

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
WESTPHALIA TELEPHONE COMPANY)	
for authority to offer expanded local calling and)	Case No. U-13605
to adjust its rates for basic local exchange service.)	
_____)	

At the January 21, 2003 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On October 28, 2002, Westphalia Telephone Company (Westphalia) filed an application for authority to expand its local calling area and to increase its rates for basic local exchange service to recover the cost of expanded local calling, pursuant to Section 304 of the Michigan Telecommunications Act (MTA), MCL 484.2304.

According to the application, Westphalia provides basic local exchange service exclusively in the Westphalia Exchange, and its customers may presently make local calls only within the exchange. The application further states that customers of Verizon North Inc. (Verizon) in three of the four adjacent exchanges, Dewitt, Fowler-Pewamo, and Grand Ledge, may make calls to the Westphalia Exchange without paying toll charges, but that Westphalia's customers must pay a

toll charge whenever they call those three exchanges. SBC provides service in the adjacent Portland Exchange.¹

Westphalia's application proposes to expand its local calling area to encompass the four adjacent exchanges as well as the nearby Muir and St. Johns exchanges, and to provide each of its customers with a monthly 400 minute calling allowance for calls placed into those exchanges. It further proposes to recover the revenue loss attributable to the local calling area expansion by increasing its basic local exchange rates.² Specifically, Westphalia requests authority to increase its residential rates by \$6.27 per line per month and its business rates by \$7.52 per line per month and to charge 4¢ per minute for calling in excess of the monthly allowance. (Local calls occurring entirely within the Westphalia Exchange would not count against the 400 minute allowance.) It says that the proposed increases are justified under Section 304 of the MTA because, even after the increases, its rates will be comparable to rates charged by other providers for the same service and because it will offer "a new function, feature, or capability . . . as a component of basic local exchange service." MCL 484.304(7)(c). Finally, Westphalia represents that its proposal offers a significantly enhanced service to its customers and should remedy a customer relations problem.

As required in Section 304(3), Westphalia sent a notice of opportunity to comment to its customers. In response, the Commission received written or e-mail comments from four customers opposing the application, several others contacted the Service Quality Section of the

¹ At present, SBC may not offer its customers in the Portland Exchange the ability to make local calls to the Westphalia Exchange due to federal law that restricts regional Bell operating companies from offering interLATA service.

² According to the application, the conversion of toll routes to local calling means that Westphalia would forgo some of the toll access revenues it formerly collected from interexchange carriers and instead incur additional costs and collect less revenue under reciprocal compensation arrangements with other local providers. It would also incur additional internal costs to route outgoing calls to the expanded local calling area.

Commission's Communications Division to indicate their opposition, and Westphalia filed petitions containing more than 140 signatures supporting its application.

The Commission Staff (Staff) also filed comments. According to the Staff, Westphalia's proposal is similar to the applications approved by the Commission's April 16, 2002 order in Case No. U-13263 (for Drenthe Telephone Company), August 20, 2002 order in Case No. U-13436 (for Allendale Telephone Company), September 16, 2002 order in Case No. U-13449 (for Deerfield Farmers' Telephone Company), October 3, 2002 order in Case No. U-13489 (for Ace Telephone Company), November 7, 2002 order in Case No. U-13515 (for Bloomingdale Telephone Company), and December 6, 2002 order in Case No. U-13533 (for Waldron Telephone Company). As in those cases, the Staff asserts, Westphalia's proposal offers its customers the benefit of a greatly expanded local calling area.

The Staff goes on to note that the Commission approved a 2,000 minute cap in granting Bloomingdale Telephone Company's (Bloomingdale) expanded local calling application in Case No. U-13515. In that case, the Staff further observes, the Commission added the caveat that "a cap significantly lower than 2,000 minutes per month would likely raise questions regarding whether rates charged for 'local' calls into a customer's adjacent exchanges are just and reasonable when compared to rates for calls within the customer's own exchange." Order dated November 7, 2002, Case No. U-13515, at 5. The Staff says that the 400 minute allowance proposed by Westphalia would diminish the value of the expanded service to customers, relative to the proposals approved in other cases. It notes that some of Westphalia's customers oppose the application.

The Staff suggests several alternatives to granting approval of Westphalia's proposal as it stands. First, it says, the Commission could direct Westphalia to offer expanded local calling on

an optional basis, i.e., only those customers that want it would pay for it, although that approach would presumably require those customers to pay an indeterminate level of higher rates. Second, the Commission could require an increase in the monthly calling allowance. However, the Staff says, the documentary support that Westphalia filed with its application does not contain the cost data necessary to compute the rate increase that would accompany an increase in the monthly calling allowance.

On January 2, 2003, Westphalia filed reply comments, which note that the Commission's statement regarding monthly allowances of less than 2,000 minutes appeared in an order issued after Westphalia filed this application. Westphalia says that increasing the monthly calling allowance beyond 400 minutes would require it to incur additional costs. It says that recovering the additional cost effect of a 1,000 minute monthly calling allowance would require an increase in the monthly rate of \$7.94 per residential customer (compared to \$6.27 increase for a 400 minute allowance) and \$9.52 per business customer (compared to \$7.52). Similarly, it says that a 2,000 minute allowance would require rate increases of \$9.10 per residential line per month and \$10.92 per business line per month. To avoid the risk that its application could be denied, Westphalia now agrees to accept a 1,000 minute allowance, with no corresponding adjustment to the proposed rate increase calculated on the basis of a 400 minute allowance.

Westphalia suggests that the degree of customer opposition is insignificant relative to the support demonstrated in its petitions.

As the Staff observes, a premise of several Commission orders approving expanded local calling proposals was the willingness of the applicant to accept a cap that permitted no less than 2,000 minutes of calling per month before the customer incurs time-sensitive charges. The November 7, 2002 order in Case No. U-13515 and the December 6, 2002 order in Case

No. U-13533 expressly found that the rates proposed by Bloomingdale and Waldron Telephone Company, respectively, were just and reasonable on this basis and further indicated that “a cap significantly lower than 2,000 minutes per month” was unlikely to meet the requirement in Section 304 that rates for local calling be just and reasonable. Even though a 1,000 minute monthly allowance is significantly lower than the standard recognized in prior orders, Westphalia has not provided a compelling justification to obtain a different treatment than other providers that have recently sought authorization for expanded local calling. The Commission is unable to find that the rates set forth in its expanded local calling proposal are just and reasonable when combined with a monthly calling allowance limited to 1,000 minutes, particularly when rates for calls into adjacent exchanges are compared with rates for calls within the customer’s own exchange.

Although the Commission is denying the application on this basis, it reiterates that expanded local calling is generally in the public interest. The comments in this case indicate that the Westphalia Exchange is no exception: local calling is limited in area, the community of interest surrounding the exchange supports an expansion, present restrictions compare unfavorably to the calling areas provided by nearby local exchange carriers, and at least a portion of Westphalia’s customer base supports an expansion or would benefit from it.³ The Commission commends the efforts of predominantly rural local exchange providers to provide expanded local calling to their customers and encourages Westphalia to continue to refine its own proposals, in close consultation

³ At least a few customers opposed the application. A significant number of others were willing to sign petitions supporting it. Although the Commission attaches less significance to petitions, form letters, or other forms of orchestrated support, the number of signatures, relative to Westphalia’s total customer base, is indicative of at least some support. The percentage of Westphalia’s customers supporting and opposing expanded local calling (and the extent to which their support depends on the amount of the rate increase) is difficult to gauge.

with its customers, with the objective of developing an application that satisfies its customers' needs without compromising the requirements of the MTA.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. Westphalia's application to expand its local calling area and increase its rates should be dismissed without prejudice.

THEREFORE, IT IS ORDERED that the application filed by Westphalia Telephone Company to expand its local calling area and increase its rates for basic local exchange service is dismissed without prejudice.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of January 21, 2003.

/s/ Dorothy Wideman
Its Executive Secretary

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Suggested Minute:

“Adopt and issue order dated January 21, 2003 dismissing without prejudice the application filed by Westphalia Telephone Company to expand its local calling area and to increase its rates for basic local exchange service, as set forth in the order.”