

(Decision No. C87-568)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE: INVESTIGATION AND SUSPENSION	)	INVESTIGATION AND SUSPENSION
OF PROPOSED CHANGES IN TARIFF -	)	DOCKET NO. 1720
COLORADO PUC NO. 6 - TELEPHONE,	)	
THE MOUNTAIN STATES TELEPHONE AND	)	COMMISSION DECISION UPON
TELEGRAPH COMPANY, DENVER,	)	APPLICATIONS FOR REHEARING,
COLORADO 80202.	)	REARGUMENT OR RECONSIDERATION

April 29, 1987

STATEMENT AND FINDINGS OF FACT

On March 20, 1987, the Commission entered Decision No. C87-364 in this docket. On April 9, 1987, Applications for Rehearing, Reargument or Reconsideration were filed by the Office of Consumer Counsel (OCC), the Colorado Municipal League (League), Competitive Telecommunications Association of Colorado & Wyoming (Comptel), and MCI Telecommunications Corporation (MCI), respectively. Also, on April 9, 1987, AT&T Communications of the Mountain States, Inc. (AT&T Comm), filed an Application for Partial Rehearing, Reargument or Reconsideration.

The Commission carefully has considered the Applications for Rehearing, Reargument or Reconsideration and, except as noted in this decision, finds that the applications do not set forth sufficient factual or legal grounds to justify the modification of Decision No. C87-364. The OCC has correctly pointed out that on page 5 of Decision No. C87-364 the Commission, in denying motions to strike a staff reply statement of position, indicated that posthearing statements of position and reply statements of position embody legal and factual arguments. The Commission stated that to the extent these statements contain information which cannot be sustained by the record in the docket, there is no harm in our receiving that information so long as the Commission does not rely upon it in making its decision.

The OCC points out that on page 19 of Decision No. C87-364 the following statement is made by the Commission:

Contrary to the OCC's assertion that the Staff's allocation of traffic-sensitive costs by minutes of use did not give weight to the more expensive first minute of use, the Staff did use dial-equipment minutes of use for traffic-sensitive costs which inherently gives weight to the first minute and we find that was appropriate.

The OCC contends that the foregoing conclusion is not based upon any finding in the record, and is, therefore not in accord with the evidence. The OCC contends that this argument was made by the Staff in its Reply Statement of Position. We find that the OCC's contention in this regard is correct. Accordingly, that paragraph should be removed from our decision.

The same legal argument was made by the OCC in connection with a statement on page 21 of our decision, which reads as follows:

Although the OCC alleged that by assigning loop maintenance costs on the basis of relative investment, there is an overassignment of those loop maintenance costs to residential users, the fact is that loop maintenance costs were subdivided by the Staff and were allocated in some cases on primarily the basis of investment, and in certain other minor cases on the basis of the number of loops. We would note, in any event, that the allocation of loop maintenance costs on the basis of investment is a long standing and sound principle of cost allocation.

The OCC contends that these findings are absolutely unsupported in the record and that the Staff made these basic arguments in its reply statement. The Commission would note that the OCC is only partially correct. Its own witness, Dr. Kahn, made reference to the fact that the Staff had allocated loop maintenance costs on the basis of investment. It is true that the phrase "and in certain other minor cases on the basis of the number of loops" is unsupported in the record. For the same reason given above, we find that the third paragraph on page 21 of Decision No. C87-364 should be amended to read as follows:

Although the OCC alleged that by assigning loop maintenance costs on the basis of relative investment, there is an overassignment of those loop maintenance costs to residential users, the fact is that loop maintenance costs were subdivided by the Staff and were allocated in some cases on primarily the basis of investment. We would note, in any event, that the allocation of loop maintenance costs on the basis of investment is a long standing and sound principle of cost allocation.

MCI pointed out certain inaccuracies as to the dates that certain witnesses testified as indicated on Appendix A to Decision No. C87-364. MCI is correct. An errata notice with respect to Appendix A has been issued on April 30, 1987, to reflect correction of these errors.

Finally, the Commission was informally advised that the name of Gary Tucker was inadvertently omitted in the list of Appearances for Mountain Bell. This correction was also made by the same errata notice that made corrections to Appendix A.

THEREFORE THE COMMISSION ORDERS THAT:

1. The Application for Partial Rehearing, Reargument or Reconsideration, filed on April 9, 1987, by AT&T Communications of the Mountain States, Inc., and directed to Decision No. C87-364 is denied.

2. The Application for Rehearing, Reargument or Reconsideration filed on April 9, 1987, by the Colorado Municipal League and Comptel of Colorado and Wyoming, directed to Decision No. C87-364 is denied.

3. The Application for Rehearing, Reargument or Reconsideration filed on April 9, 1987, by MCI Telecommunications Corporation, directed to Decision No. C87-364, is denied.

4. The Application for Rehearing, Reargument or Reconsideration filed April 9, 1987, by the Office of Consumer Counsel is granted in part in accordance with this Decision and Order and, otherwise, is denied.

5. The second full paragraph on page 19 of Decision No. C87-364 is deleted.

6. The third full paragraph on page 21 of Decision No. C87-364 is modified to read as follows:

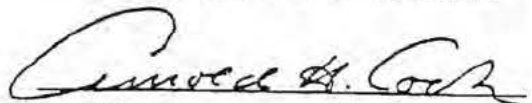
Although the OCC alleged that by assigning loop maintenance costs on the basis of relative investment, there is an overassignment of those loop maintenance costs to residential users, the fact is that loop maintenance costs were subdivided by the Staff and were allocated in some cases on primarily the basis of investment. We would note, in any event, that the allocation of loop maintenance costs on the basis of investment is a long standing and sound principle of cost allocation.

7. The 20-day time period provided under § 40-6-114(1), C.R.S., within which to file an application for rehearing, reargument, or reconsideration shall begin to run on the first day after the mailing or service by the Commission of this Decision.

8. This Decision and Order shall be effective 30 days from this date.

DONE IN OPEN MEETING the 29th day of April 1987.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

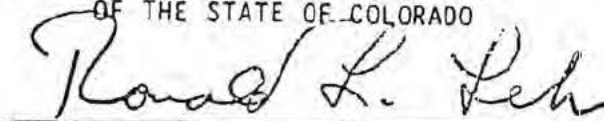


Commissioners

COMMISSIONER RONALD L. LEHR ABSENT
BUT DISSENTING
SEE DISSENT IN DECISION NO. C87-364

COMMISSIONER RONALD L. LEHR ABSENT BUT DISSENTING SEE DISSENT IN
DECISION NO. C87-364:

THE PUBLIC UTILITIES COMMISSION
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Commissioner

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