

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-496T

IN THE MATTER OF THE JOINT APPLICATION TO EXPAND THE LOCAL CALLING
AREA IN NORTHERN COLORADO.

**ORDER WAIVING CERTAIN REQUIREMENTS
OF RULE 70 ON COMMISSION'S OWN MOTION**

Mailed Date: January 2, 2004
Adopted Date: December 30, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission upon its own motion for a waiver of the requirements of the Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1-70(a). Rule 70(a) provides:

If the Commission fails to mail its decision on the status of an application by the fifteenth day following the expiration of the notice period or fifteen days after the application was last supplemented, or the receipt of applicant's advise that no additional information or documentation is necessary, whichever date is later, the application shall be deemed complete as of the fifteenth day.

2. On November 14, 2003, several parties filed a joint application requesting the expansion of local calling areas in northern Colorado. The Commission noticed the application on November 19, 2003 to all local exchange providers, resellers, long distance providers, and petitioning parties.

3. Pursuant to Commission Rule 4 CCR 723-2-17.3.2.1, which governs local calling area expansion, when a petition is received by the Commission under Rule 17.3.2, any provider furnishing long distance service between the exchange areas, and any provider furnishing

switched access in the exchange areas being considered for inclusion in the expanded local calling area, are to perform all necessary analyses to quantify the calling volumes per customer as provided in Rule 17.3.3.1.

4. According to Commission Rule 4 CCR 723-2-17.3.5, any provider furnishing service in and between the exchange areas being considered for inclusion in the local calling area is to perform all necessary revenue and cost analyses to quantify the rate increment per customer (Cost Study). The Cost Study is to be completed by the providers and submitted to Commission Staff within 30 days of Commission notification.

5. In Decision No. C03-1350 issued on December 3, 2003, we named Qwest Corporation (Qwest) and Nunn Telephone Company (Nunn Telephone) as indispensable parties in this docket and ordered that they both conduct a call volume analysis and Cost Study. Upon completion of the call volume analyses and Cost Studies, we determined that we would issue further procedural orders in this matter.

6. Qwest and Nunn Telephone subsequently filed a joint motion for an extension of time to allow the parties to submit the ordered call volume analyses and Cost Studies no later than January 30, 2004. We granted the joint motion in Decision No. C03-1428.

7. We now find that allowing the parties until January 30, 2004, to file the required analyses and Cost Studies creates a conflict with the provisions of Commission Rule 70(a). Specifically, as indicated above, we are required, pursuant to that rule, to mail a decision on the status of an application no later than 15 days after the expiration of the notice period, or after the application was supplemented, or advise that no additional information is necessary, whichever date is later. Should we fail to issue such an order here, the joint application will automatically

be deemed complete on January 5, 2004, unless some Commission action is taken in the alternative.

8. As we indicated in Decision No. C03-1350, the analyses and Cost Studies we ordered are important to determine the rate effect of the proposed expansion of the local calling area in question. In order to ensure sufficient time is allowed for notice of the impact of the filing of the analyses on rates of affected end users, we therefore determine it imperative that we waive the requirements of Rule 70(a) upon our own motion, and enlarge the time in which the joint application will automatically be deemed complete without Commission action. Therefore, we will enlarge the time in which the Commission must determine the completeness of the joint application an additional 45 days to February 19, 2004.

II. ORDER

A. The Commission Orders That:

1. Upon the Commission's own motion, the requirements of Rule 4 *Code of Colorado Regulations* 723-1-70(a) regarding the time in which the Commission must mail its decision on the status of the joint application in this docket are waived.

2. The time in which the Commission must mail its decision regarding the status of the joint application is extended 45 days from the original "automatically deemed complete" date of January 5, 2004, to February 19, 2004.

3. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 30, 2003.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners