

Service Date: February 12, 2018

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

IN THE MATTER OF Maximum) REGULATORY DIVISION
Allowable Rates for Intrastate Operator)
Service Providers) DOCKET NO. N2016.11.90

NOTICE OF COMMISSION ACTION

The 1999 Legislature passed a law to prohibit exorbitant rates for intrastate calls from pay telephones or certain other telephones in commercial establishments and public facilities, placing rulemaking authority with the Montana Public Service Commission (“Commission”). Mont Code Ann. §§ 69-3-1101–1106 (2017). The Commission adopted rules that prohibit an operator service provider (also known as “telecommunications service providers”) from charging more than a Commission-established allowable rate for each category and type of service provided by an operator service provider. The rules allow a provider to request a cost-based allowable rate and identifies several requirements. The allowable rate is established annually by the Commission, and is the average of the intrastate rates charged for each category and type of operator service provider service by AT&T, MCI, and CenturyLink, plus 50%. Mont. Admin. R. 38.5.3401–3440 (2017). In 2016, two of these companies notified the Commission that they no longer provide that type of service in Montana. In a *Notice of Commission Action*, the Commission waived the requirement to set new maximum allowable rates in 2016, leaving the 2015 maximum allowable rates in place and valid through September 30, 2017, and indicating that a separate rulemaking docket would be opened to determine a new method of setting maximum allowable rates for operator services. *See* Notice of Comm’n Action (NCA), Docket No. N2016.8.62 (Sept. 30, 2016).

The Commission opened a separate rulemaking docket to determine a new method of setting maximum allowable rates for operator services. On June 16, 2017, the Commission issued a *Notice of Opportunity to Comment* inviting the public to comment on a series of questions pertaining to operator service providers. The Commission received comments from operator service providers, including Securus Technologies, Inc., CenturyLink QF, and customers.

At a regularly scheduled work session on July 25, 2017, the Commission discussed the rulemaking process and upcoming deadlines. Staff explained their analysis to support their

recommendation that the proposed rulemaking make permanent the current rate caps for non-inmate OSP calls without adjustment, aside from removing the interLATA and intraLATA distinction for per-minute toll charges, and changing the per-minute rate to \$0.67/minute. For inmate OSP calls, staff recommended the Commission adopt the rate caps set forth by the Federal Communications Commission (FCC), and change ARM 38.5.3403 to reference Title 47, Part 64 of the Code of Federal Regulations. The Commission voted to propose rule changes for operator service providers in accordance with Staff's recommendations.

On August 21, 2017, the Commission issued a *Notice of Public Hearing on Proposed Amendment, Adoption, and Repeal*, setting a public hearing in the Bollinger Room at 1701 Prospect Avenue, Helena, Montana, to consider the proposed amendment of Mont. Admin. R. 38.5.3401, 38.5.3403, and 38.53405, the adoption of NEW RULE I, and the repeal of Mont. Admin. R. 38.5.3414. The Notice stated that concerned persons may submit their data, views, or arguments either orally or in writing at the hearing, and that written data, views, or arguments may be mailed or emailed to the Commission and must be received no later than 5:00 p.m., September 21, 2017. On September 15, 2017, the Commission received comments on the proposed amendments from CenturyLink Communications LLC.

On September 19, 2017, at a regularly scheduled work session, the Commission moved to authorize a *Notice of Commission Action* finding an extension of the waiver of Mont. Admin. R. 38.5.3404(2) was appropriate and necessary to remain in place through the completion of this rulemaking to determine a new method of setting maximum allowable rates for operator services. At 1:30 p.m. on September 19, 2017, the Commission held a public hearing to consider the proposed amendment, adoption, and repeal of the operator service provider rules at issue.

Considering the comments received, the testimony at the public hearing, and concerns over the accuracy of the proposed inmate rates in general and particularly to Montana, the Commission finds it appropriate to end the existing rulemaking, and start a new rulemaking. Staff will develop a maximum allowable rate for inmate calling services in Montana to bring to the Commission for discussion and a decision for rulemaking.

BY THE MONTANA PUBLIC SERVICE COMMISSION

BRAD JOHNSON, Chairman
TRAVIS KAVULLA, Vice Chairman
ROGER KOOPMAN, Commissioner
BOB LAKE, Commissioner
TONY O'DONNELL, Commissioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Notice of Commission Action issued on February 12, 2018 in N2016.11.90 was served upon the following, by mailing a true and correct copy, via first class mail, on the 12th day of February 12, 2018, addressed as follows:

Robert Nelson
Jason Brown
Montana Consumer Counsel
111 N. Last Chance Gulch, Ste. 1B
P.O. Box 201703
Helena, MT 59620-1703

_____/s/ Shauna Simpson _____
Shauna Simpson, Administrative Assistant

Email addresses

Robert Nelson
Montana Consumer Counsel

robnelson@mt.gov;

jbrown4@mt.gov;

ssnow@mt.gov;

The TELGEN list (Lyris)

chopfinger@securustech.net;

regulatoryreports@securustech.net;

compliance@telmate.com;

kathi.tarkir@gtl.net;

don.peeler@encartele.net;

jmackenzie@wimactel.com;

stephanie.jackson@ncic.com;

marsha.pokorny@ildmail.com;

Bamabarks@aol.com;

corinna.ortegon@bsgclearing.com;

Customerservice@airustel.com;

ryan@crownphoneservice.com;

vtownsend@paytel.com;

akajstura@prisonpolicy.org;

peter@scott-law.com;

agrady@mt.gov;

daveg@bkbh.com;