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ORIGINAL

Decision 96-10-034 October 9, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
US Telecom, Inc., doing business as )  
Sprint Services, for a Certificate )  
of Public Convenience and Necessity )  
to Provide InterLATA Telecommun- )  
ications Services within the State )  
of California. )

) Application 89-09-012  
) (Filed September 11, 1989;  
) Petition for Modification  
) filed November 9, 1995)

) Application 89-10-019  
) (Filed October 6, 1989)

) Application 89-11-019  
) (Filed November 20, 1989)

) Case 89-11-020  
) (Filed November 20, 1989)

) Investigation 90-12-040  
) (Filed December 19, 1990)

) (Petition for Modification  
) filed November 9, 1995)

And Related Matters. )

OPINION

On November 9, 1995, MicroVoice Applications, Inc. (petitioner) filed a petition for modification of Decision (D.) 91-03-021. Petitioner seeks an increase in the price limits information providers (IPs) may have billed and collected through interexchange carriers (IECs) for services sold using the 900 area code. Prices are currently limited to \$5.00 for the first minute and \$2.00 for each additional minute, with a maximum total charge not to exceed \$50.00 per call, for all programs not directed to children. Petitioner requests that the price per minute be increased to \$5.00 for all minutes, and that the maximum total charge be increased to \$100.00 per call.

Petitioner describes itself as a national leader in the audiotext industry providing interactive voice programs for classified ads and editorial products, such as stock quotation lines, car and home search programs, and voice personal programs for newspapers throughout the United States, Canada, Mexico, and the United Kingdom. Petitioner says it did not file its petition within one year of the decision because only recently have the price limitations begun to seriously affect its ability to enhance programs, and add and upgrade service bureaus, in California.

According to petitioner, two things have changed the industry since 1991. First, most programs have gone from charging different prices for the initial and additional minutes to charging a single price per minute. Second, a typical price is now over \$2.00 per minute throughout the United States.

California is preventing its citizens from having access to the full range of products that are available elsewhere, according to petitioner. Petitioner says it needs to increase its hardware capacity in San Francisco and Los Angeles, as it has done elsewhere in the United States, in order to expand its programs. Petitioner seeks to offer, for example, additional database/matching features on its voice personal programs, or expansion of California clients' voice personal programs to petitioner's internet product. The expense of such upgrades and expansions, as well as the addition of more service bureaus throughout the state, should be reflected in higher rates to system users, according to petitioner. Petitioner seeks increases in the pay-per-call pricing as soon as possible.

#### Discussion

The original petition did not include a service list. Petitioner corrected this error by transmitting the service list to the Docket Office on November 9, 1995. The certificate of service states that service was performed on October 1, 1995. The copy

received by the administrative law judge was postmarked October 23, 1995. It is unclear whether service was performed as stated on October 1, 1995, or whether the delay (in at least the administrative law judge's copy) was a post office error.

No responses in support of, or opposition to, the petition have been received. This is surprising since the issue of price limits was one of the most contentious issues in the proceeding. The absence of responses also raises the question of whether service was properly performed by petitioner or carried out by the post office. Because we deny the petition for other reasons, we need not pursue further the issue of service.

We deny the relief sought in the petition because the petition fails to comply with Rule 47(b) of the Commission's Rules of Practice and Procedure. Rule 47(b) requires that a petition include several things. First, the petition must propose specific wording to carry out all requested modifications of the decision. Second, any factual allegations must be supported with specific citations to the record or to matters that may be officially noticed. Third, allegations of new or changed facts must be supported by an appropriate declaration or affidavit. The petition fails to satisfy these requirements.

We are not, however, rejecting the petition on the merits. Rather, we would welcome the opportunity to consider a proper petition to increase existing price limits to reasonable levels. We invite petitioner, the original applicants (Sprint Services, AT&T Communications of California, MCI Telecommunications Corporation), or other party or person, to file and serve another petition for our consideration.

#### Findings of Fact

1. On November 9, 1995, MicroVoice Applications, Inc. filed a petition for modification of D.91-03-021, seeking an increase in the price limits IPs may have billed and collected through IECs for services sold using the 900 area code.

2. No responses in support of, or opposition to, the petition were received.

3. The petition neither includes proposed specific wording to carry out all requested modifications, support for factual allegations by citations to the record, support for factual allegations by citations to matters that may be officially noticed, nor support for allegations of new or changed facts by an appropriate declaration or affidavit, as required by Rule 47(b).

Conclusion of Law

The petition for modification should be denied.

ORDER

IT IS ORDERED that the modifications to Decision 91-03-021 (39 CPUC 2d 397) sought in the petition for modification filed by MicroVoice Applications, Inc. are denied. These proceedings are closed.

This order becomes effective 30 days from today.  
Dated October 9, 1996, at San Francisco, California.

P. GREGORY CONLON  
President  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners

I dissent.

/s/ DANIEL Wm. FESSLER  
Commissioner