Service Date: May 27, 1982

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

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IN THE MATTER of the Complaint of)	UTILITY DIVISION
W. D. MURRAY, JR. (Mountain Bell-)	DOCKET NO . 81.11.106
Directory Assistance Charges .)	ORDER NO. 4907

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PROPOSED ORDER

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APPEARANCES

FOR THE COMPLAINANT:

W.D. Murray Jr., Attorney at Law, 1416 West Gold, Butte, Montana 59701, appearing on his own behalf.

FOR THE RESPONDENT:

J. Walter Hyer, III, Attorney at Law, 600 North Park, Helena, Montana 59601. appearing on behalf of Mountain Bell.

BEFORE:

Calvin K. Simshaw, Hearing Examiner

The Hearing Examiner, having taken evidence and being fully advised in the premises, makes the following Proposed Findings of Fact, Conclusions of Law and Order.

B ACKGROUND

1. On October 20, 1981, W. D . Murray, Jr ., filed a complaint alleging that Mountain Bell's tariff provisions relating to charges for directory assistance calls are unreasonable and unjustly discriminatory as applied to his situation.

2. Mountain Bell filed an answer denying those allegations on December 11, 1981.

3. Following issuance of proper notice a public hearing was conducted to consider the complaint on March 16, 1982, in the Conference Room of the Commission offices at 1227 11th Avenue, Helena, Montana.

TESTIMONY OF COMPLAINANT

4. Complainant, W. D. Murray, Jr., testified that he is an attorney at law practicing in Butte, Montana. Mr. Murray explained that he relocated his business on October 1, 1981 from 27 West Broadway to 54 West Galena in Butte. Mr. Murray had previously been associated with the firm of McCaffery and Peterson at the former address. At the time of the relocation Mr. Murray was assigned two new telephone numbers.

5. Mr. Murray testified that he placed advertisements in the Montana Standard and mailed notices to his existing clients advising of the telephone number change. However, Mr. Murray argued that despite these actions Mountain Bell's directory assistance charging plan would cause his business to suffer.

6. Mr. Murray pointed out that Mountain Bell is not scheduled to publish a new telephone directory in the Butte area until July of 1982. Therefore, Mr. Murray contended that prospective clients would be unable to obtain his business telephone number except from the use of Directory Assistance .

7. Because Mountain Bell's directory assistance charging plan includes the possibility of a charge for such service under some circumstances, Mr. Murray argued that the plan could subject prospective clients to an "economic penalty" when they attempt to acquire his new telephone number. This led to Mr. Murray's allegation that the directory assistance charging plan discriminates against him and his business situation.

TESTIMONY OF RESPONDENT

8. Mr. L. F. Marquardt testified on behalf of the respondent, Mountain Bell. Mr. Marquardt described how Mountain Bell’s current directory assistance charging plan was

considered and approved by the Commission in Docket No. 80.12.100 and Order No. 4786b.

9. Mr. Marquardt sponsored the following exhibits which detail the rationale for implementation of the plan:

(1) Direct testimony of L. F. Marquardt in Commission Docket 80.12.100 relating to Directory Assistance charging.

(2) Rebuttal testimony of L. F. Marquardt filed in Commission Docket 80.12.100 relating to Directory Assistance charging.

(3) Direct exhibits of L. F. Marquardt filed in Commission Docket 80.12.100 relating to Directory Assistance charging.

(4) Transcript of the cross-examination and Commission questioning of L. F. Marquardt in Commission Docket 80.12.100 relating to Directory Assistance charging.

(5) Direct testimony of Montana Consumer Counsel expert Allen G. Buckalew in Commission Docket 80.12.100 relating to Directory Assistance charging.

(6) Transcript of cross-examination and Commission questions of Montana Consumer Counsel expert Allen Buckalew in Commission Docket 80.12.100 relating to Directory Assistance charging.

(7) Mountain Bell briefing of the Directory Assistance charge plan filed in Docket 80.12.100.

(8) Statistics showing terminal gain by district and main plus equivalent main gain inward movement by district for the years 1979 through 1981.

(9) The 1982 Mountain Bell directory publishing schedule.

(10) The Mountain Bell directory assistance cost study submitted within Commission Docket 80.12.100.

10. As described by Mr. Marquardt, the directory assistance charging plan essentially provides that customers are allowed five calls per residence or business line per month to directory assistance at no charge. Further a customer is entitled to request two telephone numbers within each call envisioned by the five-call allowance. Thereafter, a 20¢ charge for each call placed to 1-411 or 1-555-1212 is applicable once a customer has made five calls to Directory Assistance within a month period. The Directory Assistance Service Tariff further sets forth certain exemptions from

the 20¢ charge for visually or physically handicapped persons, hospitals, motels/hotels, and coin telephones.

11. Mr. Marquardt further testified that he personally called the telephone number listed for Mr. Murray's office in the existing telephone directory and was referred to his new telephone number.

12. Administrative Notice was taken of the following: a) the Butte Telephone Directory, b) the Public Service Commission Notice of Hearing in Docket No. 80.12.100 dated May 18, 1981, c) The Mountain States Telephone and Telegraph Company General Exchange Tariff-Montana, Section 41, Directory Assistance Service, First Revised Sheets 1 and 2, and d) pages 61 through 64 of PSC Order No . 4786b, Docket No. 80.12. 100, as the same related to Directory Assistance.

DISCUSSION, ANALYSIS AND FINDINGS

13. The essence of the complaint can be gleaned from the following statement made by Mr. Murray at the hearing:

> The substance of the Complaint is that there is no other place for members of the public to find my business phone number except through Directory Assistance until July, 1982, and, therefore, I feel that unless the Commission had previously discussed and evaluated this type of condition, the Directory Assistance to any new business in Montana whose number is not listed in a published directory, the Directory Assistance charge would be discriminatory and unfair. (Tr. p. 4)

14. The appropriateness of the directory assistance charging plan was indeed thoroughly evaluated and considered by the Commission in Docket No. 80.12.100. Respondent's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7 and 10 reflect just a part of the extensive record that the Commission had before it regarding directory assistance in Docket No. 80.12.100.

15. In summary, the rationale which led the Commission to approve the directory assistance charging plan in Docket No. 80.12.100 was as follows:

a) Directory assistance is a very expensive service to provide and is getting more expensive all the time,

i) 77% growth in directory assistance calls between 1969 and 1979

ii) 152% growth in operator weekly wage rates over the same time period .

b) Evidence indicated that over 94% of the combined residence and business customers were making five or fewer calls to directory assistance per month.

c) Clearly the then existing rate structure was requiring all telephone customers to pay for cost and expense incurred to a large extent for the benefit of a few high volume users.

d) Cost studies indicate that directory assistance usage is significantly price plastic.

e) Under the plan this price elasticity would result in reduced usage and a corresponding $340,069 reduction in annual costs that would otherwise have fallen on all telephone customers

f) Under the plan the twenty-cent charge for each call after five in the month would result in a $216, 864 per month contribution from heavy users towards the cost of providing directory assistance.

g) The great majority of telephone users (more than 94%) would not be affected by the plan except that they would realize a $500,000 per month reduction from what their monthly rates would otherwise have been.

h) The Montana Consumer Counsel did not oppose the plan and in fact recommended that there be a 20¢ charge on all calls to directory assistance.

i) The plan is consistent with the Commission's general pricing philosophy that the identified cost-causer should bear those costs.

16. The substance of Mr. Murray's complaint was previously discussed and evaluated by the Commission in Docket No. 80.12.100. The five-call allowance was specifically built into the plan to cover most of those occasions when a number is not listed in the permanent directory. If a customer incurs a 20¢ charge he does so not because that particular directory assistance request was not listed in the permanent directory but rather because that customer has been identified as a heavy user and is now being asked to contribute towards covering those costs caused by heavy users.

17. Mr. Murray through his cross-examination of Mr. Marquardt implied that the plan should be modified such that there should be no charge under any circumstances when the number requested is not listed in the permanent directory. The Commission finds that such a modification would not be appropriate for the following reasons:

a) Approximately 43% of calls to directory assistance were instances where the number requested was not in the directory; therefore the modification would result in:

i) decreased cost savings by about one-half
ii) decreased revenue generation by about one-half

b) More importantly the need to keep track of whether numbers are or are not listed would cause additional expense in providing directory assistance. Although paid for by all users, this expense would benefit only the heavy users because the majority of telephone customers (94%) would not pay for such calls whether they are identified as nonlisted or not.

c) The increased cost would probably wipe out the benefits of the directory assistance charging plan. The fact that those costs would be necessitated by heavy users would only compound the inequities that existed prior to the implementation of the directory assistance charging plan.

d) The directory assistance charging plan as it now exists was designed not as a penalty for indiscretionary use but rather as a recognition of costs and an assignment of those costs to the cost causer.

18. The Commission finds that no new evidence was presented in this docket to show that the directory assistance charging plan adopted in Docket No. 80.12.100 is unreasonable or discriminatory.

19. The evidence in the record indicates the following concerning Mr. Murray's clients:

a) They had the opportunity to learn Mr. Murray's new number from advertisements and direct notices,

b) If they call the number listed for Mr. Murray in the permanent directory they will be given his new number,

c) If they call directory assistance there is only a one in twenty chance that they will be in a position where they will receive a charge for the call, and
d) If they are charged for the call the "economic penalty" would only be 20 cents.

20. If a person has cause to consult an attorney such as Mr. Murray, a 20 cent charge is insignificant compared to the legal fees that person is about to incur. That charge can hardly be termed an "economic penalty.

21. The 20¢ charge cannot be classified as discriminatory when:

a) It matches the cost with the cost causer, and

b) It is compared to the significant benefits to all ratepayers derived from the directory assistance charging plan.

22. The record does not show that Mountain Bell's directory assistance charging plan is discriminatory as applied to Mr. Murray's situation.

CONCLUSIONS OF LAW

1. The Commission properly exercises jurisdiction over the parties and matters in this case pursuant to Title 69, Chapter 3, MCA.

2. Pursuant to Section 69-3-321, MCA, the Commission is obligated to investigate complaints that the rates, charges or schedules of a public utility are in any way unreasonable or unjustly discriminatory.

3. The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter.

4. Following hearing on the complaint and based upon the record, the Commission concludes that Mountain Bell's directory assistance charging plan as embodied in Section 41, Revised Sheets 1 and 2 of its General Exchange Tariff is not unreasonable or unjustly discriminatory.

ORDER

NOW THEREFORE IT IS ORDERED that the complaint in Docket No. 81.11.106 is DENIED.

IT IS FURTHER ORDERED, pursuant to Section 2-4-621, MCA, that this is a proposed order only. Any party has the opportunity to file exceptions to this proposed decision. Exceptions and supporting briefs must be filed with the Commission within twenty (20) days from the date of service of this proposed order. Briefs opposing exceptions may be

filed within ten (10) days thereafter. Any party may petition the Commission for oral argument within the time allowed for briefs.

DONE at Helena, Montana this 27th day of May, 1982.

ATTEST:

Madeline L. Cottrill
Commission Secretary

(SEAL)

Service Date: February 23, 1982

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

* * * * *

In the Matter of the Complaint of W. D. MURRAY, JR., (Mountain) Bell - Directory Assistance Charges.	)))	UTILITY DIVISION DOCKET NO. 81.11.106

ORDER CONTINUING HEARING

Respondent, Mountain Bell having moved for a continuance of the hearing in the above-captioned matter which was originally scheduled for February 26, 1982; and good cause appearing therefore it is HEREBY ORDERED:

1) The hearing date February 26, 1982 is vacated; and;

2) Hearing in the above-captioned matter is hereby rescheduled for 10:00 a.m. on Tuesday, March 16, 1982, in the Conference Room of the Commission's offices at 1227 11th Avenue, Helena, Montana.

Done this 22nd day of February, 1982.

Calvin K. Simshaw – Hearing Examiner