

Service Date: December 14, 1982

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

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IN THE MATTER THE MOUNTAIN) UTILITY DIVISION
STATES TELEPHONE AND TELEGRAPH)
COMPANY'S PROPOSAL TO REVISE) DOCKET NO. 82.5.42
THE TWO-TIER PAYMENT PLAN.) ORDER NO. 4955

APPEARANCES

FOR THE APPLICANT:

J. Walter Hyer, III, Montana General Attorney, 560 North Park, P. O. Box 1716,
Helena, Montana 59624

FOR THE PROTESTANT:

James C. Paine, Montana Consumer Counsel, 34 West Sixth Avenue, Helena,
Montana 59624

FOR THE COMMISSION:

Calvin K. Simshaw, Staff Attorney, 1227 11th Avenue, Helena, Montana 59620

BEFORE:

GORDON P. BOLLINGER, Chairman
JOHN B. DRJSCOLL, Commissioner
HOWARD L. ELLIS, Commissioner
CLYDE E. JARVIS, Commissioner
TOMAS J. SCHNEIDER, Commissioner

FINDINGS OF FACT

1. On May 20, 1982, Mountain States Telephone and Telegraph Company (Mountain Bell or Company) filed a proposal to revise the Two-Tier Payment Plan. The existing Two-Tier Payment Plan provides the rate structure by which the Company offers most of its Key and PBX systems.

The filing also proposes changes to existing Horizon tariffs including the introduction of enhancements under the modified Two-Tier Payment Plan.

2. The filing was assigned Docket No. 82.5.42 and a public hearing was held on September 2, 1982 pursuant to Notice of Public Hearing issued on July 13, 1982.

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3. In addition to the Company's original filing, Mountain Bell sponsored the testimony and exhibits of witness Mr. Frank Hatzenbuchler.

4. The existing Two-Tier Payment Plan is a two-part tariff containing two elements or tiers of price identified as Tier A and Tier B. The Tier A rate, which is designed to recover the capital costs associated with any piece of terminal equipment, can be paid over a payment period selected by the customer or may be paid in a lump sum. The Tier B rate reflects the monthly operating expenses associated with the equipment. The monthly rate is the sum of the Tier A rate plus the Tier B rate until the end of the Tier A payment period, at which time the monthly payment becomes the Tier B rate only.

5. The thrust of the company's proposal to revise the Two-Tier Payment Plan is to restrict the indefinite nature of the existing plan:

. . . [w]e have made several modifications to the existing Two-Tier Payment Plan to make it more compatible with today's market conditions.

The current two-tier offering does not provide for a term of the contract. Thus the Tier B portion continues indefinitely, which requires the stocking of equipment, providing maintenance and allowing growth of obsolete systems indefinitely in a period of rapidly changing technology. This filing provides for a term of 72 months to the Two-Tier Payment Plan.

With the effective date of these tariffs all new and existing Two-Tier agreements will be subject to the 72 month term. If an existing Two-Tier Plan customer has a Tier A period beyond 72 months the term will be a Tier A period. After expiration of the contract a customer may continue the service on a monthly basis at the month-to-month payment rates in effect at that time.

Another revision is being proposed which permits additions to current and obsolete two-tier services to their designed capacity on a month-to-month or coterminous basis only.

Also included is a clarification regarding the proper treatment of the termination credit calculation covering the Two-Tier contract. Other changes include an increase in the annuity factor for spreading nonrecurring charges

and equipment additions to reflect the increased cost of money and the elimination of the option that allows a customer to convert from companion to the two-tier payment plan within six months after the effective date of the tariff on which the service was obsoleted.

The Tier A monthly rate periods have been changed to the three and five year periods only for the Dialog Intercommunication System, Com Key 416, 718, 2152 and 1434, AUTOTAS, HORIZON, and The Dimension PBX System. The seven year, ten year and twelve year periods have been discontinued and placed in the Vintage Tariff (Section 52.) (R.A. Remington, May 20, 1982)

6. Mr. Hatzenbuehler testified that technology and competition has altered the terminal equipment marketplace requiring revisions to the TwoTier Payment Plan:

In general, the purpose of this Modified Two-Tier is to recognize the current marketplace and the conditions that would exist, and . . . [allow] the company to compete in that marketplace, it also provides the customer with a definite knowledge of what he can expect from the two-tier agreement as well as giving him the benefit of the stepdown period. . . it's very important that the customer has a definite knowledge of what he can expect in today's environment where over the next few years there is many uncertainties that still face the telephone industry. Tr. p. 8, 9

7. The deregulatory implications of the Computer II Inquiry (FCC Docket No. 20828) limit the applicability of the company's proposal to essentially existing lease contracts. These existing lease contracts resulted from the Company's sales marketing efforts and were executed by both parties in good faith. One key component of the contracts is the stream of fully compensatory Tier B payments reflecting operation and maintenance costs of a capital investment which has been fully paid for by the customer and fully recovered by the Company through compensatory Tier A payments.

8. Although the Commission recognizes the technological and competitive changes in the terminal equipment market, it finds unpersuasive the Company's proposal to alter these existing contracts by capping the service life of the equipment and its associated stream of Tier B payments.

9. Upon divestiture, these embedded terminal equipment contracts will be transferred to AT&T and eventually detariffed . Under those conditions, AT&T will be unconstrained in its efforts to negotiate a termination of existing Two-Tier lease contracts.

CONCLUSIONS OF LAW

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1. Applicant, The Mountain States Telephone and Telegraph Company, is a corporation providing telephone and other communications services within the State of Montana, and as such is a "public utility" within the meaning of 69-3-101, MCA.

2. The Montana Public Service Commission properly exercises jurisdiction over the Applicant's Montana operations pursuant to Title 69, Chapter 3, MCA.

ORDER

1. The Application of the Mountain States Telephone and Telegraph Company for approval of the Modified Two-Tier Payment Plan and associated tariffs is hereby denied.

2. All motions and objections made by the parties in this Docket which were not ruled upon by the Commission at the hearing or earlier in this Order are hereby denied.

DONE AND DATED this 13th day of December, 1982 by a vote of 5 - 0

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

Gordon E. Bollinger, Chairman

John B. Driscoll, Commissioner

Howard L. Ellis, Commissioner

Clyde Jarvis, Commissioner

Thomas J. Schneider, Commissioner

ATTEST:

Madeline L. Cottrill

Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 28.2.4806, ARM.

