

D.P.U. 91-30LL

Investigation by the Department on its own motion into the issue of limitation of liability in the provision of tariff services by New England Telephone and Telegraph Company.

APPEARANCES: Victor D. Del Vecchio, Esq.
185 Franklin Street
Boston, Massachusetts 02107
FOR: NEW ENGLAND TELEPHONE AND
TELEGRAPH COMPANY
Respondent

Robert Glass, Esq.
71 Summer Street
Boston, Massachusetts 02110
FOR: MCI TELECOMMUNICATIONS CORPORATION
Intervenor

Carl D. Giesy
Five International Drive
Rye Brook, New York 15073
FOR: MCI TELECOMMUNICATIONS CORPORATION
Intervenor

On April 26, 1991, the Department of Public Utilities ("Department"), on its own motion, issued a proposed procedural schedule in the matter of the investigation into the limitation of liability provisions in the tariff of New England Telephone and Telegraph ("NET" or "Company"). The issue of limitation of liability was severed from D.P.U. 91-30, which was the Department's investigation into the propriety of the rates filed by the Company in its First Transitional Filing in accordance with the Department's Order in D.P.U. 89-300. All parties and intervenors who participated in the First Transitional Filing were accorded the same status in this investigation which was docketed as D.P.U. 91-30-LL.

Pursuant to notice duly issued, the Department held a hearing on July 8, 1991. The Company sponsored the testimony of Philip J. Wood, Director, Regulatory, External Affairs. No intervenors filed testimony with the Department.

The evidentiary record consists of the Company's 58 exhibits and four responses to record requests. The Company filed briefs and MCI filed a letter in lieu of a brief. In its letter MCI fully supports the position of the Company that retention of the Company's current tariff provisions regarding limitation of liability is sound public policy. NET, in its brief, requests that the Department affirm the continued applicability of the Company's limited liability provisions.

The Department's goal was to investigate the limitation of liability sections in NET's tariffs and to determine whether any changes to those provisions should be considered and whether those provisions, or changes thereto, should be applied uniformly to other carriers.

While the Department sought broad participation in this proceeding from consumer groups, users, the Attorney General, and others, no intervenors filed testimony with the Department. The only testimony filed was that of the Company which supports the retention of its tariff provisions regarding limitation of liability. Therefore, the record does not support a finding that any alteration in the limitation of liability provisions contained in the Company's tariff would be in the public interest.

Accordingly, after due notice and consideration, it is

ORDERED: That the investigation into the limitation of liability provisions of New England Telephone and Telegraph Company is hereby closed without any change to New England Telephone and Telegraph Company's tariffs.

By Order of the Department

Kenneth Gordon, Chairman

Barbara Kates-Garnick, Commissioner

Mary Clark Webster, Commissioner