Service Date: January 31, 1992

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

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IN THE MATTER of the Petition of	)	UTILITY DIVISION
Ronan Telephone Company to	)	
Deregulate its Foreign Exchange	)	DOCKET NO. 90.11.81
Service.	)	ORDER NO. 5603

FINAL ORDER

BACKGROUND

On November 12, 1990 Ronan Telephone Company (RTC) petitioned the Montana Public Service Commission (Commission) for withdrawal of the following sections of its General Exchange Tariff: Joint User Service; Interexchange Receiving Service; Message Telecommunications Service; Wide Area Telecommunications Service; Private Line Service; Teletypewriter Service; and Foreign Exchange Service (FX).

The Commission determined upon review that the petition as it related to FX service constituted a request to deregulate under ARM 38.5.2705. The Commission further determined that RTC had not provided notice to all its FX customers of its intent to offer the service as deregulated as required by ARM 38.5.2705-06. RTC subsequently provided proper notice to its FX customers on or around January 29, 1991. The petition was thereafter considered as a petition to withdraw certain tariff sections and deregulate FX service.

At a duly noticed work session on October 7, 1991 the Commission granted RTC's petition to withdraw Joint User Service; Interexchange Receiving Service; Message Telecommunications Service; Wide Area Telecommunications Service; Private Line Service; and Teletypewriter Service from its General Exchange Tariff. Consideration of the petition to deregulate FX service was deferred pending a public hearing.

On December 12, 1991 the Commission held a properly noticed public hearing to consider RTC's petition to deregulate its FX service.

FINDINGS OF FACT

FX service is a service that allows a customer in one exchange to call customers in a distant exchange as if the the calling customer were served by that distant exchange. For example, if a Townsend customer subscribes to Helena FX service, all the calls he/she makes from Townsend to Helena will be local instead of long-distance calls. This service is implemented in part by a private line that connects the customer's station to a central office in the foreign exchange.

For purposes of this analysis FX service may be divided into two components, a "closed-end" and an "open-end." The closed-end is the non-switched portion of the service extending from the customer's station through the private line to the central office in the foreign exchange. The open-end is the switched portion that allows the FX customer to complete calls with the foreign exchange. RTC argues that the closed-end should be treated as deregulated because non-switched telecommunications service is not regulated under the Montana Telecommunications Act (MTA). See Section 69-3-803(3), MCA.

In effect, RTC is petitioning the Commission for the adoption of a bifurcated form of regulatory treatment for FX service such that the closed-end of the service would be deregulated and the open-end would remain regulated. There is admittedly a surface appeal to RTC's position in that FX service is oftentimes provided by two telecommunications companies, one providing the closed-end and the other providing the open-end. However, regardless of whether one or two companies provides the service, FX service cannot be provided without both the open- and closed-ends.

Though RTC may perceive a logical distinction between the respective ends, this distinction cannot survive from a regulatory perspective. A deregulated service is not subject to any form of Commission jurisdiction. If an integral component of a service is deregulated, the Commission's regulatory control and supervision of the entire service is compromised. FX service provides a powerful illustration of this problem: In many instances telecommunications service boundaries do not mirror demographic boundaries. Without FX service a customer who is separated from his/her community by a service boundary must pay long distance charges for demographically local calls. FX service therefore operates as a necessary substitute for local exchange service by allowing such a customer to obtain service from the exchange serving his/her community. Though the Commission can ensure that the rates paid for regulated FX service are just, reasonable and nondiscriminatory (Section 69-3-807(1), MCA), the Commission can do nothing to protect the customer from excessive or discriminatory charges involving a deregulated component such as closed-end. If the rates for the closed-end are excessive or discriminatory and the customer is unable to obtain this necessary substitute for local exchange service, the Commission can do nothing and its regulation of FX service is rendered meaningless. Hence, a component of a service should not be deregulated unless the provision of the entire service is appropriately deregulated.

In accordance with this conclusion the Commission will review RTC's petition in the context of the entire FX service not just the closed-end component.

Section 69-3-803(3) provides in relevant part that regulated telecommunications service means "<u>two-way switched</u>, voice-grade access and transport of communications originating and terminating in this state...." As discussed above, FX service is a two-way switched service and meets the above criteria. Therefore, the Commission finds FX service is properly regulated under Section 69-3-803(3), MCA.

RTC also argues that the regulatory treatment it seeks is consistent with the treatment afforded US West Communications (USWC). The Commission has never granted a petition from USWC or any other telecommunications company for the deregulation of FX service. Therefore, the granting of RTC's petition would in fact be inconsistent with the current regulation of FX service.

Finally, RTC suggests that deregulation is appropriate because of the similarities between FX service and private line services (PLS). The Commission finds that FX service can be distinguished from PLS for the following reason: Station-to-station PLS uses a completely dedicated line from one station to another station, while FX service uses a dedicated line only from a subscriber's station to his/her foreign exchange central office (the closed-end) after which the service functions on the switched foreign exchange network (the open-end).

CONCLUSIONS OF LAW

1. RTC provides regulated telecommunications services within the State of Montana and is a public utility under the regulatory jurisdiction of the Montana Public Service Commission. Sections 69-3-101 and 69-3-803(3), MCA.

2. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA.

3. RTC's FX service is a properly regulated telecommunications service pursuant to Section 69-3-803(3), MCA.

ORDER

1. The petition of RTC to deregulate its FX service is denied.

Done and Dated this 21st day of January, 1992 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

HOWARD L. ELLIS, Chairman

DANNY OBERG, Vice Chairman

BOB ANDERSON, Commissioner

JOHN B. DRISCOLL, Commissioner

WALLACE W. "WALLY" MERCER, Commissioner

ATTEST:

Ann Peck
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.