

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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THE APPLICATION OF TCI COMMU-)	DOCKET NO. 93A-471T
NICATIONS, INC., FOR A CERTIFI-)	
CATE OF PUBLIC CONVENIENCE AND)	RECOMMENDED DECISION OF
NECESSITY AS A PART 3 SERVICE)	ADMINISTRATIVE LAW JUDGE
PROVIDER IN ACCORDANCE WITH)	JOHN B. STUELPNAGEL
§ 40-15-301, C.R.S.)	GRANTING CERTIFICATE OF
)	PUBLIC CONVENIENCE AND
)	NECESSITY

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Mailed Date: December 29, 1993
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STATEMENT

This Application was filed by TCI Communications, Inc. (Applicant), in accordance with § 40-15-301(2), C.R.S., and Rule 3 of the Commission's Rules Regulating Emerging Competitive Telecommunications Service Providers, (Part Three Rules) found at 4 CCR 723-24. Supplements to the Application were filed on September 30, 1993.

Applicant applied for a Certificate of Public Convenience and Necessity ("CPCN") in order to provide services subject to the jurisdiction of this Commission. Specifically, Applicant seeks authority to provide intrastate, non-optional operator services throughout the State of Colorado under § 40-15-301 and 40-15-102(20), C.R.S., and the Commission's Rule's Regulating Operator Services for Telecommunications Service Providers and Telephone Utilities, (Operator Service Rules), 4 CCR 723-18. Applicant has not applied for authority to provide any other telecommunications services subject to the jurisdiction of this Commission. Applicant is not, as part of this Application, seeking relaxed regulation.

Applicant states it will offer non-optional operator services to the general public. These services will be provided throughout the State of Colorado on an intraLATA (including local operator-assisted services) and interLATA basis.

The Commission issued notice of this application on September 10, 1993. A Petition for Leave to Intervene was filed October 12, 1993, by TCI Cablevision of Colorado, Inc. ("TCI of Colorado"), and the same was granted on November 10, 1993, by Decision No. C93-1430. TCI of Colorado states it has no objection to the proposed activities of Applicant, and further fails to set forth any issue over which this Commission has

jurisdiction. The Intervention should now be stricken and this matter decided without hearing, as provided in § 40-6-109(5), C.R.S.

Applicant requests a waiver of Cost Allocation Rules for Telecommunications Service Providers and Telephone Utilities (Cost Allocation Rules), 4 CCR 723-27, Rule 4 which requires providers to use the Uniform System of Accounts as per 47 CFR Parts 32 and 36. Instead, Applicant requests that it keep its books according to the Generally Accepted Accounting Principles ("GAAP").

Applicant also requests a waiver of the requirement to file a cost segregation manual. This will be construed by the Commission as a request for waiver of Rule 9, 4 CCR 723-27. Applicant also seeks relief from the requirement to file segregated financial statements. Likewise, the Commission will treat this as a request for waiver of Rule 10, 4 CCR 723-27.

Applicant seeks authority to maintain its books and records outside the State of Colorado. This will be treated as a waiver of Rule 3 of Rules Regulating Telecommunications Service Providers and Telephone Utilities (Quality of Service Rules), 4 CCR 723-2. Instead, Applicant seeks to maintain its books and records in Sioux Falls, South Dakota.

Pursuant to the provisions of § 40-6-109, C.R.S., the Administrative Law Judge transmits to the Commission the record of this proceeding together 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 drawn:

1. The Applicant is a South Dakota corporation authorized to do business in Colorado since February 1, 1993, and will conduct business in Colorado under the name TCI Communications, Inc.

2. Applicant's non-optional services will be offered to the general public. Applicant does not intend to offer any other services subject to the jurisdiction of this Commission.

3. The services to be offered are non-optional operator services provided throughout the State of Colorado on an intraLATA (including local operator assisted services) and an interLATA basis.

4. Included in the Application is the aforementioned request for permission to maintain books and records according to

GAAP in lieu of 47 CFR Parts 32 and 36, and Rule 4 of 4 CCR 723-27. Such a request is consistent with the public interest.

5. The Applicant also requests a waiver of the requirement to file a cost segregation manual and the requirement to file segregated financial statements, as per the Commission's Cost Allocation Rules, 4 CCR 723-27, in its entirety. Such a request is consistent with the public interest.

6. The request to maintain books and records outside the State of Colorado, i.e., a waiver of Rule 3 of the (Quality of Service Rules) Rules Regulating Telecommunications Service Providers and Telephone Utilities, 4 CCR 723-2, is subject to the provisions of § 40-6-107, C.R.S. Applicant shall maintain its books and records in Sioux Falls, South Dakota. Such a request is consistent with the public interest. Applicant shall inform the Commission immediately upon any change in the location of these books and records.

7. Upon certification, the Applicant will be subject to all statutes and rules promulgated by the Commission. A list of these current Commission rules is presented as Attachment B.6 to the Part 3 Provider Information Package mailed to all known operator service providers. Applicant is strongly encouraged to obtain copies of all these rules.

8. The application complies with 4 CCR 723-24, Rule 3. Thus, the Applicant has stated sufficient grounds to warrant the approval of its application as discussed herein above. The Commission finds the issuance of a CPCN, under the conditions outlined above will be consistent with the legislative intent stated in § 40-15-101, C.R.S. Consequently, a CPCN will be issued.

9. No specific form of relaxed regulation shall be granted as a result of this order.

10. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended that the following order be entered.

ORDER

THE COMMISSION ORDERS THAT:

1. The application filed by TCI Communications, Inc., is approved under the condition specified hereinabove. TCI Communications, Inc., is granted a Certificate of Public Convenience and Necessity to provide non-optional operator services in accordance with Rule 3 of the Commission's Rules Regulating Emerging Competitive Telecommunications Service Providers found at 4 CCR 723-24. TCI Communications, Inc., does not receive any form of relaxed regulation as a result of this

Order. This Order shall serve as the Certificate of Public Convenience and Necessity for statewide authority to provide non-optional operator services only, as described herein.

2. TCI Communications, Inc., must file a tariff within 30 days of the mailed date of this Order. The tariff shall include, at a minimum, appropriate tariff sheets stating rates, relevant Operator Service Rules, and other regulations as required by the rules of this Commission, citation of this Decision as its authority, and, the name of a customer-complaint contact person. In support of this tariff, appropriate cost support must be included in that filing.

3. This grant of authority is subject to compliance by TCI Communications, Inc., with all present and future rules, regulations, and other procedures of the Commission except as outlined above. Specifically:

- A. The waiver of Cost Allocation Rule 4 is granted. Applicant is not required to maintain its books and records according to 47 CFR, Parts 32 and 36. Applicant may maintain its books and records according to Generally Accepted Accounting Principles.
- B. The waiver of 4 CCR 723-27 in its entirety is granted. The Applicant is not required to file a cost segregation manual or to file segregated financial statements as required in Rule 10 of 4 CCR 723-27. Should the Applicant begin to offer deregulated services in Colorado, the Applicant will inform the Commission and the waiver may need to be reevaluated, and possibly rescinded.

TCI Communications, Inc., is required to comply with all other Commission required reporting requirements, including but not limited to an acceptable annual report as required under Rule 25 of the Rules of Practice and Procedure.

4. The waiver of the requirement to maintain books and records in Colorado is granted subject to the provision that TCI Communications, Inc., will produce its books and records to the Commission upon request as required by § 40-6-107, C.R.S. TCI Communications, Inc., is authorized to maintain its books and records in Sioux Falls, South Dakota, and immediately will inform the Commission of any change in the location at which these documents are maintained. Any expenses associated with such production will be borne by TCI Communications, Inc. Should

TCI Communications, Inc., be unable to do so, this waiver will be rescinded.

5. No specific form of relaxed regulation is granted by this Order.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.


7. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a. IF NO EXCEPTIONS ARE FILED WITHIN 20 DAYS AFTER SERVICE OR WITHIN ANY EXTENDED PERIOD OF TIME AUTHORIZED, OR UNLESS THE DECISION IS STAYED BY THE COMMISSION UPON ITS OWN MOTION, THE RECOMMENDED DECISION SHALL BECOME THE DECISION OF THE COMMISSION AND SUBJECT TO THE PROVISIONS OF § 40-6-114, C.R.S.

b. IF A PARTY SEEKS TO AMEND, MODIFY, ANNUL, OR REVERSE BASIC FINDINGS OF FACT IN ITS EXCEPTIONS, THAT PARTY MUST REQUEST AND PAY FOR A TRANSCRIPT TO BE FILED, OR THE PARTIES MAY STIPULATE TO PORTIONS OF THE TRANSCRIPT ACCORDING TO THE PROCEDURE STATED IN § 40-6-113, C.R.S. IF NO TRANSCRIPT OR STIPULATION IS FILED, THE COMMISSION IS BOUND BY THE FACTS SET OUT BY THE ADMINISTRATIVE LAW JUDGE AND THE PARTIES CANNOT CHALLENGE THESE FACTS. THIS WILL LIMIT WHAT THE COMMISSION CAN REVIEW IF EXCEPTIONS ARE FILED.

8. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Administrative Law Judge

JBS:srs:471T1