

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on February 11, 1991,
at 9:12 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Members Excused: Rep. Nelson

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HB 610

ALTERNATIVE REGULATION OF TELEPHONE LOCAL EXCHANGE COMPANIES

Presentation and Opening Statement by Sponsor:

REP. BRADLEY, HOUSE DISTRICT 79, stated this bill would offer an alternative regulation of telephone local exchange companies. It is not a mandatory provision, but is largely enabling. It offers options to the companies and PSC if they so choose. Forbearance is where competition arises for a big company, a regulated provider would be able to request permission to respond to that

competition. What we are trying to do is incentive regulation. The overall goal is to provide incentives in regulation and allow them to encourage companies to become leaner more efficient, keep their prices down, get the most modern in technology. Years ago we used competition as an incentive, now we are allowing regulation to become an incentive to accomplish the same goals.

Proponents' Testimony:

REP. QUILICI, HOUSE DISTRICT 71, Chairman Consumer Counsel, stated there will be some amendments offered to the committee. With those amendments I support this measure. It is about time that we got the telecommunications industry out of the dark ages. With this measure we can move Montana forward in the telecommunications industry and I hope that you will support this measure.

James B. Hayhurst, U S West Communications, gave written testimony in favor of HB 610. EXHIBIT 1

Dennis Lopach, Attorney - U S West Communications, stated he will take the committee through some amendments that were negotiated after the bill was introduced. EXHIBIT 2 & 3. U S West met with representatives of the Public Service Commission, Montana Consumer Council, MCI, Telecommunications Resources Inc., and we all worked together to come to an agreement on the amendments.

Clark N. Spranget, Business Manager/Financial Secretary, Local 206 - Internal Brotherhood of Electrical Workers, gave written testimony in favor of HB 610. EXHIBIT 4

Howard Ellis, Chairman of the Montana Public Service Commission, gave written testimony in favor of HB 610. EXHIBIT 5

Bob Nelson, Montana Consumer Counsel, stated this bill does not express a preference for any particular form of alternative regulation or alternative regulation in general. It gives the commission the authority to consider those kinds of proposals. We do support the concept of giving the commission the authority to consider those proposals they find appropriate. Our support for this bill is contingent on accomplishing that permission authority be in a fair and equitable manner. That is the law we were working on in regard to several of the amendments. Some of the highlights of the amendments are important in that they place some limitations on de-tariffing non-competitive services. This bill does not represent the most desirable form of the bill from any single party's perspective but it does represent, with the amendments, an acceptable compromise.

Rex Manual, self, gave written testimony in favor of HB 610. EXHIBIT 6

Gail Garey, MCI, stated we support this bill as amended. We

strongly support the amendments and think they provide the necessary safe guards necessary to consumers and the companies.

Cathy Brightwell, AT&T, stated they recognize the need for a authority transmission for a regulated telecommunications system. House Bill 610 provides further incentives to that end. We believe, this bill, as amended, will serve to enhance competitive growth and technological advances in Montana.

Patrick Hogan, Telecommunication Resources Inc., stated this bill as amended verifies Montana Telecommunication Act. It gives the public service commission the authority to put alternatives to standard forms.

Gene Phillips, Northwestern Telephone Systems, stated we support this bill. We like the option aspect and flexibility it provides. We appreciate this bill and its affects.

Opponents' Testimony:

John Driscoll, Public Service Commissioner, stated he is against this bill because it gives so much power to the Public Service Commissioners. He asked the committee to ask themselves how would it be possible for a regulator under any scenario to determine that the regulated utilities is making too much money if they are not able to compute the rate of return on the investment. If the voters knew this bill was to deregulate the telephone companies, I feel that would be against it.

Questions From Committee Members:

REP. GOULD asked **Mr. Hayhurst,** in regards to the local area, the senior citizen or handicapped person homebound with the only reach to the outside world is the telephone. Will there be an option for that person to have monthly flat rate charge from local calls the way they do now after the 5 year period is up? **Mr. Hayhurst** said in the filing before the commission that describes our plan US West proposed to freeze local rates, the ones we just talked about, which would include both the flat rate local calling as well as the major rates. Both of those will be frozen for the 5 years of the plan. We project the rates to be lower after the 5 years unless setbacks occur that are not foreseen.

REP. BROWN asked **Consumer Counsel Staff** If the consumer council has this kind of veto authority any place else right now? **Robert Nelson,** said not that he was aware of.

REP. BROWN asked **Mr. Driscoll** if he was saying don't give the commission anymore power and responsibility because we don't need it and don't want it? **Mr. Driscoll** said it is in the consumers best interest not to give us the added authority they should keep a bit of a leash on us. There is a lot of pressure with commissioners against commissioners.

REP. JOHNSON asked Mr. Ellis what was the vote on the commission to have you support this legislation? Mr. Ellis said it was 2 to three.

REP. JOHNSON asked Mr. Nelson what other things he would like to see in the bill. Mr. Nelson stated they were satisfied with the bill as it is after many long hours of compromise to come up with the amendments given to the committee.

Closing by Sponsor:none

HEARING ON HB 464
ELECTION OF CITY & MUNICIPAL JUDGES AT STATE GENERAL ELECTION

Presentation and Opening Statement by Sponsor:

REP. CROMLEY, HOUSE DISTRICT 94, stated this bill makes all superior court judges election the same year. I suggest that the original support of this bill might move to quickly table.

Proponents' Testimony:none

Opponents' Testimony:

Mike Stevens, Montana Clerk and Recorders Association, stated we are opposed to this bill. There are several features that certainly make poor systems out of 50% of the counties. I suggest you table this bill also.

Shelly Laine, City of Helena, we oppose HB 464.

Questions From Committee Members:none

Closing by Sponsor:none

EXECUTIVE ACTION ON HB 464

Motion: REP. BROWN MOVED HB 464 BE TABLED. Motion carried unanimously.

HEARING ON HB 467
PROVIDE CRIMINAL PENALTY FOR CARRYING GUNS OR DRUGS ON TRAINS

Presentation and Opening Statement by Sponsor:

REP. LEE, HOUSE DISTRICT 49, stated this bill specifies with the code, certain problems that BN is having on their northern route dealing with people getting on the train often carrying firearms and the transport of narcotics. EXHIBIT 7

Proponents' Testimony:

Pat Keim, Director of Public Affairs, BN Railroad, stated this bill is a product of concerns of a situation that has been going on in the State of Montana. It involves the safety of the public in general but also the consideration and safety of our employees. We have seen increasing incidents of both the possession of weapons and controlled substances by people who are travelling illegally on the railroad. This bill will help us to deal with these people. We urge you give this bill a do pass.

Mark Stolen, Havre Police Department, stated there has been an increase in the amount of transport of drugs and guns on the railroad. By passing this bill and making it illegal to transport these types of goods on the train will give us the added tool we need to keep this under control.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. LEE stated we need this legislation to tighten up the fight on drugs here in Montana. I would hope the committee would give this a do pass.

HEARING ON HB 428

STATE PRISON SENT. SERVED IN PLACE OR PROGRAM DEPT INST CHOOSES

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE GOULD, HOUSE DISTRICT 428, stated this bill has nothing hidden in it. This would remand the person and would not take away any time from what their sentence would be. They would be remanded to the department of institution. One thing good about this, is if they 100 people out there that need to be put in a prison with only 52 beds, it would be beneficial in this aspect.

Proponents' Testimony:

REP. BOB THOFT, HOUSE DISTRICT 63, stated he supports this bill. This would be an alternative for the department to handle these people. It gives them the flexibility to put these people in the appropriate settings.

REP. KASTEN, HOUSE DISTRICT 28, stated felony offenders are now sentenced to the Montana State Prison or the Women's correctional Center. The committee showed that a review of the admission in the recent year revealed a substantial portion of the admissions had been sentenced to two months before parole eligibility or even discharge. This bill would allow the department to send these people to a correction facility. I hope you will consider this bill and give it a do pass.

Dan Russell, Administrator - Division Corrections, stated he is in support of HB 428. In the past ten years there have been a

number of major changes that occurred in the Montana corrections systems. This bill goes with the changes we have made and will also lessen our overcrowding problem in the Montana State Prison and Women's Correction Facility. He entered a letter from the Office of the County Attorney in Flathead County. **EXHIBIT 8**

Ed Hall, Montana Board of Crime Control, stated they are in support of this bill. The key word that has been used is "flexibility". Flexibility needs to be built into our correction system. We would ask the committee to give this bill a Do Pass.

Opponents' Testimony: none

Questions From Committee Members:

REP. RICE asked Mr. Russell if he was correct in his understanding the person can object to the decision of putting him in a correctional center but that it won't necessarily change it? Mr. Russell said the bill gives us the authority to use some of the least restrictive alternatives that this intensive supervision programs offers. You are right, it only provides for notification. We cannot override the decision of a judge.

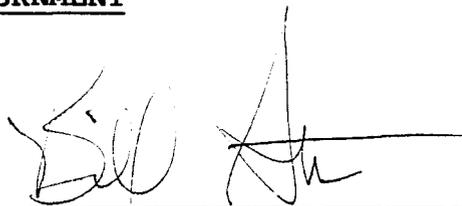
REP. MEASURE asked Mr. Russell if this will put the department in the position where they are limiting them to where they will be placed? Mr. Russell said he doesn't know that it will. We have not been a position to have to do that with our prerelease placements other than policy. It wasn't contemplated that we would have to establish rules under the administrative procedures act.

Closing by Sponsor:

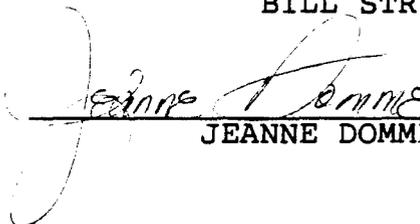
REP. GOULD stated this bill will help with the jail overcrowding problem we are now experiencing. This is an important piece of legislation and I would ask the committee to give it a do pass.

ADJOURNMENT

Adjournment: 11:49 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 2-11-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

EXHIBIT 1
DATE 2-11-91
HB 610

Testimony in Support of HB 610

Good Morning. My name is Rex Manuel. Although I am lobbying this legislative session I am appearing this morning not on behalf of my principal but as an individual. I am appearing here today to support Rep. Bradley's bill and to support the amendments that Rep. Bradley has offered. These amendments are the result of long hard negotiations between all the players in the telecommunications industry, the Montana Consumer Counsel and the Public Service Commission.

During 1990 I had the opportunity to serve for six months as a Commissioner on the Public Service Commission. Although I certainly don't consider myself an expert in ratemaking or telecommunications I think I can offer this Committee some insight on how the Commission works and why this bill is needed.

There is a great debate going on in this country on the proper way to regulate telephone companies in the new telephone business environment where the old monopoly is crumbling. I support this bill because it gives the Commission the authority to look at different ways of regulating companies like US West but does not mandate any change. Changes of this magnitude require a great deal of study and the appropriate place to do this is at the PSC where the burden of proof will be on the telephone company and consumers and competitors will have an opportunity to present their views.

My experience as a regulator convinces me that the process and the personalities at the Commission will insure that no alternative regulatory program will be implemented unless the Commission is fully convinced that the public interest is furthered by making a change.

While I was at the Commission US West proposed an alternative plan for regulation that included plant modernization and a 5 year freeze of basic exchange rates. It was the Commission's opinion that without statutory changes that they would not have the legal authority to adopt the plan even if they wanted to do it.

Rep. Bradley's bill is permissive legislation that would allow the PSC to adopt this plan or a similar one. With the proposed amendments there are added statutory safeguards for consumers and the industry as a whole. I urge passage of HB 610.

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EXHIBIT 2
DATE 2-11-91
HB 610

Testimony of:

James B. Hayhurst, U S WEST Communications

In support of House Bill 610

Before the House Judiciary Committee

February 11, 1991

Mr. Chairman and members of the Committee, my name is Jim Hayhurst and I am Director of External Affairs for U S WEST Communications for Montana. I live in Helena. I am appearing today on behalf of U S WEST in support of HB 610.

I will provide a copy of my testimony, a glossary that may be useful in defining certain terms and concepts we'll discuss this morning and a couple of newspaper clippings about our plan.

As Representative Bradley has stated, the Montana Telecommunications Act of 1985 was the first step to enable telecommunications providers, and in turn, our customers, to take advantage of the increasingly rapid changes occurring in our industry, particularly since the divestiture of AT&T in 1984.

Now six years later even more changes and developments have occurred, and the bill before you attempts to provide the flexibility necessary to address the evolving nature of our industry. Similar provisions have been adopted in 30 states and several more are considering these kinds of changes.

Section 2 (pages 2-4) covers the key focus of this bill -- Alternative Forms of Regulation. What this means simply is the ability of the Public Service Commission to consider alternatives to traditional rate of return regulation, which was developed early in this century for firms operating in the utility industries.

James B. Hayhurst -- Page 2

Under traditional rate of return regulation, U S WEST is entitled to recover its costs and to earn a just and reasonable return or profit on its investment in Montana. The primary vehicle for this process is the rate case. This regulatory method is time consuming, fails to promote operational efficiency and simply was not designed to address the rapid changes occurring in the industry - particularly new and competitive services. A very real result is that useful services are not available to customers as quickly as they might be.

The need for legislation similar to HB 610 became very apparent last year when we proposed a Montana Network Improvement and Rate Stability Plan with the Public Service Commission. This proposal, which seeks an Alternative Form of Regulation, included the following provisions:

Rates for basic residence and business exchange services would be frozen for five years.

An earnings range is established. If U S WEST earns above the authorized range, Montana customers and the company would share earnings equally. To determine sharing, an annual financial review process will replace costly and contentious rate cases. With Basic Service rates frozen, improved earnings would come from reduced costs, new services and better marketing of existing services.

With approval of this plan, U S WEST will invest more than \$90 million over the next five years to upgrade older switching offices in 113 smaller towns to new digital technology.

James B. Hayhurst - page 3

The program would upgrade long distance lines in the state to digital facilities, including fiber optics. This project would ensure that by 1995 all Montana residents would benefit from the availability of a modern telecommunications infrastructure, an infrastructure that is necessary to both business operations and consumer activities.

The plan before the Commission will protect basic service customers through the five-year price freeze. It can help deliver new and useful products through the Network Improvement program and the improved flexibility to introduce and market services. And it ensures -- through the profit sharing provisions -- that if the company can increase efficiency and market more effectively, customers will benefit directly from that improved performance.

The PSC legal staff has, however, questioned whether existing statutes empower the Commission to approve such a plan. This bill will remove all doubts.

Section 1 (page 2) simply expands the purpose clause of the 1985 Act to remove any question that the PSC can approve alternate regulation for providers of regulated services.

Section 2 (pages 2-4) is a new section spelling out the PSC's powers regarding alternative regulation, and the procedures by which these plans are to be considered.

Alternatives may include some form of price caps, or the sharing of revenues or profits between customers and the company.

James B. Hayhurst - page 4

The PSC has nine months to consider a petition by a provider. It can approve the original or a modified plan if it meets certain standards, including a finding that fair, just and reasonable rates will result.

Section 3 (page 4) is amended to allow for more flexible pricing of some regulated services. Under the 1985 Act, detariffing -- or flexible pricing -- could be approved only after a service-by-service demonstration that competition exists. This demonstration can be complicated and it can lead to considerable debate about how much competition exists and how much is enough to satisfy the language of the 1985 Act.

The amendment will allow the PSC to detariff services if it finds this action consistent with the Act's purposes and the public interest. All detariffed prices must be above relevant costs. Rates could be changed with routine notice to the Commission. Services that would be considered for detariffing will be competitive, discretionary or ancillary to primary telephone use. The Commission retains complaint oversight for these services.

Subsection 5 of this section (page 6) adds language that independent companies wanted with regard to de-averaging of toll rates. This language requires long distance providers to charge the same rates for the same distance call, regardless of where the call originates. In other words, a 90-mile call from Great Falls to Helena would cost the same as a 90-mile call from Wyola to Forsyth.

Amendments to Section 4 (pages 8-9) address the "forbearance" provision of the 1985 Act.

James B. Hayhurst -- page 5

Forbearance is a customer-by-customer approach to detariffing. If a regulated company finds that one of its customers is considering a switch to another carrier, it can ask the PSC to permit the offering of a non-tariff price in an effort to compete for the customer's continued business. The forbearance procedure has been used most frequently with large toll customers, that is, large businesses that make many long distance calls.

The amendment says that if a regulated provider shows that a customer has asked for prices from firms that have tariffs or price lists for similar services on file with the PSC, the Commission may treat the situation as competitive and permit the applicant to offer a detariffed price.

Section 5 (pages 9-10) is a new section dealing with new services and withdrawal of services. A provider will give appropriate notice of its intent to offer a service. The Commission may then consider whether it agrees that the service meets all the requirements. It may act to require a hearing, or choose to do nothing, giving the provider the green light to begin offering the service. New services can be offered on a detariffed basis, and must be priced above relevant costs.

For the first time, procedures are written into the law for the withdrawal of services. Thirty days notice is given to the PSC that a service will be terminated, and the Commission has the option of requiring a hearing.

In Section 6 (pages 11-12), the "filed rate statute" which requires that utilities charge the rates on file with the PSC, is amended.

James B. Hayhurst Testimony -- page 6

The new provision expressly permits rebates in conjunction with revenue or profit sharing plans. Additionally, providers are permitted to offer, for a limited period, rebates in conjunction with promotions and market trials. The PSC is permitted to consider complaints and to formulate rules to define the scope of promotional campaigns.

The bill before you is a result of an intense negotiating effort by U S WEST Communications and parties who have an interest in telecommunications. A great deal of work has occurred in the last couple months to involve interested parties and to incorporate their ideas into this bill. That work has continued even beyond the introduction of the bill and our attorney, Dennis Lopach, will take you through some amendments that we ask you to consider favorably.

I will not suggest that this bill precisely satisfies the interests of everyone involved. But all our efforts have been done in good faith and good compromise. The result, we believe, is an excellent bill which will clarify the Public Service Commission's authority to deal with the rapidly changing telecommunications industry.

This is a permissive bill. But it allows the Commission to adopt regulatory changes that can benefit Montanans through the 90s and beyond. We ask for your support.

Jim Hayhurst
U S WEST Communications
House Judiciary, 2-11-91
HB 610

HOUSE BILL 610 - GLOSSARY

Carrier Access Services:

Carrier Access is provided by a Local Exchange Company when it provides for long-distance companies to reach local customers through its local telecommunications network. Basically, switched access provides a transmission path between a customer and a long-distance company so the customer can initiate a long-distance call or a long-distance company can complete a call to the customer.

Deaverage:

This is a pricing structure for long-distance services in which the price of a call which travels the same distance is priced differently because of such variables as the availability of other services and the cost. For example, calls placed over high-volume, low-cost routes could be priced less than calls placed over low-volume, high-cost routes.

Detariff:

A regulatory action which permits a specific service to be offered at prices which are not specified in a rate schedule (tariff) filed with and approved by the Public Service Commission. The prices charged to customers for these detariffed services are on file with the PSC as "price lists." The service remains under the jurisdiction of the PSC and the revenue received are included in the PSC's review of the provider's earnings.

Forbearance of Regulation:

A procedure by which a provider of a regulated service may request permission to respond to a competitive situation with a price other than the tariffed rate.

Message Telecommunications Service:

The industry term for long-distance service.

Tariff:

A schedule of specific rates to be charged by a regulated provider for a particular service. All regulated telecommunications services are offered to the public at tariffed rates and any changes must be approved by the PSC.

Universal Service:

A long standing public policy and service goal of both the telephone industry and regulatory agencies to make basic telephone service available to the greatest number of people possible at affordable prices.

NEWSPAPER TV
 RADIO OTHER

MGR. NEWS

CITY: <u>Great Falls</u>		NAME OF NEWSPAPER, RADIO/TV STATION OR OTHER MEDIA <u>Great Falls Tribune</u>	
DISTRICT		PAGE OR TIME <u>page 3 - C</u>	DATE APPEARED <u>June 14, 1990</u>
STATE <u>Montana</u>		STORY THEME (Check Only One)	
<input type="checkbox"/> POSITIVE <input type="checkbox"/> NEUTRAL <input type="checkbox"/> NEGATIVE		<input type="checkbox"/> CONSUMER <input type="checkbox"/> MARKETING <input type="checkbox"/> SERVICE <input type="checkbox"/> TECHNOLOGY <input type="checkbox"/> LEGISLATION <input type="checkbox"/> RATES <input type="checkbox"/> OTHER _____ (I.E. FINANCIAL, LABOR, PERSONNEL, CITIZENSHIP, ETC.)	
CO. POSITION INCLUDED? YES _____ NO _____			

Phone firm files for 5-year rate freeze

HELENA (AP) — US West Communications Wednesday filed a request with the state Public Service Commission to freeze basic service rates for five years and to spend nearly \$80 million on new digital switching offices and long-distance facilities in 112 of Montana's smaller communities.

What Montana Vice President George Ruff called a "new regulatory approach" would give the utility an 11 percent to 12.5 percent rate of return. If the company earned more than 12.5 percent, profits would be shared 50-50 with customers.

Ruff said in the PSC filing that the plan, which could begin in 1991, "includes a rate freeze for residence and business access services such as basic local service.

"We believe the ability to keep rates stable and to offer new and useful services will be of real benefit to our customers," he said.

The earnings range would be reviewed in 1993, and the company could file for higher rates if earnings fell below the range for a year.

Ruff said the plan included three limited exceptions to the freeze. But he added that the company does not expect "frozen" rates to change

through most of the plan's five-year life.

He said that "if we manage our business effectively, the plan allows us to earn more than we might have under traditional regulation."

Exceptions to the rate increase, with PSC approval, would be PSC-approved depreciation changes, accounting changes for benefits paid to US West retirees and other PSC actions that would affect the company financially.

Now that US West has upgraded equipment in the state's larger cities, "we believe we have a plan that will allow us to finance the investment needed to bring this digital technology — and the service it provides — to customers in the rest of the state," Ruff said.

The largest community to get upgraded facilities would be Havre, and the smallest would have about 100 customers, said US West spokesman Russ Cravens.

"A myriad of options in telecommunications are not available to the smaller communities, such as call forwarding and three-way calls," Cravens said.

If the plan is approved by the PSC, the company would begin a five-year construction program to install

112 state-of-the-art digital switching offices in the smaller communities, the filing said. In addition, the company would complete a totally digital long-distance network to improve service to all Montana communities.

"We're excited about the potential to upgrade our customers' service through this accelerated improvement plan," Ruff said. "Government leaders, economic development officials and customers are increasingly convinced that a modern telecommunications network is important to business growth and new jobs in Montana."

Ruff said that regulatory commissions around the country are implementing similar regulatory approaches. He said more than half the states and the Federal Communications Commission have adopted new forms of regulation.

Cravens was asked if, after five years, the company would file for a big rate increase because the construction program would have increased the basis for its rate base.

Cravens said that, because of depreciation of older equipment, "I don't see that we're looking at any balloon rate hike at the end of five years."

REMARKS:

Exhibit # 2
OR 2/11/91 HB 610

- NEWSPAPER TV
 RADIO OTHER

MGR. NEWS

CITY <i>Butte</i>	NAME OF NEWSPAPER, RADIO/TV STATION OR OTHER MEDIA <i>The Montana Standard</i>	
DISTRICT	PAGE OR TIME <i>p87</i>	DATE APPEARED <i>Dec 5</i>
STATE <i>Montana</i>	STORY THEME (Check Only One)	
<input type="checkbox"/> POSITIVE <input type="checkbox"/> NEUTRAL <input type="checkbox"/> NEGATIVE	<input type="checkbox"/> CONSUMER <input type="checkbox"/> TECHNOLOGY <input type="checkbox"/> OTHER	<input type="checkbox"/> MARKETING <input type="checkbox"/> LEGISLATION <input type="checkbox"/> SERVICE <input type="checkbox"/> RATES
CO. POSITION INCLUDED? YES _____ NO _____	(I.E. FINANCIAL, LABOR, PERSONNEL, CITIZENSHIP, ETC.)	

US West seeks rural improvements, rate freeze

By Kevin McRae
Standard State Bureau

HELENA — US West Communications intends to ask the 1991 Legislature to change state law to allow the company to boost profits and improve rural phone services, while freezing basic service rates for five years.

The company's proposal has not yet been approved by the state Public Service Commission, which is considering whether state utility regulators have legal authority to approve US West's requests.

Regardless of the PSC's actions, the company is drafting a bill proposing to change regulation laws in a way that would increase profits and allow \$80 million worth of phone improvements during the basic rate-freeze period, US West spokesman Russ Cravens said Tuesday.

Meanwhile, a PSC attorney told commissioners in a meeting Tuesday that he doubted US West's entire request could be granted under current laws the commission must follow.

Despite their apparent disagreement, Cravens and PSC attorney

Chuck Evilsizer said in separate interviews that they hope US West and the state agency can cooperate to reach a settlement soon.

US West filed its original request in June, proposing to freeze basic phone service rates for five years and to spend about \$80 million on new digital switching offices and long-distance equipment in 112 of Montana's smaller towns.

The request also proposed a new regulatory system that would give the company an allowable rate of return ranging from 11 percent to 12.5 percent. Under the earning-sharing plan, if US West earned

more than 12.5 percent, the profits would be shared 50-50 with customers.

US West intends to file a second request later this month, which will resemble the June proposal but will include more cost studies and financial information, Cravens said.

Evilsizer questioned the PSC's legal authority to grant the request, citing laws against "retroactive rate making" and "pre-approval" among his reasons.

State laws for setting rates prohibit backward adjustments such as the profit-sharing plan proposed by US West, Evilsizer said.

Rates are required to be set in advance without variations, he said, adding that a recent Illinois court decision struck down a similar plan by a telephone company in that state.

The plan to finance the \$80 million in improvements also could violate laws against pre-approval, requiring that utility improvements be in place and operating before a company can recover the costs in its rates, Evilsizer said.

Cravens said US West did not ask for pre-approval, rather, "We're saying that this proposal would give us the opportunity to finance these

improvements and provide rate stability."

Cravens said several states are adopting alternative regulation methods to keep up with changes in technology and the economy.

Traditional regulation methods, in which government regulators determine a company's allowable profit, were devised to help manage consumer interests when monopolies dominated business, he said. A new system is needed because of new technology and increasing business competition that has emerged within the past 10 years, Cravens said.

REMARKS:

House Bill No. 610
Introduced Copy

1. Page 3, line 23.
Following: "interest;"
Strike: "and"
Insert: "(f) will enhance economic development in the state;
(g) will result in the improvement of the telephone infrastructure in the state; and"
Renumber: subsequent subsection
2. Page 4, line 9.
Following: "regulation"
Strike: "."
Insert: "; or the Consumer Counsel may object to the proposed order."
3. Page 4, line 10.
Following: "withdrawn,"
Insert: "or the Consumer Counsel objects to the proposed order,"
4. Page 5, lines 15 and 16.
Strike: lines 15 and 16 in their entirety
Renumber: subsequent subsections
5. Page 5, line 21.
Following: "part."
Insert: "For all services detariffed under this subsection, the provider must maintain a current price list on file with the commission and must provide notice of changes to the price list as prescribed by the commission."
6. Page 6, line 17.
Following: (2)
Insert" (c)
7. Page 6, line 18.
Following: "to"
Strike: "the"
Insert: "any"

8. Page 6, line 20.
Following: "interest."
Insert: "Non-competitive local exchange access to end-users and"
Strike: "Carrier"
Insert: "carrier"
9. Page 7, line 3.
Following: "other discounts"
Insert: "or discounts in promotional offerings"
10. Page 7, line 4.
Following: "manner"
Insert: "."
Strike: remainder of lines 4 through 5 in their entirety
11. Page 7, lines 13 through 16.
Strike: subsection (7) in its entirety
12. Page 8, line 25.
Following: "customer"
Insert: "or potential customer"
13. Page 9, line 4.
Following: "the commission"
Strike: "shall"
Insert: "may"
14. Page 9, line 11.
Following: "tariffs"
Insert: "or price lists"
Following: "file"
Strike: "and approved by"
Insert: "with"
15. Page 9, line 17.
Following: "Thereafter,"
Insert: "for the term of the contract,"
16. Page 9, line 20.
Following: "tariffs"
Insert: "or price lists"
Following: "file"
Strike: "and approved by"
Insert: "with"

17. Page 9, line 25.
Following: "provide"
Strike: "the commission with"
Following: "notice"
Insert: ", in the form prescribed by the commission,"
18. Page 10, lines 1 through 3.
Following: "customers"
Insert: "."
Strike: the remainder of lines 2 and 3 through
"provide" on page 10, line 3.
Insert: "The notice shall include"
Following: "service"
Insert: ", a minimum price,"
19. Page 10, lines 4 through 9.
Following: "offered."
Strike: the remainder of line 4 through "service" on
page 10, line line 9
Insert: "At the end of a 10 day comment period for
interested parties, the commission may immediately
approve, suspend, or disapprove the new service
offering. The commission may, in the alternative,
allow the interim introduction of the service
pending a hearing, at a later date."
20. Page 10, line 10.
Following: "of"
Strike: "14"
Insert: "30"
Following: "days"
Insert: ", following issuance of notice,"
21. Page 10, lines 12 and 13.
Following: "basis"
Insert: "."
Strike: "and must be priced above relevant costs."
22. Page 10, lines 16 and 17.
Following: "public"
Strike: the remainder of lines 16 and 17

23. Page 10, line 18.
Following: line 17
Insert: "For purposes of this section, "new service"
means any service introduced separately or in
combination with other services which is not
functionally required to provide local exchange
service or which is not a repackaged current
service or a direct replacement for a regulated
telecommunications service."
Renumber: subsequent subsection
24. Page 10, lines 23 through 25.
Following: "hearing."
Strike: the remainder of lines 23 through 25
25. Page 12, line 4.
Following: "offer"
Insert: ", for a limited period of time,"
26. Page 12, lines 7 through 10.
Following: "practices."
Strike: the remainder of line 7 through "cost-
effective." on page 12, line 10.
Insert: "Promotional pricing of services that remain
fully tariffed requires advance approval of the
commission. No promotional offering will combine
monopoly services with competitive services."
27. Page 12, line 12.
Following: "complaints."
Insert: "The commission may determine whether a
particular sales activity under this subsection is
unfairly discriminatory or is not cost-effective.
Costs and expenses incurred or revenue foregone
with respect to sales activities which the
commission determines are unfairly discriminatory
or not cost-effective shall be the responsibility
of the provider's shareholders in rates set by the
commission."

28. Page 12, line 17.

Following: "contracts."

Insert: "NEW SECTION. Section 7. Costs and complaint jurisdiction. (1) Prices charged for any regulated telecommunications service shall be above relevant costs unless ordered by the commission. If the commission determines that a price is below relevant costs, it may ensure that shareholders and not ratepayers are responsible for any relevant costs not recovered through prices.

(2) With regard to competitive services, the term "relevant costs" includes the price for any components which are used by the telecommunications provider and which would be essential for alternative providers to utilize in the provisioning of such competitive services, pursuant to commission-approved methodology."

(3) The commission has jurisdiction to consider complaints and to initiate investigations to determine whether the price charged by a provider of regulated telecommunications service is above relevant cost. Additionally, the commission may consider complaints that any pricing or promotional practice violates any provision of this title."

NEW SECTION. Section 8. Rule-Making Authority. The commission may adopt rules to implement this act."

Renumber: subsequent sections

29. Page 12, line 25.

Following: "2"

Strike: "and"

Insert: ", "

Following: 5

Insert: "and 7"

30. Page 13, line 24.
Following: "2"
Strike: "and"
Insert: ", "
Following: "5"
Insert: "and 7"

House Bill No. 610

Introduced Copy

- 8A. Page 6, lines 21 and 22.
Following: "detariffed."
Strike: the remainder of line 21 and line 22

EXHIBIT 4
DATE 2-11-91
HB 610

52nd Legislature

LC 0576/01

STATEMENT OF INTENT

House Bill No. 610

A statement of intent is required for this bill because the Public Service Commission is granted rulemaking authority in Section 6 to "define the appropriate scope of promotions, rebates, and market trials." The legislature intends that the Commission adopt rules that permit reasonable flexibility to providers of regulated telecommunications services in the marketing of their services.



LOCAL 206 IBEW

Clark N. Spranget
Business Manager

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P.O. Box 5654
Helena, Montana 59604

Feb 09, 1991

Representative William Strizich
Chairman, Judiciary Committee
House of Representatives

Representative Jim Rice
Member, Judiciary Committee
House of Representatives

Dear Sirs:

It is not possible for me to appear at the scheduled hearing of HB 610, Monday, February 11, 1991, as I must be in Missoula because of a medical problem in my family.

I had planned to attend this hearing in support of HB 610.

I am currently Business Manager/Financial Secretary, Local 206 of the International Brotherhood of Electrical Workers (IBEW). Just this past summer members of Local 206 and myself worked very hard with local city, county and state officials, as well as our Federal delegation and management to retain or expand the Network Operations Center here in Helena. We were successful in that endeavor.

Today this center employs 43 people and is forecast to grow to 81 employees in the future. The center monitors the workings of the telephone network in Montana, Wyoming and soon to add Utah. As you might guess, this center could be located anywhere. While we think our Montana membership can do the work better than workers in any other state, there are only so many jobs to go around. Also, the center is designed to monitor the operations of modern digital switching offices and facilities that the US WEST Communications' modernization plan calls for. So, I worry about keeping a high tech center in Montana if we don't go forward with building the high tech telephone network that I hear Montanans say they want.

In closing, I strongly support HB 610. I feel the legislature should provide the Public Service Commission with clear authority to consider and approve a modernization plan for the betterment of all Montanans.

I thank you for your support and I ask that my comments be entered into the record.

Respectfully submitted,

Clark N. Spranget
Clark N. Spranget

EXHIBIT 5
DATE 2-11-91
HB 610

EXHIBIT 6
DATE 2-11-91
HB 610

PUBLIC SERVICE COMMISSION TESTIMONY
IN FAVOR OF HB 610
February 11, 1991

I am Howard Ellis, Chairman of the Montana Public Service Commission. I am appearing here today to speak on behalf of the Commission in favor of HB 610 with the amendments offered by Representative Bradley.

This Bill is important for a number of reasons. First, there is some uncertainty as to the PSC's power to approve alternative forms of regulation for telephone companies under current law. This Bill will empower the PSC to approve price caps, earnings-sharing plans and other alternative types of regulation which have already been implemented in many other states. These plans can increase the efficiency incentives of telephone companies, reduce regulatory costs, increase technological innovation, increase economic efficiency, result in sharing of earnings with ratepayers and modernization of the telecommunications infrastructure, and increase economic development in the state.

This Bill (Sec. 3) also increases the flexibility of the Commission to detariff telecommunications services (pricing flexibility and reduced regulatory oversight), when found to be consistent with the public interest and the state public policies established in the 1985 Montana Telecommunications Act (universal service, encouragement of competition, increased access to telecommunications technological advancements and transition to a competitive environment).

Section 4 will clarify the Commission's power to allow a telephone company to sign individualized customer contracts (forbearance) whenever another provider has tariffs or price lists for similar service on file with the Commission.

Section 5 will expedite the introduction and withdrawal of telecommunications services, while Section 6 will permit rebates and waivers of installation charges, as well as promotions and market trials. These changes will streamline the administrative process, reduce regulatory burden, and foster an innovative responsive, and dynamic telecommunications marketplace.

The Bill also contains a number of safeguards and protections for small telephone companies, interexchange carriers and consumers.

The Commission's support for the Bill is expressly contingent on the adoption of the amendment which would ensure that, along with the telephone company proposing a plan of alternative regulation, the Montana Consumer Counsel would have the right to object to a Commission order and revert the company to traditional regulation.

The Commission wrestled long and hard with the problem, perceived by some, of improper delegation of Commission authority to a regulated company. The proposed amendment would mitigate that problem by giving the state's constitutionally-designated consumer representative equal authority.

The Commission today expresses its support in principle to the Bill. An important theme of the Bill is its retention of Commission discretion in the field of telecommunications regula-

tion. The Commission supports this Bill with the express understanding that it is "permissive" legislation.

However, it should be noted that the Commission and its staff has not had the opportunity to fully analyze the latest amendments offered today by Representative Bradley. The Commission's support is also contingent upon the agreement and support of the other carriers and industry representatives. The Commission is willing to provide this Committee with any assistance it may require to analyze this Bill.

In summary, in this Bill lies the hope of greater economic efficiency, innovation and competition in the telecommunications industry as well as improved quality of service, a much broader menu of service options and economic development for all Montanans. The Commission urges your support. Thank you.

EXHIBIT 7
DATE 2-11-91
HB 407

Amendments to House Bill No. 467
First Reading Copy

For the Committee on Judiciary

Prepared by Bart Campbell
February 7, 1991

1. Page 1, line 9.
Strike: "railroad"
Insert: "train"
2. Page 1, line 10.
Following: "person"
Insert: "not authorized to carry a weapon in the course of his
official duties"
3. Page 1, line 11.
Following: "a"
Strike: "railroad car,"
Following: "train"
Strike: ", or locomotive"
4. Page 1, line 12.
Strike: "of a railroad"
5. Page 1, line 14.
Strike: "railroad car,"
Following: "train"
Strike: ", or locomotive"
6. Page 1, line 19.
Strike: "railroad"
Insert: "train"
7. Page 1, line 20.
Following: "a"
Strike: "railroad car,"
Following: "train"
Strike: ", or locomotive"
Insert: "in this state"
8. Page 1, lines 21 and 22.
Strike: "form of railroad transportation"
Insert: "train"
9. Page 1, line 24.
Strike: "railroad"
Insert: "train"
10. Page 1, line 25 through page 2, line 1.
Following: "a" on line 25
Strike: "railroad" on line 25 through "months" on line 1
Insert: "a train in this state is subject to the penalties
provided in 45-9-102"

HOUSE BILL NO. 467
Lee

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE CRIMINAL PENALTIES FOR PERSONS ILLEGALLY CARRYING FIREARMS OR DANGEROUS DRUGS ON TRAINS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Carrying firearms on ~~railroad~~ train

penalty. (1) It is unlawful for a person to carry or transport firearms on a ~~railroad~~, train, ~~or locomotive~~ ~~engine~~ in this state unless, prior to boarding, the person has delivered all firearms and ammunition, if any, to the operator ~~of the railroad~~, train, ~~or locomotive~~

(2) A person violating this section shall be punished by a fine not exceeding \$500 or imprisonment in the county jail for a period not exceeding 6 months, or both.

NEW SECTION. Section 2. Carrying dangerous drugs on ~~a train~~. A person commits the offense of carrying dangerous drugs on a ~~railroad~~ train, ~~or locomotive~~ if he is in criminal possession of a dangerous drug and boards any ~~train~~ train.

NEW SECTION. Section 3. Penalty for carrying dangerous drugs on railroad. A person convicted of carrying dangerous drugs on a ~~railroad~~ ~~shall be imprisoned in the county jail~~ train in this state is subject to the penalties provided in 45-9-102.

~~Section 4. Codification instruction. (1)~~

Section 1] is intended to be codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [section 1].

(2) [Sections 2 and 3] are intended to be codified as an integral part of Title 45, chapter 9, part 1, and the provisions of Title 45, chapter 9, part 1, apply to [sections 2 and 3].

^{-End-} not authorized to carry a weapon in the course of his official duties

Ex. 1
2-11-91
HB 467

Office of the County Attorney

Flathead County

EXHIBIT 5
DATE 2-11-91
JAI
HB
HB
407

Kalispell, Montana 59903-1516

January 31, 1991

P.O.Box 1516
Second Floor
Justice Center
(406)752-5300 - Ext. 241
or (406)756-5618

TED O. LYMPUS, County Attorney
JONATHAN B. SMITH, Chief Deputy
DENNIS J. HESTER, Deputy
RANDY K. SCHWICKERT, Deputy
THOMAS J. ESCH, Deputy
EDWARD CORRIGAN, Deputy

TO WHOM IT MAY CONCERN:

RE: PROPOSED LEGISLATION (DEPARTMENT OF INSTITUTIONS)

Please accept the following as a brief testimony in support of both an as yet unnumbered House Bill for an act entitled: "An act to revise the law relating to the sentencing of offenders to a correctional institution and sentencing offenders to the corrections authority of the Department of Institutions," and for Senate Bill 196 for an act entitled: "An act to provide for the confinement of persons committed to the Department of Institutions when a departmental correctional institution or system exceeds its emergency capacity." Having now served as a Montana prosecutor for over 15 years, I am well familiar with the corrections circumstances addressed by these two proposed pieces of legislation.

1. B 428 First, with respect to the proposed House bill and recognizing both the individuality of each convicted person and the nature of his or her criminal behavior as well as the sophistication of today's correctional institutions, it seems imminently reasonable that the offender be committed to the Department of Institutions, rather than to a particular institution within the Department, in order that the professionals within the Department might then be able to determine in the best interest of both the State and the defendant, where he or she ought properly to be actually placed.

As in the past, the sentencing court would, I am sure, make recommendations as to placement (as is often done now with respect to various matters such as chemical dependency treatment) and I am confident that, also as in the past, the Department would give due consideration thereto in its institutional placement process.

Concerning Senate Bill 196, I would submit that it provides an excellent workable mechanism to address a circumstance of temporary overpopulation at a correctional institution (and particularly at the men's prison) which history shows can and does occasionally occur and, as with the above-referenced House bill, I would urge its favorable consideration.

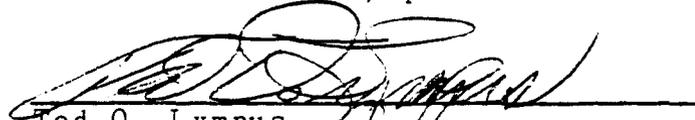
Ex. 8

2-11-91

HB 467

January 31, 1991
Page Two

I appreciate this opportunity to be heard and thank you for your attention. If I can be of any additional information, please feel free to call upon me.



Ted O. Lympus
Flathead County Attorney

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO. HB 610

DATE 2-11-91

SPONSOR(S) Rep. Bradley

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
TIM SWEENEY	PSC		
Danny Oberg	PSC	✓	
HOWARD ELLIS	✓	✓	
Bob Nelson	Consumer Counsel	w/amend.	
Leo Berry	MCI	w/amendments	
GAIL GAVEN	MCI	w/amendments	
Patrick Hogan	TRF	✓ w/amendments	
Cathy Brightwell	AT&T	✓ w/amendments	
Robin McHugh	PSC		
REX MANUEL	SELF	✓	
Dennis L. Spach	USWEST Communications	✓	
Gregory Van Horssen			
Jim Hayhurst	USWEST Communications	✓	
Tom Ebzery	USWEST	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

GENE PHILLIPS NORTHWESTERN TEL. X

