(Decision No. C80-1784)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

***

RE: INVESTIGATION AND SUSPENSION OF PROPOSED CHANGES IN TARIFF -- COLORADO PUC NO. 5 - TELEPHONE -- MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, DENVER, COLORADO 80202.	)	INVESTIGATION AND SUSPENSION DOCKET NO. 1400 ORDER OF THE COMMISSION

September 16, 1980

P R E C I S

TARIFF SHEETS FILED BY MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY ON JANUARY 21, 1980 ARE SUSPENDED PERMANENTLY, AND PRESENT RATES ARE CONTINUED IN EFFECT; NO ADDITIONAL REVENUE INCREASE GRANTED; RATE OF RETURN ON RATE BASE OF 10.07% AND RATE OF RETURN ON EQUITY 13.3% AUTHORIZED.

Appearances:

Coleman M. Connolly, Esq.,
J. Walter Hyer, III, Esq., Denver, Colorado,
for Mountain States Telephone and Telegraph Company,
Respondent;

Leonard M. Campbell, Esq.,
William Hamilton McEwan, Esq.,
Clinton P. Swift, Esq., Denver, Colorado,
Gorsuch, Kirgis, Campbell, Walker and Grover,
for The Colorado Municipal League;

George D. Dikeou, Esq. Denver, Colorado,
for The Regents of the University of Colorado;

David R. Endres, Esq. Boulder, Colorado,
for Flagstaff Residents Association

Richard L. Fanyo, Esq., Denver, Colorado,
Welborn, Dufford, Cook & Brown,
for C F & I Steel Corporation;

Stephen H. Kaplan, Esq., Denver, Colorado,
for The Department of Administration of the State of Colorado;

James M. Lyons, Esq. and
Lynne E. Petros, Esq., Denver, Colorado,
Rothgerber, Appel & Powers,
for United Business Systems, Inc.,
Denver Fire and Burglar Alarm Company, and
Rolm of Colorado, Inc.;

John L. Mathews, Esq., San Francisco, California and
Alan Sommerfeld, Esq., Colorado Springs, Colorado,
for Western Area,
Chief Counsel, Regulatory Law,
General Services Administration,
on behalf of the Federal
Executive Agencies;

Jeffrey C. Pond, Esq.,
Holland and Hart, Denver, Colorado,
Dennis K. Muncy, Esq.,
Dennis L. Myers, Esq.,
Meyer, Capel, Hirschfeld, Muncy, Jahn and Aldeen,
Champaign, Illinois,
for Telephone Answering Services of Mountain States, Inc.
Stella Johnson dba Telephone Answering Service
P. Allen Fast dba A Fast Phone
C. Thomas Ballard dba Sterling Telephone Answering Service
Central Security Communications, Inc.
Mary Huff dba Greeley Telephone Answering Service
W. R. Ore & Sydney L. Ore dba Keep In Touch Answering Service
Joyce Jones dba Joyce's Telephone Answering Service
Lynne Tyler dba Abbey Telephone Answering Service
Skyline Telephone Answering Service, Inc.
The Main Telephone Answering Service, Inc.
Alert Telephone Answering Service, Inc.
Answer, Inc., dba Lakewood Telephone Answering Service
Professional Answering Service, Inc.
Telephone Answering Bureau, Inc.
Geneva L. Rehm dba Telephone Answering Secretarial Service
William R. Brummett dba Colorado Springs Telephone Secretarial Service
Telephone Answering Bureau of Colorado Springs, Inc.
W.U.I/TAS, Inc., dba Able-1 Answering Service of Denver, Colorado
Perry B. Fast, Inc., dba AAA Answerphone
Mart Business Services, Inc.
Summit Answering Service, Inc.
Action Answering Service, Inc.
Margaret Hook's Personnel, Inc., dba Margaret Hook's Answering Service
Secretarial Service, Inc.
Patricia Potter dba Pat's A-1 Answering Service
Jeffrey Tice dba Continental Answering Service
Answer, Inc., dba Arvada Telephone Answering
Answer Plus, Inc.
Richard W. Bennett & H. Jay West dba Aurora Telephone Answering Service
Phyllis J. Record dba Record Executive Services, Ltd.
Professional Answering Service of Boulder, Inc.
Marjorie Cox dba Dawn Answering Service
Telephone Secretarial Service, Inc.
Vail Business Services, Inc. dba Vail Telephone Secretary
Answer-All Secretarial Service, Inc.

John P. Thompson, Esq.,
Thompson & Kelley, Denver, Colorado,
for Colorado Retail Council, Inc.;

Tucker K. Trautman, Esq., Denver, Colorado,
Ireland, Stapleton & Pryor,
for Colorado Ski Country USA and
Colorado-Wyoming Hotel and Motel
Association, Inc.;

American Business Communications, Inc.

Auraria Higher Education Center

Colorado Association of Community
Organizations for Reform Now

Colorado State University

Colorado Telecommunication Association

Consortium of State Colleges in Colorado
include: Adams State College
Mesa College
Metropolitan State College
Western State College

Northeastern Junior College

Security Consultants International, Inc.

Henry A. Brown, pro se
Cortez, Colorado,
Dr. Fred Chernow, pro se
Boulder, Colorado,
Douglas Melcher, pro se
Holly, Colorado,
Dick Miller, dba Miller's Telephone
Answering Service, Grand Junction,
Colorado, pro se
Norman Smith, pro se
Walsh, Colorado,

Eugene C. Cavaliere, Esq.,
Dudley Spiller, Esq., Denver, Colorado,
for the Staff of the Commission;

John E. Archibold, Esq.,
Denver, Colorado,
for the Commission;

I N D E X

S T A T E M E N T

BY THE COMMISSION:

I.

HISTORY OF PROCEEDINGS

Investigation and Suspension Docket No. 1400 (I&S 1400) involves the 1980 rate case of the Mountain States Telephone and Telegraph Company (hereinafter Mountain Bell, or Respondent, or Company). The background of I&S 1400, to date, is as follows:

On January 21, 1980, Mountain Bell filed Advice Letter No. 1570, accompanied by tariff revisions (1053 tariff sheets). According to Advice Letter No. 1570, the effect of the revisions would be to produce additional adjusted gross revenues of $78,628,044 when applied to Mountain Bell's intrastate service volumes experienced during the test year ending October 31, 1979.

Pursuant to the provisions of CRS 1973, 40-6-111(1), on January 29, 1980, by Decision No. C80-200, the Commission suspended the effective date of the tariffs filed with Advice Letter No. 1570 and set the same for hearing. The effective date of the tariffs filed with Advice Letter No. 1570 was suspended for 210 days or until September 17, 1980. Also by Decision No. C80-200, the Commission provided that any person, firm or corporation desiring to intervene in Phase I as a party in I&S 1400 was to file a petition for leave to intervene on or before February 29, 1980.

Decision No. C80-200 also provided that the Commission would hear I&S 1400 in two phases, Phase I to be concerned with the overall revenue requirement of Mountain Bell and Phase II to be concerned with the manner in which the overall revenue requirement is to be raised; i.e., the spread of the rates. The Commission found that the test period in this docket was to be 12 months ended October 31, 1979. It was provided in Decision No. C80-200 that Mountain Bell was to file its written direct testimony and exhibits in its direct case in Phase I on or before March 10, 1980.

On March 10, 1980, Mountain Bell filed the written direct testimony together with the accompanying exhibits of its witnesses, namely:

Dan Wiedemeier
Eugene W. Meyer
Bruce B. Wilson
Monte Shriver
J. De Laehne
F. L. Stevenson
T. F. Clifford
David H. Benson
K. L. Schneider

On March 21, 1980, the Commission issued a Notice of Hearings which provided that public testimony would be heard in Denver, Colorado on April 16, 1980; Fort Collins, Colorado on April 21, 1980; Colorado Springs, Colorado on April 23, 1980; Lamar, Colorado on April 23, 1980; Durango, Colorado on April 24, 1980; Grand Junction, Colorado on April 25, 1980. The March 21, 1980, Notice set May 14, 1980 as the date upon which the summary of direct examination and cross-examination of Mountain Bell witnesses would commence. The Notice further stated that the dates of May 15, 16, 21, 22 and 23, 1980, would be reserved on the Commission's calendar if necessary.

The March 21, 1980 Notice further provided that the summary of direct examination and cross examination of the staff of the Commission and intervenors' witnesses would commence on July 9, 1980, and that the hearing dates of July 10, 11, 16, 17 and 18, 1980, were reserved on the Commission calendar for hearing if necessary.

Decision No. C80-200 also set forth procedural directives with respect to the filing of the written direct testimony and supporting exhibits by the Staff of the Commission and intervenors.

On or before June 23, 1980, the Staff of the Commission and certain intervening parties filed written direct testimony and supporting exhibits of witnesses as follows:

On behalf of the Colorado Municipal League --
David A. Kosh

On behalf of the Rolm of Colorado, Inc. and
United Business Systems, Inc. --
Dr. John W. Wilson

On behalf of Colorado Ski Country USA and Colorado - Wyoming Hotel and Motel Association --
Janshed K. Madan and
Richard W. LeLash

On behalf of General Services Administration --
Mark Langsam

On behalf of the Staff of the Commission --
Garrett Y. Fleming
Eric L. Jorgensen
Anthony F. Karahalios

The summary of direct testimony and cross-examination of Mountain Bell witnesses commenced, as scheduled, on May 14, 1980 and concluded on May 23, 1980.

On July 9, 10, 11, 16, 17 and 18, 1980, the Commission heard cross-examination of all witnesses who had filed testimony on behalf of the Staff of the Commission and intervenors GSA, Colorado Ski Country USA and Colorado-Wyoming Hotel and Motel Association, Rolm of Colorado, Inc., and Colorado Municipal League.

On July 17 and 18, 1980, Mountain Bell called as witnesses in its rebuttal case the following: Eugene Meyer, Bruce Wilson and Monte Shriver.

On July 18, 1980, Intervenor Colorado Municipal League called as a witness in its surrebuttal case Oavid A. Kosh.

On July 8, 1980, the Commission entered Oecision No. C80-1353 which ordered that Statements of Position be submitted to the Commission by the parties with respect to Phase I on or before July 25, 1980. Said decision further provided that Mountain Bell file with the Commission its written direct testimony and supporting exhibits with respect to Phase II on or before August 11, 1980, and set the date of August 20, 1980, for hearing for the purpose of direct examination and cross examination of Mountain Bell witnesses with respect to Phase II (spread of the rates). Said decision also provided that dates of August 21, and 22, 1980 were also reserved on the Commission calendar for further hearing, if necessary, for this purpose. Decision No. C80-1353 also provided that hearing on the direct examination and cross examination of Staff and intervenor witnesses with respect to Phase II and submission of rebuttal testimony, if any, by Mountain Bell would commence on September 10, 1980 with the further dates of September 11 and 12 being reserved on the Commission's calendar, if necessary, for these purposes. Said decision also provided that the parties could submit statements of position together with proposed findings of fact with respect to Phase II on or before September 19, 1980.

Statements of Position with respect to Phase I were filed by the following parties:

Colorado Retail Council
GSA
Colorado Municipal League
Rolm of Colorado, Inc. and UBS, Inc.
Colorado Ski Country USA and Colorado-Wyoming
  Hotel & Motel Association

Certain parties also filed proposed findings of fact with their Statements of Position.

On August 1, 1980, the Commission entered Decision No. C80-1537 which was captioned "Statement of Intended Decision and Procedural Order of the Commission." In Decision No. C80-1537 the Commission indicated that it would enter a final order in this docket to the effect that no revenue increase is appropriate for Mountain Bell. The Commission also by Decision No. C80-1537 rescinded hearing dates with respect to Phase II in this docket.

On August 5, 1980, the Colorado Municipal League filed a "Motion" in which it requested an order of the Commission establishing appropriate procedures for consideration of one or more motions for reimbursement. On August 27, 1980, the Colorado Municipal League filed a "Motion" requesting the Commission to take administrative notice of a plan of acquisition of American Telephone and Telegraph Company to buy all the outstanding shares owned by individual shareholders of Mountain Bell.

On August 28, 1980, Mountain Bell filed a "Motion" which, in essence, requested the Commission to modify its tentative decision concerning earnings treatment of Employee Stock Ownership Plan (ESOP). On September 4, 1980, the Exective Secretary of the Commission wrote all parties in this docket informing them they could respond to the Motion of Mountain Bell on or before September 8, 1980. On September 8, 1980, responses were filed by the Colorado Municipal League and the Staff of the Commission.

Submission

The herein instant matter has been submitted to the Commission for decision. Pursuant to the provisions of the Colorado Sunshine Act of 1972, C. R. S. 1973, 24-6-401, et seq., and Rule 32 of the Commission's Rules of Practice and Procedure, the subject matter of this proceeding has been placed on the agenda for the open public meeting of the Commission. At an open public meeting the herein decision was entered by the Commission.

II.

PARTIES

The following parties moved to intervene either in both Phase I and Phase II or in Phase I alone, and by various interim decisions of the Commission were granted status to participate as intervenors in Phase I.

Colorado Telecommunication Association
American Business Communications, Inc.
Colorado Municipal League
Miller's Telephone Answering Service
The Dept. of Administration of the State of Colorado
Colorado Retail Council, Inc.
Douglas Melcher
Norman Smith
The Regents of the University of Colorado
Colorado Ski Country, USA
United Business Systems, Inc.
Security Consultants International, Inc.
Denver Fire and Burglar Alarm Co.
Colorado Assn. of Community Organizations for Reform Now
Telephone Answering Services of Mountain States, Inc.
Telephone Answering Service
A Fast Phone
Sterling Telephone Answering Service
Auraria Higher Education Center
Colorado State University
Adams State College
Mesa College
Metropolitan State College
Western State College
Henry A. Brown
Northeastern Junior College
Central Security Communications, Inc.
William R. Brummett dba Colorado Springs Telephone Secretarial Service
Telephone Answering Bureau of Colorado Springs, Inc.
W.U.I/TAS, Inc. dba Able-1 Answering Service of Denver, CO
Perry B. Fast, Inc. dba AAA Answerphone
Mart Business Services, Inc.
Summit Answering Service, Inc.

Action Answering Service, Inc.
Margaret Hook's Personnel, Inc. dba Margaret Hook's Answering Service
Secretarial Services, Inc.
Patricia Potter dba Pat's A-1 Answering Service
Jeffrey Tice dba Continental Answering Service
Answer, Inc. dba Arvada Telephone Answering
Answer Plus, Inc.
Richard W. Bennett & H. Jay West dba Aurora Telephone Answering Service
Phyllis J. Record dba Record Executive Services, Ltd.
Professional Answering Service of Boulder, Inc.
Marjorie Cox dba Dawn Answering Service
Telephone Secretarial Service, Inc.
Vail Business Services, Inc. dba Vail Telephone Secretary
Mary Huff dba Greeley Telephone Answering Service
W.R. Ore & Sydney L. Ore dba Keep In Touch Answering Service
Joyce Jones dba Joyce's Telephone Answering Service
Lynne Tyler dba Abbey Telephone Answering Service
Skyline Telephone Answering Service, Inc.
The Main Telephone Answering Service, Inc.
Alert Telephone Answering Service, Inc.
Answer, Inc. dba Lakewood Telephone Answering Service
Professional Answering Service, Inc.
Telephone Answering Bureau, Inc.
Geneva L. Rehm dba Telephone Answering/Secretarial Service
Dr. Fred Chernow
General Services Administration
Answer-All Secretarial Service, Inc.
Colorado-Wyoming Hotel and Motel Association, Inc.
C F & I Steel Corporation
Rolm of Colorado
Flagstaff Residents Association

The following parties were granted leave to intervene in Phase II by various interim decisions of the Commission and were granted status to participate as intervenors in Phase II following motions to intervene.

Colorado State Home & Training School at Grand Junction
Colorado State Hospital
Division of Taxation of the Dept. of Revenue
The Legal Center for Handicapped Citizens and The Center on Deafness
State Board for Community Colleges and Occupational Education
State Home and Training Center at Wheat Ridge
Public Defenders Office
Colorado Department of Highways
Colorado Department of Health
Colorado State Board of Agriculture
Board of Trustees for the University of Northern Colorado
Trustees of the Consortium of State Colleges in Colorado
The Colorado Municipal League

III.

TESTIMONY AND EXHIBITS

The Commission in this rate proceeding has utilized certain procedural methods designed to reduce hearing time and afford parties testimony and exhibits in advance of cross-examination.

First of all, the Commission in this proceeding has required that all testimony filed in the direct case of the participating parties be in writing and pre-filed in advance of cross-examination. All hearing time, except for Respondent's rebuttal case in Phase I has been reserved solely for cross-examination of witnesses filing written testimony. All pre-filed written testimony has been marked as an exhibit, offered and received into evidence instead of being orally read into the record. In addition, the Commission has separated this rate proceeding into two phases, i.e., Phase I to determine the Company's revenue requirement; and, Phase II to determine the spread of the rates.

In this proceeding, all pre-filed written direct testimony has been marked as exhibits using letters of the alphabet. All exhibits filed with and in support of written direct testimony or which were offered during cross-examination have been marked using Arabic numerals. The following is a list of all pre-filed written direct testimony in Phase I of this proceeding which has been marked and received into evidence:

E X H I B I T S

Exhibit	Title and Description
A	Testimony of Dan Wiedemeier
B	Testimony of Eugene W. Meyer
C	Testimony of Bruce B. Wilson
D	Testimony of Monte Shriver
E	Testimony of J. De Laehne
F	Testimony of Fred L. Stevenson
G	Testimony of Thomas F. Clifford
H	Testimony of David H. Benson
I	Testimony of K. L. Schneider
J	Testimony of David A. Kosh
K	Testimony of John W. Wilson
L	Testimony of Mark Langsam
M	Testimony of Anthony F. Karahalios
N	Testimony of Garrett Y. Fleming
O	Testimony of Eric L. Jorgensen
P	Testimony of Richard W. LeLash
Q	Testimony of Jamshed K. Madan
1	Exhibits to testimony of Dan Wiedemeier - 20 Pages ± Glossary
2	Exhibits to testimony of Eugene W. Meyer - 36 Pages
3	Exhibits to testimony of Bruce B. Wilson
4	Exhibits to testimony of Monte Shriver
5	Exhibits to testimony of J. De Laehne
6	Exhibits to testimony of Fred L. Stevenson
7	Exhibits to testimony of Thomas H. Clifford Western Electric
8	Exhibits to testimony of David H. Benson Western Electric Price Comparisons

9	Exhibits to testimony of K. L. Schneider Mountain Bell License Contract Services
10	1979 Mountain Bell Annual Report
11	Advice Letter No. 1490 (Two Tier) July 1979
12	Mountain Bell Selected Performance Measures
13	Mountain Bell Answers to Colorado Ski Country USA Interrogatory 5
14	Mountain Bell Answers to Colorado Ski Country USA Interrogatory 6
15	Mountain Bell Answers to Colorado Ski Country USA Interrogatory 10
16	Mountain Bell Answers to Colorado Ski Country USA Interrogatory 11
17	1980 Economic Report of the President
18	Colorado Ski Country - Data Response No. 25
19	Value Line Feb. 1, 1980 - 1 Page
20	Fisher & Corrie Study - Table II - Time Weighted Rates of Return on Common Stock
21	Ibbotson & Sinquefield Study - Table 1 Summary Statistics for Historical Returns (1926-1974) A. Yearly Returns
22	Ibbotson & Sinquefield "Stocks, Bonds, Bills and Inflation: Historical Returns (1926-1978)"
23	Use of Expected Cash Flows in Calculating an Investor's Expected Return (Blackboard Illustration Duplication)
24	Colorado Ski Country Request No. 4 - 3 Pages First Set of Interrogatories
25	Colorado Ski Country Request No. 31 Mountain Bell Response - First Set of Interrogatories - Details Average Rate Base
26	Colorado Ski Country - Request No. 59 Mountain Bell Response - First Set of Interrogatories
27	Colorado Ski Country Request 49 b Mountain Bell Response - First Set of Interrogatories
28	Rebuttal Testimony - M. R. Shriver Montana - Ex N-1
29	Financial Accounting Standards No. 34 Capitalization of Interest Cost
30	Colorado Ski Country Request No. 34 Mountain Bell Response - First Set of Interrogatories
31	Colorado Ski Country Request No. 32 Mountain Bell Response - First Set of Interrogatories
32	Mountain States Telephone & Telegraph Accounts Payable (159.1 and 159.2) Form M 1979
33	Colorado Ski Country Request No. 39 Mountain Bell Response - First Set of Interrogatories - Cash Working Capital
34	Colorado Ski Country Request No. 40 Mountain Bell Response - First Set of Interrogatories - Cash Working Capital
35	Colorado Ski Country Request No. 46 Mountain Bell Response - First Set of Interrogatories - Deferred Income Taxes
36	A.P.B. Opinion No. 11 Accounting for income Taxes
37	Kidder, Peabody & Co., July 1979 Research Brief

38 Mountain States Telephone Directory Advertising
Rate Increases (I&S Docket No. 1400)
Ex 4, Appendix C, page 29 (Backup Response
Colorado Ski Country Request 49 (a))

39 Colorado Ski Country Request No. 49 (f)
Mountain Bell Response - Reclassifications

40 "Depository Requests of Monte Shriver" by
Colorado Ski Country - Work papers Allowable
and Non-Allowable Advertising Expense (Request No. 23)

41 Colorado Ski Country Request No. 58 First Set of
Interrogatories Mountain Bell Response - Number
of Employees by Month November 1978 to March 1980

42 Colorado Ski Country Request No. 38
Mountain Bell Response, First Set of Interrogatories
Wage and Salary Increase - Annualization
plus 2 pages from testimony and 3 pages of work papers

43 Colorado Ski Country Request No. 49 (j) Mountain Bell
Response - National Bargaining Trends, Together With
Yearly Labor Productivity Figures

44 Colorado Ski Country Depo. Request No. 3
Mountain Bell Response, Productivity (Labor)
Estimated 1979, 1980

45 Mountain Bell I&S 1400 Weighted Cost of Debt
(4 pages)

46 Mountain Bell I&S 1400 Ratio of Colorado Intrastate
Expense and Debt Amount to Total Company Interest
Expense and Debt Amount (3 pages)

47 1979 - 2 Quarter Study - Switching Report 2004SW

48 1979 - 2nd Quarter Study - Switching Report 2002SW

49 Appendix B - Work Classifications, Bell Labs
Accounting Manual

50 Colorado Ski Country Request No. 3
Mountain Bell Response

51 Colorado Ski Country Request No. 75
Mountain Bell Responses

52 Public Utilities Commission Request No. 4
Response of Mountain Bell

53 Public Utilities Commission Request No. 1
Response of Mountain Bell

54 License Contract Value Study

55 Mountain Bell Average Capital

56 Response to Oral Request D. H. Weidemeier
Worksheets total revenues/toll revenues

57 Depo. Requests of Monte Shriver by Colorado
Ski Country Nos. 10, 28 and Response

58 Depo. Request No. 9 by Colorado Ski Country
of Monte Shriver and Response

59 Depo. Request No. 17(b) by Colorado Ski
Country of Monte Shriver and Response

60 Depo. Request No. 16 by Colorado Ski Country
of Monte Shriver and Response

61 Responses to Oral Requests for Information
from witness Dan H. Wiedemeier (Tr. pp. 139, 145)

62 Responses to Oral Requests for Information
from witness Dan H. Wiedemeier (Tr. pp. 44-45)

63 Responses to Oral Requests for Information
from witness Monte Shriver (Tr. pp. 236, 237)

64 Responses to Oral Requests for Information
from witness Monte Shriver (Tr. Vol. III pp. 164-167)

65 Responses to Oral Requests for Information
from witness David H. Benson (Tr. Vol. V p. 150)

66 Exhibit of David A. Kosh re Fair Rate of Return

67 Exhibits of Dr. John W. Wilson - confidential exhibits

68	Exhibits of Mark Langsam
69	Discounted Cash Flow - Return on equity
70	Weighted Cost of Debt with End-of-Period Interest Adjustment and Capital Structure
71	Employee Stock Ownership Plan (ESOP) Adjustment to Capital Structure
72	AT&T Parent Average Capital Structure Test Year Ended October 31, 1979
73	MST&T Rate of Return on Average Rate Base
74	Colorado Intrastate Operations Additional Earnings Requirements Test Year Ending October 31, 1979
75	Colorado Intrastate Operations Determination of Revenue Multiplier
76	Computation of Overall Rate of Return Including Issued ESOP Shares - Test Year Ending October 31, 1979
77	Illustration - Rate Base vs. Capital
78	Withdrawn
79	Withdrawn
80	Exhibits of Garrett Y. Fleming
81	Exhibits of Eric L. Jorgensen
82	12 Schedules supporting testimony of Richard W. LeLash
83	2 pages methodology for License contract charge disallowance
84	13 Schedules supporting testimony of Jamshed K. Madan
85	Second Interrogatory of Mtn. Bell to Colorado Ski Country USA
86	Response of Colorado Ski Country USA and C-W Hotel and Motel Assn. to Mtn. Bell's Second Interro. and request to produce
87	Mountain Bell - Chart of Wages & Productivity 79-81
88	DCF Returns Using Value Line Estimates of Growth and dividend Yields Source: Kosh Testimony p. 87
89	Capital Structure of MST&T - Source AFK-5 (Exh. 73)
90	Rates of Return on Equity Mtn. Bell, Source Exh. 73
91	Appendix Schedue 11 - 2 pp. Regulatory of Subsidiary A on the basis of Double Leverage
92	Bell System Debt Ratio Summary
93	NARUC Allocation of AT&T Fed. Inc. Taxes 1978
94	Deposition Requests for info. from Colorado Ski Country USA and C-W Hotel and Motel Assn. to Witness Monte R. Shriver
95	Mountain Bell Colorado Operations Illustration of Property Tax Determination Based on Test Year Data Rebuttal Exhibit of M. Shriver
96	Mtn. Bell Colorado Intrastate Operations Reduction of Cost of Service due to Removal of Issued ESOP (Rejected)
97	Mtn. Bell Colorado Intrastate Operations Derivation of Staff Equivalent of Intrastate Debt and Equity
98	Mtn. Bell Colorado Intrastate Operations Rebuttal Exhibit of M. Shriver
99	Mtn. Bell Colorado Intrastate Operations Computation of Earnings Shortfall - Rebuttal Exhibit of M. Shriver
100	Mtn. Bell Colorado Intrastate Operations Derivation of Test Year Actual Intrastate Debt and Equity
101	Mtn. Bell Colorado Intrastate Operations Computation of Overall Rate of Return
102	Mtn. Bell Colorado Intrastate Operations Computation of Earnings Shortfall
103	Example on Board - Depreciation Reserve - 12 Months and monthly average
104	Examples of Debt-Equity Ratios (Illustration from blackboard)

Except as indicated above, all the foregoing exhibits were admitted into evidence.

IV

DESCRIPTION OF THE COMPANY

Mountain Bell is a public utility engaged in the business of providing telephone utility service both intrastate and interstate within the state of Colorado and other states. Pursuant to the provisions of C.R.S. 1973, 40-1-103, the Company's intrastate telephone business within the state of Colorado is subject to the jurisdiction of the Commission, and the Commission has jurisdiction over the subject matter herein.

Mountain Bell is a subsidiary of American Telephone and Telegraph Company (AT&T), which owns in excess of 88% of Mountain Bell's outstanding common stock. AT&T has a number of other operating subsidiaries similar in nature to Mountain Bell, and, in addition, has a manufacturing subsidiary, Western Electric Company (Western Electric), and a research subsidiary, Bell Telephone Laboratories, jointly owned by AT&T and Western Electric. The entire group of companies, including AT&T, Mountain Bell, Western Electric, Bell Telephone Laboratories, and other operating companies, which are subsidiaries of AT&T, comprise what is known and generally referred to as the "Bell System."

The separation of revenues, expenses, plant, and investment of the Company located in the state of Colorado between interstate and intrastate use is determined by the use of the Separations Manual adopted by the Federal Communications Commission and the National Association of Regulatory Utility Commissioners. The Separations Manual for the purposes of this proceeding, is approved by the Commission as the proper method of determining the proportionate share of intrastate revenue, expenses, plant, and investment, and the actual accounting data presented in this proceeding correctly reflect the application of said Separations Manual to determine the amounts applicable to intrastate telephone service.

V

G E N E R A L

Mountain Bell's last major case before the Public Utilities Commission was in 1977, and the instant docket is the first major rate case since that date. In view of inflationary and other economic pressures, public awareness of general rate proceedings has increased. Additionally, the number of so-called "spread-of-the-rates" issues has increased in recent years.

The regulatory jurisdiction of the Public Utilities Commission over non-municipal utilities in the State of Colorado is grounded in Article XXV of the Constitution of the State of Colorado which was adopted by the general electorate in 1954. The Public Utilities Law, which currently is contained in Article 40 of the Colorado Revised Statutes (1973, as amended), implements Article XXV of the Colorado Constitution. More specifically, CRS 1973, 40-3-102, vests in this Commission the power and authority to govern and regulate all rates, charges and tariffs of every public utility.

It first must be emphasized that ratemaking is a legislative function. The City and County vs. People ex rel Public Utilities Commission, 129 Colo. 41, 266 P.2d 1105 (1954); Public Utilities Commission vs. Northwest Water Corporation, 168 Colo. 154, 551 P.2d 266 (1963). It should also be emphasized that ratemaking is not an exact science, Northwest Water, supra, at 173. In the landmark case of Federal Power Commission vs. Hope Natural Gas Company, 320 U.S. 591, 602-603 (1944), Justice Douglas, speaking for the United States Supreme Court, stated that the "ratemaking process under the (Natural Gas) Act, i.e., the fixing of 'just and reasonable' rates, involves a balancing of the investor and consumer interests." The Hope case further sets forth the proposition that under "the statutory standard of 'just and reasonable,' it is the result reached, not the method employed, which is controlling."

In the case of Public Utilities Commission v. The District Court, 186 Colo. 278, 527 P.2d 233, the Colorado Supreme Court stated at pages 282 and 283:

[4, 5] Under our statutory scheme, the PUC is charged with protecting the interest of the general public from excessive burdensome rates. The PUC must determine that every rate is "just and reasonable" and that services provided "promote the safety, health, comfort and convenience of its patrons, employees, and the public and shall in all respects be adequate, efficient, just and reasonable". C.R.S. 1963, 115-3-1. The PUC must also consider the reasonableness and fairness of rates so far as the public utility is concerned. It must have adequate revenues for operating expenses and to cover the capital costs of doing business. The revenues must be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

The process by which utility rates are established should be explained. Under current law, when a public utility desires to change its rate or rates, it files its new rates with this Commission, and they are open for public inspection. Unless the Commission otherwise orders, no increase in any rate or rates may go into effect except after thirty (30) days' notice to the Commission and to the customers of the utility involved.

If the thirty (30) day period after the filing goes by without the Commission having taken any action to set the proposed new rate or rates for hearing, the new rate or rates automatically become effective by operation of law.* However, the Commission has the power and authority to set the proposed new rate or rates for hearing, which, if done, automatically suspends the effective date of the proposed new rate or rates for a period of 120 days, ** or until the Commission enters a decision on the filed rates within that time. The Commission has the further option of continuing the suspension of the proposed new rate or rates for an additional period of up to ninety (90) days for a total maximum of 210 days or approximately seven months. If the Commission has not, by order, permitted the proposed new rate or rates to become effective, or established new rates, after hearing, prior to the expiration of the maximum 210-day period, the proposed new rate or rates go into effect by operation of law and remain effective until such time thereafter as the Commission establishes the new rates in the docket.

* Under CRS 1973, 40-3-104, most fixed utilities file rates on thirty (30) days notice; however, thirty (30) days is a minimum notice period, unless otherwise ordered by the Commission. A utility may select a longer notice period. In any event, if the Commission elects to set the proposed rate or rates for hearing, it must do so before the proposed effective date.

** CRS 1973, 40-6-111

In the simplest terms, the Commission must determine and establish just and reasonable rates. In order to make this determination, the Commission must answer two questions; first, what are the reasonable revenue requirements of the utility involved that will enable it to render its service, and, second, how are the reasonable revenues to be raised from its rate payers. In other words, the Commission must determine the "revenue requirement" and the "spread of the rates" to meet the revenue requirement. To accomplish its task, in these regards, it must exercise a considerable degree of judgment and, to the best of its ability, be as fair as possible to the different parties and positions that inevitably present themselves in any major rate case. The ratemaking function involves, in other words, the making of "pragmatic adjustments" (the Hope case, supra, at page 602). It is not an easy task, but, on the other hand, neither is it a task impossible of attainment.

Basically, the three major determinations to be made by the Commission in determining an overall revenue requirement for a public utility, such as Mountain Bell, are (1) to find the appropriate rate base of the utility which is dedicated to the service of the utility's customers, (2) to determine the appropriate test year income and expenses of the utility, and (3) to determine the appropriate return which the utility is entitled to earn on its investment. Having made these three determinations, the Commission can then calculate the revenue deficiency, if any.

When a revenue deficiency is found, it must be recovered by increasing the rates charged to the utility's customers. The Commission then has the additional task of determining the appropriate "spread of the rates." Inasmuch as the Commission announced on August 1, 1980, that Mountain Bell at this time does not require an increase in its overall revenue requirement, on that date, by Decision No. C80-1537, we vacated the previously scheduled hearings with respect to Phase II, regarding the spread of the rates. We also stated in that decision that it should be made clear, however, that the Commission by so doing was not prejudging in any way "rate spread" issues which one or more of Mountain Bell's customers may elect to pursue in independent proceedings before this Commission.

VI

TEST PERIOD

In each rate proceeding it is necessary to select a test period. The operating results of the test period then are adjusted for known changes in revenue and expense levels so that the adjusted operating results of the test period will be representative of the future, and thereby afford a reasonable basis upon which to predicate rates which will be effective during a future period.

In this case the Commission finds that the 12-month period commencing November 1, 1978 and ending October 31, 1979, is the appropriate 12-month period which constitutes a representative year and is the test period for purposes of determining the revenue requirement. Since no additional revenue requirement is found, no new rates are being established in this docket. In-period and out-of-period revenue and expense adjustments are discussed hereinafter.

VII

RATE BASE

Rate base can be described as the property which is dedicated by the utility involved in providing utility service to its customers. The utility, of course, is entitled to a fair rate of return on its rate base investment.

Mountain Bell, in this docket, set forth a proposed rate base of $981,509,000. The Staff of the Commission recommended that certain adjustment be made to Mountain Bell's proposed rate base, reducing the sum by some $35,240,000 and resulting in the proposed rate base of $946,269,000. In tabular form the Mountain Bell proposed rate base and the Staff proposed adjustments and the Staff adjusted rate base are set forth as follows:

MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY
COLORADO INTRASTATE OPERATIONS
AVERAGE RATE BASE - YEAR ENDED 10/31/79
(In Thousands of Dollars)

	A Company Adjusted Rate Base	B Staff Adjusted	C Staff Adjusted Rate Base
Gross Rate Base			
Plant in Service	1,231,882		1,231,882
Plant Under Construction	46,881	(11,402)	35,479
Property Held for Future Use	153	(98)	55
Materials and Supplies	10,357		10,357
Allowance for Cash Working Capital	21,112	(21,112)	
Total Investment	1,310,385	(32,612)	1,277,773
Deductions from Gross Rate Base			
Depreciation Reserve	200,432	2,286	202,718
Deferred Income Taxes	126,331	(4,289)	122,042
Unamortized Pre-1971 Investment Tax Credits	2,113		2,113
Customer Deposits		3,435	3,435
Construction Charge Contracts		1,196	1,196
Total Deductions	328,876	2,628	331,504
Net Rate Base	981,509	(35,240)	946,269

The Commission states and finds that the proposed Staff adjustments to Mountain Bell's rate base as delineated in the above table are proper and should be adopted. Accordingly, we find that the rate base of Mountain Bell is $946,269,000.

A. Plant Under Construction

Staff correctly proposed that $11,402,000 of plant under construction be deleted from rate base. The Staff reduced rate base by $11,402,000 in order to effect capitalization of interest on construction work in progress (CWIP) at the rate of return authorized by the Commission in the last general rate proceeding involving Mountain Bell (Investigation and Suspension Docket No. 1108, in 1977). Thus the Staff calculated the amount of CWIP as though Mountain Bell had been capitalizing interest at 9.4% (the last overall rate of return authorized Mountain Bell in I&S Docket 1108), as opposed to the percentages used by Mountain Bell on its books and records. In addition, this adjustment results in reducing CWIP by that amount on which Mountain Bell did not capitalize interest during the test period.

Mountain Bell has proposed that this Commission permit CWIP to be included in rate base, but that the interest on the same should not be capitalized on the short-term plant under construction as is now required by the Uniform System of Accounts. Mountain Bell states that inasmuch as the average level of short-term plant under construction is approximately five and one-half months that it was apparent that short-term plant under construction would be in use and used and useful by the time rates approved in this proceeding would go into effect. In addition, Mountain Bell contends that current ratepayers receive the benefits of plant in use, that current ratepayers are cost-causers of additional construction which is added to meet their service demands, and that, accordingly, they should bear the financing costs. Stated another way, Mountain Bell believes that it is not in the best interest of the ratepayers to continue to defer the financing costs of the short-term plant under construction to future ratepayers.

This Commission has made it clear in the past that the return on plant under construction is to be recovered from those customers who receive the benefits of the plant and that the proper method for accomplishing this is to capitalize interest at the authorized rate of return on all projects under construction, whether they be short term or long term.

We find that Mountain Bell has not demonstrated what benefits would be received by requiring ratepayers to pay a return currently on short-term construction. It is true that in a case involving another utility, namely, Public Service Company of Colorado, the Commission has allowed CWIP to be included in rate base without an allowance for funds used during construction (AFUDC) offset credit in the income statement for a portion of CWIP, thereby allowing it to recover currently some of its financing costs related to CWIP. However, it must be recognized that to a large extent this treatment for Public Service Company of Colorado was to alleviate, in part, a serious cash flow problem which type of problem does not exist for Mountain Bell. On balance, we are not persuaded that a change in our regulatory treatment of Mountain Bell's CWIP is beneficial to the ratepayers.

B. Property Held For Future Use

Mountain Bell had transferred from Account 100.3 (property held for future use, a rate base account used for ratemaking) to Account 103 (miscellaneous physical plant property, but a non-rate base account) the amounts relating to construction which was not scheduled to begin within two years. The Staff's $98,000 adjustment deletes from the average monthly balance in Account 100.3 for November and December 1978 the amounts relating to plant which were reclassified to Account 103 by Mountain Bell. We agree with the Staff that if property is not to be of any benefit to the customers in the near term, or at all, that it should not be included for ratemaking purposes.

C. Allowance For Cash Working Capital

We agree with the Staff's negative adjustment of $21,112,000 to eliminate cash working capital from Mountain Bell's rate base. Mountain Bell did not demonstrate its need for cash working capital in the rate base except simply to state that cash is required for the day-to-day operations of the business and that cash working capital funds are a property used and useful in providing service. Mountain Bell proposed that an appropriate cash working capital allowance be one-twelfth (1/12) of the total operating expenses (less depreciation).

We agree that an allowance for cash working capital may be justified when it can be demonstrated that a lag exits between the outward cash flow of the utility for labor, materials and supplies, inventory, etc., and the inward cash flow from rates. The methodology normally used to demonstrate such a need for cash working capital is a lead-lag study which identifies the existing deficiency between the incurrence of expenses and collection of revenues associated with these expenses. Mountain Bell did not conduct a lead-lag study in support of its proposed cash working capital allowance of one-twelfth of the total annual operating expenses. Furthermore, Mountain Bell did not consider the benefits of the revenues that it receives from accrued taxes in developing its cash working capital allowance. There is a significant lag between the collection of the funds for accrued taxes and the payment of those taxes to the taxing authority as was demonstrated by Staff Witness Fleming. It should also be recognized that Mountain Bell bills its customers in advance for most local exchange services which it provides. As an example of this impact, for the six-month period from January 1979 through June 1979 Mountain Bell's billing averaged $19,227,000 on an intrastate basis. If the Commission were to utilize the customary formula of deducting one-half of the property taxes (which 1/2 would be $9,388,000) and one-third of the federal income taxes (which 1/3 would be $1,656,000) from the requested cash working capital allowance, together with the advance billings of $19,227,000, a total deduction of $30,271,000 would exist. On these premises, we find that Mountain Bell has not justified a cash working capital allowance in its rate base and that the Staff's elimination of the same is proper.

D. Depreciation Reserve

The Staff proposed two adjustments to the depreciation reserve totaling $2,286,000 consisting of a $1 million adjustment to increase the average reserve by the depreciation represcription to the income statement and a $1,286,000 adjustment to spread the August 1979 Mountain Bell booking of the depreciation represcription over the first eight months of 1979. The Staff's first adjustment points out that as a matter of proper matching of test-year revenues, expenses and investment, when an adjustment to an income statement is made which has an impact on the rate base, a corresponding or matching adjustment should be made to the rate base of $1 million dollars. We concur.

Mountain Bell was authorized to increase its depreciation rates in January 1979 but did not make an adjusting entry on its books until August 1979. In August 1979, Mountain Bell made an adjusting entry on its books retroactively increasing the depreciation reserve to reflect the increase in depreciation rates from Janaury 1, 1979. Staff Witness Fleming states that the result of Mountain Bell's making the entry retroactively is to understate the balance in the reserve account for the months of

January through July 1979. Staff's proposed second adjustment of $1,286,000 reconstructs the depreciation reserve balance as though Mountain Bell had commenced booking the increase in depreciation rates in Janaury 1979 as authorized.

Mountain Bell disagrees with Staff Witness Fleming's depreciation reserve adjustment on the basis that inasmuch as the depreciation represcription was booked in August 1979, that is when such recovery is made and when the depreciation reserve changed. Mountain Bell further contends that the amount of depreciation which has been recovered is fixed and cannot be changed by any pro forma adjustment. Accordingly, in Mountain Bell's view, while it is perfectly proper to adjust depreciation expense to and in the test period level (which Mountain Bell Witness Shriver did by adjusting the amount increased as depreciation represcription), it does not follow that a reciprocal adjustment to the reserve is also proper.

Mountain Bell Witness Shriver, on cross examination, did admit that Mountain Bell had recovered revenues for the higher depreciation charges during the latter ten months when the represcription was in effect to the extent that revenues were in excess of other expenses. Since Mountain Bell was, in fact, earning more than its authorized rate of return during all months of the test year, in effect, it was recovering revenues supporting the higher depreciation charges offset for the first two months of the test period. We find that the Staff correctly reconstructed the reserve to reflect what would have occured had the Company begun booking in January 1979 the depreciation represcription. *

E. Deferred Taxes

Staff Witness Fleming proposed an adjustment of $4,289,000 to deferred taxes as a result of Staff Witness Jorgensen's recommendation that the Mountain Bell adjustment for tax normalization of capitalized overhead not be authorized. Discussion of tax normalization of capitalized overhead will be discussed later in this decision.

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* As was demonstrated by cross-examination of Mountain Bell Witness Shriver, with respect to action in Account 103, retroactive booking has the effect of understating the reserve.

F. Construction Charge Contracts (Customer Advances)

Staff Witness Fleming proposed that rate base be reduced by $1,196,000 for construction charge contracts. Construction charge contracts, sometimes referred to as customer advances, are funds collected from customers in advance for the construction of specific facilities. Normally, customer advances receive one of two possible treatments for ratemaking purposes. Either customer advances are incorporated in the calculation of rate of return as zero cost capital, or the average test year amount of customer advances is subtracted from rate base. The Staff proposed that the Commission utilize the latter alternative of reducing customer advances from rate base. Mountain Bell accounts for major elements of its capital structure such as debt and equity, solely on a company wide basis. However, most elements of its rate base, such as construction charged contracts, are accounted for on a jurisdictional or state by state basis. Any attempt to match the magnitude of deposits and advances to other capital elements would require some allocation procedure. In order to eliminate the necessity of developing an allocation procedure, the Staff elected to reduce the rate base by the amount of customer advances. We find that the Staff's method of treating customer advances is a practical one, and that its rate base reduction treatment is proper.

G. Customer Deposits

The Staff also proposed a rate base reduction of $3,435,000 for customer deposits. Customer deposits should be afforded slightly different treatment than customer advances due to the fact that Mountain Bell is obligated to return deposits to the customers with interest. Customer deposits frequently are not considered in the ratemaking process since it is assumed that inasmuch as a utility has the use of such deposits for a limited period of time, it is more practical for the utility to invest the customer deposit funds in short-term certificates. This would afford the utility the opportunity to have ready access to deposit funds and at the same time earn interest which could be used to reimburse the customer for the time the customer's deposit was being held by the utility. However, in this proceeding Mountain Bell included customer deposits in the calculation of its capital costs and indicated that the funds are used for its construction requirements. Mountain Bell, in addition, requested that it be permitted to earn on customer deposit funds at the rate of 9.22%. On this assumption, the Staff has treated customer deposits in the same manner as it has treated construction charge contracts or customer advances with one minor variation. Since Mountain Bell must eventually return the deposits with interest, the Staff has proposed deducting from rate base the average amount of customer deposits, but it is proposing that the Commission recognize the interest charge on the customer deposits as an above-the-line cost on the income statement. We find that this is an acceptable way of treating customer deposits for rate base purposes.*

H. Summary

As a result of the foregoing Staff adjustments, with which the Commission is in agreement, we find that Mountain Bell's proposed rate base of $981,509,000 properly is adjusted downward by $35,240,000 resulting in a rate base of $946,269,000.

VIII.

INCOME AND EXPENSES

With certain exceptions to be noted below, the Commission finds that the net operating expenses as ultimately found by the Staff are correct. Accordingly, we shall set forth in Section A herein the net operating expenses as found by the Staff. In Sections B through E we shall set forth our additional findings with respect to Mountain Bell's income and expenses which will delineate our divergence from the Staff position, in part, and our acceptance, in part, or other treatment of proposals made by other intervenor witnesses with respect to income and expenses.

A. Net Operating Expenses as Found by the Staff

Mountain Bell's stated pro forma net operating earnings were set forth by it as $80,138,000 (Exhibit 4, Appendix A, Page 6, Column G, Line 27.) The Staff made the following adjustments (which are more par-

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* See further discussion regarding customer deposit interest at p. 28.

ticularly set forth on Exhibit 81) which increase or decrease Mountain Bell's pro forma net operating earnings by category as follows:

(1)	Dues	$ 14,000
(2)	Interest Charged Construction	2,542,000
(3)	Capitalized Overhead	8,662,000
(4)	Advertising	233,000
(5)	1980 Wage and Benefit Increase	2,591,000
(6)	End of Period Debt Cost	1,491,000
(7)	January 1, 1980 Customer Deposits	(40,000)
(8)	Customer Deposit Interest	(238,000)
(9)	General Service and Licensing Agreement	405,000
(10)	Property Tax Reversals	(217,000)
	Total	$15,443,000

Adding the Staff's $15,443,000 adjustments to Mountain Bell's $80,138,000 pro forma net operating earnings results in a Staff pro forma net operating earnings for Mountain Bell of $95,581,000. The Commission finds that, with certain exceptions hereinafter delineated, the Staff's adjustments to the net operating earnings of Mountain Bell are proper.

(1) Dues

The net operating earnings of Mountain Bell were increased $14,000 by the Staff due to the deduction of the Colorado intrastate portion of dues accrued and/or paid to the following organizations:

Association of Commerce & Industry;
Colorado Forum;
Colorado Retail Council;
Colorado Safety Association;
Loveland Chamber of Commerce;
Public Expenditures Council;
Rocky Mountain Better Business Bureau;
Rocky Mountain Electrical League.

The Commission, of course, cannot prohibit Mountain Bell from paying dues to the above named organizations, but it is clear beyond doubt this Commission does have the authority to disapprove, as a ratepayer expense, dues paid to various organizations or charities in the absence of a showing that the rate payers are directly benefited thereby.

(2) Interest Charged Construction

Mountain Bell deleted $2,542,000 which is the amount of interest charged during construction on short-term construction work in progress from its net operating earnings. The Staff reversed this adjustment thereby putting back into Mountain Bell's net operating earnings the amount $2,542,000. We do not find that Mountain Bell adequately has demonstrated that there should be a departure from our past policy with respect to interest charged during construction on short-term construction work in progress. Mountain Bell has not demonstrated what benefits the ratepayers will receive in requiring them to pay a return currently on short-term construction.

It should also be mentioned that in its Report and Order released May 11, 1978 in Docket No. 21230, entitled "In the Matter of Amendment Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies," the Federal Communications Commission "specifically left to State Commissions the option of whether or not to continue the practice of capitalizing interest on short-term construction work in progress for intrastate rate making purposes." Thus until such time as Mountain Bell can demonstrate that ratepayers would benefit from the authorization of current earnings on short-term construction work in progress, the Commission will continue its current policy of requiring Mountain Bell to capitalize interest on short-term construction work in progress.

(3) Capitalized Overhead

The Staff also made a $8,662,000 adjustment with respect to tax normalization of capitalized overhead costs. Thus the Staff reversed the adjustment made by Mountain Bell in its direct case with respect to above the line treatment of its proposed adjustment for tax normalization of capitalized costs of sales and use taxes, relief and pensions, and social security taxes, as shown on Mountain Bell's Exhibit 4, Page 16,

Historically, Mountain Bell has been flowing through the benefits of the tax timing difference related to these capitalized overhead costs. With respect to sales and use taxes, this benefit has been available since 1939; with respect to relief and pensions, since 1940; and with respect to social security taxes, since 1954. Throughout this period, Mountain Bell has flowed through the benefits of the tax timing difference to its ratepayers. The tax timing difference results from capitalizing these overhead costs, as required by the Uniform System of Accounts, while using, as permitted by the Internal Revenue Service, these costs as a deduction to earnings for Federal Income Tax purposes.

The accounting treatment of capitalizing these costs results in a higher rate base upon which Mountain Bell earns a return, thus benefiting Mountain Bell. At the same time, the practice of flowing through the deferred taxes which result from the Internal Revenue Service permitted tax treatment reduces earnings for Federal Income Tax purposes, thus benefiting current rate payers. To allow normalization of the deferred taxes would require current ratepayers to pay both a return on a larger rate base and a higher tax expense.

Furthermore Mountain Bell already has elected to normalize the majority of its tax timing differences at the expense of current ratepayers vis-a-vis future rate payers. The flow through treatment of capitalized overhead costs helps balance the tax timing benefits between current and future ratepayers.

The Staff of the Commission basically has stated that an exception to flow through would be warranted in a case where the utility has demonstrated severe cash flow problems. One example of a severe cash flow problem would be where the utility is forced to incur higher capital costs because internally generated cash flow was insufficient to provide internally generated funds without accessing the capital markets under unfavorable conditions. Mountain Bell has not argued that it has cash flow problems, but rather that normalization has been sanctioned by both the Securities and Exchange Commission and the Financial Accounting Standards Board. Although normalization has been sanctioned, it is not required by the Financial Accounting Standards Board and the determination of the appropriate regulatory treatment (normalization or flow through) is left to the Commission. We find that there is no compelling reason to depart from our past policy in this regard.

(4) Advertising

The Staff recommended that a certain portion of Mountain Bell's advertising expense be excluded as a rate payer expense. The portion which the Staff recommends be excluded is an amount which represents the Colorado intrastate portion of long-distance promotional campaigns for residential long-distance calling, business long-distance calling and credit card long-distance calling plus the overhead expenses related to these promotional campaigns. Promotion of long-distance calling would be beneficial to rate payers if promotion were directed to usage of long-distance network during off-peak hours when excess capacity is available. However, to promote usage of the long-distance network without making perfectly clear that such usage should be during off-peak hours may lead to excessive use of the long-distance network on-peak which ultimately could result in the need for construction of additional switching facilities to meet the increased demand. Excessive use on-peak can lead to increased capital cost to meet this construction that would not otherwise be needed. The Commission itself reviewed the advertising which the Staff recommended be excluded, and we agree with the judgment made by the Staff that the ads in question do not make it clear that long-distance usage should be during off-peak hours. Although we recognize that some of Mountain Bell's ads did mention long distance off peak, inasmuch as Mountain Bell did not disaggregate the "off peak" ads from the "non-off peak" ads with respect to their respective costs, the Commission must disallow the entire category. Accordingly, the net expenses of $233,000 relating to three long distance advertising campaigns should be excluded.

(5) 1980 Wage and Benefit Increase

The Staff also recommended a reversal of $2,591,000 to Mountain Bell's adjustment to the so-called "1980 Wage and Benefit Increase". Mountain Bell included an estimated increase in wages and benefits for employees. The three year wage and benefit contract in effect during the period of the rate case was negotiated in 1977 covering craft and clerical employees and expired on August 9, 1980. The Staff and Colorado Ski Country, et al, apparently take the legal position that the Commission is precluded from considering out of period adjustments unless the same had been contracted for within the test period. Mountain Bell, on the other hand, cites the case of Colorado Ute Electric Association, Inc. v. The Public Utilities Commission of the State of Colorado, _____ Colo. _____, 602 P.2d 861 at 864 (1979) wherein it is said:

> "This Court has approved the use of the historic relationship between test year investments, revenues and expenses as a basis for calculating the rate increase is necessary to assure utilities a reasonable rate of return on their capital investments. At the same time, mindful of the fact that rates are fixed prospectively, it is recognized that selected out of period adjustments to test year figures must sometimes be made to compensate for known post test year changes that affect their historic relationship. Mountain States Telephone and Telegraph Company vs. The Public Utilities Commission, 182 Colo. 269, 276; 513 P.2d 721, 724 (1973)."

Mountain Bell also refers to Decision No. C80-1039 in investigation and Suspension Docket No. 1420 dated May 22, 1980, involving Public Service Company of Colorado, wherein this Commission said:

> "Public Service contends that the use of the present imbedded cost of debt is totally appropriate inasmuch as the Colorado Supreme Court in the case of Colorado Ute Electric Association Inc. vs. The Public Utilities Commission, 602 P.2d 861 (Colo. 1979) recognized the Commission's broad discretion in making the adjustments for out of period events.
>
> We agree with Public Service that the Colorado Ute case recognizes broad discretion in the Commission to determine whether or not to recognize adjustments which are out of period irrespective of whether or not they have been contracted for in period."

Although the Commission does not agree with the Staff and Colorado Ski Country that we are legally precluded from considering out of period adjustments, whether or not they are contracted for within the test period, we do find that the Staff made a proper adjustment with respect to the out of period wage expense inasmuch as the out of period wage and benefit expense proposed by Mountain Bell, at the time of the hearings was speculative, uncertain, and not finalized. Furthermore, Mountain Bell's proposed adjustment was out of period by more than nine months which we consider to be entirely too far removed in time from the test period in a case of this kind. Even at this date, the record does not show what, in fact, the final figures are with respect to the 1980 Wage Contract.

Mr. Madan, a witness appearing on behalf of Colorado Ski Country USA and the Colorado-Wyoming Hotel and Motel Association, Inc., pointed out in his Exhibit 84 schedule 10, page 7 that Mountain Bell could offset completely any 1980 wage increase by productivity gains. Mr. Madan pointed out that this was reasonable by virtue of the fact that over the last three years, the company has been able to increase its rate of return on rate base in spite of annual wage increases of similar magnitude and that there was no reason to believe that the same would not occur in 1980 thus offsetting completely Mountain Bell's wage adjustment with productivity increases.

It was also pointed out that as a natural consequence of continuous growth in Mountain Bell's service territory, Mountain Bell reasonably could anticipate reclassifications of exchanges to occur in 1980 adding an estimated additional annual revenue of $2,621,000 with little or no additional expenses related thereto. However, inasmuch as the Commission, in its discretion, has decided that it would not be reasonable to bring an uncertain and speculative 1980 wage contract back into the test period, it is not necessary for us to estimate or allocate the productivity or exchange reclassification offset.

(6) End of Period Debt Cost

The Staff made a $1,491,000 adjustment for end-of-period debt costs. The Staff agreed with Mountain Bell that its end-of-period debt cost, by bringing in a one day out-of-period debt issue of $175,000,000, would raise the embedded cost of debt to 8.22%. The Commission does not accept the Staff's $1,491,000 adjustment and will discuss the same in Section B below.

(7) and (8) January 1, 1980 Customer Deposits and Customer Deposit Interest

The Staff also made a $40,000 negative adjustment for January 1, 1980 customer deposits and a negative adjustment of $238,000 with respect to customer deposit interest as a result of Mountain Bell's inadvertence in increasing the rate of interest on customer deposits from 7% to 9.22% before the Commission's decision in that regard became administratively final on May 1, 1980. Thus, for the same reasons as indicated above with respect to the 1980 Wage and Benefit Package, that being that the amendment to the interest rate charged on customer deposits was not known and measurable within the test period, the Commission agrees that the Staff appropriately rolled back the adjustment made by Mountain Bell relating to the interest rate to be charged on customer deposits and that the Staff properly added $238,000 to the operating expenses of Mountain Bell, which sum represents the Colorado intrastate portion of interest on customer deposits accrued during the test year at 7%.

(9) General Service and Licensing Agreement

The Staff recommended that the General Service and License Contract (GS&L) expense be reduced by $675,000. The net after tax effect of such a recommended reduction is to increase Mountain Bell's pro forma net operating earnings by $405,000. The Staff deducted an amount from GS&L advertising overhead equal in proportion to the amount of AT&T and Mountain Bell advertising which has been placed below the line by Mountain Bell and/or the Staff in this proceeding. Staff also deleted certain AT&T salaries and office expenses charged by the Public Affairs Department of the General Department of AT&T through the GS&L. The Colorado intrastate portion was $40,662. Inasmuch as Mountain Bell witness de Laehene did not provide sufficient breakdown for these expenses, the Staff appropriately deleted from the GS&L expense the entire amount applicable to the Public Affairs Department charged to the Colorado intrastate operations of Mountain Bell. In addition it ought to be noted that some of this expense is for functions performed by the Public Affairs Department in the Washington office which, under our criteria, would be classified as lobbying expenses. Commission policy for some considerable time has been that it is inappropriate to charge lobbying expenses to the ratepayers of the company involved.

The Staff also deleted from GS&L expense claimed by Mountain Bell a sum of $242,152 and $260,125 relating to expenses of the General Department of AT&T in connection with the antitrust suit by the United States Department of Justice against AT&T, Bell Telephone Laboratories and Western Electric. We agree with the Staff that whatever legal expenses have been incurred under related Bell Telephone Laboratories should be paid by Bell Telephone Laboratories and not by customers of the operating companies of AT&T. Furthermore, with respect to the amounts allocated to the operating companies, we agree that inasmuch as decisions with regard to the management of the Bell System are made by AT&T with the operating companies merely following the advice and direction determined by AT&T, any expenses related to the Justice Department lawsuit should be funded by AT&T, Western Electric and Bell Telephone Laboratories who are the named defendants, and should not be funded by the ratepayers of the various operating companies of AT&T.

Finally, with respect to GS&L, the Staff recommended deducting $120,596 which represents the amount charged Colorado intrastate operations during the test year for a return on investment in Bell Telephone Laboratories. We agree with the Staff that any investment which the General Department of AT&T may have in Bell Telephone Laboratories was made with funds received from the ratepayers of the various companies and from Long Lines and that the ratepayers of the operating companies should not be required to pay any return on an investment which they initially provided.

(10) Property Tax Reversals

Staff witness Jorgensen also made a negative adjustment of $217,000 for property tax reversals. The Staff excluded the property tax factor from its revenue multiplier because the direct relationship that exists between federal and state income taxes and additional revenues does not exist for property taxes and additional revenues. Property taxes for utilities are based upon an assessed value of property and a mill levy. The assessed value of property is based upon several valuation indicators which are: (1) plant, (2) revenues, and (3) securities. Revenues are not directly related to increases or decreases in property taxes. After the total assessed value of property is manually determined by a division of property taxation, the amounts are allocated to the respective taxing jurisdictions. The respective taxing jurisdictions then apply a mill levy (normally not known until the end of the year following the year used to calculate the assessed value) to the assessed value to arrive at an amount of property taxes due. Taxes are then paid in February and July, two years after the assessed valuation. For example, revenues known in 1980 will be used to calculate the assessed valuation of property for 1980. The assessed value of property for 1980 is used to calculate the mill levy which is known in December of 1981. The property taxes based on the 1981 mill levy are not paid until February and July of 1982. Because of a the lack of direct relationship between revenues and property taxes, a revenue multiplier which includes a property tax factor (as did Mountain Bell's proposed income to revenue multiplier) will be based on future unknown amounts for plant, future unknown amounts for income and future unknown amounts for securities. It will also be based on a future unknown mill levy. This would permit Mountain Bell through its rates to collect property taxes long before the taxes actually are paid. For these reasons we agree with the Staff adjustment with respect to the property tax reversals in the amount of $217,000.

B. Embedded Interest Cost

The Commission does not accept the Staff's $1,491,000 adjustment for end-of-period debt costs and, accordingly, that adjustment will be reversed.

Mountain Bell brought back into the test period to determine debt costs, a one day out-of-period debt issuance adjustment in the amount of $175,000,000. The net cost of the $175,000,000 debt issue was 11.27%. By bringing the $175 million one day out-of-period net debt issue cost into the cost of debt the embedded cost of debt increased to 8.22%. For capital structure purposes, Mountain Bell excluded the out-of-period debt issue in the amount of $175,000,000, which would replace or "roll over" $175 million of short-term debt.

The Staff likewise brought the one day out-of-period adjustment to long-term debt in the amount of $175 million back into the test year to calculate the end-of-period embedded cost of debt of 8.22%. However, the Staff, for capital structure purposes, did not "roll over" the short-term debt with the long-term debt replacement but left both the short-term debt and long-term debt in the capital structure. The Commission finds that, for purposes of determining the embedded debt cost, the proper methodology is to bring back into the test period the one day out-of-period \$175 million debt issue, but to exclude the short-term debt which it replaces. This will result in an embedded overall end-of-period debt cost of 8.05% which cost should be applied to the capital structure with the \$175,000,000 long-term debt included and the "rolled over" short-term debt excluded. The net tax effect of the foregoing adjustment to the Staff's treatment is to lower Mountain Bell's adjustment to net operating earnings in the amount of \$391,000.

C. <u>General Service and License Agreement (GS&L)</u>

As indicated above the Staff, in Exhibit 81, made an overall positive net operating earnings adjustment in the amount of \$405,000 as a result of deducting certain expenses in connection with Mountain Bell's GS&L payment to AT&T. On Exhibit 81, Column J, Line 16, it will be noted that the Staff made a deduction in GS&L expense of \$675,000. This deduction, after tax effects, nets out at \$405,000. The Commission finds that this is a proper expense reduction. In addition, the Commission finds that a further reduction made by Witness John W. Wilson, who appeared on behalf of Rolm of Colorado, Inc. and United Business Systems, Inc., from GS&L expense in the amount of \$326,000 (related to his deduction of expense for AT&T's Planning and Administration Department D) also is appropriate. After calculating the appropriate tax effects of this additional deduction in the amount of \$326,000, the Commission finds that additional net operating earnings in the amount of \$168,000 accrues to Mountain Bell.

General Services and Licenses are provided to Bell System operating companies under the GS&L agreement. Services under the agreement are provided by both AT&T's General Department and the Bell Telephone Laboratories. The license contract between AT&T and its operating telephone companies has been part of the inter-company relationship since the early part of the century. On October 1, 1974 there was a substantial change in the license contract arrangement. Under the new arrangement, the amounts billed to the operating companies would no longer be limited to 1% of revenues but from that point on each company has been allocated a share of the actual cost of providing the service up to a maximum of 2½% of each operating company's total revenues. Since this change, the GS&L cost has escalated. In 1979 approximately 2.25% of the total Bell System operating companies operating revenues were paid to AT&T for service under the license contracts. GS&L expenses have increased an average of 20% per year during the period 1974-1979. Although the Commission is only disallowing $1,001,000 of Mountain Bell's $9,329,000 GS&L expense, Mountain Bell should be on notice by the decision herein that for all future rate cases Mountain Bell will have to demonstrate by specific proof that any claimed license contract cost is not only prudently incurred, but also is beneficial to jurisdictional ratepayers. Mountain Bell will be expected to break down the GS&L expenses associated with competitive services and with non-competitive services. In other words, license contract costs must be disaggregated and assigned to specific services. Mountain Bell should provide the Commission with the summary of each budget decision package and case authorization, which summary should include the total amount, the area of activity, and the amount assigned to each service or product related to the activity. Exhibit JW9, which is contained within Exhibit 67 in this proceeding contains two separate forms. Form 1 is designed to be used for the General Department license contract expenses, and Form 2 is designed to be used for for Bell Telephone Laboratories license contract expenses. The form should be completed for every department in the General Department for the technical area in Bell Labs. Budget decision packages and case authorizations should also be disaggregated by section. The information required on these forms can be derived directly from the budget decision package or case authorization. The "other" category should only be used when an expense does not relate to a competitive activity. Moreover each and every expense in the "other" category should have a complete explanation as to exactly why it is not related to a competitive activity.

In the future, unless Mountain Bell, or AT&T acting on behalf of Mountain Bell, disaggregates GS&L expense as above indicated, the Commission may well be impelled to disallow all of the GS&L expenses which are claimed by Mountain Bell.

D. Bell Labs Research and Development (Bell Labs R&D)

Witness LeLash, who appeared on behalf of Colorado Ski Country USA and Colorado-Wyoming Hotel and Motel Association, holds that of the $3,086,000 research and development (R&D) expense, twenty-five percent (or $771,000) should be disallowed. Bell Labs performed four R&D activities for the operating companies which were billed through GS&L. These items involve basic research, systems engineering, quality assurance, and patent activities. The basic research component of these activities comprises approximately 51% of the amount expended. The dividing line between basic research and specific product research is difficult to draw. Rolm witness John Wilson, by reviewing case authorizations of Bell Labs determined that approximately 30% of Bell Labs basic research, in fact, was related to specific products. Based on a review of findings and decisions by other commissions in regard to this issue, Witness LeLash made an approximation that 25% of Bell Labs basic research was in fact product related. In light of the findings from those other jurisdictions, it may well be that the recommendations of both Mr. Wilson and Mr. LeLash are conservative. We agree with Mr. Wilson and Mr. LeLash that such research is more properly charged directly to Western Electric to be recovered in the price of its products sold to the operating companies. It should be noted that if Bell Labs, in fact, charged Western Electric directly for this research and Western Electric passed the cost through to the operating companies through its prices, the vast majority of those basic research costs would be capitalized on the books of the operating companies and thus paid for in rates over the life of the property. By passing these products specific research cost directly through the GS&L agreement to the rate payers, the current rate payers pay the entire cost even though the benefits are attributable over the life of the property. Accordingly, we agree that 25% of the Bell Labs R&D expense should be disallowed in this proceeding.

Mr. LeLash also recommended that $2,315,000 of the $3,086,000 be capitalized and not expensed and that Mountain Bell be permitted to earn on the unamortized balance thereof over a 19-year (average life for Colorado assets) period. The Commission finds that inasmuch as the remaining $2,315,000 R&D expense is one that would benefit, if at all, future customers of Mountain Bell, the amount of $2,315,000 should be capitalized as an intangible not included in rate base and amortized over a ten year period, rather than either expensing the entire $3,086,000 as proposed by Mountain Bell or capitalizing, including in rate base and amortizing over a 19 year period as proposed by Ski Country. One years amortization of the $2,315,000 amount is rounded to $232,000 as the proper Mountain Bell operating test year expense for Bell Labs R&D. The net effect, after taxes, is to increase Mountain Bell's net operating earnings by $1,464,000.

E. Business Information Services Agreement (BIS)

With regard to the $1,261,000 BIS agreement expense claimed by Mountain Bell, witness LeLash identified $357,000 as the only portion quantified which benefits Colorado rate payers. Witness LeLash also indicated that there was a lack of data by which to judge whether or not the remaining $904,000 benefits the Colorado rate payers. The argument concerning the lack of quantification of rate payer benefit resulting from BIS services was also made by Witness John W. Wilson. Because we find that Mountain Bell failed to demonstrate benefits to Colorado rate payers with regard to $904,000 of the $1,261,000 BIS expense, $904,000 should be disallowed. The effect, after taxes, of the $904,000 reduction in claimed BIS agreement expense is to add an additional $464,000 to Mountain Bell's net operating earnings.

F. Summary

The net effect of our above findings is to add an additional $214,000 to the Staff's $95,581,000 figures for pro forma net operating earnings. Thus, we find that Mountain Bell's net operating earnings, pro forma, for the test year ending October 31, 1979, are $95,795,000.

IX

RETURN ON INVESTMENT

A. Capital Structure

Mountain Bell proposes a capital structure for its Colorado intrastate operations which is derived, through certain allocations, from Mountain Bell's actual capital structure. Staff proposes a capital structure which is identical to Mountain Bell's actual capital structure less a reduction therein of certain equity denoted as Employee Stock Ownership Plan (ESOP) equity. Other intervenors either proposed using a hypothetical Mountain Bell capital structure or a hypothetical AT&T (consolidated) capital structure. We find that the appropriate capital structure to be used in this docket is that proposed by the Staff, namely, Mountain Bell's actual capital structure minus ESOP. It should be reiterated, as indicated above, the Commission is not adopting the inclusion of short-term debt in the capital structure, proposed by the Staff, which was "rolled over" by the inclusion of the $175 million out-of-period long-term debt issued.

In Mountain States Telephone and Telegraph Company vs. PUC, 182 Colo. 269 at 281-282, 513 P.2d 721 at 727 (1973) the Colorado Supreme Court stated:

> ". . . that methods of raising capital should be left to the discretion of management unless there is a substantial showing that rate payers are being prejudiced materially by the managerial options in the area of capital financing."

In People's Natural Gas vs. PUC, 193 Colo. 421, 425; 567 P.2d 377, 380 (1977), the Colorado Supreme Court said,

> "unless it has been demonstrated by a substantial showing that the rate payers are materially prejudiced by the actual capital structure which finances utility operations, the PUC should use the actual capital structure in calculating rates."

In the People's case, the Colorado Supreme Court confirmed the Commission's use of a capital structure different from that which was proposed by the utility. People's Natural Gas Company had proposed to use the capital structure of its parent, Northern Natural Gas Company.

However, Northern Natural Gas Company, unlike Mountain Bell here, operated non-utility subsidiaries. Nevertheless, we cannot avoid the Supreme Court's warning, to wit, "a guiding principal of utility regulation is that management is to be left free to exercise its judgment regarding the most appropriate ratio between debt and equity in the capital structure." 193 Colo. at 425; 567 P.2d at 379.

The Staff proposed, and the Commission agrees, however, that \$10,575,000 which is the average net proceeds represented by Employee Stock Ownership Plan (ESOP) shares of common stock in Mountain Bell's equity on a test year basis should be removed. Accordingly, Mountain Bell's average equity for the test period has been reduced from \$2,208,939,000 to \$2,198,364,000. Funds used for the purchase of ESOP common stock are derived from permanent tax savings to Mountain Bell which results from the 1% additional investment tax credit permitted under current United States tax law. In our judgment, the rate payers of Mountain Bell never received the benefit of the tax savings and, in effect, are paying for the purchase of common stock for the benefit of Mountain Bell's employees. After common stock is purchased, ratepayers through rates will pay a return at the equity rate on the common stock purchased with ESOP funds. The stated purpose of the ESOP investment tax credit is to promote ownership in the employer by its employees. However, Mountain Bell does not transfer its common stock to its employees, but transfers its common stock under the ESOP plan to AT&T and AT&T issues AT&T common stock to the trustee of the ESOP plan. The trustee of the plan then distributes to Mountain Bell's employees, common stock of AT&T, not common stock of Mountain Bell. The effect of the Bell System ESOP Plan results in an increase in AT&T's ownership of Mountain Bell and a decrease in ownership by minority stockholders. We do not believe that ratepayers of Mountain Bell should be required to pay a return at the equity rate on the ESOP portion of Mountain Bell's equity. We find that to require ratepayers of Mountain Bell to pay a return at the equity rate of return on the ESOP portion of Mountain Bell's equity imposes an unfair burden on Mountain Bell's ratepayers in that regard.

ESOP funds, of course, are not supplied by investors, but rather by the ratepayers of Mountain Bell. As indicated above, Mountain Bell proposes that it should be allowed to earn on ESOP as though the funds, which are supplied by ratepayers, are equity. Even in the possible event that the Internal Revenue Service disallows the deductability of the 1% tax credit, and it were necessary for Mountain Bell to refinance the $16,000,000 for ESOP by debt alone, or debt combined with equity, the resulting cost of service to Mountain Bell's rate payers nevertheless still would be lower than that proposed by Mountain Bell's equity-earning treatment of ESOP. This is another reason why the Commission believes that Mountain Bell proposed treatment of ESOP is an unjust burden on its rate payers.

On August 28, 1980, Mountain Bell filed a "Motion" wherein it stated that if the Commission adopts the Staff recommendation regarding ESOP, and Mountain Bell loses its eligibility to take the ESOP credit for tax purposes, the loss of eligibility would not merely affect 1980 tax credit, but would affect all open tax years. Mountain Bell states that it was agreed during the hearings that the amount involved is $16,000,000. Mountain Bell further states that due to a lack of clarity in the Federal tax law, it is uncertain whether Mountain Bell would lose its eligibility under the ESOP provisions of the tax law as to Colorado intrastate tax credits, or the tax credit of Mountain Bell as a whole. Thus Mountain Bell states that jurisdictions other than Colorado also may be affected if the Staff proposal on ESOP is adopted by the Commission. In addition, Mountain Bell states that when Mountain Bell employees received AT&T stock or Mountain Bell stock (assuming that continued eligibility under the ESOP provisions is maintained), there will be no difference in cost to the rate payer. Mountain Bell, in its motion filed on August 28, 1980, states that on August 20, 1980 the Board of Directors of AT&T announced its intention to acquire all the outstanding stock owned by minority share holders of Mountain Bell and three other Bell System operating companies through merger transactions. If the merger is ratified, all the shares of stock presently constituting Mountain Bell's minority ownership, which is the only stock publicly traded, will be exchanged for AT&T stock. A further incident of this merger will be a delisting of Mountain Bell stock on the New York Stock Exchange and the deregistering of the Mountain Bell stock with the Securities and Exchange Commission. Consequently, no public trading with Mountain Bell stock, or listing of Mountain Bell stock on a stock exchange will be possible. Mountain Bell states that it is anticipating that if the merger is ratified, the delisting will take place in late 1980 or early 1981. Mountain Bell further states that the difference between the Staff proposal that Mountain Bell's ESOP should earn at the overall rate of return as distinguished from the equity rate of return mandated by the Federal tax law is a relatively small amount of additional revenue requirement and that if the Commission were to enter an order allowing Mountain Bell to earn the equity rate of return on ESOP's shares in this rate case, and all other elements of Decision No. C80-1537 (which is the statement of intended decision issued by the Commission on August 1, 1980 in this rate case) remained unchanged, Mountain Bell would not have a positive additional revenue requirement.

The Commission has considered Mountain Bell's Motion with regard to ESOP and has decided that no change in our August 1, 1980 determination is warranted. In the event Mountain Bell does become, in fact, a wholly owned subsidiary of AT&T, there is no way that Mountain Bell's stock could be issued to its employees under an ESOP plan. Thus, the possibility that Mountain Bell will become a wholly owned subsidiary of AT&T reinforces our determination with regard to ESOP and its proper treatment herein.

B. Rate Of Return On Equity

In this proceeding, the Commission heard testimony from five witnesses on the issues of fair rate of return on common equity. Mountain Bell sponsored two witnesses, Mr. Eugene W. Meyer, and Mr. B. B. Wilson. Intervenor Colorado Municipal League sponsored one witness, David A. Kosh. Intervenor General Services Administration sponsored one witness, Mark Langsam.

The Staff of the Commission sponsored one witness, Anthony F. Karahalios. In descending order, the following ranges of fair rates of return on common equity were recommended to the Commission:

(a) B. B. Wilson - 15.0% to 18.5%

(b) Eugene W. Meyer - 16.2% to 18.3%

(c) Mark Langsam - 12.5% to 13.5%

(d) David A. Kosh - 13.25%

(e) Anthony F. Karahalios - 12.8% to 13.8%

Three of the foregoing witnesses, namely Mr. Karahalios, Mr. Wilson, and Mr. Kosh, utilized the so-called discounted cash flow (DCF) analysis. Mr. Langsam employed a comparable earnings analysis and based his judgment on that technique. Mr. Meyer used what might be described as a capital attraction test.

After analyzing methodologies used by the various witnesses, including the capital structures utilized to reach the recommended fair rates of return, the Commission finds that a fair rate of return on common equity for Mountain Bell, considering the economic and market conditions that exist today, is 13.3%. Although each of the three non-Mountain Bell rate of return witnesses used a different approach in arriving at his recommended equity rate of return, the three rates of return recommended by them all turned out to be very close. Staff witness Karahalios utilizing a DCF approach, as indicated above, recommended a range between 12.8% and 13.8%, the midpoint of which would be 13.3%. The DCF theory, of course, measures equity cost by combining dividend yield and growth (with the growth is measured by an increase in book value per share, an increase in earnings per share or an increase in dividends per share). Mr. Karahalios utilized the annual book value growth rate as the measure of growth. In this regard he took the average growth rate for an average of five 5-year periods ending 1975 through 1979. The compounded annual average growth rate in book value per share for Mountain Bell was 3.21% and for AT&T was 3.94%. Using those figures, Mr. Karahalios, by judgment, estimated the capital growth of Mountain Bell to be between 3.25% and 3.75%.

With respect to the average dividend yield, Mr. Karahalios measured Mountain Bell's and AT&T's dividend yield for two 12-month periods, namely January 1, 1979 to December 31, 1979 and June 1, 1979 to May 31, 1980; he also measured one 6-month period from December 1, 1979 to May 31, 1980. The average dividend yields are indicated on Exhibit 69 which shows that for the first 12-month period Mountain Bell had an average dividend yield of 8.64%, and AT&T had an average dividend yield of 8.47%. For the next 12-month period (6/1/79 to 5/31/80) Mountain Bell had a dividend yield of 9.56% and AT&T had a dividend yield of 9.36%. For the six-month period of December 1, 1979 to May 31, 1980, Mountain Bell had a dividend yield of 10.12% and AT&T had a dividend yield of 9.82%. Using these figures Mr. Karahalios estimated that the dividend yield of Mountain Bell ranged betwen 9.50% and 10% which, when added to the capital growth of 3.25% to 3.75%, yielded a bare cost of equity range of 12.75% to 13.75%. Next Mr. Karahalios adjusted the dividend yield portion by .5% which, as adjusted, yields an adjusted dividend yield of 9.55% to 10.05%.

Normally it is necessary to adjust the current yield portion to obtain a recommended fair rate of return on equity. Theoretically the market value of common stock would equal the book value of common stock if the rate of return on equity equals the bare rate of equity. In actuality, however, this does not happen because of a variety of factors such as attrition, market pressure and the expense of issuing stock tend to depress the market value below book value. Notwithstanding the foregoing, in the instant proceeding we agree with Mr. Karahalios that no adjustment need be made for attrition or market pressure. Since the Commission's last decision in a general rate increase proceeding involving Mountain Bell, Mountain Bell has earned at or above its last authorized rate of return on equity of 11.5%. Mountain Bell earned a rate of return on average equity of 11.92% for 1977, 13.11% for 1978 and 12.58% for 1979. Thus there is no need to allow for attrition with respect for Mountain Bell in this proceeding.

When new common stock is issued through pre-emptive rights no adjustment need be made to compensate for market pressure. Pre-emptive rights permit current stockholders to purchase new stock at the subscription price set by the Board of Directors or to sell the preemptive rights. The value of the rights is the difference between the market price of common stock and the subscription price. The current stockholder has not been affected by the dilution of the selling price. If the stockholder purchases the new common stock offering, the dilution of the selling price of the stock has been offset by the purchase of the common stock at the subscription price. If the stockholder sells the rights, the stockholder is compensated by the money he receives from the sale of rights. In the case of Mountain Bell, its largest stockholder, AT&T, never has declined to exercise its pre-emptive rights with respect to a new issue of common stock by Mountain Bell. Because new issues of common stock of Mountain Bell are issued under preemptive rights, it is not necessary to make an adjustment for market pressure.

With respect to the expenses related to the issuance of common stock, the expense of issuance for Mountain Bell's last two stock issues had been .12% in 1977 and .09% in 1979. We agree with the judgment of staff witness Karahalios who made an adjustment of .5% to the dividend yield for the expense of issuance of new common stock. In summary, we find that the capital growth of Mountain Bell's stock ranges between 3.25% and 3.75% with an adjusted dividend yield of 9.55% to 10.05%. Summing these figures yields a rate of return on equity which ranges from 12.8% to 13.8% with the midpoint, which we adopt, being 13.3%.

In Exhibit 72, page 2, Staff witness Karahalios demonstrated that a return on equity of 12.8% to Mountain Bell would result in a 14.71% return on equity to Mountain Bell's parent, AT&T. With a 13.8% return on equity to Mountain Bell, the return to AT&T equity would be 16.01%. By calculation, it can be demonstrated that a 13.3% return to Mountain Bell would result in a 15.76% return on AT&T equity invested in Mountain Bell.

The DCF methodology which Mr. Karahalios used in determining the bare cost of equity is based upon the theory that the investor anticipates the cost of equity through the current market price of the stock by discounting the value of all future incomes which come both by way of dividends and/or growth which yields capital gains from the sale of the stock. The cost of equity is the discount rate which equates the present value of future income to the current market price of the stock. Mr. Karahalios accomplished this by measuring the growth in book value plus the current dividend yield. We agree that Mr. Karahalios was correct in choosing the growth in book value as the measure of capital growth because the growth in book value per share over time will adjust for any trending in the rate earned on book equity. The growth in book value indicates the change in the value of each share of stock, and therefore gives the investor a true measure of the capital growth of the stock. There are two other possible indicators which could be used in a DCF methodology as a proxy for growth, namely, increases in earnings per share and dividends per share, respectively. However, earnings per share are reported yearly and reflect only the current year's earnings available to each share of common stock. Earnings per share may be paid out to the investor in the form of dividends or retained (in whole or in part) in the common equity account of the company for internal use. The earnings paid out for investors for dividends are reflected in the dividend yield while the earnings retained by the company are reflected in growth of value. Growth in earnings per share will trend up or down over a period of years, but the growth in book value should eliminate the trends in earnings per share. Thus we find that measuring growth in earnings per share is not an appropriate measure of growth as is growth in book value per share.

We also find that to measure growth in dividends per share may reflect aberrations which may or may not continue since dividends are controlled by the Board of Directors of the company involved. The Board of Directors, of course, may allow the dividend paid to remain the same during periods of low earnings or high earnings, or conversely, may permit the dividends paid to increase during periods of low earnings or high earnings. It is thus quite clear that the growth rate of dividends per share is susceptible to upward change by the Board of Directors and does not reflect necessarily the measure of realistic capital growth anticipated by investors.

Mr. Karahalios measured current dividend yield by calculating the dividends paid during the three periods indicated above and dividing them by the average of the average monthly market prices for the periods indicated. The average monthly market price has been calculated on the basis of daily highs and lows. In arriving at a recommended current yield, Mr. Karahalios reviewed the most recent yield data that was available to him. Using the most current trend of dividend yield should reflect the investors inflation expectations, whereas using a spot market dividend yield could produce inaccurate results since the market price at any point in time is not representative of the long term, however defined. Mountain Bell witness, B. B. Wilson, used January, 1980 as the spot yield both for his DCF analysis of Mountain Bell and for his comparable earnings approach. Inasmuch as we find that the spot yield approach is flawed, both the DCF analysis and comparable earnings approach analysis presented by Mountain Bell witness Wilson cannot be accepted in this proceeding for determination of a proper rate of return on equity for Mountain Bell. Additionally, we do not find that the comparable earnings approach utilized by Mountain Bell witness Wilson is acceptable inasmuch as the companies "compared" to Mountain Bell were not comparable in their business activities, and are unregulated.

The Commission would note that, although we are not adopting the hypothetical capital structure approach advocated by Mr. Kosh in this proceeding, Mr. Kosh's analysis was helpful in confirming the reasonableness of the rate of return found by Mr. Karahalios of the Staff. In the event Mountain Bell does become a wholly owned subsidiary of AT&T, it may well be appropriate, depending upon the circumstances, to utilize a hypothetical capital structure approach as advanced by Mr. Kosh.

Based upon a 13.3% rate of return on equity to Mountain Bell we find that the composite cost of capital that AT&T invests in Mountain Bell is 11.72% computed as follows:

AT&T	Amount ($000)	Ratio	Cost	Composite Cost
Equity	$30,433,830	76.97%	13.30%	10.24%
Preferred	2,068,597	5.23%	7.71%	.40%
Debt	7,038,352	17.80%	6.08%	1.08%
Total	$39,540,779	100.00%		
Composite Cost of AT&T Capital				11.72%

From the foregoing, the rate of return on Mountain Bell's average rate base with the 13.3% return on equity can be derived as follows, using the 11.72% cost of equity with respect to AT&T and the 13.3% cost of equity with respect to Mountain Bell minority stockholders:

Overall Rate of Return (Cost of Capital)

With 13.30% Rate of Return on Equity

		Percent of Total Capital	Cost	Composite Cost
Equity:	AT&T	46.34%	11.72%	5.43%
	Minority	5.99%	13.30%	.80%
Debt		47.67%	8.05%	3.84%
Total		100.00%		
Overall Rate of Return on Mountain Bell Rate Base				10.07%

C. Double Leveraging

Double leveraging is a shorthand term to describe the tracing of various capital costs to their ultimate sources. "Leveraging" is a financial term used to describe the situation in which corporations are funded by debt in addition to the equity supplied by stockholders. The corporation is said to be "leveraged" to the extent that debt is included in its capital structure. "Leverage" is the term used to describe the advantage gained by junior interests (equity) through the rental of capital (debt) at a rate lower than the rate of return which they receive in the use of that borrowed capital. Securities and Exchange Commission vs. Central Illinois Securities Corporation, 338 U.S. 96, 150 Nn. 49, 69 Sup. Ct. 1377, 1405, 93 L.Ed. 1836 (1949).

By leveraging investment with debt, stockholders effectively may "own" a corporation which is worth much more than their original investment. Obviously, the use of leverage may have a considerable effect on utility rates. Leverage, basically, is the use of debt capital to earn an overall rate of return in excess of the cost of such capital. These additional earnings over cost inure to the benefit of the stockholders who are thus "levered" above what they might otherwise receive in the absence of debt financing.

Utility commissions may prevent such "additional earnings" by analyzing a utility's capital structure and allocating a different weighted cost to each of the individual elements of the capital structure, including debt. Thus, the utility's owners are allowed to earn on debt only what it costs them to secure the leverage. Double leverage is merely an extension of the concept of leverage to the parent-subsidiary corporate relationship. Company A, for example, is an operating utility, financed partly with debt capital and partly with equity. Its over all rate of return is derived throught the assignment of the actual cost of the different components of its capital structure. However, where the common stock of Company A is owned by Company B, the parent company, Company B will have obtained the funds invested in the common stock of Company A partly through the sale of stock and partly from a debt issue; that is Company B also is levered. Thus, Company A enjoys its own leverage, the use of debt in combination with equity capital, plus the leverage of its parent company which uses some debt to obtain the equity capital of Company A. In essence this is the meaning of double leverage. Double leverage exists when the holding company employs leverage to purchase the equity of the subsidiary.

The principle behind the application of double leveraging adjustments by utility commissions is to account for the parent company's use of its low cost debt to purchase stock in its subsidiary upon which it may earn a higher rate of return than the cost of the debt.

The Staff used a double leverage approach, or a source cost of capital approach, in making its recommendation as to the fair rate of return which should be allowed for Mountain Bell. Mountain Bell, however, refers to the case of New England Telephone and Telegraph Company vs. PUC, _____NE. _____, 390 A.2d A(1978) wherein the Supreme Judicial Court of Maine Reversed the Maine Public Utilities Commission's use of a double leverage approach for a telephone utility with a 14% minority ownership. Mountain Bell states that the New England decision is the only reported appellate decision addressing the propriety of the double leverage adjustment in a proceeding regulating a utility with a significant minority ownership. Mountain Bell opines that even the most "tortured analysis" of the Maine Supreme Judicial Court's opinion in New England cannot support the Staff's double leverage recommendation. Mountain Bell further contends that, as a result of double leveraging, Mountain Bell's minority shareholders will earn between 11.33% and 12.2% on their equity investment and that this amounts to confiscation. We believe that Mountain Bell's reliance on the New England case is misplaced, and that its contentions with regard to the double leveraging cannot be sustained.

We do not agree that the New England decision is a blanket prohibition against the use of double leveraging even in those situations in which the subsidiary corporation has a substantial minority interest. The Supreme Judicial Court of Maine, in the New England decision (390 A.2d at 43) said, "while the record might contain substantial evidence to support the application of a double leveraging adjustment in general, it lacks sufficient evidence and findings of fact to support double leveraging in this case." (emphasis in the original). Basically the New England decision turned on what the Court perceived to be the failure of the Maine Commission to make proper findings of fact concerning the costs for the elements of AT&T's capital structure and its failure to make specific findings of fact concerning the precise effect of the application of double leveraging upon the interests of New England Telephone's 14% minority shareholders and, in turn, the ultimate effect, if any, upon New England Telephone.

The issue regarding so called double leveraging has also been subject to judicial review in the State of Montana. On January 21, 1980, District Judge Peter G. Meloy of the District Court of the First Judicial District of the State of Montana in the case of Mountain States Telephone and Telegraph Company vs. Department of Public Service Regulation, Montana Public Service Commission et. al, Case No. 43291, said, "if the Maine case (referring to the New England case) stands for the conclusion that the double leverage adjustment cannot be made in the situation of parent-subsidiary and minority stockholders, the Court disagrees."* We agree with Judge Meloy in this regard.

With regard to so-called double leverage (i.e., the derivation of the overall cost of capital from the actual costs of its components), the central point is that the equity investor in AT&T will receive a greater rate of return than the minority Mountain Bell shareholder irrespective of whether a regulatory commission applies this approach, and regardless of the overall rate of return adopted by the regulatory commission. Mathematically, the return to the AT&T equity share of Mountain Bell will be greater than the return to Mountain Bell minority equity because the AT&T equity share of Mountain Bell, regardless of the treatment afforded it by a regulatory commission, is, in fact, financed by AT&T with a combination of debt and equity. The cost of AT&T's debt and preferred stock are known facts which readily may be determined. The overall cost of capital is the cost of the various components of the capital structure. AT&T, needless to say, is not an "arms-length" investor in its subsidiary companies. The company and its subsidiaries are part of a total system. Tracking costs to their source merely pierces the corporate veil. Moreover, a commission can do no more than find an overall cost of capital. It cannot intrude upon managerial discretion by determining a return to various classes of stockholders. In the case of Mountain Bell, as Judge Meloy correctly observed, the discrepancy in the return to the AT&T and minority equity is a direct result of the manner in which the Bell System

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*The Montana District Court decision presently is on appeal to the Montana Supreme Court.

has chosen to structure the ownership of Mountain Bell and does not result from the application of double leveraging by a utility regulatory commission.

This Commission determines what is the fair rate of return to Mountain Bell. If Mountain Bell earns 13.3% on its equity, the distribution (or retention) of that 13.3% return between its AT&T majority shareholder and its minority shareholders is beyond the reach of this Commission. The fact that Mountain Bell has one class of common stock (thereby legally mandating that the same rate of dividend be paid to both majority and minority stockholders) is, as pointed out above, the direct result of how the Bell System has chosen to structure the ownership of Mountain Bell.

Apparently, Mountain Bell believes that this Commission not only must offer a "fair rate of return" to Mountain Bell itself, but also insure that its minority shareholders also will be offered the chance to earn the fair rate of return irrespective of the corporate relationships which the Bell System has structured. However, if this Commission were to adopt Mountain Bell's suggestion in this regard, the result would be that the majority shareholder of Mountain Bell, namely AT&T, would experience an enormous earnings windfall on its equity in excess of the fair rate of return which windfall would be paid for by the ratepayers of Mountain Bell. It needs to be reemphasized that the task of this Commission is to determine what is the fair rate of return on equity to Mountain Bell. Having determined that the fair rate of return to Mountain Bell is 13.3% on its equity, the manner in which the fair rate of return is thereafter distributed to Mountain Bell shareholders (or retained) is a function of management discretion, not a matter of Commission determination.

In summary, it is clear that the Staff properly traced the costs of the various elements of Mountain Bell's capital structure to their respective sources. The cost of Mountain Bell minority equity capital was found to be 13.3%. That is the same rate of return that the Commission finds to be a reasonable rate of return on the equity of Mountain Bell. For this Commission not to have adopted the Staff cost assignment approach in this proceeding would have resulted in the award of an excess return on equity not only to Mountain Bell, but also to the equity owner in AT&T, and would have been a materially unfair burden to impose on Mountain Bell ratepayers.

D. Overall Rate of Return and Pro Forma Earnings Requirement

As previously indicated, the result of a 13.3% return to Mountain Bell equity translates to an overall rate of return to Mountain Bell of 10.07%. Applying the overall rate of return of 10.07% to Mountain Bell's rate base of $946,269,000 produces a revenue of $95,289,000. As also indicated above, the Commission has found that Mountain Bell's test year pro forma earnings are $95,795,000 which means that on a test year pro forma basis Mountain Bell's earnings exceeded its revenue requirement by $506,000. In view of the fact that the test year excess earnings of $506,000 is de minimis in relation to the overall revenue requirement, the Commission believes that it would be inappropriate to attempt to "spread" any revenue "reduction" of such a relatively insignificant amount. It should also be recognized that calculating a revenue requirement is not a matter of scientific precision, but the exercise of sound regulatory judgment. With the economic decline now being experienced in such sectors as housing, for example, it readily can be surmised that the economic downturn very likely will eliminate any minimal surplus revenues Mountain Bell will experience. It is with those conditions in mind that the Commission informed the parties by its August 1, 1980 decision that it had decided to close the docket herein and vacate scheduled hearings in Phase II of I&S 1400. We wish to again state, however, that by so doing the Commission had not rendered and does not render any judgment with respect to possible "spread of the rates" issues which either Mountain Bell or its customers may wish to develop in separate proceedings before this Commission.

X

MOTIONS FOR REIMBURSEMENT

As previously indicated, the Colorado Municipal League on August 5, 1980 filed a Motion requesting the Commission to establish appropriate procedures for consideration of one or more motions for reimbursement. It is possible that other parties herein also may file motions relating to reimbursement of attorneys and expert witness fees. In the order hereafter, we shall set a date by which motions relating to reimbursement shall be filed. Thereafter the Commission may set the same for hearing. However, in order to avoid any procedural confusion, the Commission states that the decision and order issued today should be considered as a final decision subject to the provisions of C.R.S. 1973, 40-6-114 and 40-6-115 notwithstanding retained jurisdiction with regard to motions for reimbursement. In other words, any further proceedings in this docket with respect to various motions for reimbursement are considered to be ancillary procedural matters which do not affect the substantive decision herein and, accordingly, do not affect its finality in terms of C.R.S. 1973, 40-6-114 and 40-6-115.

XI

CONCLUSION

This docket has been one of the most complex proceedings before this Commission in which a number of issues have been raised by various parties. To the extent that specific issues have been raised by parties which are not addressed specifically in this decision, the Commission states and finds that the particular treatment advanced with respect thereto by one or more of the parties does not merit adoption by this Commission in this docket. Having found that Mountain Bell is not entitled to any revenue increase, we conclude that the tariffs filed by Mountain Bell on January 21, 1980 pursuant to its advice Letter No. 1570 should be suspended permanently, and that the docket herein should be closed following appropriate decisions with respect to possible motions for reimbursement which may be filed by one or more parties.

An appropriate order will be entered.

O R D E R

THE COMMISSION ORDERS THAT:

1. The tariff sheets filed on January 21, 1980 by the Mountain States Telephone and Telegraph Company pursuant to Advice Letter No. 1570 be, and hereby are, suspended permanently.

2. Any party herein who intends to file a Motion for Reimbursement of attorneys fees and/or expert witness fees with respect to this docket

shall do so on or before September 30, 1980. Any such Motion filed should set forth in specific detail, by subject matter, the area or areas for which reimbursement is sought, the amount of time and expense associated therewith, and how reimbursement meets the established criteria of the Commission therefor.

3. This decision shall be considered a final decision subject to the procedural provisions of C.R.S. 1973, 40-6-114 and 40-6-115.

4. For purposes of acting upon Motions for Reimbursement which may be filed pursuant to Ordering Paragraph 2 herein, the Commission shall retain jurisdiction and enter such further orders as may be necessary.

5. Any pending motion which is not otherwise disposed of by the Decision and Order herein, be, and hereby is, denied.

This Order shall be effective forthwith.

DONE IN OPEN MEETING the 16th day of September, 1980.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edythe S. Miller

Daniel E. Muse

Commissioners

COMMISSIONER L. DUANE WOODARD
CONCURRING IN PART AND
DISSENTING IN PART

COMMISSIONER WOODARD CONCURRING IN PART AND DISSENTING IN PART:

The Commission Majority has recommended that Mountain Bell earn an overall cost of capital rate on Mountain Bell stock issued pursuant to the Employee Stock Ownership Plan. Commissioner Woodard dissents from the Commission Majority position concerning such treatment of Employee Stock Ownership Plan (ESOP).

The federal tax law dealing with ESOP stock requires that a regulated company earn at the equity rate of return to continue eligibility to take this tax credit (Tr. Vol. VIII, p. 81). In addition, because of a lack of clarity in the federal tax law, it is uncertain whether Mountain Bell would lose its eligibility under the ESOP provisions of the tax law as to

Colorado intrastate tax credits, or the tax credit of Mountain Bell corporation as a whole. Consequently, jurisdictions other than Colorado may also be affected if the Majority Commission position is adopted in this docket. (Tr. Vol. VIII, p. 83).

If the Majority recommendation that Mountain Bell earn an overall cost of capital rate on Mountain Bell stock issued pursuant to the ESOP plan is adopted and Mountain Bell lost its eligibility to take the ESOP credit, this loss of eligibility would not merely affect 1980 tax credits, but would also affect all open tax years together with a federal tax liability assessment. It was agreed during the hearings that the amount involved is $16 million. (Tr. Vol. VIII, p. 82).

Whether Mountain Bell employees receive AT&T stock or Mountain Bell stock (assuming continued eligibility under the ESOP provisions is maintained), there will be no difference in the cost to the ratepayer. (Tr. Vol. VIII, p. 78).

Lastly, the difference between the Majority Commission position that Mountain Bell's ESOP should earn at the overall rate of return as distinguished from the equity rate of return mandated by the federal tax law, is a relatively small amount of additional revenue requirement. If the Commission were to enter an order allowing Mountain Bell to earn the equity rate of return on ESOP shares in this rate case--and all other elements of the Majority Commission decision remained unchanged--Mountain Bell would not have a positive additional revenue requirement.

I further disagree with the Majority view recognizing AT&T ownership of 88.55% of Mountain Bell's retained earnings.

I concur with the Majority Decision in all other respects.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

L. Duane Woodard

Commissioner

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