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APR 09 2015

MONT. P.S. COMMISSION

April 8, 2015

Aleisha Solem
Department of Public Service Regulation
Montana Public Service Commission
1701 Prospect Avenue
Helena MT 59620-2601

Re: In the matter of the amendment of ARM 38.5.1307 and the repeal of ARM 38.5.1305, et al., pertaining to Telephone Extended Area Service.

Dear Ms. Solem:

On April 2, 2015, at the public hearing in the above captioned matter, the Montana Telecommunications Association (MTA) offered an amendment to the proposed repeal of ARM 38.5.1307. MTA suggested the following revision:

38.5.1307. EAS-GENERAL. (1) The repeal of these rules SHALL NOT NEGATE, INVALIDATE, AMEND OR OTHERWISE REVOKE, CANCEL OR ALTER ANY EXISTING EAS ARRANGEMENTS OR CALL TRANSPORT AND TERMINATION AGREEMENTS OR COMMISSION ORDERS does not affect the status of any existing EAS program. ~~To qualify for EAS the exchanges in an exchange to exchange EAS must be adjoining. Exchanges within a designated region must be contiguous to the region (within or adjoining at some point).~~

~~————(2) When implemented, exchange to exchange or regional, EAS shall be mandatory (not optional) and shall be two way between the affected exchanges.~~

~~————(3) These rules to not affect the status of any existing EAS program, but will be applied to the expansion or modification of such programs, exchange to exchange and regional.~~

MTS fully supports the amendment offered by MTA to revise the proposed repeal of ARM 38.5.1307. We agree that the MTA amendment is necessary in order to clarify that existing EAS arrangements are not affected by the repeal of the EAS rules.

Sincerely,

Bonnie Lorang, General Manager

MT Independent Telecommunications Systems, LLC

2021 11th Avenue, Suite 12, Helena, MT 59601
Mobile: 406.594.9662 / Office: 406.443.1940/ Fax: 1.866.797.3138
E-Mail: blorang@mitstel.com / Web Site: www.mitstel.com

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APR 10 2015

MONT. P.S. COMMISSION

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

8 IN THE MATTER OF the amendment of 9 ARM 38.5.1307 and the repeal of 10 ARM 38.5.1305, 38.5.1309, ARM 38.5.1311, 11 ARM 38.5.1314, and 38.5.1315 12 pertaining to Telephone Extended Area Service	}	REGULATORY DIVISION DOCKET NO. D2014.4.44
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RONAN TELEPHONE COMPANY
AND HOT SPRINGS TELEPHONE COMPANY
COMMENTS

Ronan Telephone Company (RTC) and Hot Springs Telephone Company (HSTC) hereby submit the following comments to the Montana Public Service Commission (PSC). On March 2, 2015, the PSC initiated a formal rulemaking proceeding, pursuant §§2-4-302 through 2-4-305, MCA, to repeal the existing PSC Extended Area Service (EAS) rules, ARM 38.5.1301 through 38.5.1315. On April 2, 2015 a rulemaking hearing was held; and final written comments are due April 10, 2015.

RTC and HSTC are Montana rural Local Exchange Carriers (LECs) fully regulated by the Montana PSC. RTC and HSTC are governed by the existing PSC Extended Area Service rules, which set forth the legal requirements to establish expanded local calling areas – calling areas where LEC subscribers may call without toll charges; ARM 38.5.1301 through 38.5.1315. Regulated LECs which desire to expand local calling and offer larger toll free calling areas to their

1 customers must comply with the existing PSC rules.

2 In the current competitive environment, the existing rules, which were last amended in
3 1995, are obsolete and contribute to an unlevel competitive playing field. The existing rules create
4 a competitive disparity in the telecommunications market, since wireless/cellular companies benefit
5 from the FCC granted privilege of obtaining essentially free access to LEC networks via local
6 interconnection and reciprocal compensation throughout the entire state of Montana and into four
7 neighboring states; while wireline LECs are limited to the much smaller EAS regions approved by
8 the PSC pursuant to the EAS rules. Wireline carriers thus must incur much higher costs for
9 wholesale access than their formidable cell phone competition, since their wholesale rates must
10 reflect switched access charges for calls outside of the EAS local calling area.

11 RTC and HSTC are currently limited to the existing EAS region approved by the
12 Commission 10 years ago.¹ This region includes Missoula, the Clark Fork basin from Drummond
13 to the Montana Border, the Mission Valley, the Flathead Reservation, the Blackfoot Valley and the
14 Bitterroot Valley, but not Kalispell or other areas of western Montana. The market area and
15 communities of interest for western Montanans include both the Kalispell and Missoula
16 commercial centers: for shopping, medical services, education, recreation, and government
17 institutions; indeed, with the advent of flat-rated cell phone service, the natural community of
18 interest in Montana has increased dramatically. This is because people can now use their cell
19 phones to call where they please for little or no added cost.

20 The current EAS rules contain a required minimum ILEC toll calling threshold requirement
21 that is impossible to establish because of the large volume of calling that has migrated to cell
22 phones.² Since the PSC lacks jurisdiction over the wireless providers (and cooperatives), this
23 information cannot be obtained. The toll traffic the regulated LECs carry is now only a small

24
25 ¹ See PSC Dockets D2003.12.170, D2004.2.17, and D2004.2.22.

26 ² The minimum calling volumes set forth in the current rule are: at least eight calls per month per account between
27 the exchanges; and at least 50% of the customers must make at least two calls per month between the exchanges (ARM
38.5.1313(2)).

1 existing EAS regions previously approved by the PSC. The proposed language states simply, that
2 “The repeal of these rules does not affect the status of any existing EAS program.”

3 During the hearing on April, 2, 2015, the Montana Telecommunications Association (MTA)
4 proposed alternative language for this rule: “The repeal of these rules shall not negate, invalidate,
5 amend or otherwise revoke, cancel or alter any existing EAS arrangements, or call transport and
6 termination agreements or commission orders.”

7 RTC/HSTC believe the language proposed by the PSC is adequate. Technically even this language
8 is unnecessary since it is legally presumed that prior Commission orders remain valid and binding
9 since they were adopted by rules in place at the time. RTC/HSTC would not object to replacing
10 “program” with “arrangement” in the PSC-proposed language, as long as it is understood that
11 “reciprocal compensation arrangements” (as that term is used in 47 U.S.C. §251(b)(5)) is a
12 different type of agreement, legally distinct from “EAS agreements”.⁴ RTC/HSTC believes that
13 the rest of the additional language proposed by MTA is unnecessary and potentially confusing.
14 The terms “Call transport and termination agreements” and “Commission Orders” are broad and
15 undefined, and could cause confusion. “Transport and termination agreements” could refer to
16 Interconnection Agreements per 47 U.S.C. §251(c) (See footnote 4, *infra.*); and “Commission
17 orders” is not necessarily limited to “EAS Orders”.

18 RTC/HSTC notes that it is their interpretation of this proposed rule, that it would not
19 prevent the expansion of EAS calling regions by mutual (formal or informal) consent of two or
20 more carriers, regardless of prior PSC orders. Also, it should be emphasized that telephone
21 companies will remain free to unilaterally implement any type EAS arrangement it chooses,
22 without agreements or PSC approval, if it chooses to continue to pay existing tariffed switched
23 access charges for “long distance” traffic. This is essentially what is already occurring by cell
24 phone companies providing “national” plans without toll charges; and other carriers offering

25
26 ⁴ “(b) Each local exchange carrier has the following duties: . . . (5) The duty to establish
27 reciprocal compensation arrangements for the transport and termination of telecommunications.” 47
28 U.S.C. §251(b)(5). (emphasis added) This refers to local interconnection agreements, not “EAS
Agreements”

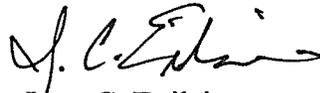
1 “unlimited” long distance plans. That is, the carriers continue to pay switched access charges per
2 tariffs, but offer their customers plans without toll charges. In a competitive environment, this is
3 an appropriate (although costly) alternative.

4
5 WHEREFORE, Petitioners RTC and HSTC respectfully request that the Montana PSC
6 repeal the current EAS rules, as proposed in the Notice of March 2, 2015. The language of ARM
7 38.5.1307 proposed by the PSC is unnecessary, but not harmful if interpreted correctly.

8 The repeal of the EAS rules is an important step, but only the first step, in expanding
9 wireline local calling areas in Montana, which will contribute to the competitiveness of the industry
10 and add consumer value.

11
12
13 DATED: April 10, 2015

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15 Respectfully Submitted,

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17 Ivan C. Evilsizer
18 Attorney for Ronan Telephone Company
and Hot Springs Telephone Company

19 Evilsizer Law Office, PLLC
20 2301 Colonial Drive, Suite 2B
Helena, MT 59601-4995

21 Telephone: 406-442-7115
22 Fax: 406-442-2317
i.c.evilsizer@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the RONAN TELEPHONE COMPANY AND HOT SPRINGS TELEPHONE COMPANY COMMENTS was served by mailing a true and correct copy by First Class mail, postage pre-paid (or as otherwise indicated below) on April 10, 2015 upon the following:

Kate Whitney (Hand Delivery)
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

Michael R. Moore, Esq.
Charter Communications, Inc.
12405 Powerscourt Drive
St. Louis, MO 63131

Jason B. Williams
Blackfoot Telephone Cooperative, Inc.
1221 N. Russell
Missoula, MT 56808

Thorvald Nelson
Holland & Hart LLP
6380 South Fiddlers Green Cir. Suite 500
Grenwood Village, CO 80111

Peter G. Scott
Gough, Shanahan, Johnson & Waterman PLLP
682 S. Ferguson Ave., Ste. 4
Bozeman, MT 59718

Adele Lee
Holland & Hart LLP
6380 South Fiddlers Green Cir. Suite 500
Grenwood Village, CO 80111

William E. Hendricks
Senior Corporate Counsel
902 Wasco Street
Hood River, OR 97031

Bonnie Lorang
MITS
2021 11th Avenue, Suite 12
Helena, MT 59601

Phil Grate
CenturyLink
1600 7th Avenue
Seattle, WA 98191

Leah Buchanan
Holland & Hart LLP
6380 South Fiddlers Green Cir. Suite 500
Grenwood Village, CO 80111

Ivan C. Evilsizer
Evilsizer Law Office, PLLC
2301 Colonial Drive, Ste. 2B
Helena, MT 59601

Legal Dept - Telephone
Bresnan Broadband of Montana LLC
12405 Powerscourt Drive
St. Louis, MO 63131

Robert Nelson
111 North Last Chance Gulch, Ste. 1B
P.O. Box 201703
Helena, MT 59620

Nikolas S Stoffel
Holland & Hart LLP
6380 South Fiddlers Green Cir. Suite 500
Grenwood Village, CO 80111