

Service Date: August 25, 1999

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

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IN THE MATTER OF AT&T Communications)	UTILITY DIVISION
of the Mountain States, Inc.'s Application for)	
Approval of Digital Link Service Dialing Parity)	DOCKET NO. D99.4.107
Implementation)	
)	ORDER NO. 6195

FINAL ORDER

INTRODUCTION AND PROCEDURAL BACKGROUND

1. On April 22, 1999, AT&T Communications of the Mountain States Inc. (AT&T or Company) filed its Application for Approval of its IntraLATA Toll Dialing Parity Implementation Plan (Plan) with the Montana Public Service Commission (Commission). AT&T's Plan requests approval of the procedures and process it intends to use to implement 1+ intraLATA dialing parity for its Digital Link Service customers.

2. AT&T filed its Plan in response and accordance to the Federal Communications Commissions (FCC) Order released on March 23, 1999 (See *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Expedited Declaratory Ruling on Interstate IntraLATA Toll Dialing Parity, or In the Alternative, Various Other Relief*, CC Docket No. 96-98, NSD File No. 98-121, adopted March 19, 1999, released March 23, 1999). The FCC Order requires that local exchange carriers (LECs) implement dialing parity via the "2-PIC" carrier selection methodology without defaulting any customer to a carrier that they

have not affirmatively selected. 2-PIC allows a customer to select a telecommunications carrier for their interLATA toll service and the same or different carrier for their intraLATA toll service. AT&T's Plan allows its Digital Link Service customers to select an intraLATA carrier and the same or different carrier for their interLATA toll calling.

3. AT&T's Digital Link Service is tailored to large business customers and is not a stand-alone offering. Examples of AT&T Digital Link customers include hospitals, universities and large businesses. AT&T's Digital Link service allows nodal customers (long distance) to add local traffic to their new or dedicated access facilities. The customers' local minutes thus are included in their total minutes of use that are subject to volume discount. Customers must already purchase interLATA long distance service from AT&T in order to be eligible for AT&T Digital Link service.

4. AT&T filed its dialing parity plan in accord with the FCC requirements (See the FCC's March 23, 1999 Order).

5. AT&T's initial Plan filed on April 22 was incomplete. The Plan did not comply with many of the Commission's rules or fully address the Commission's decisions in earlier equal access dockets. Staff worked with AT&T to define and illuminate the deficiencies. On May 10, 1999, staff issued discovery on the areas not in compliance with the Commission's rules. On May 21, 1999, AT&T responded to staff discovery and filed an amended Plan.

6. The Commission has adopted rules for intraLATA dialing parity implementation in Montana. 1998 Mont. Admin. Reg., No. 7, at 983-1003 (April 16, 1998) (the "dialing parity rules" or "rules"). *See* ARM 38.5.4101 through 38.5.4120. ARM 38.5.4120 requires AT&T to implement intraLATA dialing parity pursuant to a Commission-approved plan.

7. ARM 38.5.4120(1) allows interested persons a reasonable opportunity to comment on a LEC's intraLATA equal access plan. No comments were filed.

8. Following a review of AT&T's Plan the Commission makes the following findings and conclusions.

FINDINGS OF FACT AND COMMISSION DECISION

9. The Commission established the intraLATA equal access implementation rules "to provide guidelines and procedures for the commission to carry out its duties pursuant to the Federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996)." ARM 38.5.4101, entitled "SCOPE AND PURPOSE OF RULES." Subsection (2) provides further indication of purpose in adopting the rules:

...The commission imposes this subchapter to encourage competitive entry, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.

The rules were adopted after giving opportunity to comment to all interested parties. They reflect a careful, reasoned consideration of all comments received, both in response to AT&T's original petition for the rulemaking and in response to later formal rulemaking inquiries. They were adopted specifically for implementing intraLATA equal access in Montana.

10. ARM 38.5.4120(1) states that ILECs "shall file their toll dialing parity plans carrying out the intraLATA equal access presubscription implementation rules set forth in ARM 38.5.4101 through 38.5.4116." ARM 38.5.4120(1) also provides that interested parties who wish to comment on a LEC's toll dialing parity plan shall have a reasonable opportunity to do so.

11. ARM 38.5.4120 provides that AT&T's Plan must describe how ARM 38.5.4101 through 38.5.4116 will be carried out and include information addressing the following:

- (a) detailed information explaining how and when carriers will be notified of the implementation schedule;
- (b) the language to be used in and the manner of distribution of, the customer notification letter;
- (c) a description of AT&T's anticipated cost of implementation, including AT&T's specific implementation costs, the vehicle that AT&T intends to use to recover implementation costs, and the cost recovery time frame; and
- (d) a description of AT&T's proposed business office practices and sample scripts that demonstrate how its business office personnel will handle customer-initiated business office contacts with AT&T in its role as a local exchange provider in a competitively neutral manner following implementation.

We address the general subtopics of intraLATA equal access implementation with respect to AT&T's Plan below:

A. Part II. Implementation Schedule

12. AT&T's will convert to intraLATA equal access for all its exchanges on July 22, 1999. The Company will implement full "2-PIC" carrier selection methodology required by ARM 38.5.4103(2) offering intraLATA equal access to all its Digital Link subscribers.

B. Part III. Customer Lists and Carrier Notification Procedures

13. *Carrier notification:* ARM 38.5.4120(3) requires that AT&T provide notice to registered interexchange carriers (IXC) no less than 120 days prior to the actual implementation date. The notice must include the implementation schedule, terms and conditions of participation and ordering procedures. All carriers wishing to offer AT&T's customer intraLATA equal access must respond to AT&T within 30 days. Further, AT&T may not allow participation by unregistered telecommunications providers.

14. AT&T notified all IXCs registered with the State of Montana 60 days prior to implementation of its Plan. Carriers were notified using the Commission's electronic "Listserve" in lieu of first class mail. The Listserve allows AT&T to send all registered IXCs that have an email address its carrier notification letter. On May 25, 1999, the Commission

approved AT&T's carrier notification letter and procedures and waived ARM 38.5.4120(3) allowing AT&T to notify IXCs 60 days rather than 120 days prior to conversion.

15. *Customer lists:* ARM 38.5.4105(2) requires a LEC or primary toll carrier make available to all registered carriers that intend to offer equal access a complete list of the primary toll carrier's customers by name, address and phone number within 45 days of receipt of a BFR. The Commission requires that AT&T make available such list, on request, to all registered carriers that intend to offer intraLATA equal access. Charges for such list shall be cost based and nondiscriminatory. On May 25, 1999, the Commission required AT&T to make available its customer lists to requesting IXCs no later than May 25, 1999. Additionally, the Commission waived ARM 38.5.4105(2) and required AT&T to submit a cost study identifying the costs to produce the list of its customers pursuant to ARM 38.5.4105(2) prior to charging any IXC for such list.

16. *PIC change requests:* ARM 38.5.4116(1)(e) requires LECs to accept letters of authorization or agency (LOAs) no less than 60 days prior to implementation. On May 25, 1999, the Commission granted AT&T request to begin accepting LOAs and customer requests for an intraLATA carrier selection no later than June 15, 1999, roughly 30 days rather than 60 days prior to conversion. In the case of multiple LOA submissions, the last dated LOA shall be processed. AT&T is required to accept and process LOAs that conform to ARM 38.5.3801 through ARM 38.5.3810, the emergency slamming rules adopted by the Commission in Docket no. L.99.1.1-RUL, and §69-3-1304, MCA.

C. Part IV: Customer Notifications, Education, and Safeguards

17. Customer notification is addressed in several of the Commission's rules. ARM 38.5.4120(1)(b) states that a LEC's plan must describe how notification to end users will be

carried out and must include the language the LEC will use in its customer notification letter and describe the manner of distribution of such letter.

18. ARM 38.5.4105(4) requires all informational materials, forms and scripts to be “complete, clear and unbiased.” It further requires local exchange carriers to promptly make any changes required by the Commission before using them. Pursuant to ARM 38.5.4104 and at least 30 days prior to its scheduled implementation, AT&T must provide written notification to subscribers that describes intraLATA dialing parity and explains presubscription procedures. Information provided pursuant to ARM 38.5.4104 shall also inform customers with existing interLATA PIC freezes on their accounts that their freeze will extend to their existing intraLATA toll carrier until the end users take action to change.

19. *Existing customer notification:* AT&T provided written notification to its existing customers describing intraLATA dialing parity and explaining presubscription procedures. AT&T attached as Exhibit 1 its proposed format to notify customers. AT&T states that it will provide customer notification via direct mail prior to June 22, 1999. AT&T’s Plan for notifying existing customers is consistent with Commission rules and its written notification contains a good explanation of intraLATA 1+ presubscription that should help its customers understand this often-confusing concept. On June 22, 1999, the Commission approved the customer notification letter.

20. *New customer notification:* AT&T’s Plan provides that all new customers who commence local service after the mailing to existing customers and before equal access presubscription is implemented shall be provided information from AT&T about their carrier selection options at the time they sign up for local service. Customers who subscribe to local

service between June 22 and July 22, 1999 will be provided a copy of the written notification provided to existing customers.

21. These new subscribers may select both their primary interLATA and intraLATA carriers. AT&T will waive all PIC selection charges at this time for its Digital Link Customers.

22. *Waiver period:* ARM 38.5.4111(1) states that “no charge shall be imposed for a customer’s initial selection of a primary intraLATA carrier. Each LEC shall allow customers to change their selection of a primary intraLATA carrier one time only at no charge within 90 days following implementation of intraLATA dialing parity in an exchange.” As stated above, AT&T will not charge its Digital Link customers for an intraLATA PIC change at this time. If such a change is later made it would not be prior to 90 days following implementation of intraLATA dialing parity in an exchange.

23. *PIC charges:* ARM 38.5.4111 states that PIC change charges shall be “the same as those imposed for changing interLATA carriers.” AT&T’s Plan states that it will not charge its Digital Link customers for intraLATA PIC changes. However, the Commission concludes that if the company decides to begin charging for PIC changes it will comply with ARM 38.5.4111.

24. *Customer Safeguards:* ARM 38.5.4116 provides for some safeguards that apply to the business office practices LECs will use when they implement intraLATA equal access. All customers who have an interLATA PIC freeze on their account will have that PIC freeze placed on their intraLATA service as well. AT&T will follow Montana statutes and administrative rules with regard to “slamming” and obtaining the required authorizations for PIC changes. The notice also explains presubscription procedures and advises end users that they may change their intraLATA PIC free of charge.

25. AT&T's Plan provides that a list of all participating registered interexchange carriers who have responded during the 30-day period following AT&T's carrier notice and their toll free telephone numbers will be attached to the customer notification letter. The notice provides procedures for changing from the present intraLATA carrier to another. AT&T's notice to end users contains sufficient information to educate customers on intraLATA dialing parity and procedures for requesting a PIC change and was approved by the Commission on June 22, 1999.

26. *Business office practices:* ARM 38.5.4116 provides for safeguards to ensure that the development of intraLATA competition will not be impeded by LEC practices following equal access presubscription. Subsection (1)(a) requires that AT&T's customer information and procedures used to provide new customers information about carrier selection options when they sign up for service be competitively neutral and approved by the Commission prior to their use.

27. AT&T's Plan states that its representatives will inform new local exchange end users of their right to select the intraLATA carrier of their choice. New and existing customers may communicate their choices of carriers directly to AT&T through the local business office or they may do so indirectly through their selected carriers for either interLATA or intraLATA toll.

28. For all customer-initiated contacts regarding local service matters, ARM 38.5.4116(1)(b) includes important safeguards. It provides, "When handling customer-initiated contacts regarding local service matters such as a change in service, [LEC] business office personnel may not engage in promotional efforts for the local exchange carrier's toll service offerings." Subsection (1)(c) further provides that when a customer contacts a LEC's business office to change the PIC from the LEC to a competitor, "the transaction must be handled in a neutral manner (i.e., in the same manner as a PIC change from one competitor to another)."

29. AT&T states that it will handle all customer-initiated contacts for PIC changes in a neutral manner. Further, many of the Commission's previously expressed concerns about contact handling by local exchange carriers who provide intraLATA toll service apply to AT&T because intraLATA toll service is provided by AT&T. Therefore, the Commission imposes some requirements for these contacts.

30. AT&T is required to provide, in random order, the names of all carriers providing intraLATA interexchange service in its area. The random list shall be scrambled at least once per month.

31. The Commission has imposed marketing restrictions for local exchange carriers who provide intraLATA toll. Since AT&T provides intraLATA toll to AT&T's Digital Link customers reasonable LEC restrictions related to marketing on customer-initiated calls to AT&T's business office apply. The Commission concludes that it is reasonable to prohibit AT&T from initiating marketing and promotional activities for AT&T intraLATA services on contacts for new service, transfers of service and number changes.

D. Part V: Costs Recovery

32. ARM 38.5.4120 requires AT&T's Plan to describe the anticipated cost of implementation, including its specific intraLATA presubscription costs, the vehicle that it intends to use to recover them, and the time frame for recovery. AT&T does not seek to recover the costs associated with implementing dialing parity.

33. On May 25, 1999, the Commission granted AT&T's request to waive ARM 38.5.4120(c). The Commission will not require AT&T to provide a cost analysis and is satisfied with AT&T's proposal. The public interest is best served by waiving the requirement for cost information for AT&T. If AT&T incurs substantial unanticipated costs to implement dialing

parity and files additional materials to support a surcharge, the Commission will address cost recovery at that time.

CONCLUSIONS OF LAW

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. AT&T is a public utility offering regulated telecommunications services in the State of Montana. Section 69-3-101, MCA.

2. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.

3. The Montana Public Service Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.

4. Adequate public notice and an opportunity to be heard has been provided to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

ORDER

THEREFORE, based on the foregoing, IT IS ORDERED that AT&T's intraLATA dialing parity implementation Plan is approved as discussed herein.

DONE AND DATED this the 22 of June 1999, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

GARY FELAND, 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.