

Service Date: November 25, 1977

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Application)
By MOUNTAIN STATES TELEPHONE AND)
TELEGRAPH COMPANY for authority)
to establish increased rates for)
telephone service.)

DOCKET NO. 6496

ORDER NO. 4389

FINDINGS OF FACT

1. On September 6, 1977, the Commission received from Mountain Bell a request for approval of certain tariffs which would authorize the marketing of the COM KEY 416 KEY SYSTEM. Under separate cover the Commission received a request for approval of tariffs authorizing the marketing of the 43 TELEPRINTER and a REMOTE CALL FORWARDING SERVICE (Inter-city Services Tariff).
2. On September 9, 1977, copies of the Mountain Bell cover letters transmitting the above-mentioned tariffs were mailed to various Bell competitors and persons believed to be interested in these offerings, including the Montana Consumer Counsel and Executone Systems of Montana.
3. By letter dated September 21, 1977, Executone requested "a formal public hearing on this tariff approval matter (Com Key 416) before the Commission takes any formal action thereon." By letter of the same date the Consumer Counsel requested a public hearing on both the Com Key and Teleprinter tariffs, while suggesting that these tariffs be consolidated with Mountain Bell's general rate case, Docket No. 6496. Consumer Counsel stated that he required further support data from Mountain Bell before he could decide whether or not to seek a hearing on the Remote Call Forwarding Service.

4. The Commission on September 27, 1977, granted the request to consolidate the Com Key and Teleprinter tariffs with Docket No. 6496.

5. By letter dated September 30, 1977, Mr. J. J. Buckley, on behalf of Mountain Bell, requested temporary approval of the Com Key and Teleprinter tariffs pending full review of the issues raised by these filings in the March hearing.

6. Executone responded to this request in an October 4, 1977, letter from Roger Tippy, its Helena counsel. Mr. Tippy stated that Executone had no objection to temporary approval of the Com Key tariffs which would permit marketing under a conventional monthly rental plan. Mr. Tippy made it clear, however, that "Executone opposes temporary approval of a two-tier price plan for this equipment line." Consumer Counsel's response to the Buckley letter of September 30, 1977, emphasized that he had not opposed temporary approval of the subject tariffs, but had only sought that they be consolidated with Docket No. 6496.

7. On October 5, 1977, the Commission scheduled an oral argument on the Mountain Bell request for temporary approval of the Com Key 416 tariffs. This argument was conducted on October 7, 1977, in the Commission's conference room, with all parties appearing through counsel.

8. At a meeting held on October 11, 1977, the Commission approved the 43 Teleprinter and the Intercity Service-Remote Call Forwarding tariffs on a temporary basis, pending final determination of Docket No. 6496.

9. Mountain Bell proposes to market its Com Key System under two general payment schemes: 1.) a conventional monthly rent plan, and 2.) a "two-tier" pricing lease arrangement. The conventional rent scheme, identical to the arrangement by which most telephone users receive their basic service, would permit a subscriber to use Com Key for so long as he or she pleased upon payment of a flat monthly fee. The subscriber would make no commitment as to the duration of his subscription.

10. The two-tier pricing scheme, which is at the heart of the controversy here, is actually a leasing arrangement. The Tier A charge under the lease would continue for 3, 5 or 7 years, at the subscriber's option, and would allow Mountain Bell to recover most of its fixed costs over the

period of years selected by the subscriber. At the end of the selected period, the Tier A charge would cease. The Tier B charge, which would continue as long as the subscriber enjoyed the service, would allow recovery of variable and the remaining fixed costs. Ownership of the equipment would remain in Mountain Bell under all plans.

11. Bruce Saypol, Executone's Washington, D.C. attorney, argued at the October 7th meeting that two-tier pricing discriminates against Mountain Bell's basic service customers, that it is anti-competitive and that it is "inherently illegal from the regulatory viewpoint." Mr. Saypol made other assertions as well. All of the alleged "illegalities" will be addressed in the Commission's final order in this Docket. The question now before the Commission is whether or not any of the two-tier plans should be approved on a temporary basis.

12. Discussion at the October 7th argument between Mr. Saypol and William Opitz, the Commission's Executive Director, developed the fact that total charges under the three year lease plan would exceed those under the conventional plan. Mr. Saypol stated that, in view of this fact, his opposition to the three year lease was reduced. The fact that these charges exceed the conventional plan charges illustrates that the three year plan generates a greater revenue contribution than does the conventional plan, for which Executone did not oppose temporary approval.

CONCLUSIONS OF LAW

1. Under R.C.M. 1947, Sec. 70-113, as amended, "The Commission may, in its discretion, temporarily approve increases pending a hearing or final decision."

2. Mountain Bell is a utility furnishing telephone and related services in this state, and its rates for such services are subject to the regulatory jurisdiction of this Commission.

3. Approval of the conventional and three year lease plans for the Com Key 416 Key System on a temporary basis is a reasonable exercise of the Commission's discretion.

ORDER

1. Mountain Bell's proposed conventional monthly and three year lease plans for the Com Key 416 Key System are approved pending final determination of Docket No. 6496. This approval is effective November 15, 1977.

2. The amount of the conventional monthly charge is subject to revision following hearing in this Docket. Similarly, the amount of the Tier A and Tier B charges under any three year leases entered under this temporary approval are subject to prospective revision if the Commission determines such revision to be appropriate following hearing. Mountain Bell may make arrangements with its customers for conversion of three year leases to five or seven year plans if the same are ultimately approved by the Commission.

Done in open session on October 31, 1977, by a vote of 4 - 1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION:

GORDON E. BOLLINGER, Chairman

P.J. GILFEATHER, Commissioner

THOMAS J. SCHNEIDER, Commissioner

GEORGE TURMAN, Commissioner

JAMES R. SHEA, Commissioner
Voting to Dissent

ATTEST:

Gail E. Behan,
Secretary

(SEAL)