

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Commission Inquiry to
Examine Streamlining Procedures for
Consent Dockets

ISSUE DATE: November 5, 2018

DOCKET NO. P-999/CI-18-382

ORDER VARYING COMMENT
PERIODS IN CERTAIN
UNCONTESTED DOCKETS

PROCEDURAL HISTORY

On July 11, 2018, the Commission commenced this investigation by issuing a Notice of Comment Period requesting comments addressing whether the Commission should streamline procedures for telecommunications consent dockets. Consent dockets are matters that are presented to the Commission that are not subject to dispute. The Notice included an attachment outlining specific proposed changes that would shorten the time required to resolve several types of filings.

On August 20, 2018, the Minnesota Department of Commerce (the Department) filed comments supporting the proposed changes. The Department was the only party or participant that commented in response to the Commission's Notice.

On October 4, 2018, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Proposed Variances and Procedural Modifications

Commission Staff proposed the following rule variances on certain usually uncontested telecommunications matters, which would shorten the time to file responsive comments after a petition is filed and would establish the comment deadline based on when the Department has commented:

7811.0200 Subp. 7. Comment periods.

Comments on a petition must be filed and served within 45 days after the petition is filed. Responsive comments must be filed and served within ~~20~~ 5 days after the Department of Commerce files comments ~~deadline for initial comments.~~

7812.0200 Subp. 7. Comment periods.

Comments on a petition must be filed and served within 45 days after the petition is filed. Responsive comments must be filed and served within ~~20~~ 5 days after the Department of Commerce files comments ~~deadline for initial comments~~.

7829.1400 Subps. 1 and 4

Subpart 1. Initial comments. In the absence of a commission order or notice establishing a different comment period, a person wishing to comment on a miscellaneous filing shall do so within 30 days of its filing with the commission. A person wishing to comment on a new telephone service, competitive or noncompetitive, shall do so within ten days of its filing with the commission. Comments must be served on the persons on the utility's general service list for the filing, as well as on the filing utility. For purposes of telecommunications filings subject to the Commission's consent calendar process, the initial comment period shall end when the Department of Commerce files comments recommending approval.

Subp. 4. Reply comments. For purposes of telecommunications filing subject to the Commission's consent calendar process, unless otherwise directed by the commission, the utility and other persons have ~~ten~~ five days from the date the Department of Commerce files comments ~~expiration of the original comment period~~ to file reply comments. Reply comments must be served on the utility and persons who have filed comments on the miscellaneous filing. Reply comments must be limited in scope to the issues raised in the initial comments.

Commission Staff further proposed a revised process for handling undisputed service area amendments under Minn. Stat. § 237.16, subd. 4. Staff proposed that if no objection is received within 20 days of a filing expanding a service area, the Commission would issue a Notice Approving the service area expansion. This process would not apply to Eligible Telecommunications Carriers (ETC) expanding their service area.

Finally, Commission Staff also proposed a new process for 911 Plan filings under Minn. R. 7812.0550 subp. 1.

II. Comments

The Department supported the proposed changes, noting that objecting parties could request time extensions in the event more time was needed to prepare a comment in response to a filing.

No other party or participant offered comments on the proposal.

III. Commission Action

The Commission concludes that the proposed variances and procedural modifications are reasonable and in the public interest, with the exception of the proposed process for 911 Plan filings.

Specifically, the Commission concludes that the proposed variances to Minn R. 7811.0200, 7812.0200, and 7829.1400, as shown above, meet the requirements for a rule variance and so a variance will be granted until December 31, 2024. The Commission grants rule variances when it determines that

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.¹

Enforcement of these rules absent the variance would impose an excessive burden on the applicant by forcing them to wait more time than is necessary to resolve uncontested matters; the public interest is not adversely affected because there is still sufficient time for the Department or others to raise any objections to these filings and for those objections to be considered by the Commission; and the variances would not conflict with any standards imposed by law.²

The telecommunication docket types to which these variances will apply are:

- New Authority (NA) Minn. Stat. § 237.16, subd. 1 (Minn Rules 7812.0200, subp. 7);
- Property Acquisition (PA) Minn. Stat § 237.23 (Minn. Rules 7829.1400, subps. 1 and 4);
- Relinquish Authority (RL) (Minn. Rules 7829.1400, subps. 1 and 4);
- Service Authority (SA) Minn. Rule 7812.0300, subp. 5 (Minn. Rules 7829.1400, subps. 1 and 4);
- Alternative Miscellaneous (AM) (Minn. Rules 7829.1400, subps. 1 and 4); and
- Miscellaneous Changes (M) (Minn. Rules 7829.1400, subps. 1 and 4).

The Commission will also authorize staff to follow the process described for undisputed service area amendments. This existing process is not set forth in rule, and the proposed revised process is consistent with applicable rules, so no variance is required. The proposed process is more consistent with the deadline for Commission action on these matters, established in Minn. Stat. § 237.16, subd. 4.³

¹ Minn. R. 7829.3200.

² The Commission also notes that it has authority to vary time periods established in Minn. R. ch. 7829 for good cause. Minn. R. 7829.1275.

³ “If no objection is filed with the commission by any interested party or raised by the commission within 20 days of the filing, it is considered approved, except if it involves an acquisition governed by section 237.23, in which case no certificate shall be granted until approval is obtained pursuant to that section and subdivision 1.” *See also* Minn. R. 7812.0300, subp. 5.

The Commission will not adopt the proposed revised process for 911 Plan filings. At this time the Commission does not find that additional streamlining of the process for these filings is warranted. Accordingly, the Commission's procedures concerning these filings will continue without modification.

ORDER

1. The rule variance requirements have been met. The variances discussed above are therefore warranted and are approved.
2. The variances are granted until December 31, 2024.
3. The revised procedure for the disposition of service area amendments is approved.

This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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