

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE RULES OF THE)
PUBLIC UTILITIES COMMISSION OF THE)
STATE OF COLORADO REGULATING)
SERVICES AND PRODUCTS PROVIDED)
PURSUANT TO TITLE 40, ARTICLE 15,)
PART 3, OR THE COLORADO REVISED)
STATUTES AND CERTIFICATION OF)
PROVIDERS OF THOSE SERVICES AND)
PRODUCTS.)

CASE NO. 6722

COMMISSION DECISION
DENYING RECONSIDERATION
AND ADOPTING RULES

July 19, 1989

STATEMENT, FINDINGS, AND CONCLUSIONS

BY THE COMMISSION:

On October 7, 1988, these rules and the regulatory impact statement were delivered to the Office of Regulatory Reform (ORR), pursuant to § 24-4-103.5, C.R.S. The Commission gave proper notice of dates for intervention and notice of the hearing dates. This case was heard by Administrative Law Judge (ALJ) William J. Fritzel on January 24, 1989. No regulatory analysis was requested prior to the hearing, however, one was included in Recommended Decision No. R89-316 issued by ALJ Fritzel on March 8, 1989, recommending the adoption of rules attached to that decision as Attachments I and II. The regulatory analysis was Attachment III. Exceptions to that decision were filed by The Mountain States Telephone and Telegraph Company d/b/a U S WEST Communications (USWC) and the El Paso Telephone Company (El Paso). A response was filed to those exceptions by the Office of Consumer Counsel (OCC). By Decision No. C89-856, the exceptions were granted in part. USWC, El Paso and MCI Telecommunications Corporation (MCI) filed timely applications for rehearing, reargument, or reconsideration of that decision.

Both USWC and El Paso challenge rule 5.3.7 concerning the segregation of assets arguing that the Commission could grant relaxed regulatory treatment for a service, but that the service could not be offered immediately because of disagreement over an accounting plan. This is an untimely argument. Previously, the objection was clearly directed to the requirement of segregation of investments and expenses as a precondition. It was our intent to accommodate this concern. Now it

appears the concern has evolved into yet another concern. The Commission believes that the segregation of investments and expenses, when required by Commission order, is critical in order to define the rate base and to implement alternatives to rate-of-return regulation. If a service is granted a form of relaxed regulation under part 3, which removes it from the rate base utilized for remaining services under part 3 and part 2, as long as rate-base (rate-of-return) regulation is continued, there is not, and cannot be, any rational argument that segregation is not a requirement to administer the law.

Finally, the Commission has a responsibility, pursuant to § 40-15-101, C.R.S., to promote a competitive telecommunications marketplace. Segregation of investments and expenses may be necessary to properly promote competition by firms with large market shares, as well as to protect new market entrants from unfair competition by providers already in the market who might cross-subsidize their market offerings by using assets, shifting costs, or misallocating revenues at the expense of regulated monopoly services.

El Paso also requests that rule 4.1.1 be modified to eliminate any reference to making "findings". This change is not appropriate and it is the Commission's intent that findings be made under this rule. We believe that if the general Assembly had intended that there were no findings necessary, they would have so provided. Directed as we were to promulgate rules and regulations for the certification of providers, we believe the rules are an appropriate interpretation of the law as written. El Paso also argues that the Commission should apply these rules to resellers. The Commission disagrees. Moreover, the issue is on appeal. The Commission will await the court's ruling or will apply the rules to resellers if the statutes are modified to clearly indicate that the Commission should regulate resellers.

Finally, El Paso correctly points out that Rule 6.1.2. refers to Rule 3.1.1 rather than Rule 6.1.1. This is a typographical error that should be corrected by an Errata Notice to Decision No. CB9-856 immediately.

MCI contends that Rule 5.1.1(i) should be modified to to eliminate a reference to the Uniform System of Accounts (USOA) since MCI is not required to use the USOA by the Federal Communication Commission. This portion of the rule applies to providers that provide part 2 services or part 3 services which have been granted relaxed regulation. Since MCI does not use the USOA, then it need not provide the USOA accounts affected; however, it still must describe the methods by which it would allocate investments and expenses for jointly or commonly used assets. Moreover, the Commission does not believe that the present wording will result in a successful argument that only providers using USOA may seek relaxed regulation, nor is this the Commission's intent. Accordingly, MCI's application should be denied.

The applications of USWC, El Paso, and MCI should be denied.

Finally, the record in this proceeding demonstrates a need for these rules. By adopting these rules, we are repealing our prior rules issued in Case No. 6636, found at 4 CCR 723-24, which were effective on January 30, 1988, and reenacting these rules. These rules are clear and simple and can be understood by persons expected to comply with them. They do not conflict with any provision of law and are enacted in compliance with the statutory authority cited in the rules. There is no duplication or overlapping of the rules. The Commission has complied with the procedures established in Title 40 and Title 24 for the enactment of these rules and the rules as adopted are consistent with the subject matter stated in the published notice. No regulatory analysis was requested, however, one was prepared and has been available for public inspection.

THEREFORE THE COMMISSION ORDERS THAT:

1. The application for rehearing, reargument, or reconsideration filed by The Mountain States Telephone and Telegraph Company d/b/a U S WEST Communications on July 14, 1989, is denied.
2. The application for rehearing, reargument, or reconsideration filed by MCI Telecommunications Corporation on July 6, 1989, is denied.
3. The application for rehearing, reargument, or reconsideration filed by the El Paso Telephone Company on July 14, 1989, is denied.
4. The rules attached to this decision in Appendix A are adopted as the Rules Regulating Emerging Competitive Telecommunications Service.
5. The rules in Appendix A shall be effective 20 days after publication by Secretary of State.
6. An opinion of the Attorney General of the State of Colorado will be promptly sought regarding the constitutionality and legality of the rules in Appendix A.
7. The Commission Secretary shall file with the Office of the Secretary of the State of Colorado, for publication in The Colorado Register, a copy of the rules in Appendix A, adopted by this Decision, and when obtained, a copy of the opinion of the Attorney General of the State of Colorado regarding the constitutionality and legality of these rules.
8. The rules in Appendix A shall be submitted by the Commission Secretary to the appropriate committee of reference of the Colorado General Assembly, if the General Assembly is in session at the time this Order becomes effective, or to the Committee on Legal Services, if the General Assembly is not in session, for its opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

9. The 20-day period to file applications for reconsideration, rehearing, and reargument begin on the date this decision is served or mailed, whichever occurs first.

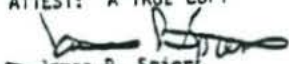
This Decision is effective immediately.

DONE IN OPEN MEETING July 19, 1989.

(SEAL)



ATTEST: A TRUE COPY


James P. Spier
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

RONALD L. LEHR

GARY L. NAKARADO

Commissioners

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RULES REGULATING
EMERGING COMPETITIVE TELECOMMUNICATIONS SERVICE

BASIS, PURPOSE, AND STATUTORY AUTHORITY

These rules are issued under the authority of § 40-15-302, C.R.S., specifically, and Title 40, Article 15, Part 3, C.R.S., in general, and § 24-4-103, C.R.S. The rules provide for certification of providers of emerging competitive telecommunications services in accordance with § 40-15-302(2), C.R.S. These rules establish procedures to certify providers of emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S. The rules describe the information that must be provided to the Commission by providers in their applications.

These rules also establish procedures and standards applicable to decisions regarding the appropriate level and type of regulation, such as flexible pricing, detariffing, and other such manner and methods of regulation that are consistent with the General Assembly's expression of intent stated in § 40-15-101, C.R.S., for services and products declared to be emerging competitive telecommunications services as defined in § 40-15-301(2) and § 40-15-305(2), C.R.S. The rules also establish procedures and standards applicable to decisions regarding applications for deregulation of services or products in accordance with § 40-15-305(1), C.R.S. Finally, the rules establish time schedules for the efficient disposition of applications filed in accordance with these rules.

In the event these rules become effective, the Commission repeals the prior rules issued in Case No. 6636, found at 4 CCR 723-24, which were effective on January 30, 1988, entitled Rules under Section 40-15-302(1), C.R.S., Emerging Competitive Telecommunications Service and Rules under Section 40-15-302(2), C.R.S., Emerging Competitive Telecommunications Services Provider Certification.

Rule 1 - Applicability

These rules provide the exclusive means by which a person may seek certification under Rule 3, any form of relaxed regulation, or deregulation of services regulated by the Commission.

Rule 2 - Definitions

As used in these rules, unless the context otherwise requires:

- (a) "Application" means a pleading requesting certification under Rule 3, a specific form of relaxed regulation under Rules 4 and 5, or deregulation under Rules 4 and 6, but does not include, for example, the use of an advice letter or any other form of tariff filing as an initial request. Applications must be noticed to the public by the Commission so persons have an opportunity to intervene.
- (b) "Deregulated services" means services and products deregulated by the General Assembly in § 40-15-401, C.R.S. or the Commission in accordance with § 40-15-305(1), C.R.S.
- (c) "Person" means the same as found in § 40-1-102(5), C.R.S.
- (d) "Part 2 services" means services and products regulated by the Commission in accordance with Title 40, Article 15, Part 2, C.R.S.
- (e) "Part 3 services" means services and products regulated by the Commission in accordance with Title 40, Article 15, Part 3, C.R.S.
- (f) "Part 4 services" means deregulated services.
- (g) "Regulated services" means services and products regulated by the Commission in accordance with Title 40, Article 15, Part 2 or Part 3, C.R.S..
- (h) "Relaxed regulation" means flexible pricing, detariffing, and other such manner and methods of regulation as provided in § 40-15-302(1), C.R.S., that are consistent with the General Assembly's expression of intent stated in § 40-15-101, C.R.S. for services and products declared to be emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S.
- (i) "Rules" means these Rules Regulating Emerging Competitive Telecommunications Service.
- (j) "Services" means services and products.

Rule 3 - CERTIFICATION PROCESS

Rule 3.1 - Applications for Certification to Provide
Emerging Competitive Telecommunications Services

Any person ("the applicant") desiring to provide emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S., shall file an application with the Commission to seek a certificate of public convenience and necessity to provide emerging competitive telecommunications services, unless not required under § 40-15-302(4), C.R.S. or as otherwise provided by statute. The application shall contain the following information, unless the Commission grants a waiver to omit any specific piece of information in accordance with Rule 7 of these rules.

- (a) The name, address, and telephone number of the applicant;
- (b) The name under which the applicant will provide these services if different than in subparagraph (a);
- (c) If the applicant is a corporation:
 - (1) A statement of that fact, the state in which it is incorporated, and, if an out-of-state corporation, a copy of the authority qualifying it to do business in Colorado;
 - (2) Location of its principal office, if any, in this state; and
 - (3) A copy of its Articles of Incorporation.
- (d) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited, and a copy of the partnership agreement establishing the partnership and later amendments, if any.
- (e) A specific description of the part 3 services to be provided by the applicant, and whether the services have been granted a specific form of industry-wide relaxed regulatory treatment;
- (f) A detailed statement of the means by which the applicant will provide the services;
- (g) The geographic areas in which the services are, or will be, offered;

- (h) A current financial statement showing the applicant's assets, liabilities, and net worth;
- (i) The name and address of the applicant's representative, if any, to whom all inquiries should be made.
- (j) Information demonstrating that a grant of authority is consistent with the General Assembly's expression of intent as stated in § 40-15-101, C.R.S.

Rule 3.2 - Certification

3.2.1 Each applicant which has provided the information required in Rule 3.1 to the Commission shall be granted a certificate of public convenience and necessity for the provision of emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S., if the grant of authority is consistent with the General Assembly's expression of intent stated in § 40-15-101, C.R.S.

3.2.2 Contemporaneously with the request for certification under Rule 3.1, the applicant may file an application for one or more specific forms of relaxed regulation for the services offered.

RULE 4 - GENERAL RULES CONCERNING APPLICATIONS FOR SPECIFIC FORMS OF RELAXED REGULATION AND DEREGULATION

Rule 4.1 - Relaxed Regulation and Deregulation of Emerging Competitive Telecommunications Services

4.1.1 The Commission, upon its own motion, or upon application by any person using, providing, or planning to provide telecommunications service, within Colorado, shall regulate pursuant to Part 3 of Article 15, Title 40, C.R.S., any emerging competitive telecommunications service provided by any person otherwise subject to its jurisdiction, in whole or in part, and shall grant one or more specific forms of relaxed regulation for services upon a finding that the specific form of relaxed regulation is consistent with the General Assembly's expression of intent stated in § 40-15-101, C.R.S.

4.1.2 The Commission, upon its own motion, or upon application by any person using, providing, or planning to provide telecommunications service, within Colorado, shall deregulate any emerging competitive telecommunications service, upon a finding that there is effective competition for the service, and that deregulation will promote the public interest, and the provision of adequate, reliable service at just and reasonable rates as stated in § 40-15-305(1), C.R.S.

Rule 4.2 - Notice

Upon the filing of an application for a specific form of relaxed regulation or for deregulation, the applicant must provide notice of the application within 15 days to all existing customers in accordance with one of the methods of notice in § 40-3-104, C.R.S., unless the Commission approves a different means to notify existing customers. The applicant also must provide notice by first class mail to all providers of telecommunications services who are regulated by the Commission under Title 40, Article 15, Part 2 or Part 3, C.R.S. The Commission will maintain a current list of these providers with their mailing addresses at the Commission's office.

Rule 4.3 - Non-Action By The Commission
Effect Of Failure To Comply With Procedural Requirements.

No application or request filed with the Commission shall be deemed granted by non-action of the Commission or by the Commission's failure to comply with any procedural requirement in these Rules except as specifically required by statute and except non-action pursuant to Rule 5.3.2(c).

RULE 5 - RULES RELATING TO APPLICATIONS
FOR SPECIFIC FORMS OF RELAXED REGULATION

Rule 5.1 - Application Information for
Specific Forms of Relaxed Regulation

5.1.1 Any application for a specific form of relaxed regulation of an emerging competitive telecommunications service must include the following information:

- (a) The name, address, and telephone number of the applicant;
- (b) A specific description of the service for which relaxed regulation is sought and the specific form of relaxed regulation requested;
- (c) The geographic areas in which the service is, or will be, offered;
- (d) A list of other known providers of similar or substitutable services, and any significant, functional differences between the applicant's service and other available services, if known;
- (e) The estimated market share of the applicant;

- (f) Any available cost and estimated demand data;
- (g) A list and copies of all presently effective tariff pages for the service;
- (h) A description of all presently effective rate elements for the service;
- (i) If the provision of the service involves the use of investments and expenses that are jointly or commonly used to provide part 2 services or not subject to relaxed regulation under Title 40, Article 15, Part 3, then identify the Uniform System of Accounts account numbers affected, and briefly describe the methods by which the jointly or commonly used assets, liabilities, revenues, and expenses are allocated between the relevant services and products, and
- (j) Specific information demonstrating that the specific form of relaxed regulation will be consistent with the General Assembly's expression of intent stated in § 40-15-101, C.R.S.

5.1.2 At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. The applicant shall indicate any information which is claimed to be confidential and shall set forth the grounds for the claim of confidentiality. The applicant may file a motion for the protection of information which it claims to be confidential.

Rule 5.2 - Processing Applications
for Specific Forms of Relaxed Regulation

5.2.1 Upon the filing of an application for a specific form of relaxed regulation or upon Commission motion, the applicant shall immediately issue notice to the public as required by Rule 2.2 of these rules. If the Commission institutes a proceeding for relaxed regulation upon its own motion, it shall issue notice to the public in accordance with § 40-6-108(2), C.R.S.

5.2.2 The Commission shall issue a procedural order within 20 days of the receipt of the application concerning the processing of the application, which shall include protective provisions for the handling of any alleged confidential information.

5.2.3 Should an application be filed which the Commission determines is not complete, the Commission shall notify the applicant within 10 days from the date the application is filed of the need for additional information. The applicant may then supplement the application so that it is complete. Once complete, the application will then be processed as of the date the application is completed.

5.2.4 The schedule for processing an application for relaxed regulation shall be as follows:

- (a) Within 55 days from the date the application is filed, or the Commission institutes a proceeding for relaxed regulation upon its own motion, the Staff of the Commission and intervenors shall file their direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. Parties shall indicate any information which is claimed to be confidential and shall give the grounds for the claim of confidentiality.
- (b) All discovery requests shall be completed within 60 days from the date the application is filed. Response time for discovery requests shall be 20 days.
- (c) The hearing shall be set and begin within 90 days from the date the application is filed and may only be continued for a period of 15 days upon a showing of good cause.
- (d) Simultaneous closing statements and briefs may be filed within 10 days after completion of the hearing.
- (e) A decision will be issued within 150 days from the date the application is filed.

Rule 5.3 - Specific Forms of Relaxed Regulation

5.3.1 Alternatives to Rate-of-Return Regulation

The Commission may use alternatives to traditional rate-base or rate-of-return regulation and may adopt any surrogate process it deems appropriate under the circumstances to protect the public and promote competition with respect to an emerging competitive telecommunications service, which may include, but is not limited to, the alternatives listed in this rule.

5.3.2 Flexible Pricing Bands

- (a) The Commission may set a band of rates in which the applicant will be allowed to price without further Commission approval.
- (b) Within 14 days of receiving approval to offer a service within a band of rates, the applicant shall provide the Commission with a price list that clearly describes the rates to be charged for the service. The price list shall also be sent to affected customers at least 14 days prior to those prices taking effect. If prices vary across different customer classes, territories, or levels of service, the price list must reflect each of these distinctions.
- (c) When an applicant requests that the Commission modify an existing band of rates, the applicant shall supply, in its application to modify the existing band of rates, the Commission with available cost and marketing data used to conclude that the existing band is no longer appropriate. The Commission shall have 14 days to approve or deny the application or set a hearing date for comments on the requested change. If the Commission takes no action within the 14-day period, the application to modify the existing band shall be deemed approved.

5.3.3 Trial Offerings

- (a) The Commission may authorize the applicant to offer the service on a limited basis for a period of six months, unless extended further by the Commission. The applicant will be required to provide all customers with written notice of the trial-nature and duration of the offering. The Commission may limit the trial in terms of the investment level, prices, the territory in which the service may be offered, or the number of customers which can be served during the trial period.
- (b) During the trial period, the applicant may be required to maintain segregated books and accounts in a manner prescribed by the Commission, and to file the data with the Commission at the end of the trial period.

5.3.4 Shortened Notice Periods

Revised tariffs for emerging competitive telecommunications services that reflect only decreases in rates shall require a minimum of five days' notice to the Commission. Tariffs for emerging competitive telecommunications services which reflect increased rates shall require a minimum of 14 days' notice to the Commission and affected customers. Unless the Commission sets a hearing date for the tariff and suspends its proposed effective date, the tariff will become effective according to its terms.

5.3.5 Detariffing of Services

The Commission may detariff any emerging competitive telecommunications service. Detariffing shall mean that providers of the competitive service shall provide the Commission with a price list, including the terms and conditions of the provision of the competitive service. Except as otherwise provided by Commission decision or order, the price list shall not be subject to Commission review except in establishing that the prices do not result in improper cross-subsidization as described in § 40-15-106, C.R.S.

5.3.6 Waiver of Tariff Requirements for Competitive Firm

The Commission may also waive tariff requirements for any applicant who offers only emerging competitive telecommunications services.

5.3.7 Segregation of Assets

(a) Where a provider provides part 2 services and/or Part 3 services which are not subject to relaxed regulation, the Commission may require the provider to file with the Commission an accounting plan that segregates assets, liabilities, revenues, and expenses for the services at issue from the assets, liabilities, revenues, and expenses associated with all other regulated services in order to define the regulated rate base and to implement the alternatives to rate-of-return regulation. The accounting plan shall be filed within 30 days after a final Commission decision has been issued concerning the services at issue.

(b) If an industry-wide service or market has been authorized a specific form of relaxed regulation by the Commission, the Commission may require all providers that provide part 2 services and/or part 3 services which are not subject to relaxed regulation and the services at issue, to submit to the Commission, an accounting plan that segregates the assets, liabilities, revenues, and expenses associated with providing the services at issue. The accounting plan shall be filed within 30 days from

the effective date of the final Commission decision granting the relaxed regulation of the services at issue. The Commission may establish a proceeding to adopt an appropriate method to segregate the assets, liabilities, revenues, and expenses associated with providing the services at issue. If no party to the proceeding requests a hearing, the Commission may approve a plan for the segregation of assets, liabilities, revenues, and expenses without hearing under § 40-6-109(5), C.R.S.

(c) In the event the Commission orders that an accounting plan be filed in accordance with Rule 5.3.7(a) or (b), no provider shall offer the services at issue prior to Commission approval of an appropriate accounting plan to segregate assets, liabilities, revenues, and expenses of the services. In the event the Commission requires an accounting plan to segregate assets, liabilities, revenues, and expenses of the services under Rule 5.3.7(a) or (b), the provider shall also modify its cost separation manual required by the Rules under § 40-15-108, C.R.S. Prescribing Cost-Allocation Methods for Segregation of Investments and Expenses of Telecommunications Providers, 4 CCR 723-27.

5.3.8 Additional Procedures

The Commission may adopt other procedures it deems appropriate in furtherance of relaxing regulation of services subject to its jurisdiction, consistent with the expression of intent pursuant to § 40-15-101, C.R.S.

5.3.9 Revision of Terms of Relaxed Regulation

The Commission may, upon its own motion or upon the motion of any person, revise a form of relaxed regulation for a service if continued use of the form of relaxed regulation is no longer consistent with the General Assembly's expression of intent in § 40-15-101, C.R.S.

RULE 6 - RULES RELATING TO DEREGULATION

Rule 6.1 - Application Information for Deregulation

6.1.1 Any application for deregulation of an emerging competitive telecommunications service in accordance § 40-15-305(1), C.R.S. must include the following information:

- (a) The name, address, and telephone number of the applicant;
- (b) A specific description of the service for which deregulation is sought;
- (c) The geographic areas in which the service is, or will be offered;

- (d) A list of other known providers of similar or substitutable services, and any significant, functional differences between the applicant's service and other available services, if known;
- (e) The estimated market share of the applicant;
- (f) Any available cost and estimated demand data;
- (g) A list and copies of all presently effective tariff pages for the service;
- (h) A description of all presently effective rate elements for the service;
- (i) If the provision of the service involves the use of investments and expenses that are jointly or commonly used to provide part 2 and/or part 3 services, then identify the accounts affected under an accounting plan designed to segregate assets, liabilities, revenues, and expenses as required in Rule 6.3 of these rules, and briefly describe the methods by which the jointly or commonly used assets, liabilities, revenues, and expenses are allocated between the relevant services and products, and
- (j) Specific information demonstrating that the service is subject to effective competition in the relevant market for such service, that such deregulation will promote the public interest, and the provision of adequate and reliable service at just and reasonable rates.

6.1.2 At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. Any information which is claimed to be confidential shall set forth the grounds for the claim of confidentiality, including information in Rule 6.1.1 above.

Rule 6.2 - Processing Applications For Deregulation

6.2.1 Upon the filing of an application for deregulation, the applicant shall issue notice of the application to the public as required by Rule 2.2 of these rules. If the Commission institutes a proceeding for deregulation upon its own motion, it shall issue notice to the public in accordance with § 40-6-108(2), C.R.S.

6.2.2 The Commission shall issue a procedural order within 20 days from the date the application is filed concerning the processing of the application, including protective provisions for the handling of any alleged confidential information.

6.2.3 Should an application be filed which the Commission determines is not complete, the Commission shall notify the applicant within 10 days from the date the application is filed of the need for additional information. The applicant may then supplement the application so that it is complete. Once complete, the application will then be processed as of the date the application is completed.

6.2.4 The schedule for processing an application for deregulation shall be as follows:

- (a) Within 85 days from the date the Commission issues its procedural order, Staff of the Commission and intervenors shall file their direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. Parties shall indicate any information which is claimed to be confidential and give the grounds for the claim of confidentiality.
- (b) All discovery requests shall be completed within 90 days after the issuance of the procedural order. Response time for discovery requests shall be 20 days.
- (c) The hearing shall be set and begin within 110 days of the date of the procedural order and may only be continued for a period of 15 days upon a showing of good cause.
- (d) Simultaneous closing statements and briefs may be filed within 10 days after completion of the hearing.
- (e) A decision will be issued within 180 days from the date the application is filed unless the proceeding cannot be completed within 180 days; then the Commission may defer the decision for an additional 90 days as permitted by § 40-15-305(1)(c), C.R.S.

Rule 6.3 - Accounting Plan to Segregate Assets

6.3.1 Where a provider of telecommunications services furnishes regulated services and provides or proposes to offer deregulated services, the provider shall file with the Commission an accounting plan that segregates assets, liabilities, revenues and expenses associated with providing regulated services from assets, liabilities, revenues, and expenses associated with providing deregulated services. The accounting plan shall be filed with the Commission within 30 days after a final decision has been issued by the Commission granting deregulation of services at issue.

6.3.2 If an industry-wide service, product, or market is deregulated by the Commission under § 40-15-305(1), C.R.S., all providers that provide regulated services and the deregulated services at issue shall submit to the Commission an accounting plan to segregate the assets, liabilities, revenues, and expenses associated with providing the deregulated services at issue. The accounting plans shall be filed with the Commission within 30 days from the effective date of the final order granting deregulation of the services at issue. The Commission may establish a proceeding to adopt an appropriate method to segregate the assets, liabilities, revenues, and expenses associated with providing the deregulated services at issue. If no party to the proceeding requests a hearing, the Commission may approve the plans for the segregation of assets, liabilities, revenues, and expenses without hearing under § 40-6-109(5), C.R.S.

6.3.3. No provider shall offer deregulated services prior to Commission approval of an appropriate accounting plan to segregate assets, liabilities, revenues, and expenses of the services as required by Rule 6.3.1 or 6.3.2. The provider shall also modify its cost separation manual required by the Rules under § 40-15-108, C.R.S. Prescribing Cost-Allocation Methods for Segregation of Investments and Expenses of Telecommunications Providers, 4 CCR 723-27, when the Commission deregulates services under § 40-15-305(1), C.R.S.

RULE 7 - MODIFICATION OF TIME PERIODS

Except where precluded by statute, the Commission may modify any of the time requirements in these rules by order, upon its own motion or by request of a party to a proceeding. Nothing in these rules shall preclude the Commission from issuing any additional, necessary procedural orders in connection with an application.

Appendix A
Case No. 6722
Decision No. C89-997
July 19, 1989
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RULE 8 - WAIVER OF RULES

The Commission may permit variance from these rules, if not contrary to law, for good cause shown or if it finds compliance to be impossible, impracticable, or unreasonable.

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE RULES OF THE)
PUBLIC UTILITIES COMMISSION OF THE)
STATE OF COLORADO REGULATING)
SERVICES AND PRODUCTS PROVIDED)
PURSUANT TO TITLE 40, ARTICLE 15,)
PART 3, OR THE COLORADO REVISED)
STATUTES AND CERTIFICATION OF)
PROVIDERS OF THOSE SERVICES AND)
PRODUCTS.)

CASE NO. 6722

ERRATA NOTICE

Decision No. C89-856
(Issued June 14, 1989)

In Appendix A attached to Decision No. C89-856, entitled Rules Regulating Emerging Competitive Telecommunications Service, Rule 6.1.2 should be modified to read:


6.1.2 At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. Any information which is claimed to be confidential shall set forth the grounds for the claim of confidentiality, including information in Rule 6.1.1 above.

The rule as stated in Appendix A to Decision No. C89-856 incorrectly cited Rule 3.1.1 in the last line rather than Rule 6.1.1. The rules had been renumbered as a result of changes made by the Commission when it granted exceptions in part, and this citation to a prior rule was overlooked.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


JAMES P. SPIERS
Executive Secretary

Dated at Denver, Colorado, this 19th
day of July 1989.

1092n/td