

JUN 16 88

(Decision No. C88-770)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE: THE APPLICATION OF THE MOUNTAIN)
STATES TELEPHONE AND TELEGRAPH)
COMPANY FOR ENTRY OF AN ORDER BY)
THE COMMISSION REFRAINING FROM)
REGULATING POINT TO POINT AND POINT)
TO MULTIPOINT DEDICATED)
TELECOMMUNICATIONS SERVICES; OR IN)
THE ALTERNATIVE, FOR A DECLARATION)
OF CONTINUED APPLICABILITY OF THE)
PUBLIC UTILITY LAW OF COLORADO TO)
OPERATING RIGHTS FOR THOSE SERVICES.)

APPLICATION NO. 37367-
Reopened (1988)
(Private Line Monthly Report
Compliance)

June 15, 1988

STATEMENT AND FINDINGS OF FACT

BY THE COMMISSION:

On September 28, 1987, the Commission entered Decision No. C87-1347 in Case No. 6633 and in Application No. 37367. Application No. 37367 is the application of The Mountain States Telephone and Telegraph Company (Mountain Bell) requesting the Commission to refrain from regulating point-to-point and point-to-multipoint dedicated communications services or, in the alternative, for a declaration of continued applicability of the Public Utility Law of Colorado to operating rights for those services. Decision No. C87-1347 granted Mountain Bell's application in part. Mountain Bell initially requested the Commission to deregulate all private line services, but on August 28, 1987, Mountain Bell filed a modification to trial data certificate which limited its request somewhat. Decision No. C87-1347 allowed Mountain Bell to offer private line services below 24 circuits, or the DS-1 equivalent, on a flexible basis by establishing banded prices using its present tariffed rates as a cap and long-run incremental costing (LRIC) as a floor for these low-end private line services. For high-end or high-speed private line services above 24 circuits, Mountain Bell was authorized to charge whatever rate the marketplace would allow. The Commission stated that these high-end services will not be included in the revenue requirement for other regulated services offered by Mountain Bell.

In Finding of Fact No. 37, in Decision No. C87-1347, the Commission alluded to the fact that Mountain Bell's attorney had stated

that Mountain Bell had never had a need to prepare records necessary for the evaluation of the private line market. However, the Commission there stated that basic financial market information will be even more important in the future as a result of increasing competition and the flexible regulation described in Decision No. C87-1347. Accordingly, the Commission stated that it anticipated that Mountain Bell and other providers of private line services would develop records and reports which would be necessary for them to monitor the success of their private line offerings in the normal course of their business. Ordering paragraph 9 in Decision No. C87-1347 provided that Mountain Bell shall work with the Staff of the Commission to develop a monthly report concerning lost revenues associated with the provision of private line services as a result of competitive activities, which had been previously ordered to be prepared by Mountain Bell only, and which had been provided by Mountain Bell in an unsatisfactory manner in the past.

On June 8, 1988, the Commission entered a decision in Case No. 6666, which was opened to inquire into Mountain Bell's compliance with prior Commission orders concerning the furnishing of data concerning the allegation that Mountain Bell had lost revenues in the private line market. Although Case No. 6666 was principally concerned with the private line lost revenue reports that Mountain Bell was required to submit to the Commission for the period December 1986 through December 1987, Decision No. C88-710, entered in Case No. 6666 refers to the fact that Mountain Bell does not appear to have adequate mechanisms in place to measure in a meaningful way, the impact of competition in the private line market. As indicated in Decision No. C88-710, the Commission expected that Mountain Bell would comply with ordering paragraph 9 in Decision No. C87-1347, believing in good faith in that it was not necessary to burden that ordering paragraph with specific deadlines. Unfortunately, the Commission's expectation that Mountain Bell would move promptly to comply with that ordering paragraph has been disappointed. Accordingly, we find that it is necessary for the Commission to reopen Application No. 37367 to deal with the problem of measuring the affect of private line competition upon Mountain Bell in a meaningful fashion. More specifically, it is necessary to require Mountain Bell to comply with ordering paragraph 9 in Decision No. C87-1347 by a time certain. If Mountain Bell is unable or unwilling to comply with ordering paragraph 9, the Commission will have to consider what further action is appropriate with respect to Application No. 37367.

THEREFORE THE COMMISSION ORDERS THAT:

1. Application No. 37367 is reopened for the purpose of issuing further procedural directives with respect to ordering paragraph 9 as contained in Decision No. C87-1347, dated September 28, 1987.

2. All parties in Application No. 37367 shall be designated as parties in Application No. 37367-Reopened (1988) without the necessity of filing entries of appearances or motions to intervene.

3. On or before July 18, 1988, The Mountain States Telephone and Telegraph Company shall comply with ordering paragraph 9 in Decision No. C87-1347, dated September 28, 1987, and shall submit to the Commission for its approval, a detailed plan including consideration of contracting for services of a competent firm to assist it to develop a monthly report concerning lost revenues associated with the provision of private line services as a result of competitive activities, as previously ordered by ordering paragraph 9 as identified in this ordering paragraph.

This Order is effective forthwith.

DONE IN OPEN MEETING the 15th day of June 1988.

(S E A L)



ATTEST: A TRUE COPY

James P. Spier
James P. Spier
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

ANDRA SCHMIDT

RONALD L. LEHR

Commissioners