

Decision No. C04-0146

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03I-485T

REGARDING ADOPTION OF A BATCH HOT CUT PROCESS PURSUANT TO 47 C.F.R.
§ 51.319(D)(2)(II)

ORDER TO OMIT RECOMMENDED DECISION

Mailed Date: February 6, 2004
Adopted Date: January 28, 2003

I. BY THE COMMISSION

A. Statement

1. We opened this docket by Decision No. C03-1250 (Mailed Date of November 5, 2003) to consider establishment of a batch cut process in accordance with Rule 47 C.F.R. § 51.319(d)(2)(ii), adopted by the Federal Communications Commission (FCC) on August 21, 2003. *See Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, FCC 03-36, Triennial Review Order.¹ FCC Rule 51.319(d)(5)² requires that the Commission complete this proceeding (*i.e.*, issue its decision establishing a batch cut process) within nine months from the effective date of the Triennial Review Order (by July 2, 2004).

2. Decision No. C03-1250 assigned this matter to an Administrative Law Judge (ALJ) for further proceedings, and the ALJ, in part based upon comment from the parties, has scheduled hearings in this case commencing April 28, 2004.³ Section 40-6-109(6), C.R.S.,

¹ *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003).

² 47 C.F.R. 51.319(d)(5).

³ If the hearings in Docket No. 03I-478T are concluded.

provides that the Commission may make the initial decision in a case where it has not presided at the taking of evidence and the Recommended Decision of an ALJ may be omitted, where the Commission finds that "due and timely execution of its functions imperatively and unavoidably" so require. Given the procedural schedule before the ALJ and the FCC requirement that we complete this proceeding by July 2, 2004, we now determine, in accordance with § 40-6-109(6), C.R.S., that the Recommended Decision in this case should be omitted. We find that due and timely execution of our functions imperatively and unavoidably requires us to issue the initial decision in this case.

II. ORDER

A. The Commission Orders That:

1. The Recommended Decision shall be omitted and the Commission shall issue the initial decision in this proceeding.
2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 28, 2003.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners