

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-882
The Lincoln Telephone and Telegraph)
Company, Lincoln, Nebraska, who seeks)
authority to adjust its rates and) GRANTED
charges for telephone service in)
accordance with the Commission's)
order entered in Application C-801 on)
March 5, 1991.) Entered: May 28, 1991

APPEARANCES: For The Lincoln Telephone and Telegraph
Company:
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1500 American Charter Center
Lincoln, NE 68508

For the Commission:
Chris Dibbern, Esq,
300 The Atrium
Lincoln, NE 68509

OPINION AND FINDINGS

BY THE COMMISSION:

By application filed March 22, 1991, The Lincoln Telephone and Telegraph Company, Lincoln, Nebraska seeks authority to adjust its rates and charges for telephone service in accordance with the Commission's order entered in Application C-801 on March 5, 1991.

Notice of the filing of the application was published pursuant to the provision of the Commission's Rules and Regulations. No formal protest to the application was filed. The Commission received 132 letters of protest, approximately 57 phone calls in protest and 65 people petitioned from Brentwood Estates, a Lincoln retirement community, against the plan; all of which were timely made. A petition signed by 58 subscribers supporting the proposal was received the day of the hearing from the community of Cordova and a letter of support from State Senator Loran Schmit was read into the record.

Hearings on the application were held on May 16, 1991 at 1:30 p.m. and 7:00 p.m. in the East Chamber of the State Capitol, Lincoln, Nebraska with appearances as shown.

Upon consideration of the application and being fully advised the Commission is of the opinion and finds that:

1. Applicant is a corporation organized and existing under the laws of the state of Nebraska with its principal place of business at Lincoln, Nebraska. It is engaged in the telecommunication business as a common carrier and operates 137 telephone exchanges in Nebraska serving approximately 227,000 access lines.

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2. The Commission in its order in Nebraska Public Service Commission, vs Lincoln Telephone and Telegraph, a Common Carrier, docket C-801, entered March 5, 1991, undertook a comprehensive study to investigate the provision of extended area service throughout applicants service area. The Commission reaffirms its order entered in C-801. This application arose from that order and is consistent with the Commission's recommendations and suggestions in that docket.

3. Mr. Frank Hilsabeck, President of LT&T, testified on behalf of the company at each of the public hearings. Mr. Hilsabeck explained the application and the background of Application C-801 as detailed in Exhibit #4. He discussed the revenue neutrality of the plan as explained in Exhibit #6. He testified that the company filed this application under Commission rules that would not envision an increase in the net revenues. In order to accomplish this revenue neutral plan, he testified regarding the pricing of all the components of the original C-801 order.

4. Eleven LT&T subscribers testified in support of the application. The supporting witnesses represented a cross section of the business and residential communities. Three of these witnesses were from Lincoln and the remaining nine were from surrounding communities.

James Weinberger of Ceresco, Lee Anderbery of Lincoln, Ab Jensen of Bennet and John Barry of Valparaíso testified in support of the plan and worked on behalf of the Save Our Service Committee (SOS). Weinberger testified, "We just want to let you folks know that this is a proposal that will solve the problems for extended area service, not only for Lincoln and the surrounding areas, but it is going to be a big step for southeast Nebraska." Anderbery testified, "The current proposal helps to equate those phone users that do not have EAS or optional calling plans." Jensen testified in support of the grandfathering of the EAS routes and explained the work of the SOS committee.

John Hodges of Julian, Nebraska and County Commissioner in Otoe County, testified on behalf of the proposal. He had received numerous calls in support for this proposal from the rural areas and no calls opposed to this proposal in this area. He represents the western part of Nebraska City in his district and stated his belief that the plan would be benefit every aspect of his community.

Loy Todd, Lois French, Joanne Lostroh, Dean Petersen and Gary Sherman, live in communities close to Lincoln and testified in favor of the plan. All five testified that this proposal was better than earlier proposals even though they experienced a rate increase of approximately \$5.00 a month.

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Jim Glover testified in support of the proposal. He lives in Lincoln but calls outside of Lincoln within a 25 mile radius. He has studied the plans from the start. He stated, "He was willing to pay the \$2 or \$3 a month more because he will personally save that much money calling out from Lincoln."

5. Martha Holman of Ashland testified in opposition to the increase because, "it leaves in place the disparities between communities that do and do not have EAS." Bryon Warlick of Lincoln testified in opposition to the increase because, in his view and based upon figures supplied by LT&T, less than 50% of the Lincoln subscribers use EAS or make calls within 25 miles.

6. Currently, the residential rates at applicant's exchanges fall within six different rate groups. Applicant proposes to move residential rates into four different rate groups which range from \$10.00 to \$12.50. Proposed business rates range from \$33.00 to \$39.00. The specific rates by applicant and a description of the five propose rate groups is contained in Exhibit A attached to the application filed herein.

7. The granting of the application will not result in an increase in net revenue to the applicant.

8. The Application is fair and reasonable, is in the public interest and should be granted with rates effective sixty (60) days from the date of this order.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-882 be and it is hereby granted and The Lincoln Telephone and Telegraph Company be and it is hereby authorized to revise its rates and charges as set forth in the Opinion and Findings of C-801 and herein, with rates effective sixty (60) days from the date of this order.

IT IS FURTHER ORDERED that applicant file appropriate rate lists with the Commission.

MADE AND ENTERED at Lincoln, Nebraska this 28th day of May, 1991.

COMMISSIONERS CONCURRING:

//s//Frank E. Landis, Jr.
//s//James F. Munnelly
//s//Eric Rasmussen
//s//Daniel G. Urwiller

COMMISSIONER DISSENTING:

//s//Duane D. Gay

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director

DISSENT OF DUANE GAY

Although I am the Commissioner who first proposed that a comprehensive review of extended area service (EAS) be undertaken in the LT&T territory because I thought long distance rates were unreasonable and the EAS in place, coupled with pending requests for more EAS plans, were resulting in a nightmarish hodgepodge, I regret the effort was initiated in view of the results reached by the majority. An unfair and unsatisfactory telephone system has been made grossly more unfair and just as unsatisfactory. The unfair and unsatisfactory features will be apparent when the plan is compared with the goals set forth in the March 6, 1990 order.

"1. That EAS {should} be offered to all subscribers {of LT&T}."

The adopted plan clearly falls short of that announced goal because many communities such as Ashland, Crete and Wilber will not have EAS service which they sought for years. Instead of EAS, those communities will have an Enhanced Local Calling Area (ELCA) of 25 miles.

"2. That the cost of this new service be reasonably priced at a flat rate."

Here again the plan falls short of the announced goals. The ELCA will not be billed at a flat rate.

"3. That the service be offered on an optional basis."

Of all the goals missed by the majority order, this is the most glaring and patently unfair distortion of the announced goals. Lincoln and Hastings residents, to cite the most obvious examples, all have a new plan jammed down their throats to the tune of about a 25% increase whether they want the new service or not.

"4. That all existing one-way EAS be converted to two-way or in the alternative, that new two-way EAS replace existing one-way."

In its zeal to attempt to please all of the people all of the time, which as Abraham Lincoln observed, is impossible, the majority has missed the fourth goal entirely. Now we have a hodgepodge of EAS service grafted onto a basically ELCA system. There has been absolutely no conversion of EAS.

"5. That, with the approval of the applicant, all pending EAS applications be held in abeyance until such time as the Commission evaluates the new plan."

Whether the Commission can accomplish this goal is yet to be seen. This goal would have been more realistic if the other goals had been met.

"6. That the plan be submitted for Commission consideration within ninety days from the date of the order."

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That goal was also missed, but to its credit, LT&T worked hard to submit a plan which would realize the announced goals of the Commission.

The fact that the Commission has failed so miserably to attain its own goals is not the fault of the telephone company.

LT&T did a good job of analyzing the problems. I quote its report:

The current EAS situation is fraught with inequities which present problems for customers, the NPSC, and the Lincoln Telephone Company. Some of these problems are listed below:

1. Low Volume Users Subsidize High Volume Users. Because EAS is priced at a mandatory flat-rate surcharge, all customers in an EAS community are required to pay for the service even though they may receive little or no benefit from it and may well be economically disadvantaged by it.

EAS is based upon the incorrect assumption that all or most customers have the same need to call a given community. This is not borne out by studies of calling patterns. No EAS arrangement meets the needs of all subscribers in a given community.
2. Flat Rate Pricing Sends False Signals to Customers. The surcharge pricing of current EAS sends false signals to customers because they are not aware of the fact that their increased calling increases the costs to provide EAS. Because EAS is an interexchange service, it is usage sensitive--as more calls are placed, more facilities (cable, trunks, etc.) must be added to accommodate them. The cost of these additional facilities must then be recovered by rates charged for other services such as local service and intralata toll. Thus, EAS is not only subsidized by the low volume users in an EAS exchange, but by all telephone subscribers throughout Lincoln Telephone's territory.
3. EAS Arrangements are Not Rational. Lincoln Telephone's customers are becoming increasingly frustrated by the unfairness of EAS. Some customers, for example, have no EAS and must pay long distance charges to all of their adjacent towns. In contrast, their neighbors may have EAS to adjacent communities and pay no long distance charges for similar calls.
4. EAS Causes Rates for Long Distance Calls to be Higher than Necessary. Customers of Lincoln Telephone are also becoming increasingly dismayed by the relatively high cost of making long distance calls to communities within Lincoln Telephone's calling area (roughly 22 counties in Southeast Nebraska) compared to the charges for calling other states. As noted in point 2 above, EAS is subsidized by long distance rates within Lincoln Telephone's territory and, therefore, these toll rates are higher than they need to be.

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Studies of toll usage indicate that a large proportion of Lincoln Telephone's customers place toll calls within Lincoln Telephone's area and are, therefore, affected by the artificially high rates. Customer surveys have also verified that these high rates are a source of irritation to customers who question whether such rates are equitable. As a recent editorial (April 11, 1990) in the Milford Times concluded: "I do believe, however, that something smells weird when a phone call traveling 300-500 miles costs less than a similar call traveling 50-100 miles, and something should be done to bring rates to a more palatable level."

Then LT&T, apparently taking the Commission seriously, outlined goals for a new calling plan which is set out as follows:

Goals For a New Calling Plan

Before beginning to develop a new calling plan, the following goals were developed to serve as a litmus test against which a variety of alternatives were analyzed:

1. The Plan Should be Fair and Equitable. Any new plan should seek to eliminate the subsidies that are paid by customers who rarely use their EAS and those who have no EAS at all. The disparity between those who cause EAS costs and those who pay these costs must be reduced. A form of usage-based pricing, which is used by other utilities such as electric, gas, and water should be included.
2. The Plan Should be Optional to Customers. The mandatory nature of the current EAS surcharge needs to be eliminated so that customers are not forced to pay for a service which they may rarely, or never, use.
3. The Plan Should be Easy to Understand. Most customers today are unaware of the amount they pay for EAS and have very little understanding as to why some communities have EAS and others do not.
4. The Plan Should Provide Lower Long Distance Rates for Calls Made within Lincoln Telephone's Calling Area. As smaller communities lose doctors, hospitals, and retail establishments, residents are increasingly required to make long distance calls for basic necessities. Any new calling plan should seek to lower these rates regardless of the community being called.

Each of these goals has been ignored or overridden by the majority.

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LT&T attempted to realize the professed goals of the Commission and its own announced goals with the following plan:

- | | |
|--|--------------------------|
| 1. Basic Local Rate-Residence-LCSA-Territory | Same |
| Unlimited Offering | No |
| Business | Same |
| Unlimited Offering | No |
| 2. EAS Adders-Mandatory Residence-LCSA and Territory | |
| | Eliminate Existing |
| Business-LCSA Business and Territory | Eliminate Existing |
| 3. Touch Call | N/A |
| 4. Enhanced Local Calling Area Rates: | |
| (Within 25-mile radius) | |
| Residential & Business | \$.12/\$.06 |
| Packaged Plans (Per Minute Rates) | \$.05, \$.07
or \$.09 |
| 5. Intralata Toll Rates: | |
| (Beyond 25 miles) | |
| Day Rate Per Minute | \$0.22 |
| Night Rate Per Minute | \$0.11 |

When I originally supported the search for a new rate structure which would remove the inequities and complexities of the EAS plans in force and the ones being proposed, I expected a plan along the lines of the LT&T proposal set forth in the foregoing paragraph, and I could have supported that. I cannot support a plan that imposes a 25% rate increase on half of LT&T's customers merely to subsidize the telephone bills of the other half. This Commission cannot be all things to all people as the majority apparently thinks it can. In our effort to find a new, fair and efficient rate structure, my fellow Commissioners and I have failed. That failure has been caused by the inability of the majority of the Commissioners to bite the bullet and tell a few rate payers that their subsidies are over, and a new era of fairness will prevail in LT&T territory. Now the subsidies have been extended and that was never the purpose of our initial effort to find a better way.

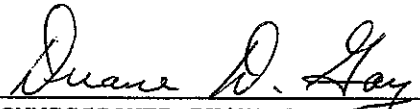
The majority has apparently succumbed to the siren song of the Federal Communication Commission which for years has sought to saddle all customers with level fees whether the customer utilizes the services or not. This approach penalizes those on fixed incomes and those who choose not to invest in high tech phones.

To their credit, my fellow Commissioners have had the forethought to insert a provision for review into their order; however, this is clearly a very expensive experiment. If these Commissioners do not achieve the results that they expect, their plunge into this wilderness of a rate structure will cost the rate payers dearly. The plan should have been

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structured so that the stockholders of LT&T bear some risk. As it is, the company is presented with a lead pipe cinch, not only to retain its earnings level, but to take off for the stratosphere. The company offered a proposal which it expected to be revenue neutral. The Commission in its wisdom rejected the company studies and grafted together its own rate structure. With the people of Lincoln paying a 25% rate increase, I do not see how LT&T can fail to reap a windfall; and in that event, how will the majority compensate those ratepayers who financed the experiment? The order is silent on that point.


COMMISSIONER DUANE D. GAY