

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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AMENDMENTS TO RULES UNDER § 40-15-108,)		
C.R.S. PRESCRIBING COST-ALLOCATION)		DOCKET NO. 89R-608T
METHODS FOR SEGREGATION OF INVESTMENTS)		
AND EXPENSES OF TELECOMMUNICATIONS)		COMMISSION DECISION
PROVIDERS, (COLORADO UNIVERSAL)		DENYING RECONSIDERATION,
SERVICE FACTOR), 4 CCR 723-27.)		REARGUMENT, OR REHEARING

August 27, 1990

STATEMENT, FINDINGS, AND CONCLUSIONS

BY THE COMMISSION:

Rules 15 through 20 of the Commission's Cost-Allocation Rules for Telecommunications Service Providers and Telephone Utilities were adopted by Decision No. C90-932, as corrected by Errata Notice C90-932-E.

On August 7, 1990, the Office of Consumer Counsel (OCC) filed a Motion for Reconsideration, Reargument, or Rehearing asserting that the tariff cap found in Rule 19.5 is excessive. Also on August 7, 1990, Agate Mutual Telephone Exchange, Big Sandy Telecom Inc., Bijou Telephone Cooperative, Columbine Telephone Company, Delta County Tele-Com Inc., Farmers Telephone Company Inc., Eastern Slope Rural Telephone Association, Nucla-Naturita Telephone Company, Sunflower Telephone Company, and Wiggins Telephone Association (Joint Applicants) filed an Application for Rehearing, Reargument, or Reconsideration.

Both the OCC and the Joint Applicants challenge the tariff cap found in Rule 19.5. The Commission is opening Docket No. 90R-506T to review the local network services revenue cap of 130 percent of the average local revenues of local exchange providers other than small local exchange providers as defined in Rule 1.1 of these rules. The Commission is concerned about assuring the affordability of local exchange service. Therefore, the Commission will review this cap after data has been filed in Docket Nos. 90S-053T through 90S-072T in order to determine if the cap should be adjusted.

The Joint Applicants assert that the rules do not guarantee the affordability of basic telephone service or promote a competitive marketplace discussed in Rule 16.2. While the Commission recognizes that some basic telephone rates may increase, that is because some rates for that service have artificially low due to the separations process which has been used by small local exchange providers. The Commission is striving to establish rates for telephone service which generally track

the cost to provide that service. The Commission believes that policy does promote competition. Therefore, the Commission does not agree with arguments raised by the Joint Applicants.

The Joint Applicants contend that under Rule 17.2 a calculation must be made and reported to the Commission. It is argued the rule is unclear as to when the calculation must be reported. A similar argument is made with respect to Rules 17.4 and 17.5. It is also contended that Rule 17.6 should be clarified to identify who will calculate the state average discussed in the rule. These concerns are addressed in Rule 19.6. Therefore, the Commission believes Rules 17.2, 17.4 and 17.5 are clear.

The Joint Applicants argue Rule 18.1 is unclear because there is a reference to separating investments and expenses in accordance with federal separations procedures and "agreements". The Joint Applicants contend the reference to "agreements" is unclear. This reference is taken directly from § 40-15-108(1), C.R.S. which is noted in Rule 18.1. The Joint Applicants request that a "Unity 1-A Agreement" be included as an agreement under the rule. The Commission has been advised by its staff that the Unity 1-A Agreement is not part of a rule of the Federal Communications Commission and was not established using the federal-state joint board procedures. The Commission has incorporated various rules of the FCC which are specifically noted in these rules and should be used for guidance. Those rules which have been incorporated are in defining the agreements to which § 40-15-108(1), C.R.S. refers. Therefore the Commission believes that Rule 18.1 is clear.

It is also contended that the Commission violated the state's Administrative Procedure Act by adopting Rule 19.4 and failed to allow parties to comment upon the rule. Under § 24-4-103(3)(a), C.R.S., the Commission is only required to give notice of the nature of the public rulemaking proceedings. Here, the Commission gave substantially more notice than required by statute by publishing the proposed rules themselves.

Therefore, the Commission finds that the applications for rehearing, reargument, or reconsideration filed by the Office of Consumer Counsel and Agate Mutual Telephone Exchange, Big Sandy Telecom Inc., Bijou Telephone Cooperative, Columbine Telephone Company, Delta County Tele-Com Inc., Farmers Telephone Company Inc., Eastern Slope Rural Telephone Association, Nucla-Naturita Telephone Company, Sunflower Telephone Company, and Wiggins Telephone Association on August 7, 1990, fail to state sufficient grounds to warrant a change in Decision No. C90-932, as corrected by Errata Notice C90-932-E, and should be denied.

Finally, to the extent any affected telecommunications service provider is unable to comply with these rules or if the rules work an undue hardship upon it, it may seek a waiver, upon an appropriate showing, in accordance with Rule 21 of these rules.

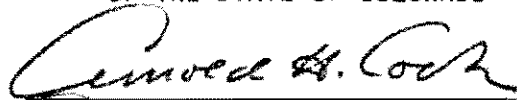

THEREFORE THE COMMISSION ORDERS THAT:

The applications for rehearing, reargument, or reconsideration filed by the Office of Consumer Counsel and Agate Mutual Telephone Exchange, Big Sandy Telecom Inc., Bijou Telephone Cooperative, Columbine Telephone Company, Delta County Tele-Com Inc., Farmers Telephone Company Inc., Eastern Slope Rural Telephone Association, Nucla-Naturita Telephone Company, Sunflower Telephone Company, and Wiggins Telephone Association on August 7, 1990, are denied.

This decision is effective immediately.

DONE IN OPEN MEETING August 27, 1990.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners

COMMISSIONER GARY L. NAKARADO ABSENT
BUT CONCURRING IN THE RESULT.

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