DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

BEV BARKER

STEPHANIE MILLER

JOE CUSICK

DAVE SCHUNKE

DAVID SCOTT

WORKING FILE

FROM:DON HOWELL

DATE:OCTOBER 23, 1997

RE:SETTLEMENT STIPULATION AND MOTION TO DISMISS IN CASE NOS. GNR-T-93-21 AND GNR-T-95-1

On October 24, 1997, the Staff and Mountain Phone Company West (MPC West) filed a Settlement Stipulation for the Commission’s review and approval.  The parties requested that the Commission dismiss its investigation of MPC West’s pay telephone operations in Case No. GNR-T-93-21.

BACKGROUND

As set out in the settlement, the Commission issued Order No. 25223 directing MPC West to show cause why the Commission should not revoke its exemption from the Commission’s Pay Telephone Rule 102.  Rule 102 allows the Commission to grant an exemption from the “zero minus” dialing requirement if an operator service provider can demonstrate that it can direct emergency service agencies to the location of the privately-owned pay telephone.  The Order outlined a number of instances where the Staff alleged that the “zero minus” calls were routed to MPC West’s OSP (International Pacific), but International Pacific was unable to identify the location of several payphones.

MPC responded by saying that the Staff was mistaken or that the Automatic Number Identification (ANI) which transfers the payphone’s telephone number and location to the OSP was malfunctioning but has subsequently been corrected.  The Company also stated that it had implemented a more thorough program of testing its pay telephone to prevent further problems.  Prolong settlement negotiations then were initiated between the Company and the Staff.

In May 1995, MPC subsequently filed a Petition to Stay the disconnection of its pay telephones at the Marsing Job Corps site.  This Petition was prompted by the Staff initiating proceedings to disconnect MPC’s pay telephones at that site for various violations of the Commission’s Pay Telephone Rules.  In its Petition, MPC West asserted that disconnection of a payphone without prior notification to the owner is arbitrary and unreasonable.  Requiring owners of privately-owned payphones to pay reconnection charges to the LECs is a violation of due process and imposes a penalty that far outweighs the alleged violations.  Petition at 3, 6-7.  Proceedings on MPC West’s Petition were held in abeyance at the request of the Company.

Over the course of these many months, the Staff and the Company have resolved most if not all of the underlying issues.  Consequently, the parties agree that they would recommend dismissal of the Commission’s Show Cause Order in Case No. GNR-T-93-21.  If the Commission did dismiss its investigation in that prior case, then MPC agrees to withdraw its Petition in Case No. GNR-T-95-1.

STAFF ANALYSIS

The only parties to this case are MPC West and the Commission Staff.  Given the fact that the Staff and the Company have agreed to settle these cases and recommend that the Commission dismiss its payphone investigation, the parties respectfully request that the Commission grant its Motion to Dismiss Case No. GNR-T-93-21.  Given the limited involvement in this case, the Staff believes that no further proceedings or hearings are required in this matter.

COMMISSION DECISION

Does the Commission desire to dismiss its Show Cause investigation in Case No. GNR-T-93-21?  Does the Commission consent to MPC West’s withdrawal of its Petition in Case No. GNR-T-95-1?

Don Howell

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