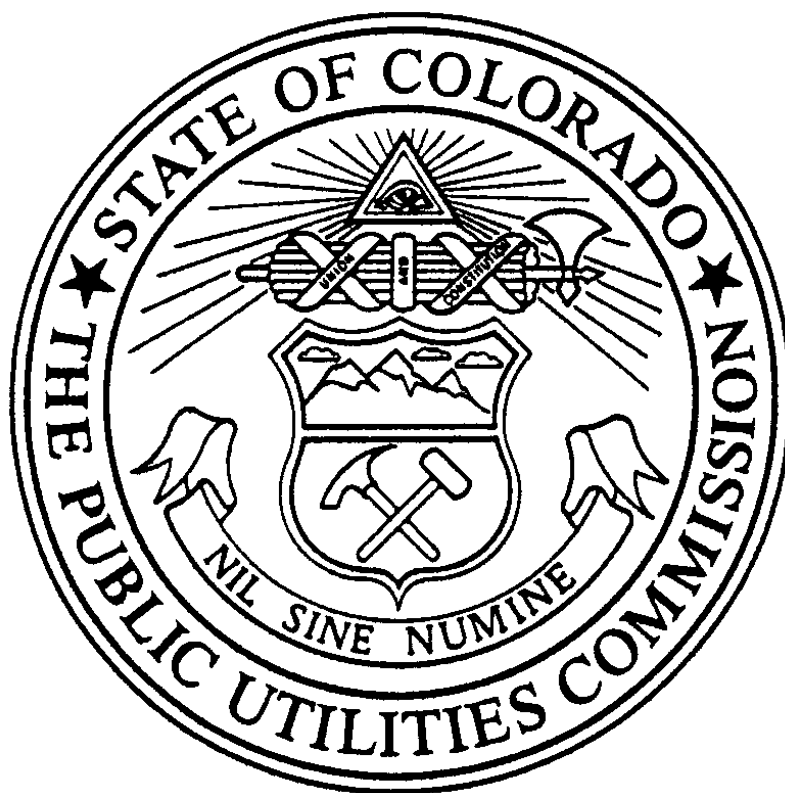


ANNUAL REPORT OF THE COLORADO HIGH COST SUPPORT MECHANISM

**A REPORT TO THE GENERAL ASSEMBLY ON THE ACTIONS OF
THE COLORADO PUBLIC UTILITIES COMMISSION**



**Prepared by:
The Colorado Public Utilities Commission Staff
December 1, 1998**

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DIRECTOR'S TRANSMITTAL LETTER

December 29, 1997

**The Honorable Roy Romer
Governor of the State of Colorado
State Capitol Building
Denver, Colorado 80203**

Dear Governor Romer:

On behalf of the Colorado Public Utilities Commission, I transmit this report entitled, "Promoting Competition in Local Telecommunications -- A Report on the Actions of the Colorado Public Utilities Commission." The report provides information regarding the extent to which barriers to telecommunications competition have been removed in Colorado, and how the burden placed on companies seeking to enter telecommunications markets has been reduced.

As you recall, House Bill 95-1335 was enacted on May 4, 1995. This initiated a new era in Colorado telecommunications law. The bill declared that the policy of the State is to encourage competition in the basic local exchange telecommunications market and to strive to ensure that all Colorado consumers benefit from such increased competition. Nine months after Colorado changed its law, Congress enacted the Telecommunications Act of 1996, echoing the mandate that competition be established in all local telecommunications exchange markets.

House Bill 95-1335 established Colorado's process for implementing competition in the local telecommunications market, including requiring that the Colorado Public Utilities Commission take all actions necessary to ensure that such competition begin in Colorado by July 1, 1996. This report describes the actions of the Colorado Public Utilities Commission to meet that mandate and the results achieved. It updates the first report of September 1, 1997 that was also required by Senate Bill 97-215, known as the 1997 Long Bill.

To initiate competition in any previously monopolistic environment, several specific activities must occur. These include rulemaking, to structure the new environment; certification of new entrants; review of new price structures; approval of agreements between competing companies; and tracking the impact of the change on the public. The PUC has accomplished all of these, and more, since the passage of House Bill 95-1335.

There has been some concern that, in spite of these accomplishments, competition has been slow in coming to Colorado. This is true, and it is the case throughout the country. It results from the difference between creating the environment for competition to occur and the decision by companies to actually enter the market. The first is a policy decision that was implemented in Colorado, while the second is a business decision to be made by private companies. The PUC has no control over the second decision, but remains committed to doing everything possible to encourage it.

If I can be of further assistance to you, please let me know.

Very truly yours,

**Bruce N. Smith
Director**

Enclosure

**cc: Joseph A. Garcia, Executive Director
Department of Regulatory Agencies**

I. INTRODUCTION

Footnote 169a to the 1997 Long Bill (Senate Bill 97-215)¹ required the Colorado Public Utilities Commission (PUC) to make two reports to the Executive Committee of the Legislative Council on progress toward implementing the provisions of House Bill 95-1335 (“HB 95-1335”). The first report was delivered on September 1, 1997 and the second is due December 31, 1997. The Bill further directed that the reports include, but not be limited to, information regarding the extent to which barriers to telecommunications competition have been removed in Colorado, and how the burden placed on companies seeking to enter telecommunication markets has been reduced.

Although Governor Roy Romer vetoed Footnote 169a as a violation of the separation of powers, he acknowledged the importance of this issue by directing the Commission to prepare the reports as described and to submit them directly to him for subsequent forwarding to the Legislative Council.

The purpose of this document is to provide the second required report. It contains a summary of the actions of the Colorado Public Utilities Commission and its Staff to implement competition in the local exchange telecommunications market. This includes specific activities to remove barriers to competition, to reduce the burden on the new Competitive Local Exchange Carriers (CLECs), and to ensure that the goals of competition reach all of Colorado’s citizens. These goals include: (1) reducing the cost of

telecommunications to consumers, (2) encouraging faster introduction of new, innovative technology, and (3) providing more options for consumers.

To implement competition in any previously monopolistic market or industry, the following ten essential activities must occur:

- A. New rules to guide the structure of the new environment must be negotiated, written, and implemented.**
- B. Existing rules must be updated to become consistent with the new environment.**
- C. New companies entering the market must be certificated.**
- D. The prices, terms, and conditions of the services of the competing companies must be reviewed and made available to the public.**
- E. The provisions of competition at the State level must be made consistent with federal law.**
- F. Agreements between competing companies must be arbitrated (if requested) and approved.**
- G. Agreements signed by companies must be reviewed and approved or denied.**
- H. Issues and conflicts raised by the new environment must be resolved.**
- I. Information concerning the new competitive environment must be made readily available to the industry participants and to the public. This frequently requires both new informa-**

¹ Footnote 169a appears on page 197 of the version of the Bill submitted in May 1997 to Governor Roy Romer for signing.



tion distribution methods such as the use of the Internet and Staff time to assist and educate interested and affected persons on how to participate in the PUC processes.

J. The quality of service and other measures of performance of the competing companies must be tracked to ensure that the public is not adversely affected.

The Colorado Public Utilities Commission has accomplished all of these activities, and more, in the 30 months since the passage of HB 95-1335. This report provides the details of that work.

II. EXECUTIVE SUMMARY

The court-ordered divestiture of the American Telephone and Telegraph (AT&T) company in 1984 separated long-distance from local service, creating a competitive market in long-distance service and retaining a monopoly structure in local service. This was the first significant incursion of competition into the fabric of the traditional nationwide telecommunications monopoly environment that was established as national public policy in the federal Communications Act of 1934. Following divestiture, three benefits from competition in the long-distance market flowed to consumers: (1) prices for long-distance service decreased, (2) the long-distance providers introduced new technologies at an accelerated rate, and (3) more options became available to consumers.

The second major change in the monopoly structure came in 1995, when several states, including Colorado, sought to introduce the benefits of competition into local telecommunications. With the enactment of HB

95-1335 on May 24, 1995, Colorado altered its telecommunications law and declared it to be the policy of the State to encourage competition in the basic local exchange telecommunications market, and to strive to ensure that all Colorado consumers benefit from such increased competition. The specific goals identified in HB 95-1335, and codified at §§ 40-15-501, *et seq.*, C.R.S., include:

- **Foster a competitive local service telecommunications market in Colorado.**
- **Ensure that basic telephone service is available and affordable to every Colorado customer.**
- **Promote access, by all citizens, to advanced telecommunications services throughout Colorado.**

To accomplish these goals, HB 95-1335 first established a unique process of using a “Working Group” comprised of Commission Staff and Governor-appointed persons, interested and affected by the telecommunications law, to develop a framework for competition in telecommunications in Colorado. The Working Group spent seven months of intense effort negotiating the details of the rules identified in HB 95-1335 as necessary to implement competition. The six critical areas specified in HB 95-1335 were:

- **Certification of Carriers**
- **Interconnection and Unbundling**
- **Local Number Portability**
- **Resale**
- **Universal Service/High Cost Fund**



- **911 Services**

In adopting the rules, the law directed the PUC to give substantial deference to areas where consensus in the Working Group was reached, and to try to resolve the highly contentious areas where consensus was not reached. In addition, the law required the PUC to complete the rulemaking process for these six areas in time to ensure that competition could start July 1, 1996. This monumental undertaking, never before attempted anywhere on such a short timeline, was completed on time.

The third major change in the traditional telecommunications monopoly structure in the U. S. came with the passage of the federal Telecommunications Act of 1996 (the federal Act) signed into law by President Clinton on February 8, 1996. The federal Act became law nine months **after** Colorado's law, and Colorado's Working Group process and resulting rules served as a model for the Federal Communications Commission (FCC) in complying with the federal Act. When the FCC issued its detailed implementation rules in August of 1996, it recognized Colorado, among a handful of states, as an example for other states to follow. Many have done so.

The enactment of the federal Act also came at a time when the Colorado PUC was certificating new companies who wished to enter the telecommunications market in the State pursuant to HB 95-1335. To date, 46 companies, listed in Appendix A, have requested certification to provide local telephone service in Colorado.

The federal Act did not preempt Colorado's existing work in implementing competition or its authority to regulate intrastate telephone service, but it did require extensive additional work by the PUC to implement

the new federal requirements for competition in telecommunications in conjunction with the requirements of HB 95-1335. Most notable was the requirement for the Commission to conduct binding arbitration when a carrier, negotiating an interconnection agreement with another carrier, requested the PUC to do so. The Act further required the PUC to complete each arbitration within nine months from the start of negotiations. In the months of July and August 1996 alone, the PUC received five requests to provide arbitration.

Recognizing that these first five arbitrated agreements would largely determine the structure of telecommunications in Colorado for the next 20-25 years, the PUC consolidated the five arbitrations and focused its attention on them. During the months of September and October 1996, the PUC intensively read briefs, heard expert witness testimony, and considered public comment from citizens and other interested parties throughout the State. To date, nine arbitrations have been completed and are listed in Appendix B.

Once negotiated or arbitrated, the federal Act requires the PUC to approve or reject all interconnection agreements in the State within a very short time frame. As of December 20, 1997, 33 agreements between competing carriers have been approved by the PUC and are listed, chronologically, in Appendix C.

The federal Act further required the PUC to set the intrastate discounts, or wholesale rates, that the former monopoly, incumbent carriers must offer to the new, competing carriers for use in the interconnection agreements. Because full cost studies could not be completed before competition was to begin on July 1, 1996, Colorado law (HB



96-1010) required the PUC to establish interim discount rates. The Commission ordered U S WEST, one of Colorado's incumbent carriers, to suggest appropriate interim rates, subject to "true-up with interest". "True-up with interest" means that, following the adoption of permanent rates, any carriers paying interim rates above the permanent rates would be reimbursed, with interest, by the carriers receiving the overpayment. Conversely, any carriers paying less than the permanent rates would reimburse, with interest, the underpaid carrier. The PUC, after adjustment, adopted interim rates, subject to "true-up with interest".

As the local telecommunications providers established their service rates, and the terms and conditions by which they would provide service, the PUC made them available to the public in the form of tariffs or price lists.

The introduction of competition in the local telecommunications market required the PUC to review all of its existing rules to make them consistent with the new environment, and to address the confidentiality of information among competing companies. It further required the PUC to establish new information distribution methods, such as a PUC Web Page on the Internet, to make up-to-date information concerning the new environment readily available to industry participants and the public. In addition, the PUC made available considerable Staff time and resources to the new entrants to enable their participation in the local telecommunications markets in Colorado. The PUC continues to track the quality of service and impact of competition to ensure that the public is not adversely affected.

In spite of these efforts, widespread competition in the local telecommunications market has been slow in coming to Colorado, and to the U. S. as a whole. It is generally recognized that, while States can actively create a facilitating environment for competition to occur, the decision by companies to actually enter that market is a business decision over which the PUCs have no real control. The Colorado PUC remains committed to doing everything possible to remove barriers to competition, to reduce the burden on the new CLECs, and to ensure that the benefits of HB 95-1335 reach all of Colorado's citizens.

III. ACTIONS OF THE PUC TO FOSTER LOCAL TELECOMMUNICATIONS COMPETITION

Colorado's PUC completed the ten essential activities necessary to initiate competition in any previously monopolistic environment. The details of each activity are discussed below.

A. ADOPTED RULES TO STRUCTURE THE NEW ENVIRONMENT

Colorado's HB 95-1335, adopted May 24, 1997, directed the Commission to set in place the rules necessary to begin competition in the local exchange market by July 1, 1996. In accordance with this statutory directive, the Commission accomplished the following tasks in the year between June 1995 and June 1996:

1. Participated in the HB 95-1335 Working Group Process.

For the first six months following the enactment of HB 95-1335, from June through December 1996, the Commis-



sion Staff participated in the HB 95-1335 Working Group process and helped to formulate proposed rules in six statutorily specified areas:

- **Interconnection and Unbundled Network Elements**
- **Resale of Local Exchange Services**
- **Local Number Portability (LNP)**
- **Universal Service/Colorado High Cost Fund**
- **911 Services**
- **Certification of Competing Local Exchange Carriers**

The Working Group process was a unique approach to rulemaking in the United States. The Group was comprised of representatives of telecommunications companies, consumers, legislative staff, the Governor's Office, PUC Staff and other interested parties. The Group was charged with the task of negotiating and drafting proposed rules, **attempting to reach consensus on as many issues as possible.** Given the chaotic and volatile nature of the issues at the time, on both the national and state levels, the Working Group process was viewed as an intense and monumental undertaking that had never before been attempted anywhere on such a short timeline.

From the inception of the draft legislation, through the emergence of the resulting HB 95-1335, to the present, the Commissioners and Staff of the PUC acknowledged that this process was creating a drastically different environment than the traditional monopoly

environment of the past. It is widely accepted that the initial set of six rules, developed by the Working Group, is only the beginning of an evolutionary process to achieve the on-going goals of HB 95-1335.

2. Coordinated Development of the Proposed Rules.

In drafting the proposed rules, the PUC Staff coordinated the efforts of the Working Group, using the ideas, comments, and suggestions received from the industry and the public. The resulting three reports to the Commission identified the areas in which the Working Group participants had reached consensus and listed possible options for the areas in which the Working Group did not reach consensus. This was important, because HB 95-1335 directed the Commission to give "substantial deference" to areas of consensus reached by the Working Group. Areas of non-consensus were to be decided by the Commission.

3. Held Public Hearings on the Proposed Rules.

Following formal notice and publication of the proposed rules in the *Colorado Register* on December 10, 1995, the Commission held formal public hearings on the rules from January through April 1996. These hearings provided an additional opportunity for the industry and the public to discuss and evaluate the rules and to assess the details of implementing competition in the local telecommunications market in Colorado.

During this rulemaking process, town meetings were also held throughout the



State by the PUC Staff to collect input from the citizens of Colorado concerning the transition to a competitive environment.

4. Adopted Implementing Rules.

By April 30, 1996, the Commission had completed the hearing process and adopted the implementing rules in each of the statutorily specified areas. This ensured that the rules needed for competition to begin in the local exchange markets in Colorado were effective by July 1, 1996, as required by HB 95-1335. The details and importance of each of the adopted rules follow below.

a. Interconnection and Unbundling.

In a competitive environment, local telecommunications providers must be able to interconnect their systems to allow the customers of one telecommunications carrier to communicate with the customers of all other competing telecommunications carriers. As part of this interconnection, some "unbundling", or breaking apart into elements, of the telecommunications facilities and services is required.

In the Interconnection/Unbundling Rules, adopted by the Commission in April 1996, and found at 4 CCR 723-39, the Commission requires all carriers in Colorado to provide nondiscriminatory access to, and interconnection with, their networks. The rules describe how and where the carriers may interconnect to preserve the technical integrity of each company's network, and how the costs of such interconnection are to be divided among the competitors. These rules also

require that networks be unbundled and establish what price carriers may charge for the unbundled network elements. Fairness to each company, including the incumbent, was a primary concern of the Commission in developing these rules.

b. Resale.

Both HB 95-1335 and the federal Act allow new entrants to purchase facilities and services from the incumbent provider at discounted wholesale prices and to resell those facilities and services to the public at retail, for a profit. This allows competition in the telecommunications industry to begin immediately without waiting for the construction of competitive facilities.

In adopting Rule 4 CCR 723-40 concerning resale, the Commission established the regulations regarding the resale of telecommunications exchange services in Colorado. The rules apply to all certificated telecommunications providers in the State and ensure the nondiscriminatory availability of services for resale in a manner that enhances competition. Specifically, the rules ensure the CLECs that:

(1) U S WEST's tariffs may not impose unreasonable or discriminatory conditions on the resale of its regulated telecommunications services.

(2) Wholesale rates must be set at the retail price that U S WEST charges end-users, adjusted for any marketing, billing, collection, and other costs that will be avoided by U S WEST.



(3) The service quality for wholesale services offered by U S WEST to the CLECs must be offered at the same level of service quality it offers to its own end-users.

(4) U S WEST must offer all of its retail services for resale to CLECs.

c. Local Number Portability (LNP).

Surveys indicate that customers will not switch to a new local telephone company unless they can take, or “port”, their telephone numbers with them. The issue of “local number portability” (LNP), therefore, is viewed by new entrants as a significant factor in the transition to competition.

The Commission’s rules on local number portability, found at 4 CCR 723-34, assist all competitive carriers in keeping up-to-date on the constantly changing developments and requirements in the area of LNP. These developments and requirements, and Colorado’s response to date, are discussed more fully in Section H, Issues Raised by Competition.

d. Universal Service/Colorado High Cost Fund.

HB 95-1335 affirms the importance of ensuring affordable universal basic service to all residents of the State through the Colorado High Cost Fund. However, in a competitive environment, the collection and distribution of those funds becomes more complex. The Commission addressed these issues in its Universal Service Rules, found at 4 CCR

723-41, and specifically made provisions for the CLECs to draw from the Colorado High Cost Fund. They also held statewide workshops to raise the CLECs’ awareness of universal service issues, and to make the cost proxy models available to the CLECs for review.

e. 911 Services.

In the traditional environment, 911 calls were handled by a single integrated local telephone system. Each call was tracked from initial receipt through delivery to the appropriate emergency dispatcher or Public Safety Answering Point (PSAP) in each city, county or district. In addition, the databases containing the name and address associated with each calling phone were maintained by the 911 system. All telephone numbers, including non-listed and non-published numbers, appear in the database for emergency response purposes only, and the manager of each database was accountable to ensure that the privacy of those numbers was maintained in all non-emergency situations.

Concerning 911 emergency access service, the Commission adopted new rules directing how the 911 systems are to be managed in Colorado in the new competitive environment. The rules, found at 4 CCR 723-29, describe how each new carrier is to interface with the 911 infrastructure, and detail the reporting and recovery requirements that must be met when outages occur.

In addition, the 911 rules address the coordination of the databases containing the name and address associated with



each calling phone and all non-listed, or non-published numbers.

f. Certification of Providers.

Certification of telecommunications providers in each local market in Colorado is required so that the State, through the Commission, knows which companies operate in each area, the services they provide, the prices they charge and the business practices they use.

The Commission adopted three sets of Certification rules, found at 4 CCR 723-35, 36, and 37, that streamline the certification process for CLECs in three important ways. They establish a simplified three-step process for certification; define regulations to allow the transfer of service territories among competitive carriers; and reduce the tariff and price list requirement. Each is discussed in greater detail below.

(1) Streamlined Procedures to Obtain the Authority to Provide Local Exchange Telecommunications Service.

In its Rule 4 CCR 723-35, the Commission specified a three-step process that significantly streamlined the certification procedure for carriers desiring to enter the local exchange market. First, a new entrant may obtain a statewide "Certificate to Provide Local Exchange Telecommunications Services" (CPLÉ). This statewide certificate was requested by the CLECs to avoid the repeated paperwork and time delay that would be needed if certification were issued

on a service area basis. Second, the carrier need only apply for "Operating Authority" when it seeks to enter a specific market. This eliminates any expense in the area until a carrier elects to actually begin service. Third, the new carrier, depending on the services it offers, may file either a price list or a tariff, stating the rates it will charge for its services. Both have reduced requirements and are now easier to update or change. Taken together, the "CPLÉ", "Operating Authority", and approved rates constitute a carrier's "Certificate of Public Convenience and Necessity" (CPCN) needed to serve a specific geographic region. This three-step process significantly reduces the barriers to entry into the market for new competitive carriers.

(2) Adopted Rules Regarding Proposals by Local Exchange Telecommunications Providers to Abandon, Discontinue, or Curtail Service.

Because telecommunications service is so critical to individual customers and to society in general, abandonment, discontinuance, or curtailment of service raises serious public interest concerns. The Commission's rules prohibit such action solely at a provider's discretion, but in a competitive environment, it is anticipated that some companies will seek to change their service areas and products as business plans and markets evolve. The Commission developed Rule 4 CCR 723-36 to allow a more fluid analysis and shortened response



time to such changes as carriers request them.

(3) Adopted Rules Regulating Applications by Local Exchange Telecommunications Providers to Execute a Transfer.

When a certificated carrier decides to sell, merge, or in some other manner transfer its business to a second carrier, the Commission's Rule 4 CCR 723-37 provides a straight-forward process in which the carriers need only show that the transfer does not harm the public interest. This encourages the expansion of competitive carriers and keeps profitable service territories open to them.

B. UPDATED EXISTING RULES

In March 1997, the Commission opened an investigative proceeding to review all of its existing rules to **ensure** that they are consistent with the new competitive environment. The PUC requested and received comments from the telecommunications industry concerning needed rule changes. Based upon the input received, the Commission updated specific rules addressing pricing regulation and reporting requirements as follows:

1. Pricing Regulation--Asymmetrical.

The adopted, but not yet effective, rules will be enormously helpful to the new entrants. They adopt asymmetric price regulation, under which many price restrictions will be removed for the CLECs, but retained for the incumbent local exchange carriers (ILECs). This significantly reduces the burden on

companies seeking to enter telecommunications markets in Colorado.

Under the revised rules, each CLEC is still required to file an initial tariff in order to provide the public with a readily available document of the terms and conditions under which the CLEC will offer its services and products. However, no cost or other supporting documentation is required to accompany the tariff. The modified rules permit the CLECs to state their rates in a "price list" format and to make changes to that price list with only 14-days notice. Again, no documentation or other proceeding is required to make the change.

2. Streamlined Reporting Requirements.

The Commission reviewed the reports it requires from the telecommunications carriers in order to determine which reports will continue to be needed in the competitive environment. It also reviewed the most appropriate format and delivery dates for the reports to ensure standardization, fairness, non-discriminatory treatment for the carriers, and to facilitate customer comparisons among the companies. As a result, several reporting requirements will be simplified. For example, certain providers previously were required to submit an entire balance sheet and income statement for their annual reports. Now they submit only nine numbers indicating key information required by the Commission. Similarly, the ILECs were required to file more than ten different reports, each due at a different time during the year. These reports are now considerably reduced in size and are due in April of each year



with the carrier's annual report. These improvements reduce the regulatory burdens on all carriers and the barriers to entry for the new carriers. The Commission is continuing this review on an ongoing basis to ensure that its requirements remain appropriate for the market.

C. CERTIFICATED NEW CARRIERS

Appendix A includes a list of companies that have applied for certification in Colorado as of December 20, 1997. To date, 46 companies have requested certification to provide local telephone service. Thirty-four of the requests have been approved, three have been withdrawn by the applicant for business reasons, and nine are pending. Of the 34 companies with certificates, seven are currently authorized to provide competitive local exchange service: ICG, MCIMetro, TCG, American Communications Services, McLeod Telemanagement, Kings Deer Telephone Co., and U.S. TELCO, Inc.

The certification of TCG and ICG is a specific example of how the Commission has worked with new entrants to facilitate their entry into the local telecommunications market. First, the Commission certificated TCG and ICG by stipulation, avoiding the time and expense of a hearing. In addition, the Commission certificated these two companies before their E-911 equipment was fully operational. To protect the customers of the two companies, the Commission worked with the companies to provide E-911 coverage until they could complete their own systems.

D. IMPLEMENTED PRICING

A key element in fostering competition in the telecommunications market is the pricing of competitive services. Colorado has approached this in three steps: initial interim rates, permanent rates, and specific forms of price regulation. Each is described below.

1. Interim Rates.

Late in the 1996 Legislative Session, the Colorado General Assembly determined, in HB 96-1010, that to begin competition by July 1, 1996, interim rates for services would be needed immediately. The Legislature directed the PUC to take expedited and extraordinary action to ensure that a workable interim pricing structure, subject to "true-up with interest", be in place by July 1, 1996.

Because of the extremely short time frame, the PUC conducted an emergency rulemaking that required U S WEST to file interim tariffs for unbundled telecommunications facilities or functions, interconnection, services for resale, and local number portability. U S WEST did so, but filed the interim tariffs under protest. On June 21, 1996, the PUC adopted the interim rates, effective July 1, 1996, subject to "true-up, with interest". Under this arrangement, it was ordered that, once permanent rates were adopted, the carrier receiving overpayment would reimburse any carrier paying rates above the permanent rates. Conversely, any carrier being underpaid would be reimbursed by the underpaying carrier.

In addition, as the local telecommunications providers established their service rates, and the terms and



conditions by which they were to provide service, the PUC made that information available to the public in the form of tariffs or price lists.

2. Interim LNP Rates.

The Commission opened a docket to finalize the monthly rate charged by U S WEST to forward CLEC customers' calls in the interim LNP environment. This docket set the rate at \$160 per month for an entire telephone exchange. This is a very favorable price for the new entrants and significantly reduced the barrier to entry during the interim period.

3. Permanent Rates.

During Spring 1997, the Commission determined the permanent intrastate discounts for the resale of telecommunications services in Colorado. To calculate the appropriate amount of discount for each service, the Commission adopted an Avoided Cost Model. The retail price of each service, less the discount, is the wholesale price to be paid by the new entrants for that resold service. The level of this discount is critical to competition because it establishes the range of profitability for new entrants. The larger the discount, the lower the barrier to entry.

The discounts adopted by the Commission, as a result of the Avoided Cost Model, appear to have struck a fair, common ground. They were greater than those proposed by U S WEST, but were less than the discount the CLECs requested. They have also withstood national review and are currently being used as a model for other states.

4. Specific Forms of Price Regulation.

Sections 40-15-101, 40-15-302, and 40-15-503(2)(c), C.R.S., allow the Commission to consider specific forms of price regulation, such as price bands, price lists and customer-specific contracts, in specialized markets. To reduce the regulatory burden on competitive carriers under interim pricing, the Commission initially adopted reduced pricing requirements in its Rule 4 CCR 723-38, allowing the carriers, upon request, to file price lists within the established price bands, and to file lower prices for customer specific contracts.

Four carriers applied for and were granted relaxed price regulation. The four were ICG, MCIMetro, MCI Telecom, and USWC Long Distance. Sprint also applied, but later withdrew its application.

Following the permanent rate analysis, the Commission reconsidered the specific forms of price regulation and further relaxed regulations for the CLECs. The Commission eliminated all price constraints and application requirements within statutory guidelines. The new entrants may now set prices wherever they choose, based on their business decisions and consistent with state law. The Commission simply requires an initial tariff to inform the public of the terms and conditions under which the carrier will conduct business. Each carrier's rates are placed on price lists, and changes to the price lists can be made with a simple transmittal letter to the Commission. Changes are effective in 14 days, with no further proceedings required.



E. ENSURED CONSISTENCY WITH FEDERAL LAW

Nine months after the enactment of Colorado HB 95-1335, the U. S. Congress revised the federal telecommunications law to implement competition in local exchange markets. President Clinton signed the revision, known as the Telecommunications Act of 1996 (federal Act), into law on February 8, 1996.

1. Revised Rules for Federal/State Compatibility.

The passage of the federal Act occurred when Colorado's PUC Commissioners and Staff had nearly completed the HB 95-1335 rulemaking process. A full comparison of the two laws was required to ensure that the HB 95-1335 implementation rules were consistent with the requirements of the federal Act. Fortunately, the Commission's rules anticipated the requirements of implementing competition to an extent that only minor changes to the existing rules were necessary. In fact, when the Federal Communications Commission (FCC) issued its detailed rules on interconnection in August of 1996, it recognized the accomplishments of the Colorado PUC in this area. Colorado was one of a handful of states singled out by the FCC as an example for other states to follow in their implementation activities. Many states have, in fact, used Colorado's Working Group process and implementing rules as guidelines for their own states.

2. Adopted Rules to Implement the Federal Act.

While the federal Act did not require significant changes in Colorado's existing rules, its implementation did require the adoption of the following additional rules:

- Procedures for the PUC to mediate and arbitrate interconnection agreements.
- Procedures for approving contracts negotiated by carriers prior to the passage of the Act. The Colorado PUC was one of the first state commissions to do this.
- Procedures for approving contracts negotiated by carriers after the passage of the Act. The Colorado PUC was also one of the first state commissions to do this.

The federal Act did not preempt Colorado's authority to regulate intra-state telephone service, but it did allow telecommunications providers to enter both the interstate and intrastate markets. This has significantly impacted the traditional federal-state division of interstate and intrastate regulatory responsibilities, although the final definition of those responsibilities is still evolving.

3. Established the Intrastate Discount for Schools and Libraries.

The federal Act mandates that carriers provide discounted telecommunications services to eligible schools, libraries and rural healthcare providers. In return, the Act provides that the carriers will be reimbursed for the discounts from a national fund of \$2.25 billion per year. This opens significant new markets for the telecommunications carriers by



providing additional capital to connect these large customers who may not otherwise have been able to afford such facilities. To accomplish this mandate, the federal Act further requires that each state PUC determine the amount of the discount for intrastate services.

Colorado's PUC established these discounts in Summer 1997 in order to ensure timely application by Colorado's schools and libraries for the 1997-98 school year. In addition, the PUC worked with a statewide coalition of schools and libraries to educate school boards and library administrators on these discounts and the process to apply for them. Colorado's PUC was one of first commissions to provide such education.

F. ARBITRATED INTERCONNECTION AGREEMENTS AMONG CARRIERS

Under the federal Act, carriers may negotiate interconnection agreements among themselves. If negotiation is not successful, any party to the negotiation may request that the PUC mediate or arbitrate the agreement.

Arbitration may be requested by a party only between the 135th day to the 160th day after the original request for negotiation was made. The PUC must complete each arbitration within nine months following the *original* negotiation request date.

The Colorado PUC was not asked by any parties to mediate an interconnection agreement. However, in July and August 1996, approximately 135 days following

the February 8, 1996 passage of the federal Act, the PUC received five requests to provide arbitration. Recognizing that these first five would largely determine the structure of telecommunications agreements in Colorado for the next 20-25 years, and in the interest of efficiency, the PUC consolidated these arbitrations and focused its attention on them.

During September and October 1996, the PUC intensively read briefs, heard expert witness testimony, and considered public comment from citizens and other interested parties throughout the State. To date, nine arbitrations have been completed on time and are listed in Appendix B.

G. REVIEWED AND APPROVED SIGNED INTERCONNECTION AGREEMENTS

The federal Act also requires that each interconnection agreement between telecommunications carriers be approved or rejected by the state public utilities commission. The law further limits the time to complete the approval or denial of arbitrated agreements to 30 days following the request and 90 days for negotiated/mediated agreements. The approval/denial process requires extensive review of each agreement by the Commission. Appendix C lists the interconnection agreements that have been approved by the Commission in Colorado as of December 20, 1997.

H. ADDRESSED ISSUES RAISED BY COMPETITION

1. Local Number Portability (LNP).

To address the issues in LNP, the Commission:



- Created a Task Force, now known as the Western Regional LNP Steering Committee, to research options and implement LNP solutions;
- Adopted rules formalizing these solutions;
- Implemented a short-term "call forwarding" plan;
- Actively participated in all nationwide efforts on LNP, including the North American Numbering Council (NANC), appointed by the FCC to foster competition by ensuring competitive neutrality in the assignment and allocation of available telephone numbers;
- Coordinated with other states and the FCC to find a long-term "database" solution; and
- Prepared for implementation of the long-term solution in Colorado by July 1998, consistent with the FCC's LNP schedule.

The most widely-recognized of these actions is the Colorado Commission's proactive creation of a Task Force, comprised of various industry representatives and one member of Commission Staff, and that Task Force's innovative solutions to LNP implementation and management.

The Colorado Commission's approach has since been adopted throughout the 14-state U S WEST service territory and Alaska as the prototype for LNP implementation because the Task Force:

- Used subcommittees to more efficiently focus on the technical, operational, legal, billing/collection, and implementation issues of LNP;

- Was completely guided by the industry's requirements for LNP implementation and operation, and did not try to impose regulated solutions on the issues;
- Designed a plan to meet the FCC's implementation schedule for an interim nationwide "call-forward" solution, and for a permanent solution in the top 100 markets by December 1998.
- Formed a limited liability corporation with industry representatives from Alaska and the other 13 U S WEST states. The corporation selected a single, 15-state LNP Administrator to facilitate implementation and management of the highly technical LNP effort. The corporation is fully industry-operated, with no regulatory members.

2. High Cost Model Development.

A major goal in HB 95-1335 was the maintenance of affordable universal basic service. In Colorado, this is accomplished, in large part, by distributions from the Colorado High Cost Fund (CHCF). Each carrier must contribute to the CHCF, and the PUC is in the process of selecting a cost proxy model to determine the amount each eligible carrier would receive from the CHCF. The two primary models currently being evaluated are the Benchmark Cost Proxy Model (BCPM) and the Hatfield Model. Both currently are being evaluated by the PUC and industry.

3. Confidentiality of Information.

In the previous monopoly environment, methods of handling sensitive commercial



information were established that were acceptable to both the utilities and the PUC. With the advent of competition, however, these methods required review. It was recognized that customers, in a competitive environment, need sufficient information about the performance of each carrier to make informed consumer comparisons and purchase decisions. On the other hand, the carriers justifiably are concerned about protecting their sensitive financial and marketing information from their competitors.

To address these issues, the Commission opened a proceeding in May 1997, took comment from all parties, and is currently in the process of hearings on this matter. Final rules are anticipated in early 1998.

I. PROVIDED INFORMATION AND ASSISTANCE TO THE PUBLIC AND INDUSTRY PARTICIPANTS

The PUC did several things to make Staff assistance and information concerning the new competitive telecommunications environment readily available to the public and industry participants. These included:

- 1. Created an Internet WebSite providing current information helpful to the new entrants and other customers of the PUC. Copies of the Commission's meeting agendas, rules, and all approved telecommunications interconnection agreements are placed on this site for easy access.**
- 2. Established the capability for participants to file certain data electronically.**
- 3. Staff met with new entrants to assist and educate them in completing**

their certification applications, tariff filings and price lists, and in complying with their reporting requirements.

4. Developed an information packet to assist telecommunications carriers in filing applications.

5. Met with the new entrants and the public to discuss their concerns with the implementation of competition and to facilitate satisfactory resolutions to the concerns raised.

J. TRACKED QUALITY OF SERVICE ISSUES TO PROTECT THE PUBLIC'S INTEREST

In other areas of telecommunications where competition has been introduced in the past, such as long-distance services in 1984, certain problems and customer complaints have arisen. Drawing on its knowledge and experience with these issues, the Colorado PUC took a proactive stance in defining areas that may be problems for customers in the new competitive local exchange environment.

In addition, the federal Act requires the incumbent carriers to provide the new entrant carriers with the "same level of service that they provide their own customers." This is important to all new entrants, but is especially critical to resellers.

To ensure that competition does not degrade service, nor impede the level of service guaranteed to the new entrants, the Commission adopted rules or has rulemaking procedures underway to track



the continuing quality of telecommunications service in Colorado. One area of particular importance to the public and the new entrants concerns "slamming". The Commission's actions in each area are described below.

1. Slamming.

"Slamming" is the practice of changing a customer's carrier without the customer's authorization. Consumer outrage over slamming in the competitive long-distance market caused the PUC to anticipate the potential for the problem in the local exchange market. The PUC, therefore, adopted a rule delineating the process for subscribers to authorize a change to a new local service provider, and prohibiting unauthorized changes by local service providers. This assists new entrants in retaining hard-won customers.

2. Problem Resolution -- Carriers' Time to Resolve.

In the previous monopoly environment, Colorado customers complained that the incumbent telephone companies often were slow in responding to customer complaints and service problems. Specifically, customers stated that the companies took too long a time to answer the telephones in their customer service departments, and too long a time to clear the problems once reported.

Acknowledging: (1) the benefit of competition in reducing this problem, (2) the potential for even greater problems with more telecommunications providers, and (3) the importance of prompt problem resolution among multiple interconnected carriers, the Colorado Commission revised some of its service

quality rules to address these complaints in a competitive environment. In particular, the Commission now requires certain reports on quality of service be made on the basis of each wire center or local exchange area rather than on the previous statewide averaged basis.

The statewide average was appropriate when only a few carriers had responsibility for telecommunications service in the State. In that environment, the carrier providing service to an area, and therefore responsible for problem resolution, was known. In a competitive environment, with multiple carriers serving several areas, the Commission's new approach will facilitate more rapid identification of service outages, the carrier responsible to correct each outage, and the comparative responsiveness of the carriers to the problems.

In addition, the Commission implemented a mediation process allowing companies to have the option of mediating their disputes versus using the formal complaint process, which can be lengthy.

IV. CONCLUSION

In the 30 months since the passage of HB 95-1335, the PUC has accomplished all of the essential activities necessary to foster competition in the previously monopolistic telecommunications market. This report provides the details of that work to date, including the extent to which the barriers to competition among telecommunications carriers have been removed in Colorado, and how the burdens placed on companies seeking to enter the telecommunications markets have been reduced.



As competition becomes more established in Colorado's telecommunications industry, the PUC will continue to participate in encouraging its progress and the flow of the benefits of competition to Colorado's citizens.

