

Service Date: May 10, 1996

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

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IN THE MATTER OF The Investigation)
into Subscribers Being Served by) UTILITY DIVISION
Ronan Telephone Company in Areas) Docket No. D96.4.57
Beyond Exchange Boundaries.) Order No. 5913

ORDER REQUIRING TARIFF FILING

This proceeding was initiated to determine whether Ronan Telephone Company (RTC) should be required to file tariffs to cover its provisioning of basic exchange service to subscribers located outside its exchange boundaries. At a duly noticed work session held on Tuesday, April 9, 1996, the Montana Public Service Commission (Commission), voted to require RTC to file appropriate tariffs as explained below for Commission review and approval.

Findings of Fact and Commission Decision

1. There are no disputed factual issues in this Docket. RTC claimed it was not required under Montana law to file tariff pages for Commission approval of its provisioning of service to subscribers outside its exchange boundaries.

2. RTC provides basic exchange service by means of Basic Exchange Telecommunications Radio Service (a technology known as BETRS) to the Allentown Restaurant, a business located outside RTC's exchange boundaries for which the Commission has previously

approved rates and charges. Allentown Restaurant is located within the service area of Blackfoot Telephone Cooperative.

3. RTC also provides basic exchange service to the Salish-Kootenai Housing Authority which is located outside RTC's exchange boundaries in the Polson exchange within the service area of PTI Communications, Inc.

4. RTC refused to provide tariffs to cover these two subscribers and any other subscribers that it presently serves outside the Pablo and Ronan exchanges.

5. RTC also refused to provide exchange maps illustrating its exchange boundaries. RTC's traditional service area exchange boundaries abut the exchange boundaries of Blackfoot Telephone Cooperative and PTI Communications and do not overlap. The Commission has no approved map on file for the areas served by RTC and Hot Springs Telephone Company.

6. The Commission has required other companies to file tariffs to enable them to provide service beyond exchange boundaries. Such tariffs have extended the exchange areas to include specific subscribers who live in unserved areas or have established a rate for extraterritorial exchange mileage.

7. RTC is not required to extend its exchange boundaries nor is it required to charge extraterritorial exchange mileage when it provides service beyond its exchange boundaries. However, RTC may not provide service outside present exchange boundaries without

Commission approval of a tariff to address the provisioning of such service.

8. With the advent of local exchange competition in Montana and the recent enactment of the Telecommunications Act of 1996 (the 1996 Act), the Commission will reevaluate requirements such as this requirement for a tariff filing for service provided beyond exchange boundaries. The Commission has opened a docket to inquire into local competition and other matters, D96.2.16, which will explore and develop appropriate measures in light of the 1996 Act.

Docket No. D96.2.16 and other dockets under consideration by the Commission are representative of a proactive policy that this Commission has undertaken in order to assist and manage the transition within Montana to a fully competitive market environment as contemplated by the enactment of the 1996 Act. It is therefore appropriate to require the filings described above on an interim basis and to keep this Docket open with further Commission review to be done at a later date.

9. The Commission supports the Montana Legislature's expressed policy of encouraging competition in telecommunications in all regions of Montana and involving all types of telecommunications service. See § 69-3-802, MCA. This pro-competitive policy must be considered along with the realities of the current market, however, and without abandoning safeguards that are presently in place to protect consumers from monopoly abuses.

Therefore, pending the outcome of this inquiry and the integration of competitors in the Montana local exchange market, the Commission will continue to require that tariffs be filed to address matters such as this which have the potential to impact rates for other subscribers of basic exchange service.

Conclusions of Law

1. The services being provided to the Allentown Restaurant and to the Salish-Kootenai Housing Authority constitute basic local exchange service. Basic local exchange service is two-way switched voice grade access and transport of communications originating and terminating in Montana and thus is "regulated telecommunications service" as defined in § 69-3-803(3), MCA.

2. RTC and Hot Springs Telephone Company provide regulated telecommunications service in Montana and thus are "public utilities" as defined in § 69-3-101, MCA. The Commission has jurisdiction over public utilities operating in Montana. Sections 69-3-102, and -302, MCA.

3. The Commission approves rates and charges for regulated telecommunications services within exchange boundaries as illustrated by exchange maps provided by regulated telecommunications providers. ARM 38.5.3320.

4. All carriers must file maps with the Commission showing the boundaries of the exchange service area for each exchange

within the state. These maps must be made available at the business office serving the exchange area. ARM 38.5.3320.

5. Montana law does not prohibit public utilities from providing regulated telecommunications services beyond their exchange boundaries in any area of the state. A public utility may not provide service outside its approved exchange boundaries, however, without an approved Commission tariff authorizing rates to charge these customers. *Three Rivers Tel. Coop. v. Mountain Bell*, Docket No. 85.8.34, Order No. 5188 (June, 1986). Providing service without approved rates and charges outside exchange boundaries is a violation of §§ 69-3-301, and -305, MCA.

6. Although present Montana law requires filing of tariffs to address regulated services provided outside exchange boundaries, it is consistent with the Montana Telecommunications Act and its purposes as expressed in § 69-3-802, MCA, to order RTC to comply with present law on an interim basis and to reevaluate this decision at a later date pending the resolution of other matters under consideration by the Commission.

Order

1. Ronan Telephone Company and Hot Springs Telephone Company are directed to file tariffs to reflect the provisioning of service outside their respective exchange boundaries as illustrated by existing exchange area maps to be filed with the Commission.

2. RTC and Hot Springs Telephone Company are directed to file their existing exchange area maps with the Commission.

3. RTC and Hot Springs Telephone Company are directed to file compliance tariffs with the Commission within fifteen (15) days from the service date of this Order, which incorporate all of the decisions herein.

4. This Docket will remain open for future review of the decision.

Done and Dated at Helena, Montana, this 7th day of May, 1996,
by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

NANCY MCCAFFREE, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
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 ARM 38.2.4806.