Economic Cost Study to Determine the
Appropriate Level of Universal Service
Support

SECOND PREHEARING ORDER

The above-entitled matter came on for prehearing conference before Administrative Law Judge Steve M. Mihalchick on October 14, 1997, in the Minnesota Public Utilities Commission's Small Hearing Room, 121 Seventh Place East, Suite 350, St. Paul, Minnesota.

The following persons appeared at the prehearing conference:

James Gallagher, Maun & Simon, 2000 Midwest Plaza Building West, 801 Nicollet Mall, Minneapolis, Minnesota 55402, for U S West Communications, Inc. (U S West).

Charles A. Hoffman, Maslon, Edelman, Borman & Brand PLLP, 3300 Norwest Center, 90 South Seventh Street, Minneapolis, Minnesota 55402, and Tracy Pagliara, Attorney at Law, 1000 GTE Drive, MO611LGW, P.O. Box 307, Wentzville, Missouri 63385, for Contel of Minnesota, Inc., d/b/a GTE Minnesota (GTE).

John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101, and Michel L. Singer, Attorney at Law, 1875 Lawrence Street, Suite 1575, Denver, Colorado 80202, for AT & T Communications of the Midwest, Inc. (AT&T).

Gregory R. Merz, Gray, Plant, Mooty, Mooty & Bennett, 3400 City Center, 33 South Sixth Street, Minneapolis, MN 55402, for MCIMetro Access Transmission Services, Inc. (MCI).

Donald Low, Senior Attorney, Sprint Communications Company L.P., 8140 Ward Parkway, 5E, Kansas City, MO 64114, and Victor E. Dobras, Director, Governmental & Public Affairs, SPRINT Communications Company LP, 1630 World Trade Center, 30 East Seventh Street, St. Paul, Minnesota 55101, for Sprint.

Scott Wilensky, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, MN 55101-2130 for the Office of the Attorney General, Residential Utility and Small Business Division (OAG).

J. Jeffrey Oxley, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, MN 55101-2130, for the Department of Public Service (DPS).

Eric Witte, Staff Attorney, Mark A. Fournier, Analyst, and Kevin O'Grady, Analyst, Minnesota Public Utilities Commission, 350 Metro Square Building, St. Paul, MN 55101, for the Commission staff.

The purpose of the prehearing conference in this matter was to receive further advice of the parties regarding the format of the hearings and to identify and decide issues that should be resolved prior to the hearing. The parties were allowed to submit additional written comment by October 22, 1997.

Based upon the comments of the parties at the prehearing conference and in the subsequent submissions, and for the reasons set out in the following Memorandum, the Administrative Law Judge makes the following:

ORDER

1. Subject to possible modification by the MPUC as a result of GTE's Petition for Reconsideration now pending, this proceeding should result in the selection of a cost study produced by a single cost model and inputs necessary to determine the forward looking economic cost of providing universal service by all non-rural telephone companies in Minnesota within geographic universal service support areas within their service areas. The cost study shall comply to the extent possible with the criteria set forth in FCC Universal Service Report and Order, May 8, 1997, as corrected, (Order) ¶ 250; the FCC Further Notice of Proposed Rulemaking, July 18, 1997 (FNPRM), and subsequent notices and orders issued pursuant to the Order and FNPRM. Only long-run forward-looking economic costs may be included in the study; costs may not be the imbedded costs of the companies. The costs need not be company specific.

2. The proposed models shall be able to produce a combined study for the service areas of all the non-rural telephone companies in Minnesota. Subject to further order by the MPUC, at the present time those companies are U S West, GTE, United, and Frontier. Model proponents shall file instructions for running such combined studies by November 10, 1997.

3. Future revisions of the Hatfield Model 4.0 and the BCPM 2.0 Model that are filed with the FCC may be filed in this matter, subject to the right of other parties to object and request an exclusion based upon insufficient time to analyze and respond to a revision. Parties may also file modifications to studies made to correct errors or for the purposes of rebuttal.

4. Proponents of the proposed models shall provide complete descriptions of the changes made to their models and input data from previous versions filed in this docket or the generic cost dockets. The descriptions shall identify and describe all changes to algorithms, assumptions, formulas, methods, default values, and input values. To the extent such changes are described in testimony, manuals, or model documentation filed with the revisions, such documentation may be referenced and not repeated. In addition, model proponents shall immediately provide copies of the documentation and notices that have been provided to the FCC under FNPRM paragraphs 30 and 32 and at the time they are provided to the FCC in the future.

5. The parties shall confer and agree upon an issue matrix for use in this docket. The matrix shall list the issues to be addressed in this proceeding and set forth the position of the FCC and the parties on each of the issues, and, in particular, the degree of compliance with the FCC's requirements and tentative conclusions on the issues. The Administrative Law Judge agrees with the suggestion of the parties that the issues should be based upon the ten requirements for cost studies set forth in Order ¶ 250 and the outline for evaluating the cost models set forth in the FNPRM, particularly at ¶¶ 34-176. The FCC position need not be set forth in full as long as the reference to Order ¶ 250, the FNPRM paragraph, or subsequent public notice is clear. The Administrative Law Judge is particularly interested in the parties' positions on support areas as discussed in FNPRM ¶¶ 174-176. The issue matrix shall be filed by November 25, 1997.

6. The hearing shall be conducted in standard direct examination-cross examination format; the panel or workshop format will not be used. In order to allow the parties to present new information and responses regarding model revisions and evolving FCC requirements, the parties shall be allowed to file supplemental direct testimony on December 1, 1997. In addition, each witness shall be allowed five minutes to supplement their prefiled testimony.

7. The parties shall confer and agree upon the scheduling of witnesses and file the agreement by November 25, 1997.

Dated this 31st day of October, 1997

STEVE M. MIHALCHICK
Administrative Law Judge

MEMORANDUM

In the Order, the FCC stated that it would select a model platform design by January 1, 1998, and a complete mechanism, including all input values, by August 1998. In the FNPRM, the FCC outlines a process for evaluating the BCPM and Hatfield Model cost models, sets forth tentative conclusions on the models and establishes a process that tends to force modifications of the cost models over the next few weeks. Thus, the models will certainly be changing up to the time of the hearing in this matter in early December, and for some period beyond, as the FCC goes through its process. The BCPM 2.0 model filed October 24, 1997, appears to contain significant modifications to comply with FCC directives, such as reducing the geographic unit to a "micro grid" and modifying the algorithms for determining distribution of customers. It has also been rewritten to run with Excel97 and Access97, rather than the previous versions of those programs, Excel 7.0 and Access 7.0. Loading Excel97 and Access97 on a computer makes the Hatfield Model inoperable, but a revision to the Hatfield Model with similar changes is expected shortly. The process in this docket must be flexible enough to accommodate the ongoing revisions being forced by the FCC.

GTE, and to some extent U S West, argue that the cost studies used to determine the non-rural telephone companies' costs must be company-specific so that the companies can recover their "actual" costs, including forward-looking costs, costs of supporting universal service, and stranded historical costs, and recognize differences between the ways the companies operate. That position has been rejected by the FCC by its decision to require the use of cost studies based upon the forward-looking economic cost of constructing and operating network facilities and functions used to provide the supported services. Order ¶¶ 223-230. In the unbundled network element, interconnection, and co-location cost arbitrations, the MPUC adopted the use of forward-looking economic cost studies. For the same reasons, which are those expressed by the FCC in the Order, it is appropriate to use such studies in this docket. In particular, forward-looking economic cost studies of proxy networks best estimate the reasonable cost of providing universal service and provide the fairest method of determining the level of support payments to be provided. Individualized, company-specific studies based on historic cost tend to award inefficient companies and practices. U S West notes that Order ¶ 250(1) requires the cost studies to use actual wire counts and reflect actual average loop length and argues that these requirements indicate that company specific costs must be used. However, these requirements appear to be imposed because the proxy networks must be designed using existing wire centers and best estimates of existing customers. The requirements make no reference to costs.

DPS has requested that the models be able to produce a combined study of all the non-rural telephone companies. Because, as just discussed, determination of company-specific costs is not required, such combined studies are appropriate. The

BCPM 2.0 appears capable of selecting multiple companies already. According to the Supplemental Direct Testimony of Robert A. Mercer, the Hatfield Model is capable of producing such studies by minor modifications to input parameters. Thus, the proponents of the models are being required to provide instructions for running combined studies.

The Administrative Law Judge has concluded that using the standard hearing format will be the most productive method of allowing the parties to present their evidence and cross-examine witnesses. Because of the revisions and additions being made in response to the FCC requirements, an additional opportunity to prefile supplemental direct testimony two days before the hearing has been added.

S.M.M.