(Decision No. C91-1333)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE COST ALLOCATION RULES FOR TELECOMMUNICATIONS SERVICE AND TELEPHONE UTILITIES PROVIDERS, 4 CODE OF COLORADO REGULATIONS 723-27, TO MODIFY RULES 17.1, 19.1.1.1, 19.2.1.2., AND 19.5.	))))))	DOCKET NO. 91R-638T

COMMISSION ORDER GIVING NOTICE OF PROPOSED RULEMAKING AND HEARING ON NOVEMBER 22, 1991 TO MODIFY RULES 17.1; 19.1.1.1; 19.2.1.2, AND 19.5 TO TELECOMMUNICATIONS COST ALLOCATION RULES, 4 CODE OF COLORADO 723-27.

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Mailing date: October 4, 1991
Adopted date: September 25, 1991

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Several independent telephone companies have proposed that the Commission delete the "ratchet" provision in its Colorado High Cost Fund "safety net" rule, found at Rule 19.5 of the Commission's Cost Allocation Rules for Telecommunications Service and Telephone Utilities Providers, 4 Code of Colorado Regulation 723-27. In 1991, the Rule capped local network service tariffs at 100% of the local network tariffs charged by U S West Communications, Inc. ("U S West") to its Colorado customers. See Rule 19.5 (effective January 30, 1991). The tariff cap will rise to 115% of the U S West rate in 1992, and to 130% of the U S West rate in 1993.

The Commission's intention in gradually raising the tariff cap was to provide an incentive to the independent telephone companies to become more efficient and to cut costs, rather than rely on subsidies such as the High Cost Fund, largely paid by the customers of U S West, which has 98% of all access lines in Colorado. The

Commission decided to gradually take away the Rule 19.5 safety net in order to avoid a sudden rate shock to the customers of the independent companies. As the Commission stated to all the parties in a letter dated December 14, 1990, the Commission intended to conduct an ongoing review of Rule 19.5, and would change the Rule should circumstances so warrant. Further, the Commission stated in the December 1990 letter its willingness to consider a waiver of Rule 19.5 if special circumstances warranted a waiver for a particular company. See Letter of Executive Secretary dated December 14, 1990 (Attached as Appendix "A") (legislative history of Rule 19.5). The Commission will conduct rulemaking to consider permanently abolishing the "ratchet" provision in Rule 19.5, and maintaining the safety net for independent telephone companies at 100% of the U S West rate. The proposed change is attached in Composite Appendix "B". However, the companies are cautioned, that the Commission expresses no view regarding the merits of the proposal, and all companies shall assume that Rule 19.5 will neither be changed nor waived for purposes of their planning for January 1992 tariffs.

In addition to the changes to the Cost Allocation Rules proposed by the independent telephone companies, the Staff of the Colorado Public Utilities Commission ("Staff") proposes changes to Rule 17.1, Rule 19.1.1.1, and Rule 19.2.1.2, to the Commission's Cost Allocation Rules for Telecommunications Service and Telephone Utilities Providers, 4 Code of Colorado Regulation 723-27. The proposed changes are attached in Composite Appendix "B".

The Commission will file this notice of proposed rulemaking with the Office of Regulatory Reform during September 1991, because rules may affect small businesses. The Commission will send the notice of proposed rule-making to the Secretary of State, who will publish the notice in the Colorado Register on or about October 10, 1991. See Colorado Revised Statutes § 24-4-103.5 (1988 Repl. Vol.10A) (requiring 10-days advance notice to the office of regulatory reform); Colorado Revised Statutes § 24-4-103(3)(a) (1988 Repl. Vol.10A) (requiring a minimum of 20-days notice of hearing after publication by the secretary of state). The Commission will conduct public hearings on the proposed modifications to Commission's Cost Allocation Rules for Telecommunications Service and Telephone Utilities Providers, Commission's Cost Allocation Rules for Telecommunications Service and Telephone Utilities Providers, 4 Code of Colorado Regulation 723-274 Code of Colorado Regulation 723-27, on Friday November 22, 1991, commencing at 9:30 a.m.

<u>THEREFORE THE COMMISSION ORDERS THAT</u>:

1. The Director shall file with the Secretary of State the necessary documents to allow for notice of this proposed rulemaking to modify Rule 17.1, Rule 19.1.1.1, 19.2.1.2, and Rule 19.5 to the Commission's Cost Allocation Rules for Telecommunications Service and Telephone Utilities Providers, 4 Code of Colorado Regulation 723-27. The proposed changes are attached as Composite Exhibit "B" to this Order and Notice of Proposed Rulemaking.

2. The Commission will conduct public hearings on the proposed rulemaking as follows:

Date: Friday November 22, 1991.

Time: 9:30 a.m.

Place: Colorado Public Utilities Commission
Logan Tower
1580 Logan Street, Office Level 2
Commission Hearing Room "A"
Denver, Colorado 80203

3. All parties wishing to participate in this docket may file an Entry of Appearance to be on the Commission's official mailing list, and shall do so by November 4, 1991.

4. Initial comments on the proposed rules shall be filed on or before Friday November 15, 1991.

ADOPTED IN OPEN MEETING ON September 25, 1991.

(S E A L)

ATTEST: A TRUE COPY

Suzanne A. Fasing

Suzanne A. Fasing
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

CHRISTINE E. M. ALVAREZ

Commissioners

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

STATE OF COLORADO

PUBLIC UTILITIES COMMISSION
Arnold H. Cook, Chairman
Ronald L. Lehr, Commissioner
Gary L. Nakarado, Commissioner
James P. Spiers, Executive Secretary

Department of Regulatory Agencies
Steven V. Berson
Executive Director

Roy Romer
Governor

December 14, 1990

Re: Commission Order Adopting Revised Rule 19.5, Colorado High Cost Fund Local Network Services Tariff Cap for Telecommunications Providers in Docket No. 90R-506T

Dear Friends,

At the Commission's Open Meeting on December 12, 1990, the Colorado Public Utilities Commission unanimously adopted a new version of Rule 19.5 of the PUC Cost Allocation Rules for Telecommunications Service and Telephone Utilities Providers (found at 4 Code of Colorado Regulations 723-27). The new version of Rule 19.5 is the same as the old rule, except the tariff cap is lowered to 100% of the average U S West exchange revenue per line for 1991. It will rise in increments to 115% of the average U S West exchange revenue per line in 1992, then to 130% of the average U S West exchange revenue per line for 1993 and afterwards. The average monthly U S West exchange revenue per line ("average U S West rate") is $20.15.

In the various Open Meetings held in this docket, and in its review of the written comments submitted by the parties, the Commission considered various percentages of the U S West average rate to use in Rule 19.5 as the "safety net" in the Colorado High Cost Fund. The Commissioners decided to adopt the compromise proposed by the PUC Staff. The compromise lowered the tariff cap to 100% of the average U S West base rate for 1991, as requested by the independent telephone companies and the Office of Consumer Counsel. The Commissioners agreed that the Staff proposal of a step upward in the tariff cap to 115% in 1992, and a further step upward to a tariff cap of 130% in 1993 and thereafter, would provide an incentive to the independents to cut costs. The Commission feels that this mechanism will implement the policy goals of avoiding "rate shock" in 1991 and providing universal affordable basic local telephone service, as well as providing an economic incentive to the independents to become efficient and control costs.

At the Open Meeting on December 12, 1990, the Commissioners expressed a desire to conduct an ongoing review of the Rule 19.5 "safety net" tariff cap, which could change the Rule in future years if the facts indicated a need for change. Future, the Commissioners stated that they were willing to consider a waiver of the Rule if special circumstances warranted a waiver for a particular company.

1580 Logan Street, Office Level 2, Denver, Colorado 80203
General Information (303) 894-2070 or 1-800-888-0170 • FAX (303) 894-2065

In conclusion, Rule 19.5 of the PUC Cost Allocation Rules for Telecommunications Service and Telephone Utilities Providers (found at 4 Code of Colorado Regulations 723-27) shall read:

19.5 LOCAL NETWORK SERVICE TARIFF CAP

In no event shall the local network services revenue requirement, as defined in 47 CFR §§ 32.5000 through 32.5069 (1989), of small local exchange carriers, who have been certified as providing a level of local exchange service which encompasses a community of interest standard, be in excess of 100 percent of the average in 1991, 115 percent of the average in 1992, and 130 percent of the average in 1993 and thereafter, of such revenue requirement for local exchange providers which are not small local exchange carriers. Such excess shall be considered as a part of the small local exchange carriers Colorado High Cost Fund revenue requirement.

Sincerely,

James P. Spiers
Executive Secretary

<u>COMPOSITE APPENDIX "B"</u>

**MODIFIED RULES 17.1, 19.1.1, AND 19.5
AND NEW RULE 19.2.1.2 TO THE COMMISSION'S
COST ALLOCATION RULES FOR TELECOMMUNICATIONS
SERVICE AND TELEPHONE UTILITIES PROVIDERS,
4 CODE OF COLORADO REGULATION 723-27**

**Decision No. C91-xxxx
Docket No. 91R-XXX
October 2, 1991**

Additions to current Rules are shown as redlined redlined. Deletions are shown as strike-outs ~~strike-outs~~.

RULE 17

<u>Calculations of Average Loop, Local Switching, and Exchange Trunk Costs for Fund Support</u>

17.1 The averages used in calculating CHCF support will be computed on the basis of the data reported per this Rule 17 for the preceding calendar year which may be updated at the option of the small LEC pursuant to 47 CFR 36.612(a).

RULE 19

Colorado High Cost Fund

19.1 SUPPORT FOR HIGH LOOP COSTS

19.1.1 For small LECs reporting an average unseparated loop cost per working loop less than or equal to 115 percent of the national average for this cost, the CHCF revenue requirement for high loop costs shall be the sum of: (a) zero (0); and (b) the difference between 0.265 and twice the small LEC's intrastate interexchange SLU, (if greater than zero) times ~~115 percent of the national average~~ the LEC's average unseparated loop cost per working loop for this cost.

19.2 SUPPORT FOR HIGH LOCAL SWITCHING COSTS

19.2.1.2 In no event shall the Colorado high local switching allocation factor be less than zero. If, by the application of the formula of this Rule 19.2.1.2, the Colorado high local switching allocation factor is less than zero, the factors of 19.2.1.2. (b) and (c) above shall be proportionally reduced.

19.5 LOCAL NETWORK SERVICE TARIFF CAP

In no event shall the local network services revenue requirement, as defined in 47 CFR §§ 32.5000 through 32.5069 (1989), of small local exchange carriers, who have been certified as providing a level of local exchange service which encompasses a community of interest standard, be in excess of 100 percent of the average ~~in 1991, 115 percent of the average in 1992, and 130 percent of the average in 1993 and thereafter, of such revenue requirement~~ for local exchange providers which are not small local exchange carriers. Such excess shall be considered as a part of the small local exchange carriers Colorado High Cost Fund revenue requirement.