

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF EMERGENCY RULES)
REGULATING THE AUTHORITY TO OFFER) DOCKET NO. 96R-184T
LOCAL EXCHANGE TELECOMMUNICATIONS)
SERVICES.)

COMMISSION DECISION ADOPTING EMERGENCY RULES

Mailed Date: April 30, 1996
Adopted Date: April 24, 1996

I. BY THE COMMISSION:

A. This matter comes before the Commission for adoption of emergency rules establishing procedures for obtaining a certificate of public convenience and necessity ("CPCN") to provide local exchange telecommunications services. The General Assembly adopted House Bill 1335 ("HB 1335"), 40-15-101 *et. seq.*, in the 1995 legislative session. In that statute, the Legislature generally determined that competition in the market for basic local exchange service is in the public interest. See 40-15-101, C.R.S. Consistent with that determination, HB 1335 directs the Commission to encourage competition in the basic local exchange market by adoption and implementation of appropriate regulatory mechanisms to replace the existing regulatory framework.

B. We have since conducted a number of rulemaking proceedings to implement HB 1335, including a proceeding to establish procedures by which new telecommunications providers may obtain CPCNs to provide local exchange service. See Docket No. 95R-555T. In fact, in Decision No. C96-159 we

adopted final rules for this purpose. However, pursuant to the provisions of 24-4-103, C.R.S. those rules will not become effective until May 30, 1996 at the earliest.

C. For the reasons set forth in this decision, we will adopt on an emergency basis (*i.e.* without compliance with the rulemaking requirements for permanent rules set forth 24-4-103, C.R.S.) the rules appended to this order as Attachment A. We will take this action pursuant to the provisions of 24-4-103(6), C.R.S.

D. Generally, the purposes of the rules adopted by this order are to establish the process to be used and the information required in order for new telecommunications providers to obtain CPCNs to provide local exchange service. The rules attached to this order set forth specific requirements relating to these purposes.

E. We will adopt the attached rules as emergency rules, in accordance with the provisions of 24-4-103(6), C.R.S. We find that immediate adoption of the rules attached to this decision is imperatively necessary to comply with state law, and compliance with the rulemaking requirements associated with permanent rules, as set forth in 24-4-103, C.R.S., would be contrary to the public interest. We note that the Commission has already received one application for new authority to provide local exchange service. That application purports to be filed pursuant to the rules adopted in Docket No. 95R-555T, even though those rules are not yet effective. In addition, the Commission may receive other applications for CPCNs to provide local service before the rules adopted in Docket No. 95R-555T may become effective.

F. We conclude that it is not consistent with the purposes of HB 1335

to delay action on the recently filed application for new authority (or upon other applications which may be filed before May 30, 1996) pending the effective date of the new rules on certification. Since the new rules establish the most appropriate procedures for review and consideration of applications for new local exchange authority, it is appropriate to implement the rules adopted in Docket No. 95R-555T immediately. Therefore, emergency adoption of the attached rules is appropriate. The statutory authority for adoption of these rules is set forth in 40-2-108, and 40-3-102.

G. The rules attached to this order shall be effective immediately upon the mailed date of this decision. Such rules shall remain in effect until permanent rules become effective or for 210 days, whichever period is less. It is presently anticipated that the permanent rules adopted in Docket No. 95R-555T will become effective on May 30, 1996.

II. ORDER

A. **The Commission Orders That**

1. The rules appended to this decision as Attachment A are hereby adopted as emergency rules consistent with the above discussion.

2. This Order is effective upon its Mailed Date.

B. ADOPTED IN OPEN MEETING April 24, 1996.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER CHRISTINE E. M. ALVAREZ
RESIGNED EFFECTIVE APRIL 5, 1996.