

BEFORE THE PUBLIC UTILITIES COMMISSION STATE OF COLORADO

Docket No. 00A - 396T

2000.11.10 11:4:03

**IN THE MATTER OF THE APPLICATION OF THE COMMUNITY OF BAILEY
AND THE COUNTY OF PARK FOR CONSIDERATION OF REVIEW OF
CALLING BOUNDARIES FOR PARK COUNTY CITIZENS AND ITS
COMMUNITY OF INTEREST AS DEFINED IN THE CCR 723-2 CHANGES
MADE IN OCTOBER, 1999.**

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STIPULATION AND SETTLEMENT AGREEMENT

The County of Park ("Park County"), the Staff of the Public Utilities Commission of the State of Colorado ("Staff"), the Office of Consumer Counsel ("OCC"), and Qwest Corporation f/k/a U S WEST Communications, Inc. ("Qwest"), (collectively, the "Parties"), through their undersigned representatives, submit this Stipulation and Settlement Agreement (the "Stipulation" or "Agreement") in full settlement of the issues in the above-captioned docket. The Parties respectfully submit this Agreement for approval pursuant to Rule 723-1-83(a) of the Commission's Rules of Practice and Procedure, 4 *Colo. Code Regs.* 723-1 (2000).

AGREEMENT

WHEREFORE, the Parties agree and stipulate as follows:

1. Background: On July 17, 2000, Park County¹ filed a "Request for Consideration" with the Colorado Public Utilities Commission ("Commission"), requesting a review of the calling boundaries for Park County and its "Community of

¹ The caption of this case refers to the Application of the "Community of Bailey" and Park County. However, the town of Bailey is not incorporated as a town or city. Therefore, the only legal entity that filed the Application in this docket is Park County.

Interest,” as that term is defined in Commission Rule 723-2-17.3, 4 *Colo. Code Regs.* 723-2 (2000). Specifically, the application requested local (i.e., toll free) calling between Fairplay and the Community of Bailey (“Bailey”). Bailey is located in the Northeast corner of Park County, approximately 50 miles from Fairplay. *See* maps of area surrounding Bailey, attached as Exhibit 1.

2. Requested Expansion of Local Calling Area: In its application, Park County requests that Bailey’s local calling area be expanded to include Fairplay, the county seat of Park County. The application recognizes that the Local Access and Transport Area (“LATA”) boundary line separates the Bailey area (exchanges 838 and 816 in Area Code 303) from Fairplay (exchange 836 in Area Code 719), and that a Federal Communications Commission (“FCC”) waiver of the LATA line would be required if the Commission approves the request.

In order best to accomplish local calling between Fairplay and Bailey, the Parties agree that this local calling area expansion project must be configured so that Bailey is added to the existing Deckers rate center. In this way, this local calling area expansion would cause no adverse impacts on the numbering conservation objectives achieved by the Commission in the rate center consolidation docket. (See, Decision Nos. C98-439 and C98-619 in Docket No. 97M-548T.) The Deckers local calling area currently includes Bailey and Woodland Park. As a result of configuring the Fairplay to Bailey expansion in this manner, there will be expanded local calling between Bailey and Fairplay, Bailey and Woodland Park, and Fairplay and Deckers. There would not, however, be expanded local calling between Fairplay and Woodland Park.

The Parties recognize that the Fairplay exchange will be sold by Qwest to Citizens Telecommunications Company of Colorado ("Citizens"), and that in Decision No. R00-835 in Docket No. 00A-128T,² the Commission approved the sale to Citizens of 17 Qwest Colorado exchanges, including the Fairplay exchange. In Decision No. R00-835, the Commission also approved a stipulation between the parties to that docket, agreeing to the sale of exchanges and that nothing in that stipulation would alter or modify the terms and conditions of the Stipulation and Settlement Agreement approved by the Commission in Docket No. 97A-540T. (See, Decision No. R00-835, ¶ I.L., p. 7.) Indeed, the Commission found that:

Consequently, the benefits that customers previously received from this Commission's approval of the rate reductions and foregone revenues in the Qwest pricing flexibility plan in PUC Docket No. 97A-540T will not be diminished as a result of this transaction.

(Decision No. R00-835, ¶ I.Q., p. 9.)

Qwest has informed Citizens of this local calling area expansion docket, including the local calling configuration, revenue requirement impact, and implementation time line set forth in this Stipulation.

3. Community of Interest Standard: Park County's application is filed pursuant to Commission Rule 723-2-17.3.3.2 ("Alternative Criteria Standard"). In determining whether the community of interest standard is met, Rule 17.3.3.2 states that the Commission shall consider the following criteria: The local calling area principles of Rule 723-2-17.3.1; customer calling patterns; the location of serving transportation centers; demographic profiles of the residents of the exchanges; and the location of primary centers of business activity and employment centers, and the location of

² The parties to Docket No. 00A-128T were Qwest, Citizens, the OCC and the Staff.

employee residences. Rule 723-2-17.3.1 provides that each local calling area, to the extent possible, should "allow customers to place and receive calls without payment of toll charges to 9-1-1, their county seat, municipal government, elementary and secondary school districts, libraries, primary centers of business activity, police and fire departments, and essential medical and emergency services." In addition, each local calling area would be provided in both directions. Rule 723-2-17.3.1.2.

4. Application Meets Standard: The Parties agree that Park County's application shows clearly and convincingly that a community of interest exists among the Fairplay and Bailey exchanges identified in paragraph 2 of this Stipulation. The application meets the above-listed criteria because the requested local calling area expansion will allow local calls between Bailey and Fairplay, the County Seat. Approximately 60 percent of the Park County population lives in the Bailey area. Currently, Bailey residents must make toll calls for a number of Park County governmental services, including the county and district courts, jail, health services, cooperative extension office, and county offices (including county treasurer, county assessor, county commissioners, planning and mapping, and environmental health), which are all located in Fairplay. Creating a local calling area that includes Bailey and Fairplay would permit more efficient operations of Park County's governmental services by improving the ease of communications between government offices and its citizens. The County Commissioners of Park County all live near Bailey and must make toll calls to county offices in Fairplay. Finally, businesses and employers in Bailey and Fairplay serve customers and employees, respectively, in both communities. Calls between the identified exchanges will be local, toll-free calls if the application is approved.

5. LATA Waiver Petition. The Parties agree that Fairplay and Bailey, as well as Bailey and Woodland Park, are separated by the LATA boundary line between the 303/720 and the 719 area codes. The Parties also agree that in order for Qwest to be able to carry local traffic across this LATA boundary, Qwest must petition the FCC for and be granted these waivers of the LATA boundary line. Qwest agrees to file the FCC petition for waiver of the LATA boundary line, if and after there is a final Commission decision approving this Agreement.

6. Cost and Rate Impact of Requested Expansion: There will be no rate impact to Qwest's ratepayers if Park County's application in this case is granted.³

In Docket No. 97A-540T ("540T"), Qwest (then known as U S WEST Communications, Inc.) agreed, in a Stipulation and Agreement (Section IV.A.3) approved by the Commission in that docket, to implement local calling area expansions and rate center consolidation outside the 303 and 720 area codes. Qwest further agreed that the total rate impacts of these local calling area expansions would be \$8 million, with interest to accrue at the rate of 10.11 percent until the consolidations were fully implemented. Qwest also agreed to forego recovery of the \$8 million, plus interest. In Decision No. R00-84, in Docket No. 99A-486T, Administrative Law Judge Kirkpatrick ruled that, in order for the remainder of the \$8 million to be available for local calling area expansions in the 719 and 970 area codes, applications had to be filed within a six months time limit, or by August 16, 2000.

The total revenue requirement associated with the proposed Fairplay - Bailey calling area expansion is estimated to be \$75,341. All parties agree to this total revenue

requirement and a true-up will not be required. Since Qwest committed to make expenditures of up to \$8 million (while foregoing recovery of that sum) to implement local calling area expansion outside the 303/720 area codes, and that amount is not yet exhausted, there will be no rate impact on Qwest's ratepayers as a result of granting this application.

7. Timeline: According to Qwest, the estimated time to complete the local calling area expansion required to configure expanded local calling as described in Paragraph No. 2 is January 2002. This estimated implementation date results from several factors related to replacing or upgrading switching equipment and interoffice facilities in Fairplay, Deckers, and Woodland Park to accomplish this local calling area expansion. The approved implementation of the Guffey local calling area expansion (see, Decision No. R00-877 in Docket No. 00A-205T) will provide interoffice facilities between Fairplay and Colorado Springs Main and between Woodland Park and Colorado Springs Main. The expected completion date of the Guffey expansion is July 2001. Due to increased traffic, the switch in Woodland Park is scheduled for replacement by December 2001. An additional two months will be required to make all necessary translations. Both of these activities are necessary and must be completed prior to implementation of the Fairplay-Bailey local calling area expansion. The Parties acknowledge that, if the above-described activities are not completed within the times specified, the January 2002 completion date may be delayed. Qwest will endeavor to complete this local calling area expansion by January 2002. The Parties acknowledge

³ For this reason, Commission Rule 723-2-17.3.6, which relates to customer surveys, is not applicable. The surveys are required only if the local calling area expansion results in a 0.5 percent or greater increase in monthly rates. See Rule 17.3.6.2.

that this local calling area expansion is separate from the Guffey local calling area expansion proceeding.

8. Request For Partial Waiver of Rule 17.3.3.2.1: Pursuant to Commission Rule 723-1-3 and 723-2-1.3, the Parties agree that the Commission should waive compliance with Rule 723-2-17.3.3.2.1. That rule requires that an application for expansion of local calling area using the Alternative Criteria be signed by a majority of county commissioners from the petitioning local exchange area, *and* the non-petitioning local exchange area where the requested local calling area crosses county boundaries. The application in this case did include a letter signed by two of three Park County Commissioners approving the request to expand the local calling area. Moreover, while not requested in the application, this expansion of the Bailey local calling area would include the Deckers exchange, which is located in Douglas and Jefferson Counties, and the Woodland Park exchange, which is in Teller County, thus crossing these county boundaries. The application does not include any approvals from the County Commissioners of Douglas, Jefferson or Teller Counties. The Parties agree that these requirements of Rule 17.3.3.2.1 may be waived. It is impracticable and unnecessary to obtain the signatures of the Douglas, Jefferson or Teller County Commissioners, because (as shown above) there will be no rate or other adverse impact upon the residents of those Counties resulting from the granting of the application. If the Commission grants the application, the residents of those Counties will enjoy additional local calling availability, without taking away any local calling availability they currently have.

9. Richard W. Kimmel, Jr., while not an attorney, is also representing the interests of Park County in this matter. Attached as Exhibit 2 is the authorization of the

Park County Board of County Commissioners that Mr. Kimmel may sign this Agreement on behalf of Park County.

10. This Agreement is a settlement of disputed and compromised claims and accordingly, this Agreement is made for settlement purposes only. No Party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Agreement. Furthermore, this Agreement does not constitute agreement, by any Party, that any principle or methodology contained within this Agreement may be applied to any situation other than the above-captioned docket. No precedential effect or other significance, except as may be necessary to enforce this Agreement or a Commission order concerning the Agreement, shall attach to any principle or methodology contained in the Agreement.

11. The Parties agree to support all aspects of the stipulations and agreements embodied in this document in any hearing or proceeding conducted to determine whether the Commission should approve this Agreement, including but not limited to any pleadings, comments filed or testimony in such a proceeding, or in any appeal of the decision. Each Party also agrees that, except as expressly provided in this Agreement, it will take no action in any administrative or judicial proceeding, or otherwise, which would have the effect, directly or indirectly, of contravening the provisions or purposes of this Agreement. Furthermore, each Party represents that, except as expressly provided in this Agreement, in any proceeding in which this Agreement or its subject matter may be raised by a non-party, it will support the continued effectiveness of this Agreement. Without prejudice to the foregoing, the Parties expressly reserve the right to advocate positions different from those stated in this Agreement in any proceeding other than one

necessary to obtain approval of, or enforce this Agreement or a Commission order concerning the Agreement. Nothing in this Agreement shall constitute a waiver by any Party with respect to any matter not specifically addressed in this Agreement.

12. This Agreement shall not become effective and shall be of no force and effect until the issuance of a final Commission order approving this Agreement, which order does not contain any material modification of the terms and conditions of this Agreement that is unacceptable to any of the Parties. In the event the Commission modifies this Agreement in a manner unacceptable to any Party hereto, that party may withdraw from the Agreement and shall so notify the Commission and the other Parties to the Agreement in writing within ten (10) days of the date of the Commission order. In the event a Party exercises its right to withdraw from the Agreement, this Agreement shall be null and void and of no effect and no force in these or any other proceedings. In the event a Party exercises its right to withdraw from this Agreement, this docket shall be set for hearing and a procedural schedule established.

13. In the event this Agreement becomes null and void or in the event the Commission does not approve this Agreement, this Agreement, as well as the negotiations or discussion undertaken in conjunction with the Agreement, shall not be admissible into evidence in these or any other proceedings.

14. The Parties state that they have reached this Agreement by means of a negotiated process that is in the public interest, and that the results reflected in this Agreement are just, reasonable, and in the public interest. Approval by the Commission of this Agreement shall constitute a determination that the Agreement represents a just, equitable, and reasonable resolution of the issues described herein. The Parties agree to

a waiver of any Commission rule to the extent necessary to implement or to effectuate this Agreement.

15. Approval by the Commission of this Agreement shall constitute a determination that the Agreement represents a just, equitable and reasonable resolution of all issues which were or could have been contested in this docket.

16. This Agreement shall be binding on and shall inure to the benefit of the Parties hereto and their successors and assigns.

17. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Colorado.

18. This Agreement is an integrated Agreement that may not be altered by the unilateral determination of any Party.

19. This Agreement may be executed in separate counterparts. The counterparts taken together shall constitute the whole Agreement.

20. This Agreement may be executed by facsimile transmission. Signatures obtained through facsimile transmission will be valid and binding as if they were original signatures. Further, attorneys signing on behalf of their client represent that they have authority to bind their client to the terms of this Stipulation.

WHEREFORE, the parties respectfully submit this Agreement for approval by the Commission and request that the Commission grant such approval.

DATED this 13th day of October, 2000.

Approved as to form:

Approved:

PARK COUNTY

By: _____
Gregory E. Sopkin, Esq.
Gorsuch Kirgis LLP
1515 Arapahoe St., Tower I, Suite 1000
Denver, Colorado 80203
303-376-5000

Attorney for Park County

By: _____
Richard W. Kimmel, Jr.
149 Windwalker
Buena Vista, Colorado 81211-8507
719-395-3392

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John L. Munn, #30672
Qwest Corporation
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Denver, CO 80202
303-672-2884

By: *Paul R. McDaniel*
Paul R. McDaniel
Director, Regulatory Affairs
Qwest Corporation
1801 California Street, Suite 4700
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303-896-4552

and

Steven H. Denman, #7857
Melissa A. O'Leary, #24527
600 17th Street, Suite 1015 North
Denver, CO 80202
303-893-4010

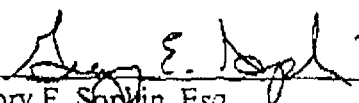
Attorneys for Qwest Corporation

DATED this 13th day of October, 2000.

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PARK COUNTY

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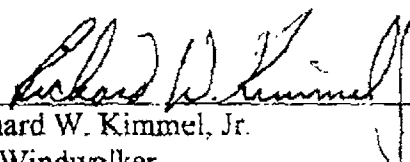
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and

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Attorney for Staff of the CPUC

COLORADO OFFICE OF CONSUMER COUNSEL

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By: Thor Nelson
Thor Nelson
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Attorneys for the Colorado Office of
Consumer Counsel

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Attorney for Staff of the CPUC

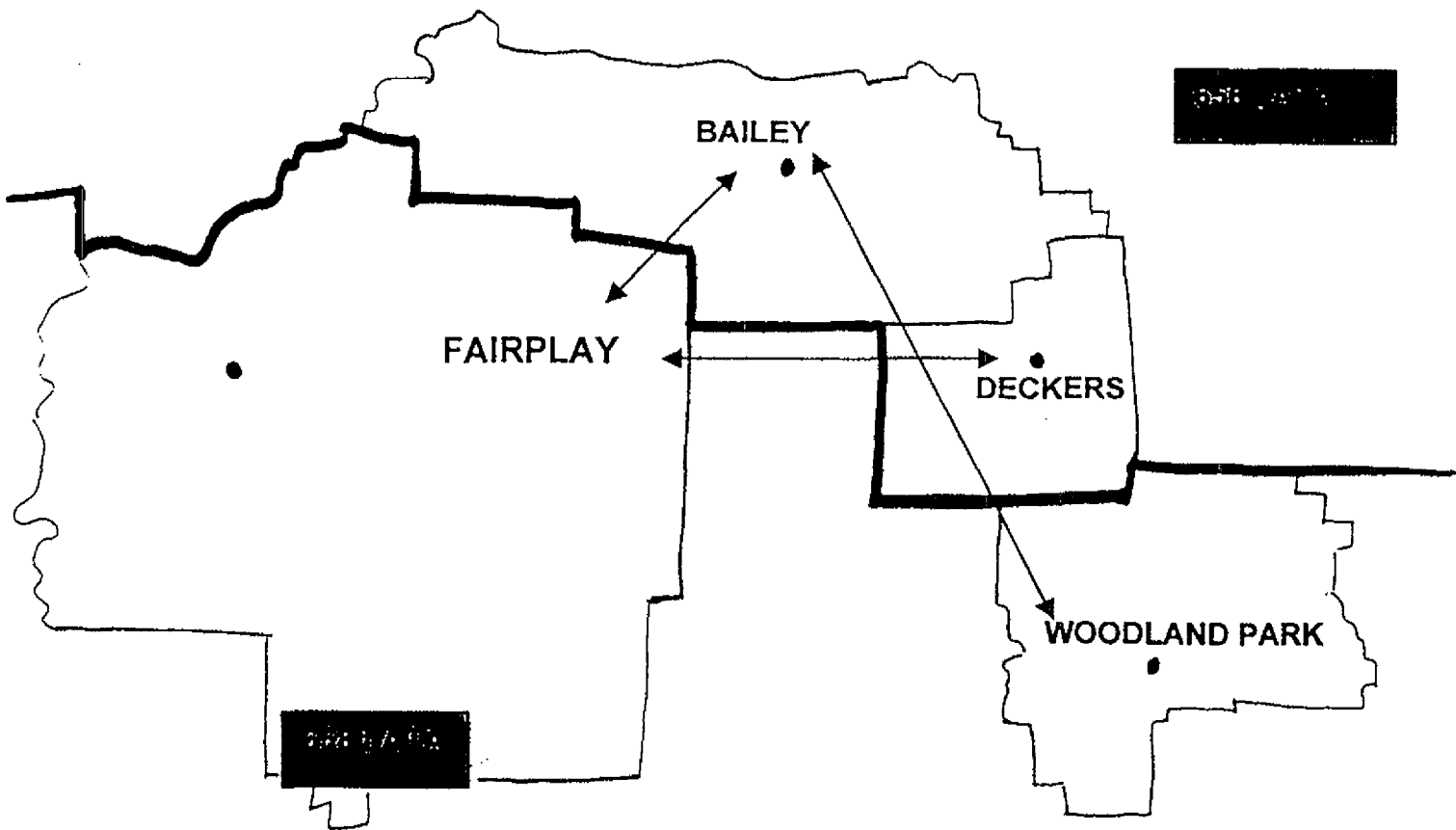
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Attorneys for the Colorado Office of
Consumer Counsel

PARK COUNTY FAIRPLAY
Local Calling Area Expansion Docket No. 00A-396T
<p>LEGEND</p> <p>↔ InterLATA EAS Route</p> <p>• Central Office</p> <p>— LATA Boundary</p>



<small>FD-302 (Rev. 11-1-83)</small> <small>FD-302 (Rev. 11-1-83)</small>	EXHIBIT
	<u>1</u>

Note: The Bailey and Deckers exchanges currently have local calling. The Deckers and Woodland Park exchanges currently have local calling.

P.O. Box 220
Fairplay, CO 80440
(719) 836-4201 (phone)
(719) 836-4204 (fax)
(303) 838-7509 (metro)

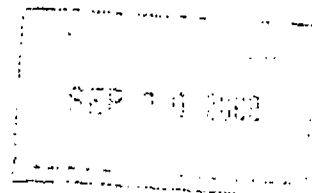
COUNTY OF PARK

BOARD OF COMMISSIONERS



September 19, 2000

Steven Denman
Denman and Corbetta, P.C.
Suite 1015 N
600 17th St
Denver, CO 80202



Re: Docket No. 00A-396T

Dear Mr. Denman:

Park County agrees in principle to the agreement of all parties on Docket No. 00A-396T.

We accept the October 20th hearing date allowed by the Administrative Judge.

All parties agree to the presentation of verbal arguments on October 20 if no settlement is reached.

Park County is not requiring written case documents on September 20th.

Please mail all documents to Richard Kimmel, 149 Windwalker Rd., Buena Vista, CO 81211.
Richard will sign the documents on behalf of Park County.

Thank you for your assistance in this matter.

Sincerely,

C. DeLange

Chairman, Board of County Commissioners



Lynda M. James
(719) 836-4200

Jerry Solberg
(719) 836-4210

Cecil J. DeLange
(719) 836-4211

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

DOCKET NO. 00A-396T

DECISION NO. R00-1269

I, Bruce N. Smith, Director of The Public Utilities Commission of the State of Colorado, certify, that on the date indicated on this certificate, at Denver, Colorado, I served a true and correct copy of the attached Commission Decision--entered in the above numbered matter of record--upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination to the following:

APPLICANT'S REPRESENTATIVE

COMMUNITY OF BAILEY
COUNTY OF PARK

RICHARD W KIMMEL JR
COUNTY OF PARK CO
149 WINDWALKER
BUENA VISTA CO 81211-8507

COUNTY OF PARK
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JERRY SOLBERG
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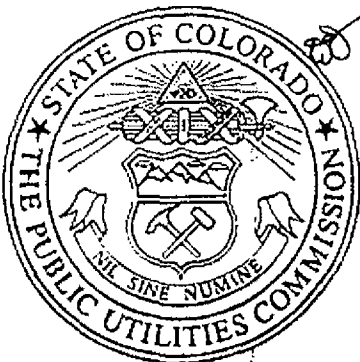
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WITNESS MY HAND
AND THE SEAL OF THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Bruce N. Smith

DIRECTOR

PUBLIC UTILITIES COMMISSION
NOV 9 2008

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CERTIFICATE OF SERVICE

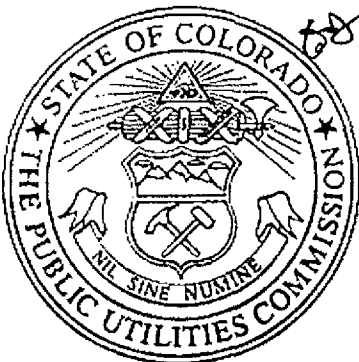
DOCKET NO. 00A-396T

DECISION NO. R00-1269

I, Bruce N. Smith, Director of The Public Utilities Commission of the State of Colorado, certify, that on the date indicated on this certificate, at Denver, Colorado, I served a true and correct copy of the attached Commission Decision--entered in the above numbered matter of record--upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination to the following:

ROUTING (27):1, 2, 3, 4, 6, 9, 10, ALJ,
LOG, 20, 21, 23, 25, 25.1, 26.3, 27, 27.4,
28.2, 29, 50, CTA, OCC, QWEST, 60, FILE,
DMS, BB

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WITNESS MY HAND
AND THE SEAL OF THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


DIRECTOR