

Minnesota Attorney General: Administrative Rules Proceedings

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ADMIN 1003 (Rev. 1-78)
SF-00005-01

Our File [redacted]23

STATE OF [redacted]NNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : TED SULLIVAN
Commission Support
Public Utilities Commission

DATE: 9/15/80

Attn: CRAIG ANDERSON

FROM : H. THEODORE GRINDAL HTG
Special Assistant
Attorney General

PHONE: 297-3471

SUBJECT: Rules as Approved In the Matter of Adoption of Public Service Commission Rules Governing Telephone Inter-Exchange Access (Alternatives to Present Long Distance Calling)

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

HTG/bw
Encl.
cc: Duane Harves
Susan Robertson

Our File #623

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 8/7 DUE DATE 8/27

Resubmitted and Received _____

Full complete

a. Returned to Agency w/o Filing w/Secretary of State 8/27

b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓

2. Rules as Proposed ✓

3. Certificate of Board's Authorizing Resolution, where applicable ✓

4. Order for Hearing ✓

5. Notice of Hearing ✓ 2.12.80 et seq
Sufficiency ✓

6. Secretary of State's List ✓ ? (one copy only)

7. Certificate of Acquisition of Secretary of State's List ✓

8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓

9. Affidavit of Mailing ✓
At least 30 days prior to hearing ✓ 1.7.80

10. Publication in State Register ✓
At least 30 days prior to hearing ✓ 1.7.80

11. Statement of Need and Evidence ✓

12. Hearing Examiner's Report ✓

13. Agency's Findings of Fact (1ST) ✓ Incorporated w/ #15 - Order Adopting
(2ND) ✓

14. Certificate of Board's Resolution Adopting Rules, where applicable ?

15. Order Adopting (1ST) ? Incorporated in #13 - Findings of Fact
(2ND) ?

16. Report of Chief Hearing Examiner (1ST) ✓
(2ND) ✓

17. Order Approving Incorporation by Reference, where applicable N/A

18. Certificate of Compliance with Rulemaking Procedures ✓

19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓ (1ST) 3.5.79
(2ND) 6.18.79

20. Petition by Public, where applicable N/A

N.B. PUC's transmission memo is very helpful in tracking the various documents, the progression of amendments etc.

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Roger L. Hanson	Chairman
Richard J. Parish	Commissioner
Katherine E. Sasseville	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of Adoption of
Public Service Commission Rules
Governing Telephone Inter-Exchange
Access (Alternatives to Present
Long Distance Calling)

Findings of Fact, Conclusions,
Rule in Final Form
And Order Adopting Rule

FINDINGS OF FACT

The Public Service Commission agrees with and adopts as part of these findings the report of Hearing Examiner Leonard Nelson dealing with the above entitled matter.

In order to clarify the proposed rules, and effectuate the recommendations of the Hearing Examiner, the Commission, after lengthy consideration has made the following changes:

1) Generally: The Commission has made a number of changes which are merely grammatical and in no way change the meaning or effect of the rules. For example, the terms "commission" or "hearing examiners office" are no longer capitalized. Another example is the use of the term "interest" instead of "convenience". These style changes do not constitute a substantial change from the proposed rule and will not be individually discussed in these findings of fact. The Commission finds that these changes are reasonable and necessary.

2) In addition to the grammatical and style changes discussed above, the following changes have been made.

4 MCAR S 3.0230 Purpose and Authority

a) As of July 1, 1980, the Public Service Commission will be called the Public Utilities Commission. The rule reflects this change.

4 MCAR S 3.0231 Definitions

a) The definition of Community Calling Plan, under 4 MCAR S 3.0231 (A) has been changed to reflect the hearing examiner's recommendation that the subdivision be clarified. The Commission finds that insertion of the terms "optional" and "the origination of"

provides the rule with a more accurate description of how a community calling plan will work.

(b) In addition, the definition has been revised to ensure the needed flexibility which would enable a telephone company, and/or the commission, to develop a satisfactory alternative to extended area service and long distance calling. Therefore the commission finds that the following language should be added to the definition of community calling plan;

"A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the public utilities commission after public meetings."

c) Subdivision (B) of 4 MCAR S 3.0231 of the proposed rule has been moved to subdivision(C) and the term "message" inserted to more clearly define what type of toll charge is involved in extended area service.

d) The new subdivision(B) merely defines "commission" as the public utilities commission.

4 MCAR S 3.0232 Community Calling Plans

a) The Commission finds that the phrase "vertical and horizontal coordinates of rate centers and exchanges" should be inserted in 4 MCAR S 3.0231(C)(2) to clarify how the 40 mile radius for a community calling plan will be measured. The use of this phrase will eliminate the confusion caused by using just the term "central basing points." The Commission finds that this change is necessary and reasonable.

4 MCAR S 3.0233 Extended Area Service

a) In the proposed rule, subdivision(B) dealt with the tariff filing, and subdivision(C) with the traffic study. The Commission finds that while it is apparent from the time limits imposed in these subdivisions that a traffic study must be completed before a tariff can be filed with the commission, the order in which the subdivisions appear can be confusing. Therefore the commission finds that the order of subdivision B and C should be reversed.

b) The Commission also finds that the 45 day limit on filing a traffic study, and the 50 day limit on the tariff filing constitute necessary and reasonable time restrictions. However, as the hearing examiner points out, there may be some telephone companies which compute cost data manually or some toll routes for which Centralized Message Data System (CMDS) data is unavailable. Therefore the commission finds that the flexibility of these rules would be greatly enhanced if the phrase "except for good cause shown" is added to the time requirements set forth in subdivisions (B) and (C).

c) The Commission finds that the proposed rates for extended area service are of great importance. Because of this importance the Commission set forth in subdivision (C)(1) of the proposed rule language designed to define the specific manner in which proposed rates would be determined. Based upon testimony during the hearing process, the Commission finds that their intent to have a specific formula would be better served if more exacting language were incorporated into subdivision (C)(1). The additional language will also prevent possible confusion on the part of the utility when drafting the proposed rates. Therefore, the Commission finds that subdivision (C)(1) should read as follows:

"The proposed rates shall be based on the company's statewide average embedded book cost to provide, or the savings due to removal of the service. The cost or savings shall be determined using the ratio of the company's embedded book cost to current cost applied to the current engineering cost of furnishing Extended Area Service over the specific route."

d) In addition to the facts enumerated in subdivision D, the commission finds that the average monthly toll billing per main station over the proposed extended area service route is an important and valuable indication of public interest. This fact, while not dispositive, gives the com-

mission an indication of whether the toll traffic is attributable to just a few customers of is widespread. This fact also gives the commission an indication of how much money is being spent without Extended Area Service compared with what the rate will be if it is installed. Therefore, the commission finds that an additional variable should be added to subdivision D and shall read as follows: "The average monthly toll billings per main station over the proposed route."

e) The commission also finds that subdivision(D)should expressly state that no single enumerated fact is dispositive.

f) The Commission finds that there should be a time limit within which objections to installation or removal of Extended Area Service may be made. A time limit will prevent unnecessary expenditures of time and money. Without a time limit, opponents of a petition would be able to forestall commission action indefinitely. The Commission does not want to deny the right to object, but merely desires to place a resonable time limit upon the time period for filing an objection. Therefore the Commission finds that the phrase "within 10 days after the public meeting" should be inserted in subdivision(F).

g) The commission finds that it would be unfair to require a telephone company to object when they file the tariff without having an opportunity to hear the evidence and comments presented at the public meeting. Therefore, the commission has deleted the phrase "with the tariff" from subdivision (F)(1).

h) The commission finds that subdivision (2) is unclear in two respects. First, it is unclear whether the required 10 percent or 100 customers must come from one exchange or can be divided between two. Secondly, it is unclear as to who makes the determination of whether 10 percent or 100 customers appeared at the public meeting and gave notice of objection.

The commission therefore finds that the following language will clarify both of these points and should be included in the rule.

"2. Ten percent or more of the customers or 100 customers, whichever is less, in at least one affected exchange, file a notice of objection with the commission or the commission finds that such a number of customers appeared at the public meeting and gave notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

i) The commission finds that subdivision I did not adequately address the repetitioning issue. The proposed rule only applied to removal of EAS and did not address the situation in which EAS is initially denied.

The commission finds that the following language will clarify the above discussed problem, and that the additional language is necessary and reasonable.

"I. Repetitioning. The commission shall not order the removal of Extended Area Service within five years of installation nor shall the commission consider a petition for installation of Extended Area Service sooner than two years after denying a previous petition for installation of Extended Area Service between the same two exchanges."

3. Conclusions

A) The Public Service Commission is authorized to promulgate these rules under Minnesota Statutes § 237.10, 237.06, 237.12 and 237.16.

B) The Commission provided due, timely, and adequate legal notice of the hearings held herein. The hearings were properly conducted by the hearing examiner. Sufficient opportunity was given for persons to submit written testimony, statements, and arguments. All substantive and due process requirements of statutes, rules, and constitutions have been met.

C) The need for and reasonableness of these rules have been shown by the testimony received at the hearing and as set forth above.

D) The telephone Rules governing Inter-Exchange Access should consist of the following language:

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Roger L. Hanson	Chairman
Leo G. Adams	Commissioner
Katherine E. Sasseville	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of Adoption of
Public Service Commission Rules
Governing Telephone Inter-Exchange
Access (Alternatives to Present
Long Distance Calling)

Amended Findings of Fact
And Rule In Final Form

AMENDED AND ADDITIONAL
FINDINGS OF FACT

1) The term "Office of Hearing Examiners" has been changed to "Office of Administrative Hearings." The new term reflects the change of name authorized by the legislature.

2) 4MCAR § 3.0231

The Commission finds that this section should cite directly to the additional definitions applicable to the inter-exchange rules. Therefore, the Commission finds that the following change in language is necessary and reasonable.

"4 MCAR § 3.0231 Definitions. In addition to the applicable definitions in Minn. Stat. 237.01 and 02 and 4MCAR § 3.0172, the following definitions apply to these rules:"

3) 4MCAR § 3.0232

The Commission finds that the term "may", as used in reference to miscellaneous tariff filings in 4MCAR § 3.0232(B)(1) and (2), does not accurately reflect the Commission's intent that these provisions be mandatory.

Therefore, the Commission finds that the word "shall", which more accurately describes their intent, should be inserted in place of "may".

4) 4MCAR § 3.0232 (C) (4)

The Commission finds that it is necessary and reasonable to authorize different rates for business and residential customers based upon the existing relationship between the two classes of service and that the Commission will look at the factors underlying that relationship to determine whether or not to authorize different rates.

Therefore, the Commission finds that 4MCAR § 3.0232(C)(4)shall read as follows:

"The Community Calling Plan shall apply to residential and business customers. The commission shall authorize different rates for residential and business customers. if the commission finds it just and reasonable based upon the existing rate relationship between the two classes of service."

5) 4MCAR § 3.0232 (D)

The Commission finds:

a) that the settlement agreements should be just and reasonable, and accurately reflect the true consequences of these rules upon the parties to the settlement agreement;

b) that these rules may effect the revenue structure of the telephone companies involved and that each company involved should bear the effect of these rules upon each individual company;

c) that the rule should set forth standards upon which the Commission shall review and approve the settlement agreements;

d) that the duration of messages, number of messages, expenses related to processing messages and the length of haul are necessary and reasonable factors in determining whether an agreement is equitable.

Therefore, the Commission finds that 4MCAR § 3.0232 (D) shall contain the following language:

"Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. The commission shall review each revised settlement agreement to determine whether the agreement accurately reflects the revenue impact of the Community Calling Plan upon the telephone companies involved and approve those agreements which are just and reasonable. In determining whether an agreement is just and reasonable, the commission shall consider:

1) duration of qualifying messages

2) number of qualifying messages

3) expenses related to processing qualifying messages

4) length of haul of qualifying messages

5) revenues generated by qualifying messages

6) 4MCAR § 3.0233 (B) Traffic Study

The Commission finds that there may be circumstances in which a telephone company may be unable to meet the 45 day time limit for filing a tariff study because applicable Centralized Message Data System (CMDS) data or other reliable data is presently unavailable.

Therefore, the Commission finds it necessary and reasonable to provide for a time extension and adopts the following language:

"The commission shall grant an extension of time upon a finding that appropriate CMDS data, or other reliable data, is presently unavailable."

7) 4MCAR § 3.0233 (C) Tariff Filing.

The Commission finds that there may be circumstances in which a telephone company may be unable to meet the 50 day time limit for filing a tariff because they must compute cost data manually and to meet the deadline would cause undue hardship.

Therefore, the Commission finds it necessary and reasonable to provide for a time extension and adopts the following language:

" The commission shall grant an extension of time upon a finding that the company is unable to collect and compute the information required for a tariff filing within the 50 day time limit without undue hardship. "

8) 4MCAR § 3.0233 (C) (2)

The Commission finds that there may be circumstances where it is just and equitable to have a cost apportionment which is not divided equally between the exchanges involved in a petition for extended area service.

The Commission finds that the rule should set forth the factors which they will apply when determining whether an alternative cost apportionment is fair and reasonable.

The Commission finds that facts 1 through 7 and 11 of 4 MCAR § 3.0233 (D) are necessary and reasonable factors to be used in determining if an alternative cost apportionment is fair and equitable.

Therefore, the Commission finds that the following language should be added to 4MCAR § 3.0233 (C) (2):

"based upon facts 1 through 7 and 11 of 4MCAR § 3.0233 D "

(a) 4MCAR § 3.0233 (H) (2)

The Commission agrees with the finding of the Chief Hearing Examiner that the Commission has failed to establish that it possesses statutory authority to bind the Office of Administrative Hearings to a hearing schedule. The Commission finds that the following language change will not impinge upon the independent authority of the Office of Administrative Hearings to set hearing schedules, while at the same time give the Commission a necessary and reasonable deadline within which to complete a contested case hearing. 4MCAR § 3.0233 (H) (2) shall read as follows:

"If a contested case hearing is held, the commission will issue a final order within 60 days after receipt of the report of the hearing examiner."

4MCAR § 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the public utilities commission adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individuals' "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the commission's rulemaking authority found in Minn. Stat. § 237.10, and the commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. § 237.06; to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. § 237.12; and to regulate the construction of duplicating lines or equipment used for local, rural or toll telephone service. Minn. Stat. § 237.16.

4MCAR § 3.0231 Definitions. In addition to the applicable definitions in Minn. Stat. 237.01 and 02 and 4MCAR § 3.0172, the following definitions apply to these rules:

A. "Community Calling Plan" means an optional service that allows the origination of toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block. A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the public utilities commission after public meeting.

B. "Commission" means the public utilities commission.

C. "Extended Area Service" means inter-exchange calling for which a message toll charge is not assessed.

4MCAR § 3.0232 Community Calling Plans.

A. Petition.

1. Customers in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) The name of the telephone company that serves the exchange;

b) the name of the exchange and the principal city in the exchange;

c) the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall be sent;

d) the name, address and telephone number of each person signing the petition; and

e) a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff shall be reviewed by the commission as a miscellaneous tariff filing.

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff shall be reviewed by the commission as a miscellaneous tariff filing.

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points i.e., the vertical and horizontal coordinates of rate centers and exchanges in each exchange, unless the commission finds in writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community

of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers. The commission shall authorize different rates for residential and business customers if the commission finds it just and reasonable based upon the existing rate relationship between the two classes of service.

D. Settlements.

Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. The commission shall review each revised settlement agreement to determine whether the agreement accurately reflects the revenue impact of the Community Calling Plan upon the telephone companies involved and approve those agreements which are just and reasonable. In determining whether an agreement is just and reasonable, the commission shall consider:

1) Duration of qualifying messages;

2) number of qualifying messages;

3) expenses related to processing qualifying messages;

4) length of haul of qualifying messages;

5) revenues generated by qualifying messages.

4MCAR § 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition with the department of public service. A copy shall be served on the telephone company that serves the exchange and on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) the name of the telephone company serving the petitioners' exchange;

b) the name of the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c) the name of each exchange and the principal city in each exchange;

d) the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

e) the name, address and telephone number of each person signing the petition; and

f) a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the department and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

B. Traffic Study

The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition. The commission shall grant an extension of time upon a finding that appropriate CMDS data, or other reliable data, is presently unavailable.

C. Tariff filing.

Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of

Extended Area Service. The commission shall grant an extension of time upon a finding that the company is unable to collect and compute the information required for a tariff filing within the 50 day time limit without undue hardship.

1. The proposed rates shall be based on the company's statewide average embedded book cost to provide or savings due to removal of the service. The cost or savings shall be determined using the ratio of the company's statewide average embedded book cost to current cost applied to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost of providing or the savings from removing Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative cost apportionment is fair and reasonable, based upon facts 1 through 7 and 11 of 4MCAR § 3.0233D.

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

D. Stipulation of facts.

Within 60 days of the date of service of the petition, the staff of the department of public service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain information upon which the commission can base a determination of whether the public interest requires installation or removal of the Extended Area Service. The stipulation of facts, no single one of which shall be dispositive, shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will be longer be useful or reusable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

11. The average monthly toll billings per main station over the proposed route.

E. Public meeting.

Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing.

The petition shall be assigned to the office of administrative hearings for contested case hearing if within 10 days after the public meeting:

1. Either company files a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in at least one affected exchange file a notice of objection with the commission or the commission finds that such a number of customers appeared at the public meeting and gave notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the department and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice.

In addition to notice required by statute or the rules of the office of administrative hearings, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the commission or the hearing examiner, and the address of the public utilities commission or office of

administrative hearings.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, the commission will issue a final order within 60 days after receipt of the report of the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public interest.

I. Repetitioning.

The Commission shall not order the removal of Extended Area Service within five years of installation nor shall the commission consider a petition for installation of Extended Area Service sooner than two years after denying a previous petition for installation of Extended Area Service between the same two exchanges.

ORDER

1. The Findings of the Report of the hearing examiner dated April 1, 1980, relating to the proposed rules, are adopted as the Commission's own, except as they are modified by the Commission's Findings as set forth above.
2. The Conclusions of the Report of the hearing examiner dated April 1, 1980, relating to the proposed rule, are adopted as the Commission's own, except as they are modified by the Commission's Conclusions as set forth above.
3. The proposed rule is hereby modified to implement the Commission's Findings and Conclusions, and as modified, the rule is hereby adopted by the Commission.
4. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION

Acting Executive Secretary

SERVICE DATE: SEP 4 1980

(S E A L)

APPROVED AS TO FORM AND LEGALITY

Sept 15 19 80

WARREN SPANNAUS, ATTORNEY GENERAL

BY [signature]

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 15 1980
Joan Anderson Growe
Secretary of State
1:00 PM

Our File #623

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : TED SULLIVAN
Commission Support
Public Utilities Commission

DATE: 8/27/80

Attn: CRAIG ANDERSON

FROM : H. THEODORE GRINDAL #76
Special Assistant
Attorney General

PHONE: 297-3471

SUBJECT: In the Matter of Adoption of Public Utilities Commission Rules Governing Telephone Inter-Exchange Access (Alternatives to Present Long Distance Calling)

The rules in the above-captioned matter have not been reviewed by this office yet because of the insufficiency of certain documents submitted concerning the rule.

1. The Certificate of Commission's Adoption of Rules Resolution does not give specific authority to any one person to sign the Order Adopting the Rule. Also, the Certificate submitted does not include the language of the resolution passed by the Commission. This procedure properly executed is noted in an attached example of a previous Public Utilities Commission resolution.

2. The Order Adopting the Rule in Final Form is missing. Included in the first Findings of Fact, Conclusions, and Rule in Final Form is a copy of the Order Adopting the Rule. However, this Order appears to refer to the first Finding of Fact but not the second. You should submit the Original Order Adopting the Rule for the Final Form. The execution of this Order Adopting the Rule should parallel the authority delegated in the Commission's resolution mentioned in #1 above.

For your information, the following are some typographical errors that appear to require correction prior to approval:

1. In 4 MCAR sec. 3.0230 on the sixth line, it appears "individual's" should be individuals'." It would appear that the reference should be to a group of individuals having a joint interest rather than to just one person.

2. In 4 MCAR sec. 3.0230 there are four statutory references. Usually in rules, the year is not included in statutory citation. I would suggest that the year citation be deleted from the statutory reference.

3. In 4 MCAR sec. 3.0232 A.3.a. the word exchanges is used. In all other sections relating to this section, exchange is used in the singular, not the plural. It would then appear that "exchanges" should be "exchange."

4. In 4 MCAR sec. 3.0232 C.2. the comma after "writing" should be deleted or another comma after "finds" should be inserted.

5. In 4 MCAR sec. 3.0233 A.1. part of the second sentence is omitted from the Final copy. However, it is in the Rule as Proposed, and it appears that it should be inserted in the copy to be filed with the Secretary of State.

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6. In 4 MCAR 3.0233 A.3.a. it appears "petitioner's" should be "petitioners'."

7. In 4 MCAR sec. 3.0233 C.2. in the final copy the cite listed is 4 MCAR sec. 3.0233 (D). It appears the parentheses should be removed from the D.

Upon consideration of the concerns raised in this memorandum, please supply this office with the corrected documents so that it will be possible to begin our review of the rules. Please send us one copy of the Certificate of Commission's Adoption of Rules Resolution, the original Order Adopting the Rule and two copies; and three copies of the Rules as Adopted in Final Form. This would include any corrections to the typographical errors mentioned above. Upon receipt of these documents our office will review the rule as to form and legality.

If you have any questions regarding the issues discussed above, please feel free to contact me.

HTG/bw
Encl.

Rule In Final Form

4 MCAR S 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the ~~Public Service Commission~~ public utilities commission adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individuals' "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the ~~Commission's~~ commission's rulemaking authority found in Minn. Stat. S 237.10 ~~(1978)~~, and the ~~Commission's~~ commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. S 237.06 ~~(1978)~~; to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. S 237.12 ~~(1978)~~; and to regulate the construction of duplicating lines or equipment used for local, rural or toll telephone service. Minn. Stat. S 237.16.

4 MCAR S 3.0231 Definitions. ~~For purposes of the following rules the additional definitions apply:~~ In addition to the applicable definitions in Minn. Stat. 237.01 and002 and 4MCAR § 3.0172, the following definitions apply to these rules:

A. "Community Calling Plan" means an optional service that allows the origination of toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block. A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the public utilities commission after public meeting.

B. "Commission" means the public utilities commission.

~~B.~~ C. "Extended Area Service" means inter-exchange calling for which a message toll charge is not assessed.

4 MCAR S 3.0232 Community Calling Plans.

A. Petition.

1. Customer's in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) The name of the telephone company that serves the exchanges;

b) the name of the exchange and the principal city in the exchange;

c) the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall be sent;

d) the name, address and telephone number of each person signing the petition; and

e) a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff ~~may~~ shall be reviewed by the commission as a miscellaneous tariff filing.

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff ~~may~~ shall be reviewed by the commission as a miscellaneous tariff filing.

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points i.e., the vertical and horizontal coordinates of rate centers and exchanges in each exchange, unless the commission finds in

writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department ~~of public service~~. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers~~;~~. ~~the~~ The commission ~~may~~ shall authorize different rates for ~~each class of customer~~ residential and business customers if the commission finds it just and reasonable based upon the existing rate relationship between the two classes of service.

D. Settlements.

Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. ~~Each revised agreement shall be submitted to the commission for its review and approval.~~ The commission shall review each revised settlement agreement to determine whether the agreement accurately reflects the revenue impact of the Community Calling Plan upon the telephone companies involved and approve those agreements which are just and reasonable. In determining whether an agreement is just and reasonable, the commission shall consider:

1) Duration of qualifying messages;

2) number of qualifying messages;

3) expenses related to processing qualifying messages;

4) length of haul of qualifying messages;

5) revenues generated by qualifying messages.

4 MCAR S 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition with the department of public service. A copy shall be served on the telephone company that serves the exchange and on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) the name of the telephone company serving the ~~petitioner's~~ petitioners' exchange;

b) the name of the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c) the name of each exchange and the principal city in each exchange;

d) the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

e) the name, address and telephone number of each person signing the petition; and

f) a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the department ~~of public service~~ and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

B. Traffic Study

The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition. The commission shall grant an extension of time upon a finding that appropriate CMDS data, or other reliable data, is presently unavailable.

~~B.~~ C. Tariff filing.

Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of Extended Area Service. The commission shall grant an extension of time upon a finding that the company is unable to collect and compute the information required for a tariff filing within the 50 day time limit without undue hardship.

1. The proposed rates shall be based on the company's statewide average embedded book cost to provide or savings due to removal of the service. The cost or savings shall be determined using the ratio of the company's statewide average embedded book cost to current cost applied to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost ~~or savings due to installation or removal~~ of providing or the savings from removing Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative cost apportionment is fair and reasonable~~.~~, based upon facts ; through 7 and 11 of 4MCAR § 3.0233 D.

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

D. Stipulation of facts.

Within 60 days of the date of service of the petition, the staff of the department of public service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain

information upon which the commission can base a determination of whether the public ~~convenience~~ interest requires installation or removal of the Extended Area Service. The stipulation of facts, no single one of which shall be dispositive, shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will no longer be useful or reuseable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

11. The average monthly toll billings per main station over the proposed route.

E. Public meeting.

Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing.

The petition shall be assigned to the ~~Minnesota~~ office of hearing examiners for contested case hearing if within 10 days after the public meeting:

1. Either company files ~~with the tariff~~ a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in ~~either exchange~~ at least one affected exchange file a notice of objection with the commission or the commission finds that such a number

of customers appeared at the public meeting and ~~give~~ gave notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the department ~~of public service~~ and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice.

In addition to notice required by statute or the rules of the ~~Office of Hearing Examiner~~ office of hearing examiners, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the ~~public service~~ commission or the hearing examiner, and the address of the public service utilities commission or office of hearing examiners.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, ~~a final order of the commission is due 120 days after the order for hearing is served on the hearing examiner.~~ the commission will issue a final order within 60 days after recept of the report of the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public ~~convenience~~ interest.

I. Repetitioning.

The Commission shall not order the removal of Extended Area Service within five years of installation nor shall the commission consider a petition for installation of Extended Area Service sooner than two years after denying a previous petition for installation of Extended Area Service between the same two exchanges.

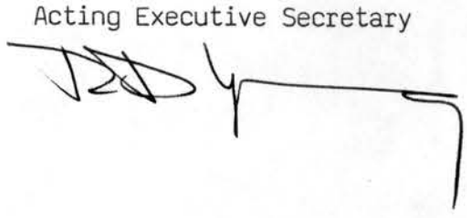
CERTIFICATE OF COMMISSION'S
ADOPTION OF RULES RESOLUTION

I, Randy Young, do hereby certify that I am Acting Executive Secretary to the Public Utilities Commission, a commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and accurate copy of a resolution adopted at a meeting of the Public Utilities Commission, duly and properly called and held on the 2nd day of September, 1980; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> Resolved, that the Findings of Fact, Conclulsions, and Order Adopting Rule relating to the proposed Interexchange Access Rules, 4MCAR Sec. 3.0230 through 3.0233, be and they hereby are approved and adopted, pursuant to authority vested in us by M.S. Secs. 216B.04, 216B.08, 216B.09, and 216B.23, Subd. 2, and that Randy Young, Acting Executive Secretary to the Commission, be and hereby is authorized to sign an Order adopting this rule.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 2nd day of September, 1980.

Acting Executive Secretary



CERTIFICATE OF COMMISSION'S AUTHORIZING RESOLUTION

I, Mary L. Harty, do hereby certify that I am the Executive Secretary of the Minnesota Public Service Commission, a commission duly authorized under the laws of the State of Minnesota and that at a meeting of the Public Service Commission duly and properly called and held on the 17th day of December, 1979, the Public Service Commission directed Mary L. Harty to call a hearing for the purpose of promulgating rules governing telephone inter-exchange access, as well as perform any and all acts incidental thereto, including but not limited to signing an Order for Hearing and Notice of Hearing.

In Witness Whereof, I have hereunto subscribed my name this third day of January, 1980.

M L Harty
Executive Secretary

Katherine Swanville
Commissioner

CERTIFICATE OF COMMISSION'S
ADOPTION OF RULES RESOLUTION

I, Mary L. Harty, do hereby certify that I am Executive Secretary to the Public Service Commission, a commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and accurate copy of a resolution adopted at a meeting of the Public Service Commission, duly and properly called and held on the 27th day of December, 1979; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> Resolved, that the Findings of Fact, Conclusions, and Order Adopting Rule relating to the proposed Cold Weather Rule, 4MCAR Sec. 3.299, be and they hereby are approved and adopted, pursuant to authority vested in us by M.S. Secs. 216B.04, 216B.08, 216B.09, and 216B.23, Subd. 2, and that Mary L. Harty, Executive Secretary to the Commission, be and hereby is authorized to sign an Order adopting this rule.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of December, 1979.

Katherine E. Laverille

M. L. Harty

Mary L. Harty
Executive Secretary

CERTIFICATE OF COMMISSION'S ADOPTION OF RULES RESOLUTION

I, Randy Young, do hereby certify that I am Acting Executive Secretary of the Public Utilities Commission, a Commission duly authorized under the laws of the State of Minnesota, and that at a meeting of the Public Utilities Commission duly and properly called and held on the 1st day of August, 1980, that a quorum was present at said meeting and that the Commission voted to adopt the Inter Exchange Access Rules as proposed.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7th day of August, 1980.

R D Young

ACTING EXECUTIVE SECRETARY

Leo G. Adams

COMMISSIONER

AUG 1980

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Roger L. Hanson	Chairman
Richard J. Parish	Commissioner
Katherine E. Sasseville	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of Adoption of
Public Service Commission Rules
Governing Telephone Inter-Exchange
Access (Alternatives to Present
Long Distance Calling)

Findings of Fact, Conclusions,
Rule in Final Form
And Order Adopting Rule

FINDINGS OF FACT

The Public Service Commission agrees with and adopts as part of these findings the report of Hearing Examiner Leonard Nelson dealing with the above entitled matter.

In order to clarify the proposed rules, and effectuate the recommendations of the Hearing Examiner, the Commission, after lengthy consideration has made the following changes:

1) Generally: The Commission has made a number of changes which are merely grammatical and in no way change the meaning or effect of the rules. For example, the terms "commission" or "hearing examiners office" are no longer capitalized. Another example is the use of the term "interest" instead of "convenience". These style changes do not constitute a substantial change from the proposed rule and will not be individually discussed in these findings of fact. The Commission finds that these changes are reasonable and necessary.

2) In addition to the grammatical and style changes discussed above, the following changes have been made.

4 MCAR S 3.0230 Purpose and Authority

a) As of July 1, 1980, the Public Service Commission will be called the Public Utilities Commission. The rule reflects this change.

4 MCAR S 3.0231 Definitions

a) The definition of Community Calling Plan, under 4 MCAR S 3.0231 (A) has been changed to reflect the hearing examiner's recommendation that the subdivision be clarified. The Commission finds that insertion of the terms "optional" and "the origination of"

provides the rule with a more accurate description of how a community calling plan will work.

(b) In addition, the definition has been revised to ensure the needed flexibility which would enable a telephone company, and/or the commission, to develop a satisfactory alternative to extended area service and long distance calling. Therefore the commission finds that the following language should be added to the definition of community calling plan;

"A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the public utilities commission after public meetings."

c) Subdivision (B) of 4 MCAR S 3.0231 of the proposed rule has been moved to subdivision(C) and the term "message" inserted to more clearly define what type of toll charge is involved in extended area service.

d) The new subdivision(B) merely defines "commission" as the public utilities commission.

4 MCAR S 3.0232 Community Calling Plans

a) The Commission finds that the phrase "vertical and horizontal coordinates of rate centers and exchanges" should be inserted in 4 MCAR S 3.0231(C)(2) to clarify how the 40 mile radius for a community calling plan will be measured. The use of this phrase will eliminate the confusion caused by using just the term "central basing points." The Commission finds that this change is necessary and reasonable.

4 MCAR S 3.0233 Extended Area Service

a) In the proposed rule, subdivision(B) dealt with the tariff filing, and subdivision(C) with the traffic study. The Commission finds that while it is apparent from the time limits imposed in these subdivisions that a traffic study must be completed before a tariff can be filed with the commission, the order in which the subdivisions appear can be confusing. Therefore the commission finds that the order of subdivision B and C should be reversed.

b) The commission also finds that the 45 day limit on filing a traffic study, and the 50 day limit on the tariff filing constitute necessary and reasonable time restrictions. However, as the hearing examiner points out, there may be some telephone companies which compute cost data manually or some toll routes for which Centralized Message Data System (CMDS) data is unavailable. Therefore the commission finds that the flexibility of these rules would be greatly enhanced if the phrase "except for good cause shown" is added to the time requirements set forth in subdivisions (B) and (C).

c) The Commission finds that the proposed rates for extended area service are of great importance. Because of this importance the Commission set forth in subdivision (C)(1) of the proposed rule language designed to define the specific manner in which proposed rates would be determined. Based upon testimony during the hearing process, the Commission finds that their intent to have a specific formula would be better served if more exacting language were incorporated into subdivision (C)(1). The additional language will also prevent possible confusion on the part of the utility when drafting the proposed rates. Therefore, the Commission finds that subdivision (C)(1) should read as follows:

"The proposed rates shall be based on the company's statewide average embedded book cost to provide, or the savings due to removal of the service. The cost or savings shall be determined using the ratio of the company's embedded book cost to current cost applied to the current engineering cost of furnishing Extended Area Service over the specific route."

d) In addition to the facts enumerated in subdivision D, the commission finds that the average monthly toll billing per main station over the proposed extended area service route is an important and valuable indication of public interest. This fact, while not dispositive, gives the com-

mission an indication of whether the toll traffic is attributable to just a few customers of is widespread. This fact also gives the commission an indication of how much money is being spent without Extended Area Service compared with what the rate will be if it is installed. Therefore, the commission finds that an additional variable should be added to subdivision D and shall read as follows: "The average monthly toll billings per main station over the proposed route."

e) The commission also finds that subdivision(D)should expressly state that no single enumerated fact is dispositive.

f) The Commission finds that there should be a time limit within which objections to installation or removal of Extended Area Service may be made. A time limit will prevent unnecessary expenditures of time and money. Without a time limit, opponents of a petition would be able to forestall commission action indefinitely. The Commission does not want to deny the right to object, but merely desires to place a resonable time limit upon the time period for filing an objection. Therefore the Commission finds that the phrase "within 10 days after the public meeting" should be inserted in subdivision(F).

g) The commission finds that it would be unfair to require a telephone company to object wnen they file the tariff without having an opportunity to hear the evidence and comments presented at the public meeting. Therefore, the commission has deleted the phrase "with the tariff" from subdivision (F)(1).

h) The commission finds that subdivision (2) is unclear in two respects. First, it is unclear whether the required 10 percent or 100 customers must come from one exchange or can be divided between two. Secondly, it is unclear as to who makes the determination of whether 10 percent or 100 customers appeared at the public meeting and gave notice of objection.

The commission therefore finds that the following language will clarify both of these points and should be included in the rule.

"2. Ten percent or more of the customers or 100 customers, whichever is less, in at least one affected exchange, file a notice of objection with the commission or the commission finds that such a number of customers appeared at the public meeting and gave notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

i) The commission finds that subdivision I did not adequately address the repetitioning issue. The proposed rule only applied to removal of EAS and did not address the situation in which EAS is initially denied.

The commission finds that the following language will clarify the above discussed problem, and that the additional language is necessary and reasonable.

"I. Repetitioning. The commission shall not order the removal of Extended Area Service within five years of installation nor shall the commission consider a petition for installation of Extended Area Service sooner than two years after denying a previous petition for installation of Extended Area Service between the same two exchanges."

3. Conclusions

A) The Public Service Commission is authorized to promulgate these rules under Minnesota Statutes §§ 237.10, 237.06, 237.12 and 237.16.

B) The Commission provided due, timely, and adequate legal notice of the hearings held herein. The hearings were properly conducted by the hearing examiner. Sufficient opportunity was given for persons to submit written testimony, statements, and arguments. All substantive and due process requirements of statutes, rules, and constitutions have been met.

C) The need for and reasonableness of these rules have been shown by the testimony received at the hearing and as set forth above.

D) The telephone Rules governing Inter-Exchange Access should consist of the following language:

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Roger L. Hanson	Chairman
Leo G. Adams	Commissioner
Katherine E. Sasseville	Commissioner
Juanita R. Satterlee	Commissioner
Lillian Warren-Lazenberry	Commissioner

In the Matter of Adoption of
Public Service Commission Rules
Governing Telephone Inter-Exchange
Access (Alternatives to Present
Long Distance Calling)

Amended Findings of Fact
And Rule In Final Form

AMENDED AND ADDITIONAL FINDINGS OF FACT

1) The term "Office of Hearing Examiners" has been changed to "Office of Administrative Hearings." The new term reflects the change of name authorized by the legislature.

2) 4MCAR § 3.0231

The Commission finds that this section should cite directly to the additional definitions applicable to the inter-exchange rules. Therefore, the Commission finds that the following change in language is necessary and reasonable.

"4 MCAR § 3.0231 Definitions. In addition to the applicable definitions in Minn. Stat. 237.01 and 02 and 4MCAR § 3.0172, the following definitions apply to these rules:"

3) 4MCAR § 3.0232

The Commission finds that the term "may", as used in reference to miscellaneous tariff filings in 4MCAR § 3.0232(B)(1) and (2), does not accurately reflect the Commission's intent that these provisions be mandatory.

Therefore, the Commission finds that the word "shall", which more accurately describes their intent, should be inserted in place of "may".

4) 4MCAR § 3.0232 (C) (4)

The Commission finds that it is necessary and reasonable to authorize different rates for business and residential customers based upon the existing relationship between the two classes of service and that the Commission will look at the factors underlying that relationship to determine whether or not to authorize different rates.

Therefore, the Commission finds that 4MCAR § 3.0232(C)(4)shall read as follows:

"The Community Calling Plan shall apply to residential and business customers. The commission shall authorize different rates for residential and business customers. if the commission finds it just and reasonable based upon the existing rate relationship between the two classes of service."

5) 4MCAR § 3.0232 (D)

The Commission finds:

a) that the settlement agreements should be just and reasonable, and accurately reflect the true consequences of these rules upon the parties to the settlement agreement;

b) that these rules may effect the revenue structure of the telephone companies involved and that each company involved should bear the effect of these rules upon each individual company;

c) that the rule should set forth standards upon which the Commission shall review and approve the settlement agreements;

d) that the duration of messages, number of messages, expenses related to processing messages and the length of haul are necessary and reasonable factors in determining whether an agreement is equitable.

Therefore, the Commission finds that 4MCAR § 3.0232 (D) shall contain the following language:

"Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. The commission shall review each revised settlement agreement to determine whether the agreement accurately reflects the revenue impact of the Community Calling Plan upon the telephone companies involved and approve those agreements which are just and reasonable. In determining whether an agreement is just and reasonable, the commission shall consider:

1) duration of qualifying messages

2) number of qualifying messages

3) expenses related to processing qualifying messages

4) length of haul of qualifying messages

5) revenues generated by qualifying messages

6) 4MCAR § 3.0233 (B) Traffic Study

The Commission finds that there may be circumstances in which a telephone company may be unable to meet the 45 day time limit for filing a tariff study because applicable Centralized Message Data System (CMDS) data or other reliable data is presently unavailable.

Therefore, the Commission finds it necessary and reasonable to provide for a time extension and adopts the following language:

"The commission shall grant an extension of time upon a finding that appropriate CMDS data, or other reliable data, is presently unavailable."

7) 4MCAR § 3.0233 (C) Tariff Filing.

The Commission finds that there may be circumstances in which a telephone company may be unable to meet the 50 day time limit for filing a tariff because they must compute cost data manually and to meet the deadline would cause undue hardship.

Therefore, the Commission finds it necessary and reasonable to provide for a time extension and adopts the following language:

" The commission shall grant an extension of time upon a finding that the company is unable to collect and compute the information required for a tariff filing within the 50 day time limit without undue hardship. "

8) 4MCAR § 3.0233 (C) (2)

The Commission finds that there may be circumstances where it is just and equitable to have a cost apportionment which is not divided equally between the exchanges involved in a petition for extended area service.

The Commission finds that the rule should set forth the factors which they will apply when determining whether an alternative cost apportionment is fair and reasonable.

The Commission finds that facts 1 through 7 and 11 of 4 MCAR § 3.0233 (D) are necessary and reasonable factors to be used in determining if an alternative cost apportionment is fair and equitable.

Therefore, the Commission finds that the following language should be added to 4MCAR § 3.0233 (C) (2):

"based upon facts 1 through 7 and 11 of 4MCAR § 3.0233 D "

(a) 4MCAR § 3.0233 (H) (2)

The Commission agrees with the finding of the Chief Hearing Examiner that the Commission has failed to establish that it possesses statutory authority to bind the Office of Administrative Hearings to a hearing schedule. The Commission finds that the following language change will not impinge upon the independent authority of the Office of Administrative Hearings to set hearing schedules, while at the same time give the Commission a necessary and reasonable deadline within which to complete a contested case hearing. 4MCAR § 3.0233 (H) (2) shall read as follows:

"If a contested case hearing is held, the commission will issue a final order within 60 days after receipt of the report of the hearing examiner."

4MCAR § 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the public utilities commission adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individual's "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the commission's rule-making authority found in Minn. Stat. § 237.10 (1978), and the commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local, rural or toll telephone service. Minn. Stat. § 237.16.

4MCAR § 3.0231 Definitions. In addition to the applicable definitions in Minn. Stat. 237.01 and 02 and 4MCAR § 3.0172, the following definitions apply to these rules:

A. "Community Calling Plan" means an optional service that allows the origination of toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block. A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the public utilities commission after public meeting.

B. "Commission" means the public utilities commission.

C. "Extended Area Service" means inter-exchange calling for which a message toll charge is not assessed.

4MCAR § 3.0232 Community Calling Plans.

A. Petition.

1. Customers in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) The name of the telephone company that serves the exchanges;

b) the name of the exchange and the principal city in the exchange;

c) the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall be sent;

d) the name, address and telephone number of each person signing the petition; and

e) a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff shall be reviewed by the commission as a miscellaneous tariff filing.

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff shall be reviewed by the commission as a miscellaneous tariff filing.

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points i.e., the vertical and horizontal coordinates of rate centers and exchanges in each exchange, unless the commission finds in writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community

of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers. The commission shall authorize different rates for residential and business customers if the commission finds it just and reasonable based upon the existing rate relationship between the two classes of service.

D. Settlements.

Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. The commission shall review each revised settlement agreement to determine whether the agreement accurately reflects the revenue impact of the Community Calling Plan upon the telephone companies involved and approve those agreements which are just and reasonable. In determining whether an agreement is just and reasonable, the commission shall consider:

1) Duration of qualifying messages;

2) number of qualifying messages;

3) expenses related to processing qualifying messages;

4) length of haul of qualifying messages;

5) revenues generated by qualifying messages.

4MCAR § 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition with the department of public service. A copy shall be served on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) the name of the telephone company serving the petitioner's exchange;

b) the name of the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c) the name of each exchange and the principal city in each exchange;

d) the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

e) the name, address and telephone number of each person signing the petition; and

f) a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the department and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

B. Traffic Study

The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition. The commission shall grant an extension of time upon a finding that appropriate CMDS data, or other reliable data, is presently unavailable.

C. Tariff filing.

Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of

Extended Area Service. The commission shall grant an extension of time upon a finding that the company is unable to collect and compute the information required for a tariff filing within the 50 day time limit without undue hardship.

1. The proposed rates shall be based on the company's statewide average embedded book cost to provide or savings due to removal of the service. The cost or savings shall be determined using the ratio of the company's statewide average embedded book cost to current cost applied to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost of providing or the savings from removing Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative cost apportionment is fair and reasonable, based upon facts 1 through 7 and 11 of 4MCAR § 3.0233 (D).

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

D. Stipulation of facts.

Within 60 days of the date of service of the petition, the staff of the department of public service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain information upon which the commission can base a determination of whether the public interest requires installation or removal of the Extended Area Service. The stipulation of facts, no single one of which shall be dispositive, shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will be longer be useful or reusable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

11. The average monthly toll billings per main station over the proposed route.

E. Public meeting.

Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing.

The petition shall be assigned to the office of administrative hearings for contested case hearing if within 10 days after the public meeting:

1. Either company files a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in at least one affected exchange file a notice of objection with the commission or the commission finds that such a number of customers appeared at the public meeting and gave notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the department and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice.

In addition to notice required by statute or the rules of the office of administrative hearings, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the commission or the hearing examiner, and the address of the public utilities commission or office of

administrative hearings.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, the commission will issue a final order within 60 days after receipt of the report of the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public interest.

I. Repetitioning.

The Commission shall not order the removal of Extended Area Service within five years of installation nor shall the commission consider a petition for installation of Extended Area Service sooner than two years after denying a previous petition for installation of Extended Area Service between the same two exchanges.

ORDER

1. The Findings of the Report of the hearing examiner dated April 1, 1980, relating to the proposed rules, are adopted as the Commission's own, except as they are modified by the Commission's Findings as set forth above.
2. The Conclusions of the Report of the hearing examiner dated April 1, 1980, relating to the proposed rule, are adopted as the Commission's own, except as they are modified by the Commission's Conclusions as set forth above.
3. The proposed rule is hereby modified to implement the Commission's Findings and Conclusions, and as modified, the rule is hereby adopted by the Commission.
4. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION

Acting Executive Secretary

SERVICE DATE: AUG 6 1980

(S E A L)

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT Public Utilities Commission

Office Memorandum

TO : Joanne Hinderaker
Attorney General Administrative Rule Division

DATE: August 7, 1980

FROM : Ted Sullivan TES
Commission Support, Public Utilities Commission

PHONE: 296-7105

SUBJECT: Documents pertaining to Inter-exchange access rule: Docket No. A-8117-26

Letter	Description
A.	Findings of Fact, Conclusions, Amended Findings of Fact, and Order Adopting Rule, and Rule in final form. 3 copies.
B.	Rule in final form with appropriate underlining and strike outs which indicate the changes in the final rule from the initial proposed rule. 2 copies.
C.	Rules as proposed for hearing. 2 copies
D.	The Chief Hearing Examiner's first order dated June 16, 1980. 2 copies.
E.	Findings of facts, conclusions, etc. which were a response to the Chief Hearing Examiner's first order. 2 copies.
F.	Chief Hearing Examiner's second order further addressing the findings of fact, etc. as submitted in document "E". The rule has been amended in accordance with the second order and these amendments have been incorporated into the final rule in document "A". 2 copies.
G.	The Report of the Hearing Examiner. 2 copies.
H.	Order for Hearing. 2 copies.
I.	Statement of Need and Reasonableness. 2 copies.
J.	Notice of Hearing as sent to persons listed on Document "K". 2 copies.
K.	Secretary of State list and list of other parties which received document "J" by first class mail. 1 copy.
L.	Affidavit of Mailing signed by Ted Sullivan. 2 copies.

Letter	Description
M.	Secretary of State's Certification of delivery of list to agency. 2 copies.
N.	Affidavit of Acquisition of Secretary of State's list. 2 copies.
O.	Certificate of Commission's Authorizing Resolution. 2 copies.
P.	Notice of Hearing and Proposed Rules as published in the State Register. 2 copies.
Q.	Notice of Public Participation meetings as published in the State Register. 2 copies.
R.	Notice of Intent to Solicit outside opinion.
S.	Certificate of Compliance with Rulemaking Procedures.
T.	Certificate of Commission's adoption of rules resolution

TS:vm

Adopted. HE copy. Used for AG review

Rule In Final Form

30 4 MCAR S 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the ~~Public Service Commission~~ public utilities commission FoFF 2a adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individual's "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the ~~Commission's~~ commission's rulemaking authority found in Minn. Stat. S 237.10 (1978), and the ~~Commission's~~ commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. S 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. S 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local, rural or toll telephone service. Minn. Stat. S 237.16.

31 4 MCAR S 3.0231 Definitions. ~~For purposes of the following rules the additional definitions apply:~~ In addition to the applicable definitions in Minn. Stat. 237.01 and002 and 4MCAR § 3.0172, the following definitions apply to these rules: typo not in "file" copy Amended FoFFP2

A. "Community Calling Plan" means an optional service that allows the origination of toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block. A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the public utilities commission after public meeting. HE FP12 FoFFp.1 FoFFp.2

B. "Commission" means the public utilities commission. FoFFp.2.

~~B.~~ C. "Extended Area Service" means inter-exchange calling for which a message toll charge is not assessed. FoFFp.2.

32 4 MCAR S 3.0232 Community Calling Plans.

A. Petition.

1. Customer's in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange. type not in "file" copy

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) The name of the telephone company that serves the exchanges;

b) the name of the exchange and the principal city in the exchange;

c) the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall be sent;

d) the name, address and telephone number of each person signing the petition; and

e) a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff ~~may~~ shall be reviewed by the commission as a miscellaneous tariff filing. Amended FofF ¶3

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff ~~may~~ shall be reviewed by the commission as a miscellaneous tariff filing. Amended FofF ¶3

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points i.e., the vertical and horizontal coordinates of rate centers and exchanges in each exchange, unless the commission finds in FofFp.2 HE 16.

writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department ~~of public service~~. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers~~;~~. ~~the~~ The commission ~~may~~ shall authorize different rates for ~~each class of customer~~ residential and business customers if the commission finds it just and reasonable based upon the existing rate relationship between the two classes of service.

D. Settlements.

Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. ~~Each revised agreement shall be submitted to the commission for its review and approval.~~ The commission shall review each revised settlement agreement to determine whether the agreement accurately reflects the revenue impact of the Community Calling Plan upon the telephone companies involved and approve those agreements which are just and reasonable. In determining whether an agreement is just and reasonable, the commission shall consider:

1) Duration of qualifying messages;

2) number of qualifying messages;

3) expenses related to processing qualifying messages;

4) length of haul of qualifying messages;

5) revenues generated by qualifying messages.

4 MCAR S 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition with the department of public service. A copy shall be served on the telephone company that serves the exchange and on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) the name of the telephone company serving the petitioner's exchange;

b) the name of the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c) the name of each exchange and the principal city in each exchange;

d) the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

) the name, address and telephone number of each person signing the petition; and

f) a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the department ~~of public service~~ and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

FoF p.2

B. Traffic Study

The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition. The commission shall grant an extension of time upon a finding that appropriate CMDS data, or other reliable data, is presently unavailable.

Amended FoF ¶6

HE 19

FoF p.2

~~B.~~ C. Tariff filing.

Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of Extended Area Service. The commission shall grant an extension of time upon a finding that the company is unable to collect and compute the information required for a tariff filing within the 50 day time limit without undue hardship.

Amended FoF ¶7

1. The proposed rates shall be based on the company's statewide average embedded book cost to provide or savings due to removal of the service. The cost or savings shall be determined using the ratio of the company's statewide average embedded book cost to current cost applied to the current engineering cost of furnishing Extended Area Service over the specific route.

FoF p.3

2. The cost ~~or savings due to installation or removal~~ of providing or the savings from removing Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative cost apportionment is fair and reasonable., based upon facts ; through 7 and 11 of 4MCAR § 3.0233.

Amended FoF ¶8

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3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

D. Stipulation of facts.

Within 60 days of the date of service of the petition, the staff of the department of public service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain

information upon which the commission can base a determination of whether the public ~~convenience~~ interest requires installation or removal of the Extended Area Service. The stipulation of facts, no single one of which shall be dispositive, shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will no longer be useful or reuseable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

11. The average monthly toll billings per main station over the proposed route.

E. Public meeting.

Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing.

The petition shall be assigned to the ~~Minnesota~~ office of hearing examiners for contested case hearing if within 10 days after the public meeting:

1. Either company files ~~with the tariff~~ a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in ~~either exchange~~ at least one affected exchange file a notice of objection with the commission or the commission finds that such a number

of customers appeared at the public meeting and ~~give~~ gave notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the department ~~of public service~~ and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice.

In addition to notice required by statute or the rules of the ~~Office of Hearing Examiner~~ office of hearing examiners, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the ~~public service~~ commission or the hearing examiner, and the address of the public ~~service~~ utilities commission or office of hearing examiners.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, ~~a final order of the commission is due 120 days after the order for hearing is served on the hearing examiner.~~ the commission will issue a final order within 60 days after recept of the report of the hearing examiner.

change per CHE 1st and Amended FofFP

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public ~~convenience~~ interest.

I. Repetitioning.

The Commission shall not order the removal of Extended Area Service within five years of installation nor shall the commission consider a petition for installation of Extended Area Service sooner than two years after denying a previous petition for installation of Extended Area Service between the same two exchanges.

FofF p5

"Adopted" - to be filed with Sec'y State

HG copy – after review, please reattach this to AG copy – "F. of F. Conclusions Rule in Final Form and Order Adopting Rule" 2ND

Rule in Final Form

4MCAR § 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the public utilities commission adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individual's "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the commission's rule-making authority found in Minn. Stat. § 237.10 (1978), and the commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local, rural or toll telephone service. Minn. Stat. § 237.16.

4MCAR § 3.0231 Definitions. In addition to the applicable definitions in Minn. Stat. 237.01 and 02 and 4MCAR § 3.0172, the following definitions apply to these rules:

A. "Community Calling Plan" means an optional service that allows the origination of toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block. A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the public utilities commission after public meeting.

B. "Commission" means the public utilities commission.

C. "Extended Area Service" means inter-exchange calling for which a message toll charge is not assessed.

4MCAR § 3.0232 Community Calling Plans.

A. Petition.

1. Customers in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) The name of the telephone company that serves the exchanges;

b) the name of the exchange and the principal city in the exchange;

c) the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall be sent;

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e) a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff shall be reviewed by the commission as a miscellaneous tariff filing.

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff shall be reviewed by the commission as a miscellaneous tariff filing.

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points i.e., the vertical and horizontal coordinates of rate centers and exchanges in each exchange, unless the commission finds in writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community

of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers. The commission shall authorize different rates for residential and business customers if the commission finds it just and reasonable based upon the existing rate relationship between the two classes of service.

D. Settlements.

Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. The commission shall review each revised settlement agreement to determine whether the agreement accurately reflects the revenue impact of the Community Calling Plan upon the telephone companies involved and approve those agreements which are just and reasonable. In determining whether an agreement is just and reasonable, the commission shall consider:

1) Duration of qualifying messages;

2) number of qualifying messages;

3) expenses related to processing qualifying messages;

4) length of haul of qualifying messages;

5) revenues generated by qualifying messages.

4MCAR § 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition with the department of public service. A copy shall be served on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) the name of the telephone company serving the petitioner's exchange;

b) the name of the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c) the name of each exchange and the principal city in each exchange;

d) the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

e) the name, address and telephone number of each person signing the petition; and

f) a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the department and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

B. Traffic Study

The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition. The commission shall grant an extension of time upon a finding that appropriate CMDS data, or other reliable data, is presently unavailable.

C. Tariff filing.

Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of

Extended Area Service. The commission shall grant an extension of time upon a finding that the company is unable to collect and compute the information required for a tariff filing within the 50 day time limit without undue hardship.

1. The proposed rates shall be based on the company's statewide average embedded book cost to provide or savings due to removal of the service. The cost or savings shall be determined using the ratio of the company's statewide average embedded book cost to current cost applied to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost of providing or the savings from removing Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative cost apportionment is fair and reasonable, based upon facts 1 through 7 and 11 of 4MCAR § 3.0233 (D).

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

D. Stipulation of facts.

Within 60 days of the date of service of the petition, the staff of the department of public service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain information upon which the commission can base a determination of whether the public interest requires installation or removal of the Extended Area Service. The stipulation of facts, no single one of which shall be dispositive, shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will be longer be useful or reusable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

11. The average monthly toll billings per main station over the proposed route.

E. Public meeting.

Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing.

The petition shall be assigned to the office of administrative hearings for contested case hearing if within 10 days after the public meeting:

1. Either company files a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in at least one affected exchange file a notice of objection with the commission or the commission finds that such a number of customers appeared at the public meeting and gave notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the department and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice.

In addition to notice required by statute or the rules of the office of administrative hearings, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the commission or the hearing examiner, and the address of the public utilities commission or office of

administrative hearings.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, the commission will issue a final order within 60 days after receipt of the report of the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public interest.

I. Repetitioning.

The Commission shall not order the removal of Extended Area Service within five years of installation nor shall the commission consider a petition for installation of Extended Area Service sooner than two years after denying a previous petition for installation of Extended Area Service between the same two exchanges.

ORDER

1. The Findings of the Report of the hearing examiner dated April 1, 1980, relating to the proposed rules, are adopted as the Commission's own, except as they are modified by the Commission's Findings as set forth above.
2. The Conclusions of the Report of the hearing examiner dated April 1, 1980, relating to the proposed rule, are adopted as the Commission's own, except as they are modified by the Commission's Conclusions as set forth above.
3. The proposed rule is hereby modified to implement the Commission's Findings and Conclusions, and as modified, the rule is hereby adopted by the Commission.
4. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION

Acting Executive Secretary

SERVICE DATE: AUG 6 1980

(S E A L)

PSC-80-081-LN
A-8117-26/PSC

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINER

IN THE MATTER OF THE PROPOSED)
TELEPHONE RULES GOVERNING)
INTEREXCHANGE ACCESS (ALTERNA-)
TIVES TO PRESENT LONG-DISTANCE)
CALLING).)

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, on July 15, 1980, the Public Utilities Commission filed amended Findings of Fact, Conclusions and Order Adopting Rules in the above-referenced matter with the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and Rule 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the changes made in the rules since the Chief Hearing Examiner's previous Order dated June 16, 1980, are not substantial changes utilizing the criteria found in Rule 9 MCAR § 2.111; and

WHEREAS, the Chief Hearing Examiner finds that in certain of the rules as will be hereinafter more specifically detailed, the Public Utilities Commission has failed to meet the requirement of Minn. Stat. § 15.0412, subd. 4, which requires the agency to fulfill any relevant substantive requirement imposed on the agency by law. In Rules 4 MCAR §§ 3.0232C.4., 3.0233B., and 3.0233C. the use of the term "may" grants to the Public Utilities Commission unbridled discretion in decision-making. These attempts to provide the Public Utilities Commission with discretion or flexibility in its decision-making violate the substantive requirement of Minn. Stat. § 15.0412, subd. 3, which requires an agency to establish by rule "every agency statement of general applicability and future effect...made to implement or make specific the law enforced or administered by [the agency]." Thus, agency flexibility and discretion must be achieved by careful, complete selection of criteria that are not impermissibly vague but are sufficiently broad to provide agency flexibility. Predictability and non-discriminatory application of the rules must be achieved and made available to all applicants who meet the stated criteria. In the instances enumerated above, the word "may" would permit the Public Utilities Commission

not to exercise its discretion even though the list of conditions were met. In Rule 4 MCAR § 3.0233H.2., the rule contains a misstatement of law by indicating that the Commission will issue a final order within 120 days after receipt of the "order" of the "Chief" Hearing Examiner. Hearing Examiners issue "reports" which include recommendations. This recommendation could be in the form of a "recommended order" but, pursuant to law, only in cases conducted for the Minnesota Department of Human Rights do the hearing examiners issue "orders". The rule would further imply that all such contested cases under this rule would be conducted by the Chief Hearing examiner as opposed to hearing examiners assigned to the case by the Chief Hearing Examiner.

NOW, THEREFORE, pursuant to the provisions of Rule 9 MCAR § 2.111, the Public Utilities Commission shall either withdraw the proposed final rules as detailed above or reconvene the rule hearing.

Dated this 18th day
of July, 1980.

DUANE R. HARVES
Chief Hearing Examiner

in the various copies of rules as proposed and rules in final form I can find no instance of wording such as "receipt of the order of CHE"; perhaps this comment was directed towards a draft not submitted to this office

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OFFICE OF HEARING EXAMINERS

Office Memorandum

TO : RANDY YOUNG
Staff Director
Public Utilities Commission

DATE: July 18, 1980

FROM : DUANE R. HARVES
Chief Hearing Examiner

PHONE: 6-8100

SUBJECT: PSC-80-081-LN - RULES RELATING TO EAS

Enclosed please find the Order of the Chief Hearing Examiner in the above-referenced matter together with your file which is being returned.

In the cases where the word "may" is used, in the event the word is changed to "shall", I would be of the opinion that the change would not represent a substantial change. Further, the changes in Rule 4 MCAR § 3.0233H.2. to accurately reflect the law would not be substantial changes.

Lastly, you might want to very carefully review the numbering system used in the amended Findings of Fact. You will note that the numbering system does not reflect the actual numbering system used in the rules. As an example, on page six of the Findings of Fact (which is the first page of the amended and additional Findings of Fact), in the last paragraph, the rule numbering system is 4 MCAR § 3.032(c)(4) when in actuality the rule is 4 MCAR § 3.0232C.4. You will note that the amended findings use parentheses and small case lettering where there should be no parentheses and capital letters. These items are of no legal consequence but should be looked at for purposes of having a correct numbering system which is uniform between the findings and the rules themselves.

DRH:sh
Encs.
✓cc: Jerry Anderson
Special Assistant Attorney General

RECEIVED
JUL 21 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

HE report

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

RECEIVED
Dept. of Public Service
APR 1 1980
Commission Support

AFFIDAVIT OF SERVICE

Eileen A. Gaiovnik, being first duly sworn, deposes and says that on the 31st day of March, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of the Hearing Examiner, PSC-80-081-LN, A-8117-26/PSC

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on the individual named below.

Eileen A. Gaiovnik

Subscribed and sworn to before me this 31st day of March, 1980.

Susan C. Wojcik

SUSAN C. WOJCIK
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1986

Ms. Mary L. Harty
Executive Secretary
Public Service Commission
7th Floor, American Center Bldg.
160 E. Kellogg Boulevard
St. Paul, Minnesota - 55101

A-8117-26/PSC
PSC-80-081-LN

RECEIVED
Public Service
APR 1 1980
Commission Support

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE PUBLIC SERVICE COMMISSION

In the Matter of the Proposed Telephone Rules Governing Interexchange Access (alternatives to present long-distance calling).

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Leonard A. Nelson, Hearing Examiner duly assigned by the Chief Hearing Examiner, on the following dates and the following places: February 12, 1980, Winona State College, Winona, Minnesota; February 13, 1980, YMCA Building, Austin, Minnesota; February 14, 1980, Chippewa County Courthouse, Montevideo, Minnesota; February 15, 1980, City Hall, Annandale, Minnesota; February 20, 1980, Pine City Courthouse, Pine City, Minnesota; February 22, 1980; City Hall, Virginia, Minnesota; and February 22, 1980, County Service Building, Brainerd, Minnesota.

This is a rules hearing pursuant to Minn. Stat. Chapter 15 to determine whether proposed rules governing interexchange access as alternatives to present long-distance calling should be adopted.

The following persons appeared for the Public Service Commission (PSC): Craig R. Anderson, Special Assistant Attorney General; Richard McMillen, Ted Sullivan, Mary Harty, Commission Support Staff, and Commissioners Roger Hanson, Richard Parish, Juanita Satterlee, and Katherine Sasseville. Kris Sanda, Director, Cecil Callihan, Curt Nelson, Marilyn Kruger, Richard Auld, and Diane Hunt represented the Minnesota Office of Consumer Services. Mary Ann Ferguson, Attorney at Law, Thomas Londgren, Phillip Ringgenberg, and Gilroy Arvig appeared on behalf of a consortium of the telephone industry, including the Minnesota Telephone Association and Northwestern Bell Telephone Company.

One hundred and ninety persons signed the hearing register, although a much greater number attended the hearings. Each hearing continued until all interested persons had an opportunity to be heard.

Pursuant to Minn. Stat. § 15.0412 subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Public Service Commission shall, if it proposes to adopt the rules originally proposed, submit a copy of the Order Adopting Rules, a copy of any additional Commission findings, a copy of the Rules as originally proposed, and a copy of the Rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052 subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the agency on the issues of substantial changes in the rule in compliance with Minn. Stat. § 15.0412 within 10 calendar days. The Public Service Commission will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On December 21, 1979, PSC filed the following documents with the Hearing Examiner:

(a) A copy of the proposed rules

(b) Proposed Notice and Order for Hearing to be issued.

2. On January 3, 1980, the agency filed with the Examiner a statement advising what personnel would represent the PSC at the hearings, the number of people expected to attend the hearings and the estimated time it would take for the agency's presentation.

3. On January 7, 1980, a Notice of Hearing and a copy of the Proposed Rules were published at 4 State Register, 1091.

4. On January 7, 1980, the PSC mailed the Notice of Hearing and Proposed Rules to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice, and to all state agencies, political subdivisions, and other interested entities.

5. On January 8, 1980, the PSC filed the Notice of Hearing as mailed.

6. On January 18, 1980, the PSC filed the following documents:

(a) The Statement of Need and Reasonableness.

(b) The Affidavit of Receipt of the Secretary of State's List.

(c) The Affidavit of Mailing of the Notice to all persons on the Secretary of State's List.

(d) The Secretary of State's Certificate and List.

The documents were available for inspection at the Office of Hearing Examiners and the Public Service Commission from the date of filing to the date of the hearing.

7. The record remained open through March 13, 1980, for the receipt of written documents and statements. The PSC filed seven exhibits at the hearing; two exhibits were introduced by Northwestern Bell; 50 subscriber public comments were received following the hearing; and 14 written statements and comments were received from 14 separate phone companies in the state.

Some of the language used in this Report is taken directly from the materials above, without additional citation.

8. The Public Service Commission's authority to promulgate the proposed rules is contained in Minn. Stat. § 237.10 (1978), and the Commission's authority to require phone companies to charge just and reasonable rates and to furnish reasonable, adequate service and facilities in Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company into lines of another telephone company, Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local, rural or toll telephone service. Minn. Stat. § 237.16 (1978).

9. GENERAL COMMENTS

In adopting a rule, the proposing agency must comply with the requirements of Minn. Stat. § 15.0412, subd. 4 (1978), which provides, in part, ". . .the agency shall make an affirmative presentation of facts establishing a need for and reasonableness of the rule(s) proposed for adoption and fulfilling any relevant, substantive or procedural requirements imposed on the agency by law or rule".

10. STATED PURPOSE FOR THE RULES

There are more than 100 telephone companies within the state. The boundaries of each telephone company and its exchanges were based upon past historical facts and not reflective of the present needs. The existing methods by which interexchange calling is accomplished within the state does not reflect the flexibility to meet the needs of today's customers residing within the various telephone company exchanges. The present subscribers may have a community of interest far different than what the present telephone boundaries offer.

The purpose of the proposed rules was to establish procedures, which will, throughout the state, and in the future, provide a uniform basis for the establishment or removal of two alternatives to the present long-distance calling. In past years, the extended area service (EAS) has been approved by the Public Service Commission on a case-by-case basis. The alternative community calling plans have been used in seven exchanges on an experimental basis around the state. The procedures for providing the existing alternatives have varied from one case to the next and in many instances are the subject of much controversy within an exchange. The Commission proposes the rule to provide clear guidelines that would benefit both the telephone industry and the subscribers so that the method by which the alternative access plans could be put in or taken out would employ the same applicable procedures in each case.

The Commission admittedly advises that there are advantages as well as disadvantages of the proposed to present long-distance calling. A Community Calling Plan is optional to each customer in an exchange, and generally makes use of facilities which are currently in existence. A disadvantage is that the offering of such a plan may result in a loss of revenues to the telephone company. The extended area service alternative charges every customer a fixed monthly fee for calling access to a desired exchange. The customer may make or receive an unlimited number of calls for the same amount and the charge is the same regardless of individual customer usage. The disadvantage, however, requires that the telephone company make an investment in telephone plant which may or may not be usable should the service be terminated. The Commission is fully cognizant of the advantages and disadvantages of both interexchange calling plans, but it believes that there are circumstances that dictate when these remedies are in the best public interest. Each request from an exchange for an alternative to present long-distance calling must be evaluated individually to enable the Commission to make the determination as to whether it is in the public interest. The proposed rules provide a mechanism by which the public may obtain one or both of the alternatives to present long-distance calling.

DISCUSSION OF PROPOSED RULES

4 MCAR § 3.0230

10. This rule is entitled "Purpose and Authority" and fairly and accurately describes the purpose of the proposed rules and the statutory authority for promulgating the rules. The Examiner notes that the content of the rules are within the discussion on the two subjects of purpose and authority above. The Examiner finds that this rule is necessary and reasonable.

4 MCAR § 3.0231 A.

12. This rule is entitled "Definitions" and consists of a section defining "community calling plan" and a section defining "extended area service".

The definition of "community calling plan" does not, in the body of the rule, advise the reader that it is an optional plan but the discussion on the record and the Commission's Statement of Need and Reasonableness states that it is optional. Several members of the industry collectively suggest that the rule, itself, should state that it is an optional plan. In addition, public written comment was received offering a revision to ensure the needed flexibility which would enable a telephone company, and/or the Commission, to develop a satisfactory alternative to extended area service and long-distance calling. That comment suggests the deletion of the section of the rule defining "community calling plan" and replacing it with the following:

changed to similar wording p.1

> "Community calling plan means an optional toll calling plan at rates discounted from the regular toll schedules for originating calls. A community calling plan may be proposed by a telephone company on its own initiative or after a petition by customers or upon an order from the Public Service Commission after public hearing."

The public comment stated that the purpose for the offered revision was to incorporate flexibility into the rules governing community calling plans because a satisfactory plan has not yet been achieved. The Minnesota Telephone Association joined in with this comment as to inserting the word "originating", so as to more fully define the calling that will be allowed within the plan and limiting the subject total calls dialed from the subscribers own telephone set.

The Examiner recommends that the language of the definition should be clarified as to the origination point and the fact that it is optional with the subscriber. However, clarification should be handled in such a manner as to avoid substantial change. The Examiner finds that this section of the rule is necessary and reasonable.

complied p.1 F 9 F 2

4 MCAR § 3.0231 B.

13. The next subsection of 3.0231 deals in the definition of extended area service. Public comment was received to the effect that the definition should contain wording indicating that the service was inclusive of both optional and nonoptional interexchange calling. The addition was suggested to emphasize that nonoptional EAS means that EAS rates are applicable to all customers within an exchange whether they use the service or not, and that an optional plan would afford the telephone user more choices and help telephone customers control their telephone service costs. The company offering the comment noted that the technology was not available to include operational optional as well as nonoptional EAS but that the revision would provide another viable forward-looking alternative to telephone customers in the future, and would make the rules more flexible.

The Examiner finds this section of the rule to be necessary and reasonable.

4 MCAR § 3.0232

14. This rule deals with community calling plans. The telephone industry is somewhat divided as to their reception of the rules pertaining to community calling plans. There are generally two points of view and we shall discuss each in turn.

The opposition to community calling plans, it is asserted, stems from the position that the rule as proposed is too restrictive and sets forth material that is more properly contained in a tariff rather than a rule. It is asserted that the rule is inappropriate as the community calling plan concept is still evolving and a satisfactory plan, as yet, has not been found. Therefore, the rule as proposed may contain certain provisions which ultimately will not be a workable alternative to long-distance toll calling. It suggested instead of the proposed rule that an alternative and more generalized rule be adopted providing that each telephone company must file tariffs providing an optional toll calling plan. The opposition is tri-pronged to the proposed rule by Northwestern Bell. They will be discussed in this order, first the history of optional toll plans in the state; second, a proposed alternative rule; and thirdly, proposed changes in the rule as proposed by the Commission.

Historically there are three optional calling plans being used in the state on a trial basis; these plans are the circle calling rate break, community calling service and interim metro calling. Pursuant to joint effort of the Telephone Association and the Commission, the circle calling rate break plan became effective June 4, 1977. This plan provided a percentage reduction on each direct dialed phone call within a radius of 30 miles any time during 8:00 a.m. to 12:00 noon weekdays and all day on designated holidays. Two years later an independent research firm performed a survey. The survey revealed that there was low customer enrollment, a relatively small change in message volume, and many subscribers chose not to benefit from the plan or perceived the plan to have an advantage over the existing service.

Community calling service was developed by Northwestern Bell effective April 14, 1978 and offered to residential customers in northern Minnesota. For a monthly rate, subscribers receive 30 minutes of direct dial long-distance time within a distance option of 1 to 15 miles or 1 to 30 miles, in addition to an option of either full-time during the day or during off-peak periods. A survey resulted in subscribers generally being satisfied and useable as a viable alternative to extended area service. It was emphasized, however, that this service would have to be offered to both business and residential customers. Bell Telephone asserts that if community calling service is expanded to include business customers and to include all of its Minnesota exchanges, except the Twin Cities, it's annual revenue loss would be approximately $2,250,000, therefore, some modification of this plan would be necessary before it could be offered statewide.

The third plan, interim metro calling, provides service from free exchanges requesting free calling to the Twin Cities metropolitan calling area. This plan became effective November 1, 1979. This plan was initiated too recent to be conclusive, but Bell stated that it appeared that the plan offering a discounted block of time calling to a specific point has good customer acceptance.

The second prong is to delete the Commission proposed rule in its entirety and insert in lieu thereof, the following:

> 4 MCAR § 3.0232, community calling plans. Upon petition by customers, a telephone company may be ordered by the Public Service Commission to file a tariff providing an optional calling plan at rates lower than the existing long-distance tariff rates. The loss of long-distance revenues resulting from the implementation of optional calling plans shall be recovered simultaneously through the increases of rates for other services.

It is urged that the alternative to the proposed rule provides the vital flexibility absent in the Commission's proposal. This revision must be read in conjunction with the suggested alternative to 3.0231 Sec. (a), as discussed above.

As noted above, there was a division in the telephone industry as to reception of the proposed definition of community calling plans. We have discussed one division above; the other was restrictive to grammatical clarifications to make the proposed rule more readable.

The Minnesota Telephone Association studied the results of circle calling rate break plan and community calling plan as it affected the independent segment of the telephone industry. More than half of approximately 100 telephone companies have tariffs on file providing one or the other of the two plans. A committee of the Association was concerned that a set of rules governing optional toll calling plans be considered by the Commission when so few of the telephone customers are interested in a discounted toll plan. The Association reports that most of the information it obtained lead it to the conclusion that although the number of subscribers to one or the other of the plans is few, they are benefiting and would be dissatisfied if the service were discontinued. The Association's written comments included survey results and further comments from 13 independent telephone companies. A review thereof, indicated that most of the companies could not determine whether or not there was any toll stimulation because of the discounted toll plan they were offering. Therefore, most of the information shows the amount of loss revenue because the study was based on whether their customers were using normal toll charges as opposed to discounted toll charges without the information of toll stimulation. Two of the companies were able to provide information covering their customers toll usage prior to subscribing to an alternative to toll plan; after subscribing to the plan, these studies indicated toll stimulation more than covered the discount the company was giving the customer.

The rule as proposed by the Commission describes the petition's required contents and the procedures to employ. No additional comments were offered as to this section of the rule. The Examiner recommends that the Commission take note of the suggestions offered by the industry. The Examiner finds that this section of the rule is necessary and reasonable.

no change

This appears to relate to ".0232 B" (p. 2)

4 MCAR § 3.023A, Community Calling Plan, subd. B.

15. This subdivision requires a telephone company to file a tariff that contains a community calling plan suitable to meet the needs of the petitioning exchange. Industry and public comment has been offered suggesting that the 30-day requirement for the company to file a tariff with the Commission is inadequate because a cost study would be required and 30 days would not be enough time to complete the study. Their comments suggest that the telephone companies be given 120 days to file the tariffs.

Comment was also received proposing a modification to the rule which would allow a telephone company to object to the implementation of a community calling plan. If the telephone company's objection resulted in an impass, a hearing would be required wherein the telephone company which feels it cannot provide a community calling plan and the subscribers who feel they have to have a community calling plan each would have an opportunity to resolve their differences.

The Commission proposed rule requires a telephone company to file a tariff, true, but inasmuch as it is the company that is making up and filing the tariff it's fair to assume that the company would provide a tariff that is fair and reasonable for its own purposes rather than create a tariff unfair to itself. The Examiner finds the rule is necessary and reasonable.

4MCAR 3.0232 Community Calling Plan, subd. C.

16. This subdivision provides the contents of a Community Calling Plan. Comment was received suggesting an addition to the end of the first paragraph, words to the effect that the customers subscribing to the plan would bear the entrance costs that would be necessary to implement the plan. Additional comment was received that the rule is only an example of what a Community Calling Plan might be. They suggest that the rules be clarified to provide for the possibility for deviation from the Community Calling Plan that is presently on trial within the state.

Subdivision C describes the standards to be used by the telephone companies in fashioning a Community Calling Plan and described the features which distinguish a Community Calling Plan from regular toll calling or extended area service. A 40 mile radius that is proposed would contain most communities of interest within such a distance, including government, medical and emergency services. There may be circumstances where a radius of more than 40 miles is needed, therefore, the rule provides that the Commission may extend the radius where they find that the public needs or that the community interest exists in an area of a larger radius.

Industry comment uniformly urged that the radius be cut back to 30 miles as being more likely to contain the community interest of the subscribers within an exchange.

Comment was also received that the proposed rule is confusing in determining the 40 mile radius as it states that it is measured between central basing points, but does not define "basing points". They suggest that the distance description be deleted and in its stead insert "between the vertical and horizontal coordinates of rate centers and exchanges." Paragraph three of this subdivision assumes that a community of interest is most likely to be found within a 360 degree arc of the central basing point of an exchange.However, there may be circumstances, as in the case of large metropolitan areas, where the community of interest for communities are in one direction in which customers may desire to call in just one area, and in order to prevent an unnecessary expense of providing a community calling plan with a 360 degree arc, the rule allows a telephone company to offer those exchanges located within 40 miles of the metropolitan district's central basing points a community calling plan with point-to-point service. Public comment was received stating that a circular community calling plan, as suggested in the rule, is not necessary or advisable, but that each telephone company should be able to provide a plan which adequately serves its customers while limiting the telephone companies' revenue losses. It was suggested that a satisfactory community calling plan has not yet been developed, and that in order to permit continued experimentation to develop a viable optional calling plan, the best way to meet this need would be to not approve a rule explicitly setting forth contents of a community calling plan.

Inserted p.2.

The Examiner finds this subdivision to be necessary and reasonable.

4 MCAR 3.0232, Community Calling Plan, subd. D.

17. This subdivsion deals with settlement agreements between Northwestern Bell Telephone Company and all the operating telephone companies on a cost basis. This subdivision of the rule deals with sharing of the losses of revenue under the plan by all the parties that settle on a cost basis. Public comment raised the question concerning the telephone companies that do not settle on a cost basis but settle on an average schedule basis. It was pointed out that companies presently settling with Bell on toll revenues, using the average settlement method, are automatically including any discounts in the settlement as they are based on average revenues per message. And the cost companies also are covered because their rate of return is based on Bell's rate of return. Therefore, they urge that this subsection of the proposed rule be deleted.

This provision leaves the actual bargaining process still up to the utilities but to avoid settlements which may upset or adversely affect local service it is reasonable to require that each revised agreement be submitted to the Commission for its review and approval. The Examiner finds this subdivision to be necessary and reasonable.

Northwestern Bell proposed new procedural language in lieu of the proposed 4 MCAR 3.0232 C. They suggest that their proposal would eliminate the inflexible language contained in the existing proposed subsection C and would provide both the telephone companies and their subscribers the hearing process as a means to achieve an adequate solution. Their proposal is contained in pages 26 through 30 of Brainerd Bell Exhibit 2.

4 MCAR § 3.0233, Extended Area Service.

18. Subdivision A of this rule and its seven paragraphs deal with the contents of the petition. This subdivision received little comment from the public except for minor grammatical and clarification suggestions. The Examiner finds subdivision A of the rule to be necessary and reasonable.

4 MCAR § 3.0233 Extended Area Service - subd. B and C.

19. These subdivisions provide basic procedural steps pursuant to the implementation or removal of EAS. It provides that after the filing of the petition, within 50 days the telephone company must file a tariff with the Commission for the service, or if the company objects, a statement so stating should accompany that tariff. The telephone company then would conduct a traffic study which would indicate the number of customers that are making toll calls presently, between the exchanges, and would file those results with the Department within 45 days after service of the original petition.

Written comment from the industry, generally concurred in by the Minnesota Telephone Association, suggests the following paragraphs be inserted in lieu of the proposed rule:

> "B. Traffic study. A traffic study of the petitioning exchange shall be provided by the telephone company serving the exchange indicating the traffic to the exchange(s) for which the installation or removal of extended area service is proposed. Centralized message data system (CMDS) data may be considered acceptable traffic study data unless other equally reliable traffic data is available. The telephone company serving the exchange to which the installation or removal of extended area service is desired may also supply traffic data. All data shall be submitted within 60 days of the date of the service of the petition. The Commission shall decide whether it is in the public interest to continue to consider extended area service.

Paragraph C, tariff filing. Within 120 days within the date of the decision by the Commission pursuant to 4 MCAR § 3.0233 B., the telephone company(ies) shall file with the Department tariffs that contain the proposed rate for the exchanges if extended area service is installed or removed, and either a statement or intention to install or remove the extended area service if the Commission should order them to do so or a notice of objection to the installation or removal of extended area service.

Subparagraph 1. The proposed rate shall be based on the cost of providing extended area service. The cost shall be determined using the current costs over the specific route or a current cost model acceptable to the Commission where available.

Subparagraph 2. The cost of providing extended area service over the petitioned route shall be divided equally between the exchanges involved, unless the Commission determines that an alternative cost apportionment is fair and reasonable.

Subparagraph 3. The costs shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same."

see Amended F of F ¶ 6 and p. 5

It is suggested by public comment that requiring a traffic study first permits the Commission and telephone companies to quickly determine the level of interest in having extended area service. If the traffic is such that it would not be in the public interest to provide the service, the process could cease, and conversely, if the traffic volumes between the exchanges were high, EAS could be advanced. In addition the comment suggests that the exchange to which the installation or removal of EAS is desired be permitted to submit traffic data. The 50-day requirement for filing tariffs is generally questioned as it applies to companies that must manually compute cost data. In addition discussion was offered that proper costs for pricing existing EAS routes would be the avoidable costs defined as those costs which could be avoided by discontinuing or not supplying additional units of service since most existing EAS routes run parallel to existing toll routes, the salvage value of the EAS facilities would approximate the costs of construction of new toll facilities at current costs. Therefore, they reason, the pricing of existing EAS service should also address the proper costs for pricing avoidable costs.

Obviously, one of the most important factors to be considered when dealing with EAS is the cost of providing the service. In addition, the Examiner points out that the order proposed by the public that a traffic study be performed first is meritorious. However, the proposed rule and its timetable, by necessity, give more time to the traffic study to be filed prior to the tariff because of the maximum periods allowed for the filings. The timetable procedure should be clarified; however, this clarification can be handled in such a manner as to avoid a substantial change in the rule. This recommendation applies equally to the costing paragraphs which public comment urges be clarified or deleted. The Examiner recommends that the comments offered by the industry be utilized for the suggested clarification. The Examiner finds that 4 MCAR § 3.023 subds. A, B and C are necessary and reasonable.

p. 5

20. Subdivision D. provides that within 60 days, the telephone company and the Department Staff may enter into a stipulation of facts. The Commission will use these facts in determining the public convenience as to whether or not the extended area service route should be established.

Written comment from the industry objects to the use of embedded book cost as the basis for the study and urges the deletion of subparagraph 2 of subdivision D and inserting in its stead, "a cost study". The Telephone Association urges that the time frame to be changed to 120 days which would be a more reasonable time period in order to have enough information available in order to enter into a stipulation. Due to the uniformity of the public comment from the industry requesting that the time period within which to enter into a stipulation be extended to the 120 days, the Examiner recommends that the Commission review this timeframe. The Examiner finds the proposed rule necessary and reasonable.

No change in time frame P. 5. and comment; No FoF

4 MCAR § 3.0233 subd. E.

21. This subdivision deals with public meetings. Industry written comments suggest eliminating this subdivision and provide for balloting of subscribers instead. The industry comments suggest that attendance at public meetings concerning telephone matters in the past have been sporadic, and those who do attend are not sure of the purpose of the meeting, do not understand their rights and, as a result, the public meetings are not a useful tool to obtain an actual reflection of subscriber opinion on an issue. The Examiner notes that most of the relevant subscriber comment obtained at public hearings on the instant rules was in favor of balloting subscribers. (See transcript Winona and Austin, February 12 and 13). Reviewing these transcripts to include the nonrelevant subscriber testimony would also reveal that EAS public meetings can be an opportunity to gauge public emotion as well as sentiment concerning EAS. The Examiner finds this subdivision to be necessary and reasonable.

4 MCAR § 3.0233 subd. F.

22. Northwestern Bell proposed that this subdivision be restructured as follows:

> "Subdivision F. Hearing. (1) the petition shall be assigned to the Minnesota Office of Hearing Examiners for contested case hearing if either company files with the tariff a Notice of Objection to the installation or removal of extended area service is requested by the petition.
>
> (2) The petition may be assigned by the Commission to the Minnesota Office of Hearing Examiners for a contested case hearing if the customer vote fails to satisfy the criteria in E above.
>
> The staff of the Department of Public Service, the telephone companies, and the petitioner shall be parties to the contested cases and shall establish a record before the Hearing Examiner which included the information required of the stipulation of facts and any other admissible evidence. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. In these hearings, held pursuant to subd. 1 of the rule, the burden of proof shall be on the objecting telephone company. In those hearings, convened pursuant to subd. 2, the burden of proof shall be on the petitioners and/or the Department of Public Service staff."

The salient points of this restructing would require that the petition must be referred to the Office of Hearing Examiners if the telephone company files a Notice of Objection. However, a Hearing Examiner is not required if the Commission determines, after reviewing the facts including the subscriber vote, that it would be in the public interest to continue the request. The industry comment opposes subscriber post-hearing written comments being made a part of the record.

4 MCAR § 3.0233, subd. G.

23. The industry comments with reference to the notice subdivision of the rule deletes references to public meetings in conformity with their previous suggestion to delete public meetings in subdivision F above. In addition, they suggest deletion of post-hearing written subscriber comments mailed to the Public Service Commission and Hearing Examiner being applicable to the outcome of the proceedings.

4 MCAR § 3.0233, subd. H.

The industry comments as to the changes in the final order of the Commission subdivision of the rule is also in conformity to substitute a subscriber vote for a public meeting.

4 MCAR § 3.0233, subd. I.

The industry comments as to the subdivision pertaining to repetitioning for EAS concisely rules out the possibility of any repetitioning within five years and not be limited to the proposal that only the removal of extended area service within five years be prohibited.

The Examiner finds subdivisions F, G, H and I of the proposed rule to be necessary and reasonable.

CONCLUSION

1. The Minnesota Public Service Commission gave proper notice of their promulgation of the proposed rules.

2. The Minnesota Public Service Commission has statutory authority to take the proposed action, to wit, the promulgation of the proposed rules.

3. The Minnesota Public Service Commission has fulfilled all relevant, substantive and procedural requirements of law or rule.

4. The Minnesota Public Service Commission has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of the facts in the record.

Based upon the foregoing conclusion, the Hearing Examiner makes the following recommendation.

RECOMMENDATION

It is the recommendation of the Hearing Examiner that the proposed rules be adopted by the Minesota Public Service Commission with consideration given to the Findings of Fact herein.

Dated:

LEONARD A. NELSON
Hearing Examiner.

MEMORANDUM

Much of the public comment offered at the hearings and in post-hearing comments were suggested changes to the proposed rules, which in the opinion of the Hearing Examiner would make the rule more reasonable, however. The Hearing Examiner's role in rulemaking is not to be determinative of the most reasonable rule but ratner whether the rule being proposed is reasonable. Many of the suggested changes would render our rules clearer and the Examiner urges the Commission that many suggestions can be adopted without resulting in substantial changes.

In the area of public meetings regarding interexchange access alternatives to long distance calling, the Examiner suggests that because of the large number (over 100) of telephone companies within the state, and the different needs of the Subscribers from among the exchanges, public meetings and attendance by staff personnel is inherent to be determinative of a community of interest. In some exchanges, on the other hand, public meetings would reveal nothing to staff members as to the community of interest. Because of the necessity to have a rule uniformly applicable throughout the state, it is the opinion of the Examiner that public meetings as well as balloting could be offered without involving a substantive change in the proposed rule.

A review of the Community Calling Plan portion of the proposed rules does lead the Examiner to believe that only one plan is offered throughout the state. However, when reading the Statement of Need and Reasonableness, it become, clearer by inference that there are many possiblities (plans) within the concept of Community Calling Plan. That rule could be clarified most easily without resulting in substantive change by replacing the article "The" with "a" when addressing the rule on Community Calling Plan.

L.A.N.

PSC-80-081-LN
A-8117-26/PSC

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PROPOSED)
TELEPHONE RULES GOVERNING)
INTEREXCHANGE ACCESS (ALTERNA-)
TIVES TO PRESENT LONG-DISTANCE)
CALLING).)

ORDER OF THE
CHIEF HEARING EXAMINER

1ST

WHEREAS, hearings were held on February 12, 13, 14, 15, 20 and 22, 1980, before Leonard A. Nelson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Public Service Commission (hereinafter "PSC") on March 31, 1980; and

WHEREAS, the PSC has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the PSC has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the PSC has complied with the procedural requirements of Minn. Stat. § 15.0412, subd. 4, but has failed to establish that it possesses statutory authority to bind the Office of Hearing Examiners to a hearing schedule which is implied by Rule 4 MCAR § 3.0230 H.2. The rules of the Office of Hearing Examiners supersede all other agency rules with which they may conflict, including notice, and include provisions leaving the scheduling of contested case proceedings in the Hearing Examiner's hands. Only statutory requirements may supersede that authority. Failure to establish its statutory authority to adopt a rule is a failure to comply with a substantive requirement of law, as required by Minn. Stat. § 15.0412, subd. 4.

wording changed p. 7

NOW, THEREFORE, pursuant to the provisions of Minn. Stat. § 15.052, subd. 3, and Rule 9 MCAR § 2.111, the PSC shall either withdraw section H.2. of its rule or reconvene the rule hearing. In the event section H.2. is withdrawn, the PSC may proceed to adopt the remainder of the rules by filing the complete hearing record and those rules as adopted with the Attorney General, notifying all persons who requested to be informed that the record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 16th day
of June, 1980.

DUANE R. HARVES
Chief Hearing Examiner

Department of Public Service
Public Service Commission

Proposed Telephone Rules Governing
Inter-Exchange Access (Alternatives to
Present Long Distance Calling)

Rules as Proposed.

4 MCAR § 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the Public Service Commission adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individual's "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the Commission's rulemaking authority found in Minn. Stat. § 237.10 (1978), and the Commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local rural or toll telephone service. Minn. Stat. § 237.16 (1978).

4 MCAR § 3.0231 Definitions. For purposes of the following rules the additional definitions apply:

A. "Community Calling Plan" means a service that allows toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block.

B. "Extended Area Service" means inter-exchange calling for which a toll charge is not assessed.

4 MCAR § 3.0232 Community Calling Plans.

A. Petition.

1. Customers in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) The telephone company that serves the exchanges;

b) the name of the exchange and the principal city in the exchange;

c) the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall

be sent;

d) the name, address and telephone number of each person signing the petition; and

e) a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff may be reviewed by the commission as a miscellaneous tariff filing.

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff may be reviewed by the commission as a miscellaneous tariff filing.

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points in each exchange, unless the commission finds, in writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department of public service. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers; but the commission may authorize different rates for each class of customer.

D. Settlements.

Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. Each revised agreement shall be submitted to the commission for its review and approval.

4 MCAR § 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition with the department of public service. A copy shall be served on the telephone company that serves the exchange and on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a) the telephone company serving the petitioner's exchange;

b) the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c) name of each exchange and the principal city in each exchange;

d) the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

e) name, address and telephone number of each person signing the petition; and

f) a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the department of public service and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

B. Tariff filing. Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of Extended Area Service.

1. The proposed rates shall be based on the cost to provide or savings due to removal of the service. The cost or savings shall be determined using the embedded book cost to current cost ratio to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost or savings due to installation or removal of Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative apportionment is fair and reasonable.

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

C. Traffic study.

The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition.

D. Stipulation of facts.

Within 60 days of the date of service of the petition, the staff of the department of public service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain information upon which the commission can base a determination of whether the public convenience requires installation or removal of the Extended Area Service. The stipulation of facts shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will no longer be useful or reuseable for other services.

10. When ordered by the Commission, the results of any informational polling of the subscribers in one or both exchanges.

E. Public meeting.

Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing.

The petition shall be assigned to the Minnesota office of hearing examiners for contested case hearing if:

1. Either company files with the tariff a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in either exchange file a notice of objection with the commission or appear at the public meeting and give notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the department of public service and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice.

In addition to notice required by statute or the rules of the Office of Hearing Examiner, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan,

the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the public service commission or the hearing examiner, and the address of the public service commission or office of hearing examiners.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, a final order of the commission is due 120 days after the order for hearing is served on the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public convenience.

I. Repetitioning. The commission shall not order the removal of Extended Area Service within five years of installation.

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Craig Anderson, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Craig Anderson

SPECIAL ASSISTANT ATTORNEY GENERAL

AUG 7 1980

Date

~~E. The method of program administration and the capability of the administrator to carry out the program.~~

~~F. The extent to which American Indians are involved in the administration of the program, and the ownership, management, and labor force of any contractors and subcontractors intended to be employed in the program.~~

~~G. The extent to which the program duplicates, or is in conflict with, other programs which provide housing for urban Indians.~~

~~H. The extent to which the use of appropriated funds reduces housing costs to American Indians or American Indian families.~~

~~I. The extent to which the program combines the proceeds of appropriated funds with proceeds of bonds of the Agency or of other issues of bonds, and the extent to which the program otherwise uses available money to leverage the appropriated funds.~~

~~J. The written comments received by the agency as a result of consultation with the advisory council on urban Indians regarding the applications for the proposed programs. The agency shall consider the conclusions of the advisory council and the reasons given in support of the conclusions.~~

12 MCAR § 3.156 Selection of proposals. Selection criteria for urban Indian programs. The agency may approve a program of an administrator in whole or in part, and may approve a program for a limited geographic area. In determining whether or not to approve applications to administer programs under the urban Indian program, the members shall examine the following facts and make their determinations thereon:

A. Any written comments received by the agency from the Advisory Council regarding the applications for the proposed programs. The agency shall consider the conclusions of the Advisory Council and the reasons given in support of the conclusions, including the Council's evaluation of the applications under the criteria listed in paragraphs B. and C.;

B. the extent to which the program will assist in serving the housing needs of the urban Indian community. Factors to be considered include:

1. The extent to which the program duplicates or is in conflict with other programs which provide housing for urban Indians and the extent to which the program will demonstrate the feasibility of alternative methods for providing housing for urban Indians.

2. The geographic location of the proposed program and the percentage of the Minnesota urban Indian community residing in the geographic area or areas to be served, as determined by the agency according to population data.

3. The method of program administration, the time required to implement the program, and the capacity of the administrator to carry out the program.

4. The extent to which American Indians are involved in the administration of the program, and in the ownership, management, and labor force of any contractors and subcontractors intended to be employed in the program.

C. The extent to which the use of appropriated funds reduces housing costs to American Indian persons or families and the extent to which the program combines the proceeds of appropriated funds with proceeds of bonds of the agency, or of other issues of bonds, or otherwise uses available money to leverage the appropriated funds.

Department of Public Service
Public Service Commission

Proposed Rules Governing Telephone Inter-exchange Access (alternatives to present long distance calling)

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held in the following locations:

Tues., February 12, 1980	Winona—7:30 p.m. Winona State College on Huff Street Kryzsko Commons, Purple Rooms 104 and 105 (just off Baldwin Lounge) (Hearing Examiner Leonard Nelson, 612/296-8119)
Wed., February 13, 1980	Austin—7:30 p.m. Multi-Purpose Room, YMCA, 704 1st Drive N.W. (Hearing Examiner Leonard Nelson, 612/296-8119)
Thur., February 14, 1980	Montevideo—7:30 p.m. Assembly Room, Chippewa County Court House (Use south entrance) (Hearing Examiner Leonard Nelson, 612/296-8119)
Fri., February 15, 1980	Annandale—1:30 p.m. Senior Citizens Room, City Hall (Hearing Examiner Leonard Nelson, 612/296-8119)

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

Wed., February 20, 1980	Pine City—7:30 p.m. District Court Room, Pine City Court House (Hearing Examiner Leonard Nelson, 612/296-8119)
Thur., February 21, 1980	Virginia—7:30 p.m. City Council Chambers, City Hall (Hearing Examiner Leonard Nelson, 612/296-8119)
Fri., February 22, 1980	Brainerd—1:30 p.m. Meeting Room #2, County Service Building (Hearing Examiner Leonard Nelson, 612/296-8119)

These hearings shall continue until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Hearing Examiner Leonard Nelson, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, telephone 612/296-8119, either before the hearing, or within five working days after the close of the hearing unless the hearing examiner orders a longer period not to exceed 20 calendar days.

A copy of the proposed rules are attached to this notice.

If adopted, the proposed rule would result in the establishment of uniform procedures for the installation of Community Calling Plans and the installation or removal of Extended Area Service.

Included in this rule are petition procedures and the criteria to be used by the Public Service Commission in determining whether to order the installation or removal of a particular calling service.

These rules are adopted pursuant to the commission's rulemaking authority found in Minn. Stat. § 237.10 (1978), and the commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local rural or toll telephone service, Minn. Stat. § 237.16 (1978).

Copies of the proposed rules are now available and one free copy may be obtained by writing to, or calling the Minnesota Public Service Commission, Attention Mary L. Harty, Secretary, 7th Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone 612/296-8994. Copies will also be available at the door on the date of the hearing.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all the evidence which will be presented by the agency at the hearing justifying both the need and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11, (1978) any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $150, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

December 21, 1979

Mary L. Harty
Executive Secretary

Rules as Proposed

4 MCAR § 3.0230 Purpose and authority. It is hereby declared to be in the public interest that the Public Service Commission adopt rules to govern inter-exchange calling within the State of Minnesota in order to provide the flexibility required to meet the needs of the customers who reside within the various telephone exchanges; to reflect the geographical boundaries of individual customer calling patterns; to reflect the individual's "community of interest"; to offer customers fair and economical rates consistent with the customers' needs; and to most efficiently utilize telephone facilities. These rules are adopted pursuant to the commission's rulemaking authority found in Minn. Stat. § 237.10 (1978), and the commission's authority to require telephone companies to charge just and reasonable rates

and to furnish reasonably adequate service and facilities. Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company. Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local rural or toll telephone service. Minn. Stat. § 237.16 (1978).

4 MCAR § 3.0231 Definitions. For purposes of the following rules the additional definitions apply:

A. "Community Calling Plan" means a service that allows toll calling at a fixed charge for an initial block of time per billing period and a unit charge for increments of time in a billing period beyond the initial block.

B. "Extended Area Service" means inter-exchange calling for which a toll charge is not assessed.

4 MCAR § 3.0232 Community Calling Plans.

A. Petition.

1. Customers in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a. The telephone company that serves the exchanges;

b. the name of the exchange and the principal city in the exchange;

c. the name, address and telephone number of the person representing petitioners to whom correspondence and commission orders shall be sent;

d. the name, address and telephone number of each person signing the petition; and

e. a statement that the signing customers request the Community Calling Plan for their exchange.

4. The petition shall be signed by 15 percent or more of the customers or 200 customers, whichever is less, in the petitioning exchange.

5. There shall be only one signature per customer account. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

B. Filing of tariff.

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the commission a tariff that contains a Community Calling Plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately on commission approval. The tariff may be reviewed by the commission as a miscellaneous tariff filing.

2. A telephone company may initiate a Community Calling Plan without being petitioned by filing a tariff that complies with this rule. The tariff may be reviewed by the commission as a miscellaneous tariff filing.

C. Contents of plan.

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points in each exchange, unless the commission finds, in writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department of public service. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers; but the commission may authorize different rates for each class of customer.

D. Settlements. Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. Each revised agreement shall be submitted to the commission for its review and approval.

4 MCAR § 3.0233 Extended Area Service.

A. Petition.

1. Customers that desire installation or removal of Extended Area Service from an exchange shall file a petition

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with the Department of Public Service. A copy shall be served on the telephone company that serves the exchange and on the telephone company that serves the exchange to which the installation or removal of Extended Area Service is desired.

2. The petition shall be on a form supplied by the department. Blank forms shall be available from the department and in the offices of all telephone companies.

3. The petition shall include:

a. the telephone company serving the petitioner's exchange;

b. the telephone company serving the exchange to which the installation or removal of Extended Area Service is desired;

c. name of each exchange and the principal city in each exchange;

d. the name, address and telephone number of the person representing the petitioners to whom correspondence and the commission's order shall be sent;

e. name, address and telephone number of each person signing the petition; and

f. a statement that the signing customers desire to have Extended Area Service either installed or removed from the named exchanges.

4. The petition shall be signed by 15 percent or more of the customers or 600 customers, whichever is less, in the petitioning exchange.

5. There shall be one signature per billing number. In the case of a business customer, a duly authorized agent or representative must sign.

6. The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule.

7. The petition shall be kept on file and made available to the public at the Department of Public Service and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

B. Tariff filing. Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of Extended Area Service.

1. The proposed rates shall be based on the cost to provide or savings due to removal of the service. The cost or savings shall be determined using the embedded book cost to current cost ratio to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost or savings due to installation or removal of Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative apportionment is fair and reasonable.

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

C. Traffic study. The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System (CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition.

D. Stipulation of facts. Within 60 days of the date of service of the petition, the staff of the Department of Public Service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain information upon which the commission can base a determination of whether the public convenience requires installation or removal of the Extended Area Service. The stipulation of facts shall contain the following information:

1. The results of the traffic study.

2. The cost study based on the embedded book cost.

3. The proposed rates if Extended Area Service is installed or removed.

4. The size of the exchanges involved.

5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.

6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will no longer be useful or reuseable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

E. Public meeting. Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The

public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

F. Hearing. The petition shall be assigned to the Minnesota Office of Hearing Examiners for contested case hearing if:

1. Either company files with the tariff a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or

2. Ten percent or more of the customers or 100 customers, whichever is less, in either exchange file a notice of objection with the commission or appear at the public meeting and give notice of their objection to the installation or removal of Extended Area Service as sought in the petition.

The staff of the Department of Public Service and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

G. Notice. In addition to notice required by statute or the rules of the Office of Hearing Examiners, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers shall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the Public Service Commission or the hearing examiner, and the address of the Public Service Commission or Office of Hearing Examiners.

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, a final order of the commission is due 120 days after the order for hearing is served on the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public convenience.

I. Repetitioning. The commission shall not order the removal of Extended Area Service within five years of installation.

Department of Public Welfare
Executive Division

Proposed Amendments to Rule Governing Minnesota Merit System

Notice of Hearing

A public hearing concerning the above-entitled matter will be held at the Centennial Office Building, Fourth Floor, Room A, 658 Cedar Street, St. Paul, Minnesota 55155 on February 11, 1980 commencing at 9:30 a.m. The rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the rule amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to the Hearing Examiner, Howard Kaibel, 1745 University Ave., St. Paul, Mn. 55104, (612) 296-8107, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness gives evidence justifying both the need for and reasonableness for the proposed rule. The agency intends to present only a short summary of the Statement of Need and Reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimum charge.

12 MCAR § 2.490 contains definitions used in the Minnesota Merit System Rules. Proposed amendments to 12 MCAR § 2.490 will alter the definitions of "appointing authority" and "board" to include county boards. "County agency" will be

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A-8117-26

illuminated off-premise advertising, and any on-premise outdoor lighting including security lighting;

I. "Security lighting" means a type of outdoor display lighting located on, or around the exterior or perimeter of, a building, structure, fence, lot, or other outdoor area, the purpose of which is to protect persons or property against the threat or occurrence of harm;

J. "Standardized Outdoor Display Signs" means off-premise outdoor display advertising commonly known as billboards;

K. "Temporary or seasonal display lighting" means display lighting that, on at least 300 consecutive days in any 12-month period, is not illuminated.

Ea 2110 Permissible Hours of Outdoor Display Lighting Operation.

A. Standardized outdoor display signs may not be artificially illuminated during daytime hours.

B. Standardized outdoor display signs may not be artificially illuminated during the period between midnight and 6:00 a.m. or one half hour after sunrise, whichever is earlier, except for the hours during that period when the establishment(s) being advertised is (are) open for business.

C. Outdoor display lighting that is used to illuminate an historic landmark as defined in Minn. Stat. ch. 138 or § 4.077 may be operated between one half hour before sunset and 10 p.m.

D. All other outdoor display lighting except security lighting may be operated from one half hour before sunset until one hour after the close of a business day and from the beginning of a business day until one half hour after sunrise.

E. Security lighting may not be operated during daytime hours.

Ea 2115 Permissible Efficiency.

A. No person shall install or use outdoor display lighting in which the light source produces light at an initial efficiency, including ballast, of less than 40 lumens per watt.

B. Exceptions.

1. Rule Ea 2115 a shall not apply to luminous sign tubing.

2. Rule Ea 2115 a shall not apply to any establishment whose total outdoor display lighting system has a demand of 1500 watts or less.

EA 2120 Permissible Quantity.

A. Beginning July 1, 1980, the provisions of Rule Ea 2102 b and c notwithstanding, no person shall operate security lighting that exceeds .05 watts per square foot or .2 foot-candles for the area lighted for security purposes.

B. No person shall operate any other outdoor display lighting that exceeds the recommended minimum standards set forth in the "IES Lighting Handbook" published by the Illuminating Engineering Society by more than 20 percent.

C. Rule Ea 2120 a shall not apply to an establishment whose total security lighting system has a demand of 1500 watts or less.

Office of the Governor

Notice of Appointment of Department Heads

Notice is hereby given of the following department head appointments made pursuant to Minn. Stat. § 15.06, subd. 2. The effective date of each appointment is listed below.

Dept.	*Name*	*Date*
Energy	Algernon Johnson	2/17/79
Natural Resources	Joseph Alexander	2/6/79

Department of Natural Resources
Soil and Water Conservation Board

Notice of Change of Meeting Date

The Minnesota Soil and Water Conservation Board has changed their meeting date from March 13, 1979 to March 6, 1979. They will meet on the 6th floor of the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55155.

Public Service Commission

Notice of Intent to Solicit Outside Opinion Concerning Rules Governing Inter-exchange Calling by Minnesota Telephone Customers

Notice is hereby given that the Public Service Commission may propose rules governing inter-exchange calling by Min-

nesota telephone users as alternatives to toll calls. In the process of proposing these rules, the Commission may seek opinions from telephone companies, customers, and others.

Inter-exchange calling refers to the ability of a customer in one exchange to complete calls to customers in other exchanges. The primary way this is accomplished now is by charging a separate toll charge for each call. The Commission is considering rules which will offer alternatives to the toll calling system such as a flat rate for all toll calls between certain exchanges, a flat rate for calls up to a certain number per month, or discounts for calls made during certain times of the day.

Opinions from the public are requested especially on the following: 1) how exchanges can be identified as appropriate for an alternative to toll calling; if "community of interest" is the criteria used, how that can be quantified; 2) whether the plans should be made available on a total exchange basis or an individual customer basis; 3) how the price for the service should be determined; 4) what procedures should be used to initiate the services or discontinue them.

Other opinions related to these questions are encouraged. These rules may apply to existing inter-exchange services as well as to new service offerings.

All statements and information received will be included in the public record of any rules hearing held on this subject. Information should be addressed to:

Stephen A. Finn, Acting Secretary
Minnesota Public Service Commission
Seventh Floor
American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Stephen A. Finn
Acting Secretary

Department of Transportation

Notice of Application and Opportunity for Hearing Regarding Chicago and North Western Transportation Company for Authority to Retire and Remove Morton Salt Track at St. Paul, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, subd. 3 (10) to retire and remove Morton Salt Track located at St. Paul, Minnesota.

The petition recited among other matters that:

"The subject track is no longer needed for rail transportation service, and constitutes a continuing and burdensome maintenance expense. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. Further, the City of St. Paul has requested the early removal of this track."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before March 26, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to Minn. Rule HE 210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

February 26, 1979

Richard P. Braun
Commissioner

Notice of Application and Opportunity for Hearing Regarding Chicago and North Western Transportation Company for Authority to Retire and Remove ICC Track No. 10 at Marshall, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Cen-

Public Service Commission
Commission Support Staff

Notice of Public Participation Meetings to Discuss Proposed Telephone Rules Dealing with Inter-Exchange Access (Alternatives to Present Long Distance Calling)

Notice is hereby given that public participation meetings, on the following proposed rules, will be conducted at the following locations:

Site	Date	Time
North Branch, MN Cafeteria Commons North Branch Sr. High School	Mon., July 16, 1979	8:00 p.m.
Worthington, MN Farmers Room Nobles County Administration Bldg.	Tues., July 17, 1979	8:00 p.m.
Glencoe, MN Auditorium, Glencoe High School 16th St. & Pryor Avenue	Wed., July 18, 1979	8:00 p.m.
Two Harbors, MN City Hall, 2nd Floor 610 2nd Avenue	Thur., July 19, 1979	8:00 p.m.

These hearings are a continuation of an effort to solicit outside opinion prior to drafting a final inter-exchange access rule. See *State Register*, Monday, March 5, 1979, (3 S.R. 1630).

The following is a preliminary rule and serves only as a guide for discussion at these hearings. After these hearings a final proposed rule will be drafted and submitted to the public for comment and hearing.

All oral and written comments received at these hearings shall become part of the official record for the formal hearing on the final draft of an inter-exchange access rule. See Minn. Stat. § 15.0412, subd. 4.

Extended Area Service

I. Initiation of Extended Area Service (EAS) to the St. Paul-Minneapolis metropolitan calling area is prohibited.

II. The following subsections apply to EAS for exchanges outside the St. Paul-Minneapolis metropolitan calling area.

III. There will be no one-way EAS.

IV. Procedures to initiate telephone traffic study between two exchanges:

A. An exchange wishing to initiate EAS must petition the Public Service Commission to direct the local telephone company to conduct a telephone traffic study between the exchanges in question, unless other acceptable traffic study data is available. This petition is only for initiating a telephone traffic study. This does not serve as a ballot, petition or proxy for the establishment of EAS.

B. In order for the petition to be acted upon, 10 percent or 250 exchange customers, whichever is less, must complete the petition form.

C. Only the person to whom the monthly bill is addressed may sign the petition. In the case of a business customer, only a duly authorized agent or representative may sign.

D. Signing petitioner must include address and phone number.

V. Establishment of EAS between two exchanges:

A. The traffic study must confirm:

1. An average of three (3) toll calls per customer per month from the petitioning exchange to the proposed non-petitioning exchange; and

2. At least one toll call per month to the non-petitioning exchange from 50 percent of the subscribers in the petitioning exchange.

B. If subsections (A)(1) and (2) are satisfied and,

1. The non-petitioning exchange has 10,000 or fewer customers:

a. The Department of Public Service will conduct a mail ballot within a reasonable time thereafter.

b. The ballots must be returned within 30 days of mailing by the Department.

c. Only the person to whom the monthly bill is addressed may sign the ballot. In the case of a business customer, a duly authorized agent or representative must sign.

d. EAS will be approved upon an affirmative vote of 60% of the customers in each of the petitioning and non-petitioning exchanges.

2. The non-petitioning exchange has more than 10,000 customers:

a. A public hearing shall be conducted to determine if the non-petitioning exchange desires the EAS and whether or not it should pay the determined rate.

3. The hearing or balloting in the non-petitioning exchange shall be conducted prior to the hearing or balloting in the petitioning exchange.

4. The proceedings dealing with the non-petitioning exchange, as set out in Subd. (B)(1) or (2), shall be followed by the petitioning exchange except that if the non-petitioning exchange determines through ballot or hearing not to pay the indicated EAS rate, the petitioning exchange has the option of paying the total cost of providing EAS.

VI. Cost of EAS

A. Embedded book costs will be determined by applying the appropriate embedded to current ratio(s) to the current engineering cost of furnishing EAS over the specified route.

B. Unless one exchange refuses and the other agrees to pay the total cost, the cost of providing EAS shall be divided equally between the exchanges.

C. The cost to each exchange shall be equally divided among all customers of the exchange, except the Commission may set different rates for varying classes of customers.

VII. Removal of EAS

A. Exchanges of 10,000 or fewer customers:

1. An exchange with 10,000 or fewer customers wishing to terminate EAS must petition the department to conduct a mail ballot vote.

2. Ten percent, or 250 of the exchange customers, whichever is less, is required to petition the department for EAS removal.

3. After receiving the petition, the department shall conduct a mail ballot vote of the petitioning exchange in accordance with Subd. V (B)(1)(a)(b) and (c).

4. A simple majority (50% + 1) of the customers of the petitioning exchange must affirmatively vote to remove EAS.

B. Exchanges of more than 10,000 customers:

1. Ten percent of an exchange with more than 10,000 customers wishing to terminate EAS must petition the commission to conduct a hearing to determine if EAS should be removed because a community of interest no longer exists.

C. If the petitioning exchange, through balloting or hearing, approves removal of EAS, the commission may determine, through ballot or hearing, whether 60% of the subscribers in the other exchange desire to pay the total cost of retaining EAS.

VIII. Time Limitations

A. A petition for a traffic study, or a hearing or ballot for initiation of EAS between the same exchanges, may be conducted only once every two years.

B. A petition for removal of EAS, between the same exchanges may be conducted only once every five years.

IX. Forms

A. Petitioning forms for telephone traffic study and removal of EAS service are available at:

Department of Public Service, Utilities Division
Seventh Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

B. Ballots and petitions shall provide all material information necessary for the customers to make an informed decision.

X. Definition

A. For the purposes of the rule the following definition applies: "Customer": Each account, except:

1. Public pay stations,

2. Telephone company official stations,

3. Telephone company employees receiving any concession service shall not be considered a customer for ballot and petition purposes.

Community Calling Service

I. General

Community Calling Service is a plan whereby customers may place certain intrastate long distance calls over routes of 15 or 30 miles or less in length during certain specified hours at a bulk rate in lieu of the filed Long Distance Message Telecommunications rates for those calls.

II. Regulations

The following regulations are in addition to the applicable regulations as set forth in other portions of these rules.

A. The service applies only to intrastate dial station-to-station service to exchanges whose toll rate points, from the calling exchange, are within the rate mileage bands provided under III(B)(1) following, which the customer dials from his telephone line and completes without operator assistance.

B. The service applies only to those calls established within the hours as provided in III(B)(2) following.

C. The initial period for the service is 30 minutes. Additional usage in excess of the initial period shall be charged in increments of five minutes or major portion thereof. Minimum timing per message is one minute. Timing of additional minutes and fractions thereof will be rounded to the next higher minute.

D. For a customer with more than one line or trunk the service will apply to all lines and trunks billed to the same billing number. One monthly charge would apply for each billing number included in the service.

E. The minimum initial service period is one month.

F. Billing period under the service will be determined by the billing date. The customer has the option of enrolling in or withdrawing from the service at either the beginning or ending of the billing period. There will be no billing of fractional amounts.

G. Customers subscribing to Community Calling Service may not subscribe to other alternatives to EAS unless expressly allowed.

III. Rates

A. Service charges, unless specifically waived by the PSC, shall apply for enrolling in the service, for changes from one to another time period and from one to another rate mileage band within the same time period or for changing from other alternatives to EAS or vice versa. No charge applies for withdrawing from the service.

B. Monthly rates shall be based on the following factors:

1) Rate Mileage Band

a. 1-15 miles

b. 1-30 miles

2) Time Period

a. Full Time (24 hours everyday)

b. Off-Peak (excludes 9-11 a.m. and 8-10 p.m. Mon.-Fri.)

IV. Exceptions

The service shall not apply to calls placed on Christmas Day (December 25) and on New Year's Day (January 1), Independence Day (July 4), Thanksgiving Day and Labor Day and on resulting legal holidays when Christmas, New Year's or Independence Day legal holidays fall on dates other than December 25, January 1 or July 4.

Send Inquiries to:

Stephen A. Finn, Acting Secretary
Minnesota Public Service Commission
Seventh Floor, American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Department of Revenue Property Equalization Division

Notice of Intent to Solicit Outside Opinion Regarding the Method of Valuation of Railroad Operating Property

The Department of Revenue, pursuant to Laws of 1979, ch. 303, Article VII, § 2, subd. 5, is seeking information and opinions from sources outside the Department in preparing to propose rules governing the valuation of railroad operating property and the apportionment of the value to the affected taxing districts in Minnesota. The Department of Revenue is charged under law to make a determination of the fair market value of the operating property of every railroad company doing business in this state using a unit value method.

Any interested persons may submit data or comments on this subject by writing to:

Gerald Garski, Manager
State Assessed Properties
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Any materials received by the Department shall become a part of the hearing record at the time that rules are promul-

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Ted Sullivan, being first duly sworn, deposes and says:

That on the 7th day of January, 1980, (s)he served the attached Notice of Hearing and Copy of Proposed Rules Governing Inter-Exchange Access.

Docket No. A-8117-26

[XX] by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid.

[ ] by personal service

to all persons at the addresses indicated below or on the attached list:

The above mentioned was sent ✗ to all State Legislaters by Inter Office Mail and to all persons and parties on the attached list.

Ted Sullivan

Subscribed and sworn to before me this 11th day of Jan., 1980

Mary E. Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES FEB. 8, 1986

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of Public Service Division Governing Inter-exchange Acces

I hereby certify that the attached 237 labels on 3 sheets constitute the complete list of persons, associations, and other interested groups who as of 4:00 o'clock P. .M, this 2nd day of January, 1980, have requested pursuant to M.S. 1978, 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State
Joan Anderson Growe

By Kathy Kelm

AFFIDAVIT

Ted Sullivan, being duly sworn on oath deposes and says:

1) That he is an employee of the Department of Public Service of the State of Minnesota.

2) That on the 2 day of January, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. § 15.0412.

3) That on the 2 day of January in response to the above request, the Secretary of State provided he with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Ted Sullivan

Subscribed and sworn to before me
this 3rd day of January 1980.

Mary Ellen Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES FEB. 8, 1983

NOTARY PUBLIC

Ramsey, County, Minnesota
My commission expires 2-8-83

DEPARTMENT OF PUBLIC SERVICE
PUBLIC SERVICE COMMISSION

RECEIVED
JAN 8 1980
OFFICE OF HEARING
EXAMINERS

PROPOSED TELEPHONE RULES GOVERNING INTER-EXCHANGE ACCESS (ALTERNATIVES TO PRESENT LONG DISTANCE CALLING)

NOTICE OF HEARING

Notice as sent to Sec. of States Dist.

Notice is hereby given that a public hearing in the above-entitled matter will be held in the following locations:

Tues., February 12, 1980	Winona - 7:30 PM Winona State College on Huff Street Kryzsko Commons, Purple Rooms 104 and 105 (just off Baldwin Lounge) (Hearing Examiner Leonard Nelson, 612/296-8119)
Wed., February 13, 1980	Austin - 7:30 PM Multi-Purpose Room, YMCA, 704 1st Drive NW (Hearing Examiner Leonard Nelson, 612/296-8119)
Thur., February 14, 1980	Montevideo - 7:30 PM Assembly Room, Chippewa County Court House (Use south entrance) (Hearing Examiner Leonard Nelson, 612/296-8119)
Fri., February 15, 1980	Annandale - 1:30 PM Senior Citizens Room, City Hall (Hearing Examiner Leonard Nelson, 612/296-8119)
Wed., February 20, 1980	Pine City - 7:30 PM District Court Room, Pine City Court House (Hearing Examiner Leonard Nelson, 612/296-8119)
Thur., February 21, 1980	Virginia - 7:30 PM City Council Chambers, City Hall (Hearing Examiner Leonard Nelson, 612/296-8119)
Fri., February 22, 1980	Brainerd - 1:30 PM Meeting Room #2, County Service Building (Hearing Examiner Leonard Nelson, 612/296-8119)

These hearings shall continue until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written material may be submitted at the hearing. In addition, written materials may be submitted by mail to Hearing Examiner Leonard Nelson, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, telephone 612/296-8119, either before the hearing, or within five working days after the close of the hearing unless the hearing examiner orders a longer period not to exceed 20 calendar days.

A copy of the proposed rules is attached to this notice.

If adopted, the proposed rule would result in the establishment of uniform procedures for the installation of Community Calling Plans and the installation or removal of Extended Area Service.

Included in this rule are petition procedures and the criteria to be used by the Public Service Commission in determining whether to order the installation or removal of a particular calling service.

These rules are adopted pursuant to the Commission's rulemaking authority found in Minn. Stat. § 237.10 (1978), and the Commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities, Minn. Stat. § 237.06 (1978); to regulate the connection and disconnection between the exchange of one telephone company and the toll lines of another telephone company, Minn. Stat. § 237.12 (1978); and to regulate the construction of duplicating lines or equipment used for local rural or toll telephone service, Minn. Stat. § 237.16 (1978).

Copies of the proposed rules are now available and one free copy may be obtained by writing to, or calling the Minnesota Public Service Commission, Attention Mary L. Harty, Secretary, 7th Floor, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone 612/296-8994. Copies will also be available at the door on the date of the hearing.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of Need and Reasonableness will include a summary of all the evidence which will be presented by the agency at the hearing justifying both the need and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that pursuant to Minn. Stat. § 10A.01, Subd. 11, (1978) any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues,

in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $150, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

BY ORDER OF THE COMMISSION

M L Harty

Mary L. Harty
Executive Secretary

STATEMENT OF NEED AND REASONABLENESS

The purpose of this rule is two-fold. First, to provide reasonable alternative interexchange calling plans. Second, to establish reasonable procedures by which telephone customers may initiate or terminate such plans.

The need for alternative forms of interexchange access stems from the ever changing needs and desires of telephone customers. As our society becomes more mobile, business and government more centralized the need to communicate beyond one's own exchange increases. The present make up of exchanges is based on past historical factors and not upon a rational plan. Because of this haphazard approach to exchange boundaries, many customers are unable to communicate with their various communities of interest without incurring a toll charge. The days when every town had within its own exchange a school, fire department, general store, and implement dealership are long gone. Today it is not uncommon for children to be bussed to school fifteen miles in one direction, a parent to work ten miles in another, and a hospital or bank fifteen miles in still another direction - all of which are located in different exchanges and cannot be called without incurring a full toll charge.

The present system for toll calling can be cumbersome, expensive, and may fail to meet expected requirements of service. For example, at a public hearing conducted by the Public Service Commission in Worthington, Minnesota on July 17, 1979, Mr. Roger Kooling of London, Minnesota told the Commission that he lived in a town of 65 people with two telephone exchanges. He added that a major problem is that they have a volunteer fire department with eight volunteers, half on each exchange.

In addition to the need for alternative calling plans, there needs to be a reasonable uniform procedure by which alternative calling plans may be initiated or terminated. At the present time there is no formal codification of procedures to be followed. The only way for the public to find out about the procedures is to call the Department of Public Service. Without a formal rule which spells out the procedure to be followed, there is always the possibility Department staff will give out conflicting or misleading information. There can be little doubt that government agencies will function more effectively if operating procedures are codified and made accessible to the public.

This rule specifically addresses two alternatives to the present system of toll calling. They are the Community Calling Plan and Extended Area Service Plan. There are advantages as well as disadvantages to either plan. A community calling plan is optional to each customer in an exchange, and it generally makes use of facilities which are currently in existence. Conversely, offering such a plan may have a deleterious effect on a company's revenues, while for a customer the discount applies only to those messages he/she originates and for that reason may not be considered a satisfactory solution. This plan gives the customer an expanded calling area at less cost. It provides customers with a service plan which is not as restrictive as the present toll plan and not as all encompassing as Extended Area Service.

Extended Area Service charges every customer within an exchange a fixed monthly fee for calling access to another exchange. Unlike the Community Calling Plan, Extended Area Service does not provide a circular calling radius. It applies only from one exchange to another. The customer may make or receive an unlimited number of calls for the same amount and the charge is the same regardless of an individual customer's usage. The service, however, re-

quires that the telephone company make an investment for telephone plant which may or may not be reusable should the service be terminated.

The Commission is fully cognizant of the advantages and disadvantages of both inter-exchange calling plans. However, it believes there are circumstances that dictate one or both of these plans to be in the public interest. This rule will provide a mechanism by which the public may obtain one or both of these plans. Each situation must be evaluated individually to enable the Commission to make that determination. The Commission is of the opinion that this rule provides them with the latitude to develop a solution to the state interexchange calling difficulties.

These rules are adopted pursuant to the Commission's rule making authority found in Minn. Stat. Secs. 216A.05 and 237.10 (1978) and the Commission's authority to require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities. Minn. Stat. 237.06 (1978). The Commission also has the authority to regulate the connection and disconnection between the exchange of one telephone company and the toll line of another telephone company, Minn. Stat. 237.12 (1978) and to regulate the construction of duplicating lines or equipment used for local rural or toll telephone service. Minn. Stat. 237.16 (1978). These statutes function as part of a statutory scheme that makes the Commission the guardian of the public interest over matters concerning continuity of service between exchanges and non-duplication of facilities. See Arvig Telephone Co. v. Northwestern Bell Telephone Co., 270 NW2d 111.

II. Definitions

Prior to setting out the procedures, this rule states the definitions that shall apply. They are as follows:

A. "Community Calling Plan" means a service that allows toll calling at a fixed charge for an initial block of time per billing period and a unit-charge for increments of time in a billing period beyond the initial block.

This definition describes the general form of a community calling plan. This plan establishes a middle ground between local and toll service. It can alleviate much of an individual customer's toll costs and at the same time provide more satisfactory telephone service. For example, a plan could give a customer 30 minutes of initial time at a charge of $5.00 and 35¢ for each additional minute over 30. These blocks of time would be large enough to give customers an opportunity to make toll calls they otherwise would not and small enough to make the plan affordable.

B. "Extended Area Service" means inter-exchange calling for which a toll charge is not assessed.

This is the standard definition for extended area service. It provides for calling between two or more exchanges without incurring a toll charge. It is a reasonable plan because it enables toll free calling between two exchanges where there is a strong community of interest.

The provisions dealing with community calling plans and installation or removal of extended area service have three major components. They are: (1) petitioning; (2) fact determination; and (3) final disposition and will be discussed in that order.

Petitions

Petitions and the subsections dealing with them are designed to inform the Public Service Commission and the affected telephone companies about the desires of the customers. Government cannot respond to the needs of the public unless it has notice. Petitions have always been used to start the governmental process in motion. Petitions serve as a good faith indication of what an exchange wants. The information requested on a petition form is easily ascertainable and gives all parties notice as to who is being petitioned by whom, what service areas are involved, and what type of service is being asked for.

The rule on Community Calling Plans begins with petition provisions, and states in its first clause the following:

> A. Petition.
>
> 1. Customers in an exchange who desire a Community Calling Plan shall file a petition with the department of public service. A copy of the petition shall be served on the telephone company which serves that exchange.

This clause is necessary and reasonable in that it insures that all parties who may be required to take action have sufficient notice. It sets the process in motion. In order for the telephone company to prepare tariffs which adequately respond to the needs and desires of the petitioning exchange, it's important that the telephone company receives an adequate notice which contains all the pertinent information.

> Subdivision 2 states that "The Petition shall be on a form supplied by the Department. Blank forms shall be available from the department and in the offices of all telephone companies."

This provision is necessary and reasonable because it creates uniformity and fosters greater public access. In order for an efficient and consistent review procedure to exist, it is necessary that petition forms be uniform and consequently contain all the pertinent information. This can be achieved most effectively if the forms are drafted and supplied by the department.

It is reasonable to make the petition forms available in the offices of all telephone companies instead of forcing the public to write or go to the department offices in St. Paul. The benefits of state government should be accessible statewide.

The major purpose of a petition is to transmit information and communicate the interest of the public. This rule requires that the petition provide the public with basic information. Subd. 3 reads as follows:

> The petition shall include: (a) the telephone company that serves the exchange; (b) the name of the exchange and the principle city in the exchange; (c) the name, address, and telephone number of the person representing the petitioners to whom correspondence and commission orders shall be sent; (d) the name, address, and telephone number of each person signing the petition; and (e) a statement that the signing customers request community calling plan for their exchange.

All of this information can be provided with little or no burden to the parties involved. It tells the commission what they are being requested to do and by whom. This information also protects the signing petitioners because it informs them as to whom they are petitioning and what type of service they are requesting. Subd. C is reasonable because there are times when petitioners may have further questions about the petition of which they signed, and the final outcome thereof. Usually organizers of a petition have a great deal of information about the needs and circumstances of a local calling area, consequently the Commission may also need to communicate with the petition organizers.

The name, address and telephone number of each person signing the petition is required so that the Commission can validate the signatures and certify that a minimum number of members of a particular exchange truly desire a community calling plan.

The petition must contain a statement that the signing petitioners desire to have a community calling plan. Without such a provision, petitioners would not know what they are requesting and the Public Service Commission would not know what course of action to follow. This provision will distinguish between Community Calling Plan and Extended Area Service.

Subdivision 4 provides that:

> "The petition shall be signed by 10 percent or more of the customers or 200 customers, whichever is less in the petitioning exchange."

This provision is designed to insure that there is enough interest within the petitioning exchange. It serves as a good faith indication that the members of the exchange want a community calling plan. The option between a fixed number and a percentage is designed to provide exchanges with a flexible standard by which to express their desires. For example, in a small exchange of 400 customers, it would be unreasonable to require 200 (50 percent) signatures on a petition. On the other hand, 40 (10 percent) is a reasonable number of petitioners to indicate a true desire for a community calling plan. In a large exchange, say of 6,000 customers, it would be equally unreasonable to require 10 percent or 600 customers to sign the petition. Two hundred signatures would reasonably insure that the community calling plan is desired. Whereas 600 may prove too burdensome to the petition organizers and therefore defeat the purpose of this provision, which is to insure a minimum amount of public support before the commission and the affected telephone companies start considering the request.

Subdivision 5 states:

"There shall be only one signature per customer's account in the case of a business customer a duly authorized agent or representative must sign."

This provision is designed to insure that the petition for community calling plan accurately reflects the desires of those parties responsible for the phone service payments. It would be unreasonable to allow a business office with 30 employees and only one phone to count for 30 petitioners, whereas one person and one phone would only count for one petitioner. To prevent against unauthorized signatures by parties who may not legally bind a business, this rule requires that only a duly authorized agent or representative of a business may sign the petition form.

Subdivision 6 states:

"The sponsor of the petition shall certify that the signatures on the petition are valid and comply with this rule."

In order to make sure that the petition has been properly conducted, the sponsor of the petition shall be required to certify that the signatures on the petition are valid and comply with this rule. Certification will serve as evidence of validity. This provision is necessary and reasonable because it protects against faulty petitions. A person who is required to certify a petition will be more careful to make sure that all parties signing may properly do so. An invalid petition which does not truly reflect the desire of the petitioning exchange may lead to an unnecessarily expensive and time consuming process.

The petition requirements for installation or removal of Extended Area Service are substantially similar to those discussed in connection with Community Calling Plans. There are only two major differences, the first being the number of customers required for a valid petition, and the second is the provision under which the public may challenge the validity of the petition for Extended Area Service.

Subdivision A.4 of Community Calling Plans provides for signatures of 10 percent or more or 200 customers, whichever is less. Subdivision A.4 of Extended Area Service provides for signatures of 15 percent or more or 600 customers whichever is less. The different requirements are necessary and reasonable because of the different characteristics of each rule. As pointed out above, Extended Area Service will affect the rates of all customers in an exchange. Unlike Community Calling Plan, Extended Area Service is not optional. Providing the service may involve large capital outlays, some of which may be unrecoverable. Because of these and other considerations, such as the increased amount of work for the department, the Commission requires that the indication of public interest be greater than that required for Community Calling Plans.

The Extended Area Service rule also contains a petition challenge provision not found in Community Calling Plans. Subdivision A.7 of Extended Area Service states:

> The petition shall be kept on file and made available to the public at the department of public service and in the local exchange office of the telephone companies. Anyone who wishes to challenge the validity of the signatures on the petition shall file a written protest, and shall identify the grounds therefore, with the department within 30 days of service of the petition. Copies of the protest shall be sent to the petition sponsor and to the telephone companies. The commission and the telephone companies shall use customer billing records to check the validity of the signatures.

The reasons for including this provision are similar to those discussed in connection with Subdivision A.4. Because Extended Area Service will have an effect on the rates of all customers in an exchange, and because it is not optional, it is reasonable and necessary to make the petition available to the public for their inspection. Signatures determine the validity of the petition and a valid petition will initiate further action by the parties involved. Therefore it is both reasonable and necessary to allow persons opposed to the petition to challenge the validity thereof.

The department will be able to act more effectively if the protest, and the grounds therefore, are submitted in writing. Thirty days provides the protesting party with a reasonable amount of time to challenge the petition. It also gives a cutoff time so that the department can continue with its work without the fear of having the whole thing being thrown out due to a faulty petition. The telephone companies and the petition organizers should be informed about the protest so that they can correct the alleged mistakes if necessary. The most reasonable and economical manner in which the commission and telephone company can check the validity of the petition is for them to use customer billing records.

The second major component of these rules is that of fact determination. The receipt of the petition sets into motion a process by which department staff and the telephone companies involved gather pertinent facts. These facts along with the petition and the filed tariff will provide the Commission with a standard and accurate record upon which to base its decision. Each stage of this process has certain time limitations placed upon it. These time restrictions are designed to provide

ample opportunity in which to complete the required work and at the same time prevent the wheels of government from grinding to a hault. The deadlines imposed throughout this rule operate in unison with each other. These deadlines and the relationship to each other will be discussed in conjunction with their appropriate subsections. Provisions as they pertain to Community Calling Plans will be discussed first followed by those for Extended Area Service.

B. "Filing of Tariffs"

1. Within 30 days of service of the petition, the telephone company serving the exchange shall file with the Commission a tariff that contains a community calling plan suitable to meet the needs of the petitioning exchange. The telephone company may request that the tariff be effective immediately upon Commission approval. The tariff may be reviewed by the Commission as a miscellaneous tariff filing.

2. When no petition has been filed, the telephone company may initiate a community calling plan by filing a tariff that complies with this rule. The tariff may be reviewed by the Commission as a miscellaneous tariff filing.

Thirty days gives the telephone company enough time to assess the local calling needs of the petitioning exchange. Among other things, they must draft the rate and time schedules and draw up plans to implement the new community calling service. These plans will include marketing and advertising strategies to be used when initiating the new service.

A valid petition is by itself a conclusive finding of public need for a community calling plan. The telephone company must file a compensatory tariff sheet which responds to this finding. The tariff is not to be considered a recommendation. Upon its filing the service shall go into effect.

If the company feels that the tariff they file is an adequate and fair tariff and that they are willing to implement it, they may request that the tariff be effective immediately upon Commission approval. This request will expedite the implementation of the community calling plan.

The provisions allowing the tariff to be reviewed as a miscellaneous tariff filing are reasonable for a number of reasons. These tariff filings should be reviewed as miscellaneous because they can be processed administratively, they are uncontested, they are optional to the customers in the exchange, and they do not have a substantial impact upon revenue.

Subdivision 2 provides for those instances in which a telephone company desires to offer this service to their service area without being petitioned. The telephone company may feel that such a plan will improve the quality of service now provided and seek to offer it without being petitioned. The provision for a tariff filing as a miscellaneous tariff adequately insures and protects the utility customer from being overcharged.

Subdivision C, contents of plan, describes the standards to be used by the telephone companies when fashioning a Community Calling Plan. It states the following:

1. The Community Calling Plan shall provide during each billing period for an initial block of time and increments thereof at a rate below the rate that would occur for the existing toll schedule.

2. The Community Calling Plan shall not exceed 40 miles in radius, as measured between central basing points in each exchange, unless the commission finds, in writing, that the public need requires, or that the community of interest exists in an area with a larger radius. If the central basing point is within the radius described here, all of the exchange shall be included in the Community Calling Plan.

3. The Community Calling Plan shall not be limited to a specific direction, unless the commission finds in writing that the public need requires or the community of interest is limited to less than a 360 degree arc, but exchanges located within 40 miles of a metropolitan district central basing point may be offered a point to point calling plan. "Metropolitan district" means the exchange service areas for Duluth, St. Paul-Minneapolis, Rochester, or St. Cloud, as found on the service area maps filed at the department of public service. "Point to point" means calling central basing points in less than a 360 degree arc.

4. The Community Calling Plan shall apply to residential and business customers; but the commission may authorize different rates for each class of customer.

Subdivisions 1 and 2 provide the features which distinguish a Community Calling plan from regular toll calling or Extended Area Service.

A 40 mile radius is reasonable because most communities of interest are located within such a distance. During the public meetings conducted this past summer by the commission, a 30-40 mile radius was most often thought of as a reasonable calling area. Most government, medical and emergency services are located within this distance. 40 miles is also a reasonable distance within to commute to and from work.

There may be a few circumstances, however, where a radius of more than 40 miles is needed. Therefore, this rule provides that the commission may extend the radius where they find, in writing, that the public need requires, or that a community of interest exists in an area with a larger radius.

It is reasonable to assume that a community of interest is most likely to be found within a 360 degree arc of the central basing point of an exchange. A customer's doctor may have an office in the north, the school to the east, and the hospital to the south, etc. However, there may be circumstances as in the case of a large metropolitan area where the community of interest for communities on the fringe is in one direction. Because customers may desire to call just one area and in order to prevent an unnecessary expense of providing a Community Calling Plan with a 360 degree arc, this rule allows the telephone company to offer those exchanges located within 40 miles of a metropolitan district central basing point a Community Calling Plan with point-to-point service.

The cities included in the definition of "Metropolitan District" constitute the four largest metropolitan areas which have a large number of people directly surrounding them who are unable to call the metropolitan areas with-

out incurring a toll charge. Customers in those communities on the fringe area may rely heavily and have a close community of interest with the adjoining city or suburbs. These communities have indicated a strong interest in a one directional, point to point, calling plan instead of the customary 360 degree community calling plan.

In order to increase the quality of telephone service to all telephone customers, this rule provides that the Community Calling Plan shall be available to both residential and business customers. By applying this plan to all customers the existing rate structure need not be revised.

Subdivision D. states:

> Settlement agreements between Northwestern Bell Telephone Company and all operating telephone companies that settle on a cost basis, shall be revised to recognize the level of revenue generated by each message which qualifies for the Community Calling Plan. Each revised agreement shall be submitted to the commission for its review and approval.

Toll messages under this plan may result in reduced revenues for the telephone companies involved. Under the present situation, the local operating companies have settlement agreements with Northwestern Bell Telephone Company which assures the operating companies their costs of providing the portion of toll message service which they are required to perform. In order to insure that all parties share equally in the loss of revenue under this plan, the rule provides that the settlement agreements shall be revised to recognize the loss of revenue generated by each message which qualifies for this plan.

This provision leaves the actual bargaining process up to the utilities. They will arrive at a just and equitable settlement agreement. However, in order to prevent settlements which upset or adversely effect local service rates, it is reasonable to require that each revised agreement shall be submitted to the commission for its review and approval.

The commission's authority over inter-company settlements is found in Minn. Stat. § 237.10 (1978), which directs the Department to prescribe uniform rules and classifications pertaining to the conduct of intra-state telephone business, and Minn. Stat. § 237.12 (1978), which provides that if the telephone companies fail to agree upon the terms of an inter-exchange toll connection, the commission may enter an order fixing reasonable conditions and compensation for the joint use of the connection.

Additional support for the commission's jurisdiction is found in Minn. Stat. § 216A.05 (1978), and Minn. Stat. § 237.06 (1978), which give the commission the responsibility to review and ascertain the reasonableness of rates, tolls, and charges. The division of revenues received from message toll service has a significant impact upon the level of rates, tolls, and charges of individual telephone companies, and is an inextricable part of the intra-state toll-rate structure. The commission's jurisdiction over telephone rates and charges includes jurisdiction over the division of revenues received from message toll service through the inter-company toll settlement process.

The substantive provisions of Extended Area Service begins with subdivision B. Tariff Filings, which states:

> B. Tariff filing. Within 50 days of the date of service of the petition, the telephone companies shall file with the department tariffs that contain the proposed rates for the exchanges if Extended Area Service is installed or removed and either a statement of intention to install or remove the Extended Area Service if the commission should order them to do so or a notice of objection to installation or removal of Extended Area Service.
>
> 1. The proposed rates shall be based on the cost to provide or savings due to removal of the service. The cost or savings shall be determined using the embedded book cost to current cost ratio to the current engineering cost of furnishing Extended Area Service over the specific route.

2. The cost or savings due to installation or removal of Extended Area Service over the petitioned route shall be divided equally between the exchanges involved unless the commission determines that an alternative apportionment is fair and reasonable.

3. The cost or savings shall be apportioned among the customers in an exchange so that the relationship between the rates for the classes of service remains the same.

One of the most important factors to be considered by the commission when dealing with EAS is the cost of providing the service. Therefore, it is reasonable and necessary to require the telephone companies involved to file tariffs containing the proposed rates.

In order to prevent undue delay, these tariffs must be filed within 50 days. This provides the telephone companies with ample time in which to assess the possible calling needs and arrive at a reasonable estimated cost.

In order for the parties involved to be able to enter into the stipulation of facts within 60 days of receipt of petition (discussed below), it is necessary for the tariff and position statement to be filed within 50 days.

This provision also requires the telephone companies at the time they file the tariff to state whether they agree or intend to object to the installation of Extended Area Service.

This provision is reasonable and necessary because it gives the department staff notice of the telephone company's position. This position will become part of the record and will help determine if there will be a need for a public hearing.

To apportion the cost of Extended Area Service in a just and equitable manner, it is reasonable and necessary to have such cost divided equally between the exchanges involved.

Generally, both exchanges will benefit from the initiation or removal of Extended Area Service. It is true that one exchange may derive a greater benefit than the other. However, except as in extreme cases, it would be very difficult to have the rate charged reflect this disproportionate degree of benefit.

There are situations where a small exchange will be unable to call various service agencies such as the fire department, police department, and hospital without paying a toll charge. If this exchange desires to have Extended Area Service to an adjacent exchange which can call such service toll free, it is reasonable and necessary to allow the Commission to make exceptions. This is especially true where it is unfair to require an exchange with this poor quality of service to pay the same amount as one which has the availability to call all necessary services.

The present rate differential between specific classes is based upon the commission's past findings of value of service. There will be no general rate cases involved and no realigning of the basic rate ratio between the classes of service.

Subdivision C. Traffic Study, states:

> The telephone company serving the petitioning exchange shall conduct a telephone traffic study between the exchanges for which the installation or removal of Extended Area Service is proposed, unless other, equally reliable traffic study data is presently available. Centralized Message Data System CMDS) data may be considered acceptable traffic study data. The traffic study shall be filed with the department within 45 days of the date of service of the petition.

Telephone traffic studies are a reliable method to help assess the calling frequency and existing desires of the members of an exchange. The Commission does not, however, consider them totally conclusive. There are circum-

stances where a traffic study will not accurately reflect the calling needs of an exchange. It may be that customers want to place a toll call but are unwilling because the costs are prohibitive. A traffic study or equally reliable data is useful for measuring actual usage and not actual desire. It is, therefore, necessary and reasonable for the Commission to require this data and to rely upon it for its limited use.

To make sure the Commission has all the pertinent data necessary to make an equitable decision, there is a 45 day time limit in which the traffic study must be filed. This provides the telephone utility with ample time in which to conduct and submit the traffic study to the Commission. It also fits into the overall time sequence in that it provides the telephone company and department staff with enough time to consider the findings before entering into the stipulation of facts.

Subdivision D. Stipulation of facts, provides the following:

> Within 60 days of the date of service of the petition, the staff of the department of public service and the telephone companies serving the exchanges in question shall enter into a stipulation of facts, which shall contain information upon which the commission can base a determination of whether the public convenience requires installation or removal of the Extended Area Service. The stipulation of facts shall contain the following information:
>
> 1. The results of the traffic study.
> 2. The cost study based on the embedded book cost.
> 3. The proposed rates of extended Area Service is installed or removed.
> 4. The size of the exchanges involved.
> 5. The location of government, commercial, employment, and social centers for persons living within the petitioning exchange.
> 6. The location of schools and school districts serving the petitioning exchange.

7. The location of medical, emergency medical, law enforcement, and fire protection services serving the petitioning exchange.

8. If installation is desired, the additional facilities that will need to be installed and the existing facilities that will be utilized and that will no longer be utilized.

9. If removal is desired, what facilities will no longer be useful or reuseable for other services.

10. When ordered by the commission, the results of any informational polling of the subscribers in one or both exchanges.

This provision is designed to give the commission ample information upon which to base an equitable decision.

The facts to be stipulated to are of the nature that they are not argumentative. By stipulating to them the parties can move on to more substantive issues. The facts required are of a quanatative nature and do not give rise to a dispute.

In order for the commission to make a just and equitable decision about Extended Area Service, they need to know whether there is a sufficient community of interest. The results of the traffic study, the location of medical, educational and social centers, and the results of any informal polling ordered by the commission are reasonable factors which need to be considered for this determination. Information about the cost of providing Extended Area Service and the distribution of that cost are also important questions which pertain to Extended Area Service. The embedded book cost, the proposed rates, the size of the exchange involved, the possibility of installing more facilities are all necessary and reasonable factors which the commission must consider. The information required by Subdivision D is easily ascertainable by the staff and the telephone companies.

Subdivision E. Public meeting, states:

> Within five days of receipt of the stipulation, the commission shall schedule a public meeting. The public meeting shall be conducted no later than 45 days after the stipulation is received by the commission.

This provision is designed to prevent undue delay and make sure the wheels of government continue to move. It also gives the public a set time from in which to expect action. The public meeting will assure greater public input into the decision process and gives the commission an opportunity to assess public sentiment. It is also reasonable to have an informal meeting if there is no contested issues.

Subdivision F. Hearing, states:

> The petition shall be assigned to the Minnesota office of hearing examiners for contested case hearing if:
>
> 1. Either company files with the tariff a notice of objection to the installation or removal of Extended Area Service as requested by the petition; or
>
> 2. Ten percent or more of the customers or 100 customers, whichever is less, in either exchange file a notice of objection with the commission or appear at the public meeting and give notice of their objection to the installation or removal of Extended Area Service as sought in the petition.
>
> The staff of the department of public service and the telephone companies shall establish a record before the hearing examiner which includes the information required under the stipulation of facts. The record may be established by a stipulation of facts or by testimony and exhibits containing the necessary information. Comments mailed to the hearing examiner shall become part of the record.

Minnesota Statute 237.075, subd. 2, states in pertinent part:

> "upon petition by 10 percent of the affected customers or 100 affected customers, whichever is less, it (the commission) shall refer the matter to the Office of Hearing Examiner with instruction for a public hearing as a contested case pursuant to Chapter 15 . . ."

This provision also provides for a contested case hearing when a telephone company objects to the installation of Extended Area Service. Before

the Public Service Commission can order a utility to offer a service or increase rates utilities have a right to a contested case hearing. The utility can waive its right to the hearing. Under this rule, it is reasonable and necessary to deem the hearing waived if the telephone company does not object.

In order to provide the hearing examiner and the commission with important information and build an adequate record for decision making, this rule requires that the Department of Public Service and the telephone companies set out before the hearing examiner a record which includes the information required under the stipulation of facts.

Subdivision G. Notice, provides:

> In addition to notice required by statute or the rules of the Office of Hearing Examiner, the telephone companies serving the exchanges shall give notice of the public meeting or hearing to all customers in the affected exchanges by billing insert, and publication in the legal newspapers of the county seat towns in the counties in which the exchanges involved are located. The customers ahall be given a minimum of 10 days notice of the public meeting or hearing. The notice shall contain an explanation of the proposed installation or removal plan, the proposed rate, the time, date and location of the public information meeting or hearing, statement that comments may be sent by mail to the public service commission or the hearing examiner, and the address of the public service commission or office of hearing examiners.

This provision will increase the quantity and quality of public input by requiring notice by bill insert. Public notice through the state register along is insufficient. Few, if any, telephone customers are even aware of it much less read it. In order for a customer to effectively participate in the decision-making process, it is essential that she be informed about the time, date and location of the meeting along with an explanation of their proposed services and rates to be discussed. Because a customer may be unable to attend a meeting or hearing but still may wish to express an opinion, this rule provides that customers be informed that they may submit their comments

in writing and be supplied with the correct addresses of the Office of Hearing Examiners and the Public Service Commission. This provision also restates that the Public Service Commission will conform with all state law when it comes to giving notice of formal hearings.

Subdivision H. Final order of the commission, states:

H. Final order of the commission.

1. If a contested case hearing is not necessary, the final order of the commission shall be issued within 30 days of the public meeting.

2. If a contested case hearing is held, a final order of the commission is due 120 days after the order for hearing is served on the hearing examiner.

3. The commission shall order the installation or removal of Extended Area Service if it finds that such an action is required by the public convenience.

This provision accomplishes two things. It sets definite time limits on commission action and states the standard upon which Extended Area Service will be granted. The time limit for contested cases is longer because more parties are involved in the process. The hearing examiner's office and the attorney general's office all must review the evidence and give opinions as to its legality.

Subdivision I. Repetitioning, states:

The commission shall not order the removal of Extended Area Service within five years of installation.

This provision is reasonable because of the expense and time involved with the installation of Extended Area Service. The commission shall not order the removal because it could prevent the telephone companies from recovering their substantial capital outlays and, therefore, be included in the total rate base.

PSC-80-081-A

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SERVICE

RECEIVED
DEC 21 1979
OFFICE OF HEARING
EXAMINERS

IN THE MATTER OF THE PROPOSED
ADOPTION OF TELEPHONE RULES
GOVERNING INTER-EXCHANGE ACCESS
(ALTERNATIVES TO PRESENT LONG
DISTANCE CALLING)

ORDER FOR HEARING

IT IS HEREBY ORDERED that public hearings on the above-captioned rules be held at the following locations:

Tues., February 12, 1980	Winona - 7:30 PM Winona State College on Huff Street Kryzsko Commons, Purple Rooms 104 and 105 (just off Baldwin Lounge) (Hearing Examiner Leonard Nelson, 612/296-8119)
Wed., February 13, 1980	Austin - 7:30 PM Multi-Purpose Room, YMCA, 704 1st Drive NW (Hearing Examiner Leonard Nelson, 612/296-8119)
Thur., February 14, 1980	Montevideo - 7:30 PM Assembly Room, Chippewa County Court House (Use south entrance) (Hearing Examiner Leonard Nelson, 612/296-8119)
Fri., February 15, 1980	Annandale - 1:30 PM Senior Citizens Room, City Hall (Hearing Examiner Leonard Nelson, 612/296-8119)
Wed., February 20, 1980	Pine City - 7:30 PM District Court Room, Pine City Court House (Hearing Examiner Leonard Nelson, 612/296-8119)
Thur., February 21, 1980	Virginia - 7:30 PM City Council Chambers, City Hall (Hearing Examiner Leonard Nelson, 612/296-8119)
Fri., February 22, 1980	Brainerd - 1:30 PM Meeting Room #2, County Service Building (Hearing Examiner Leonard Nelson, 612/296-8119)

These hearings shall continue until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Date: DEC 2 1 1979

/s/ Mary L. Harty

Mary L. Harty, Executive Secretary