

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MILDRED L. SMITH, et al.,)
 (700 Plus Petitioner))
 P. O. BOX 151)
 FLORISSANT, COLORADO 80816,)
)
 Complainants,)
)
 vs.)
)
 THE MOUNTAIN STATES TELEPHONE)
 AND TELEGRAPH COMPANY)
 P. O. BOX 960)
 DENVER, COLORADO 80201,)
)
 Respondent.)

CASE NO. 6051 ----

RECOMMENDED DECISION OF
EXAMINER ROBERT E. TEMMER

May 20, 1983

Appearances: Thomas C. Stifler, Esq., Colorado
Springs, Colorado, for Complainants;
and

Theodore E. Woods, Esq., Denver,
Colorado, for Respondent Mountain
States Telephone and Telegraph
Company.

STATEMENT

The above-entitled case was initiated by a complaint filed with this Commission on October 15, 1981. The Commission issued its Order to Satisfy or Answer on October 22, 1981. The Mountain States Telephone and Telegraph Company, hereinafter referred to as "Mountain Bell," filed its Motion to Dismiss the complaint on November 10, 1981.

The Commission issued its Decision No. C81-1953 on November 24, 1981. In that decision the Commission stated that the Respondent had accurately reflected the Commission's current policy when it stated that this Commission had determined that extended area service was not in the best interest of the public and had refused to adopt previous requests for extended area service, but the Commission stated that the Complainants might be able to establish that previous Commission policy was in error. Accordingly, the Commission denied the Motion to Dismiss and ordered Mountain Bell to file an Answer. Mountain Bell filed its Answer to the complaint on December 4, 1981.

The matter was originally set for a hearing to be held on February 24, 1982, at the fire station in Florissant, Colorado, but at the request of the Complainant the matter was vacated and reset for a hearing to be held on May 24, 1982. The Complainants filed a Motion for a Continuance on May 10, 1982, which was granted by Decision No. R82-769-I and the May 24, 1982, hearing was vacated and the matter was continued to August 17, 1982, in Florissant. Mountain Bell filed a Motion to Vacate. Decision No. R82-1349-I granted that motion, vacated the August 17, 1982, hearing and reset the matter for a hearing to be held on November 16, 1982, at 10 a.m., in the Meeting Room of the Florissant Fire Station in Florissant, Colorado.

The Complainants filed a Motion to Amend their complaint along with their Amended Complaint on June 4, 1982. The Commission issued its Order to Satisfy or Answer the Amended Complaint on June 8, 1982. Mountain Bell filed its Answer to the Amended Complaint on June 25, 1982.

The hearing commenced on November 16, 1982, at the time and place previously scheduled therefor. As a preliminary matter to that hearing the amended complaint was amended by interlineation to change the references from the 684 exchange to the 689 exchange. Those references were in Paragraphs 1, 2, 3, 4 and 5 of the Amended Complaint. Numerous witnesses presented testimony on that date, and Exhibits 1 through 4 were marked for identification. Exhibits 2 through 4 were admitted into evidence. Exhibit 1 was withdrawn. Official notice was taken of the questionnaires filed by Complainants with their Answers to Interrogatories. Sufficient time was not available on that day to complete the hearing. Decision No. R82-1883-I was issued on December 3, 1982, setting the matter for further hearing on February 28, 1983, at 10 a.m., in Conference Room 226, Judicial Building, 20 East Vermijo, Colorado Springs, Colorado. The hearing was continued on that date and concluded. At the conclusion of the hearing, the subject matter was taken under advisement.

Pursuant to the provisions of 40-6-109, CRS 1973, the Examiner herewith transmits to the Commission the record and exhibits of the hearing along with this written recommended decision.

FINDINGS OF FACT
AND CONCLUSIONS THEREON

Based upon all the evidence of record, the following facts are found and conclusions thereon are drawn:

1. The Complainants in this matter are Mildred L. Smith, an individual living near Florissant, Colorado, and the Teller-Park Citizens for Equitable Public Service, an organization of citizens residing in Teller and Park Counties, Colorado.

2. Mountain Bell is a public utility providing telephone service in various parts of this state.

3. A local exchange is an area where a person in that area can call any other telephone number in that area without incurring a long distance charge. In the area relevant to this complaint there are two local exchanges. The 748 exchange includes Florissant and some of the surrounding territory, and the 689 exchange includes Cripple Creek and some of the surrounding territory. Each of these exchanges is contiguous to the 687 exchange which includes Woodland Park. The 748 exchange is to the west of the 687 exchange and the 689 exchange is to the south of the 687 exchange.

4. An extended area service or EAS is a combination of contiguous exchanges that allows calling between any of the numbers in the contiguous exchanges without long distance charges. The 687 exchange is in an EAS area that allows calls to Colorado Springs without long distance charges.

5. Florissant is in Teller County. Cripple Creek is the county seat of Teller County. Woodland Park is also in Teller County. A call from Florissant to Cripple Creek currently incurs long distance charges as does a call from Cripple Creek to Florissant. In addition, a call from Florissant to Woodland Park or from Cripple Creek to Woodland Park would also incur toll charges. Similarly, calls from Florissant or Cripple Creek to Colorado Springs would incur toll charges and vice versa.

6. The witnesses that testified would like to have extended area service because a lot of the calls they make result in long distance

charges being assessed. Calls to doctors, lawyers, government offices, schools and even neighbors may result in long distance charges. This results because the services needed by the people residing in the 748 or 689 exchange are or may not be located in those exchanges so that a call may be required to Woodland Park, Colorado Springs or some other location beyond the exchange. Therefore, long distance charges are incurred. These charges can add up rather quickly, so that the residents may have substantial long distance bills. Most of the public witnesses that testified at the hearing were in favor of an extended area service so that they would not incur these long distance charges. Several witnesses were against an extended area service on the basis that they felt it would increase their base telephone bill and that they did not think that the Florissant or Cripple Creek area were "suburbs" of Colorado Springs.

7. The evidence shows that residents of the 748 and 689 exchanges have experienced service problems. They have experienced noise and humming on the lines so that it was hard to hear. They have had service outages, especially after rain storms. They have had their service disconnected or go dead. They have also experienced having businesses connected to residential party lines and having so-called private lines turn into party lines.

8. Residents of the 748 and 689 exchanges have experienced difficulties with their bills. The biggest problem has been that charges for long distance calls are placed on the telephone bills of people who are not responsible for those calls. This has caused difficulty for the residents, and they have expended a considerable amount of time getting these matters straightened out.

9. There were some references to different charges for the same service, however, sufficient evidence was not presented to allow any findings to be made on this issue.

10. One witness that had billing problems concerning long distance charges was able to eliminate the problem by the use of a credit card.

11. Mountain Bell, based upon its experience with the "Metro '65" program and studies conducted in the state of Utah and in Denver, believes that an EAS will stimulate calling volume by two to 14 times. At the same time, revenue is reduced because of the elimination of long distance charges. Mountain Bell predicts that if EAS was granted to both the 748 and 689 exchanges, that it would cause a capital outlay of between \$495,000 and 1.2 million dollars to upgrade the existing facilities to handle the additional volume generated. At the same time, it predicts it would lose \$237,000 in toll charges which would only be offset by an increase in the basic local exchange revenues by changing the 748 and 689 from Group 1 Exchanges to Group 2 Exchanges. This would provide an additional \$44,000 of revenue. Mountain Bell alleges that the \$192,000 loss of revenue and 37% of the capital costs, which it predicts will be its annual expense costs, would have to be made up by the general rate-payers. Mountain Bell contends that frequent users of long distance rates would get a lower overall bill and non-frequent users of long distance would get higher overall bills. There is long distance revenue generated by calls between the 748 and 689 exchanges, however, Mountain Bell was unable to determine at the time of hearing what that would be. Mountain Bell's figures were its "best estimates," based on the information it had.

12. Granting extended area service to the 748 and 689 exchange would increase a normal residential customer's monthly bill by approximately \$1.71 per month.

13. Between the two days of hearing conducted in this matter Mountain Bell investigated the service difficulties testified to by the

witnesses at the initial day of hearing and alleges that they have corrected any problems they found. The records of Mountain Bell indicate that the number of service problems experienced in these two exchanges is comparable to rural areas elsewhere. Mountain Bell thinks the service level is high, but that it is typical of any rural mountain area.

The areas do not have automatic billing equipment and this is one of the main reasons for the problem with the long distance billing. Mountain Bell will, in fact, adjust bills if it cannot substantiate that that customer made the call.

DISCUSSION

The evidence presented in this matter establishes that residents of the 748 and 689 exchanges may incur substantial long distance charges on their telephone bills because of their location in relation to services they use. The evidence shows that some people would like to have EAS so that they would not incur such large long distance bills. The evidence shows that there are numerous reasons to make calls that result in long distance charges, and that many of these calls are extremely important and necessary. This information is not sufficient to show that the Commission's policy against extending extended area services is improper. The evidence does tend to show that residents in the Colorado Springs EAS enjoy a much larger calling area without toll charges than the residents in the 748 and 689 exchanges. However, it appears that extending EAS is not the way to eliminate this discrimination. If the 748 and 689 exchanges are included in the EAS, then the line is simply extended so that the discrimination is shifted to those beyond those two exchanges. The evidence is insufficient to determine that this discrimination is unjust or unreasonable.

The issue of adding areas to EAS has been considered by this Commission several times in the past, as shown by the following quotation:

4. Expansion of the "Metro '65" area has been the subject of previous complaints which were ultimately dismissed, with this Commission concluding that such expansion would not be in the public interest. Decision No. 87315, dated August 13, 1975, states as follows:

"'Metro '65' as heretofore stated, was initiated in the year 1965 and provided toll-free telephone service for the Metropolitan-Denver area including Boulder. Service was offered on this basis, but not as an option, with some rates greater than the rates previously in effect for all classes of service. The increases were intended, of course, to offset the reduction in revenue that would be occasioned by the loss of the toll revenue between points within that area.

Looking back over the approximately 10-year period since the initiation of 'Metro '65', indicates that Mountain Bell, together with the Public Utilities Commission, greatly underestimated the increased telephone usage and load upon the Mountain Bell System that was brought about by this service. The difference in usage was not expected to significantly increase within the toll-free Metro-Area simply because the relatively small toll charge that was previously charged was eliminated. This assumption was in error.

In more recent years, the term 'usage sensitive pricing' has become prevalent in telephone pricing theories. This term simply means that the cost of the telephone service should be more directly related to its use by the consumer, taking into consideration the distance of the call, the duration of the call, the time of day the call is made, and frequency of use. Inherent in the present pricing structure is the subsidization of those making extensive use of telephone service by those making infrequent use of such service. While it is recognized that this subsidization can be offset to some degree by selecting a lower grade service, i.e., two party, four party, or measured service, the fact remains that those persons receiving a like grade of service do not necessarily make the same demand on the telephone system involved. Equity alone dictates that those using the telephone the most should pay the highest price.

There appears to be little question that, on reflection, Respondent Mountain Bell has serious doubts of the wisdom in initiating the 'Metro '65' system 10 years ago. There is, likewise, question in the minds of regulators that the present 'Metro '65' creates inequities between subscribers to the same service. Adding to those inequities by building upon the system created 10 years ago only serves to compound the problems which must be faced with respect to telephone pricing in the future."

Further discussion on this issue is set forth in Decision No. 91334, dated September 26, 1977:

". . . The expansion of 'Metro '65' has been considered on several occasions because of the type of problems that are being considered here. The Commission has said:

' . . . The problem of exchange boundaries resulting in toll calls within an area having a community of interest has been a subject of interest, complaint and consideration for some time. Particularly in an atmosphere of growth and development in relatively more outlying areas, exchange boundaries determined to be appropriate in the past can quickly become obsolete. To revise exchange boundaries is not an easy process; once distribution plant has been designed and installed in a particular manner, revising an exchange boundary becomes an economically undesirable and costly proposition. In the past the tendency has been to eliminate necessity for toll calls by combining exchanges in an 'extended area of service' or 'EAS' arrangement. EAS now exists in many areas of the State, the most notable being the Denver Metro area or 'Metro '65'. In size, albeit not in population or number of telephones, similar areas exist in other parts of the State such as the Grand Junction area, Greeley area and many others. In many areas, however, no EAS is provided. An

example might be Alamosa-no toll-free calling is provided from or to this exchange. A number of public witnesses have commented on this phenomenon. The problem is also particularly acute in small exchanges adjoining the Denver Metro '65 area, such as Erie. While the present situation appears to be somewhat discriminatory as between various areas of the State, continued general expansion of EAS is inconceivable. The record is clear that some of the revenue requirements problems today have been created by expansion of EAS in the past. On a flat rate basis, expansion of EAS eliminates toll revenues, stimulates calling, requires additional facilities, and creates revenue deficiencies. . . . Decision No. 81320, issued September, 1972.

While the present situation appears to be somewhat arbitrary as between those areas within and without the 'Metro '65' area, the expansion of 'Metro '65' would not be in the public interest, as the cost of the expansion would have to be borne by more than just the subscribers in the area included. Accordingly, that portion of Complainants' complaint requesting the extension of 'Metro '65' to the Complainants' calling area should be denied."

5. The concerns, conditions and costs in expanding "Metro '65", as described above, remain today. Inclusion of the Ward exchange in the "Metro '65" area would require a capital outlay of approximately \$436,000 based on a minimum number of calls. In addition, general expenses would be approximately \$192,000 per year of which approximately \$7,000 would be recovered through rate increase. This results in a short fall of \$185,000 plus \$37,000 loss in toll revenues for a total of \$222,000 revenue shortfall. Testimony given during this proceeding therefor clearly supports the concern for any expansion of "Metro '65" as discussed in prior Commission decisions.

6. Although prior decisions have noted that the present boundaries of "Metro '65" appear to be somewhat arbitrary, and alternatives, such as "usage sensitive pricing," and/or division of "Metro '65" into two or more "extended areas of service" to allow greater access to the Denver Metropolitan Area, as well as expansion of "Metro '65," have been suggested, either during this proceeding or in the past, as solutions to present service, the evidence presented in the present proceeding does not establish either technical or economic feasibility for such alternatives. Decision No. R81-529, issued March 23, 1981.

The concerns and policies expressed in the above quotation still remain valid. Nothing was presented in this case which would warrant a change.

The evidence does show service and billing problems that should be corrected.

Pursuant to the provisions of 40-6-109, CRS 1973, it is recommended that the Commission enter the following Order.

O R D E R

THE COMMISSION ORDERS THAT:

1. The Mountain States Telephone and Telegraph Company shall take steps to insure that the long distance bills it renders in its 689 and 748 exchanges are correct, shall provide or offer to provide credit cards to those customers who have experienced problems with their long distance bills, and shall install automatic billing equipment as soon as is reasonably practicable. Said company shall continue to monitor the quality of service provided in said exchanges, shall promptly respond to all reasonable service requests, and shall maintain good service in said exchanges.

2. Any relief requested in the Complaint or Amended Complaint filed in this matter which is not granted by Ordering Paragraph 1 be, and hereby is, denied.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if such be the case, and is entered as of the date hereinabove set out.

4. As provided by 40-6-109, CRS 1973, copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto; but if no exceptions are filed within twenty (20) days after service upon the parties or within such extended period of time as the Commission may authorize in writing (copies of any such extension to be served upon the parties), or unless such Decision is stayed within such time by the Commission upon its own motion, such Recommended Decision shall become the Decision of the Commission and subject to the provisions of 40-6-114, CRS 1973.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Examiner

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