

DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

4 CCR 723-2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is generally to implement, administer and enforce the telecommunications provisions of Title 40 of the Colorado Revised Statutes; and regulate telecommunications proceedings and regulatory activities before the Commission. These rules address a wide variety of subject areas. Therefore, specific statements of Basis, Purpose, and Statutory Authority are found at the beginning of each subchapter of these rules.

The statutory authority for the promulgation of these rules is found at §§ 29-11-106(3); 38-5.5-101; 39-32104; 40-2-108; 40-3-101; 40-3-102; 40-3-103; 40-3-107; 40-3-110; 40-3.4-106; 40-4-101; 40-7-113.5; 407-116.5; 40-15-101; 40-15-108(2); 40-15-109(3); 40-15-201; 40-15-203.5; 40-15-208(2)(a); 40-15-301; 40-15-302(1)(a) and (2); 40-15-302.5; 40-15-305; 40-15-404; 40-15-502(1), (3)(a), and (5)(b); 40-15-503; 40-17-103(2) and (3), C.R.S.

GENERAL PROVISIONS

2000. Scope and Applicability.

Rules 2000 through 2099 are rules of general applicability to be applied consistent with Commission jurisdiction and rules 2100 through 2999. More specific applicability provisions are found in the various subchapters of this Part 2.

2001. Definitions.

The meaning of terms in Part 2 shall be consistent with general usage in the telecommunications industry unless specifically defined by Colorado statute or a more specific rule. In the event the general usage of terms in the telecommunications industry or the definitions anywhere in Part 2 conflict with statutory definitions, the statutory definitions control. In the event the general usage of terms in the telecommunications industry conflict with definitions anywhere within Part 2, the Part 2 definitions control. In the event another Commission rule of general applicability (such as in the Commission's Rules of Practice and Procedure) conflicts with Part 2 rules, the Part 2 rules control. Except as may be provided by applicable statute or more specifically applicable rule, the following definitions apply throughout this Part 2:

- (a) "Access line" means the connection of a customer's premises to the public switched telephone network regardless of the type of technology used to connect the customer to the network.
- (b) "Access to emergency services" means access to emergency telephone service as defined in § 29-11-101(14), C.R.S., to the extent the local government or the public safety organization has implemented 9-1-1.

- (c) "Access to operator service" means access to a mechanized system or access through a real person to arrange for billing and/or completion of a telephone call.
- (d) "Access to toll service" means the use of the network elements, including but not limited to loop, circuit, and switch facilities or their functional equivalents, necessary to access an interexchange provider's network.
- (e) "Base rate area" means the geographic area within an exchange service area, as defined in the terms of service of a local exchange provider, wherein uniform rates that do not vary with distance from the central office apply to each class or grade of service.
- (f) "Basic local exchange service" or "basic service" means the telecommunications service that provides:
 - (I) a local dial tone;
 - (II) local usage necessary to place or receive a call within an exchange area; and
 - (III) access to emergency, operator, and interexchange telecommunications services.
- (g) "Busy hour" means the uninterrupted period of 60 minutes during the day when the traffic load offered to a particular switch, trunk, or network component is at its designed maximum load. The 60-minute periods are generally measured from hour-to-hour or from half-hour to half-hour.
- (h) "Busy season" means a month or several months that may be non-consecutive, within a consecutive 12-month interval, when the maximum busy hour requirements are experienced excluding days with abnormal traffic volume, such as Christmas or Mother's Day. The busy season generally is at least 30 days in length and generally does not exceed 60 days in length.
- (i) "Calls" means customers' telecommunications messages.
- (j) "Central office" means the plant, facilities, and equipment, including, but not limited to, the switch, located inside a structure of a provider of telecommunications service that functions as an operating unit to establish connections between customer lines, between customer lines and trunks to other central offices within the same or other exchanges, and between customer lines and the facilities of other providers of telecommunications service.
- (k) "Certificate of Public Convenience and Necessity" (CPCN) means the Commission-granted authority to provide services, subject to terms and conditions established by the Commission in its decision granting the authority.
- (l) "Channel" means a transmission path for telecommunications between two points. It may refer to a one-way path that permits the completion of traffic from the first point to the second point, or from the second point to the first point. Alternatively, it may refer to a two-way path that permits the completion of traffic in either direction. Generally a channel is the smallest subdivision of a transmission system by means of which a single type of communication service is provided.
- (m) "Class of service" means a classification of a telecommunications service provided to a customer or group of customers, which denotes characteristics such as its nature of use (business or residence) or type of rate (flat rate, measured rate, or message rate).
- (n) "Collocation" means the following:

- (I) physical collocation occurs when one provider of telecommunications service owns interconnection facilities physically located within another provider of telecommunications service physical premises; or
- (II) virtual collocation occurs when one telecommunications provider extends its facilities to a point of interconnection within a reasonably close proximity to, but not physically located within, another telecommunications provider's physical premises. In virtual collocation, the provider requesting collocation (lessee) may request the type of equipment to be used from another provider who owns the space (lessor). In such case, the lessee may own or may lease and maintain the equipment.
- (o) "Commercial Mobile Radio Service" or "CMRS" means cellular or wireless service, personal communications service, paging service, radio common carrier service, radio mobile service, or enhanced specialized mobile radio service.
- (p) "Common carrier" means a provider of telecommunications service that offers telecommunications services to the public, or to such classes of users as to be effectively available to the public, on a non-discriminatory basis.
- (q) "Community of interest" means an area consisting of one or more exchanges in which the general population has similar governmental, health, public safety, business, or educational interests.
- (r) "Competitive local exchange carrier" (CLEC) means a provider of local exchange service that is not the incumbent local exchange carrier in an identified exchange area.
- (s) "Customer" means, to the extent consistent with the context of each definition or other rule, a person who is currently receiving a jurisdictional telecommunications service.
 - (I) "Business customer" means a customer whose use of telecommunications service is primarily of a commercial, professional, institutional, or other occupational nature.
 - (II) "Residential customer" means a customer whose use of telecommunications service is primarily of a social or domestic nature.
- (t) "Customer proprietary network information" has the same meaning as the meaning given to such term in 47 U.S.C. § 222(h)(1).
- (u) "Customer trouble report" means any oral or written report from a customer or from a user of telecommunications services relating to a physical defect with or relating to difficulty or dissatisfaction with the operation of the provider's facilities. Any subsequent report received from the same customer or user of telecommunications services in the same day shall be counted as a separate report, unless it duplicates a previous report or unless it merely involves an inquiry concerning progress on a previous report.
- (v) "Day" means a calendar day, consistent with the definition found in rule 1004(o).
- (w) "Decibel" means the unit of measurement for the logarithmic ratio to the base ten of two power signals. The abbreviation dB is commonly used for the term decibel.
- (x) "Deregulated telecommunications services" means services and products exempted from regulation pursuant to Title 40, Article 15, Part 4, C.R.S., or by the Commission in accordance with § 40-15-305(1), C.R.S.
- (y) "Dial equipment minutes of use" (DEM) means the minutes of holding time of originating and terminating local switching equipment, as defined in 47 C.F.R., Part 36.

- (z) "Dial tone or its equivalent" means:
 - (I) the signal placed on a local access line by the wireline provider signaling that the network is ready to receive a call from the subscriber; or
 - (II) the receipt by a wireless provider of the caller's dialed digits without a 'system busy' response.
- (aa) "Effective competition area" (ECA) means a geographic area in which the Commission has determined that basic local exchange service is competitive and no longer eligible to receive High Cost Support Mechanism (HCSM) support pursuant to § 40-15-207, C.R.S.
- (bb) "Electronic mail" (e-mail) means an electronic message that is transmitted between two or more computers or electronic terminals. Electronic mail includes electronic messages that are transmitted within or between computer networks.
- (cc) "Eligible telecommunications carrier" (ETC) means a common carrier that is authorized by the Commission to receive federal universal service support as required by 47 U.S.C. 214(e)(2).
- (dd) "Eligible Provider" (EP) means a provider who offers basic local exchange services and has been designated by the Commission as qualified to receive disbursements from the Colorado High Cost Support Mechanism.
- (ee) "Emerging competitive telecommunications services" (Part III services) means services and products regulated by the Commission in accordance with Title 40, Article 15, Part III, C.R.S.
- (ff) "End user" means, to the extent consistent with the context of each definition or other rule, a person, other than another provider of telecommunications service, who purchases a jurisdictional telecommunications service from a telecommunications provider.
- (gg) "Enhanced 9-1-1" (E9-1-1) means a telephone system which includes such features as Automatic Number Identification (ANI), Automatic Location Identification (ALI), and call routing features to facilitate public safety response as described within rules 2130 through 2159.
- (hh) "Exchange" means the totality of the telecommunications plant, facilities, and equipment including plant, facilities and equipment located inside and outside of buildings, used in providing telecommunications service to customers located in a geographic area defined by a provider's tariff or terms of service document. An exchange may include more than one central office location or more than one wire center.
- (ii) "Exchange area" means a geographic area established by the Commission for the purpose of establishing a local calling area that consists of one or more central offices together with associated facilities and plant located outside the central office, used in providing basic local exchange service.
- (jj) "FCC" means the Federal Communications Commission.
- (kk) "Governing body" means the board of county commissioners of a county; the city council or other governing body of a city, city and county, or town; or the board of directors of a special district.
- (ll) "Held service order" means an application by a customer for basic local exchange service in a HCSM recipient's or ETC's service territory that the HCSM recipient or ETC is unable to provide within 30 days after the date of the customer's application, except when the customer requests a later service date. The application shall be notice to the HCSM recipient or ETC that the customer desires service. Oral or written requests shall both be considered applications.

- (mm) "HCSM recipient" means a provider of basic service in a geographic support area that receives high cost support distributions pursuant to §§ 40-15-208 and 40-15-502(5), C.R.S.
- (nn) "Incumbent local exchange carrier" (ILEC) means either:
- (I) with respect to a geographic area, the LEC that, on the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), provided telephone exchange service in such geographic area and that either:
 - (A) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R., 69.601(b) of the FCC's regulations; or
 - (B) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in subparagraph (I)(A) of this paragraph; or
 - (II) any comparable LEC that the Commission has, by rule or order, deemed to be an ILEC after finding that:
 - (A) such carrier occupies a position in the market for telephone exchange service within a geographic area that is comparable to the position occupied by a carrier described in subparagraph (I) of this paragraph;
 - (B) such carrier has substantially replaced an ILEC described in subparagraph (I) of this paragraph; and
 - (C) such treatment is consistent with the public interest, convenience, and necessity.
- (oo) "Individual line service or its functional equivalent" means a grade of basic local exchange service that permits a user to have exclusive use of a dedicated message path for the length of the user's particular transmission.
- (pp) "Information service" has the same meaning as set forth in 47 USC § 153.
- (qq) "Interexchange provider" means a person who provides interexchange telecommunications services.
- (rr) "Interexchange telecommunications service" means telephone service between exchange areas that is not included in basic local exchange service.
- (ss) "Internet-Protocol- enabled service" or "IP-enabled service" means a service, functionality, or application, other than voice-over-internet protocol, that uses internet protocol or a successor protocol and enables an end user to send or receive a voice, data, or video communication in internet protocol format or a successor format, utilizing a broadband connection at the end user's location.
- (tt) "Jurisdictional service" means any service, subject to the authority of the Commission under the statutes of the State of Colorado included in Title 40, Article 15, Part 2, Part 3 or Part 5, C.R.S. Jurisdictional service also includes basic local exchange service in areas where HCSM support is provided, and interexchange service only for the purpose of Commission jurisdiction over unauthorized charges on a subscriber's bill, or complaints of changing a subscriber's service without his or her consent.

- (uu) "Letter of Registration" (LOR) means Commission-granted authority to provide switched access services, subject to terms and conditions established in the Commission decision granting the authority.
- (vv) "Local Access and Transport Area" (LATA) means a geographic area designated at the time of the 1984 divestiture of the American Telephone and Telegraph System. A LATA may encompass more than one contiguous local exchange area that serves common social, economic, or other purposes, even where such area transcends municipal or other local government boundaries.
- (ww) "Local call" means any call originating and terminating within the same local calling area.
- (xx) "Local calling area" (LCA) means the geographic area approved by the Commission in which customers may make calls without payment of a toll charge for each call. The local calling area may include exchange areas in addition to the serving exchange area.
- (yy) "Local exchange carrier" (LEC) or "local exchange provider" means any person authorized by the Commission to provide basic local exchange service.
- (zz) "Local exchange telecommunications service" and "local exchange service" means basic local exchange service and other such services identified in § 40-15-401, C.R.S., or defined by the Commission pursuant to § 40-15-502(2), C.R.S., and switched access as defined in §§ 40-15-102(28) and 40-15-301(2), C.R.S.; or any of the above singly or in combination.
- (aaa) "Local usage" means the usage necessary to place and receive calls within a local calling area in which the customer is located.
- (bbb) "Network element" means a facility or equipment used in the provision of a telecommunications service including features, functions, and capabilities that are provided by means of such a facility or equipment, including subscriber numbers, databases, signaling systems, including information sufficient for billing and collection of such elements, and including facilities used in the transmission, routing, or other provision of a telecommunications service.
- (ccc) "Out-of-service trouble report" means a report by the customer of:
 - (I) no dial tone, inability to make calls, or inability to receive calls on the customer's local access line; or
 - (II) service quality deterioration to such an extent that the customer is incapable of sending or receiving a facsimile or data transmission at voicegrade, or technology equivalent, transmission levels using the local access line.
- (ddd) "Part II service" means a service subject to regulation pursuant to Title 40, Article 15, Part 2, C.R.S.
- (eee) "Private branch exchange" (PBX) means a private switchboard or switching system usually on the premises of customers such as campuses, large business offices, apartment buildings, or hotels, which, over a common group of lines from the central office, can receive calls, place outgoing calls, and interconnect intra-office extensions.
- (fff) "Provider of last resort" (POLR) means a Commission-designated telecommunications provider that has the responsibility to offer basic local exchange service to all customers who request it within a geographic support area. All HCSM recipients are designated as POLRs in the geographic areas in which they receive HCSM support.

- (ggg) "Public agency" means any city, city and county, town, county, municipal corporation, public district, or public authority located, in whole or in part, within this state that provides, or has the authority to provide, fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.
- (hhh) "Rate center" means a geographic point which is defined by specific vertical and horizontal coordinates on a map used by telecommunication companies to determine interexchange mileage when calculating toll charges.
- (iii) "Rural telecommunications provider" or "rural provider" (RLEC) means a local exchange provider that meets one or more of the following conditions:
- (I) provides common carrier service to any LEC study area, as defined by the Commission, that does not include either:
 - (A) any incorporated place of 10,000 inhabitants or more or any part thereof, based on the most recent available population statistics of the United States Bureau of the Census; or
 - (B) any territory, incorporated or unincorporated, included in an urbanized area as defined by the United States Bureau of the Census as of August 10, 1993;
 - (II) provides telephone exchange service, including exchange access to fewer than 50,000 access lines;
 - (III) provides telephone exchange service to any LEC study area, as defined by the Commission, with fewer than 100,000 access lines; or
 - (IV) has less than 15 percent of its access lines in communities of more than 50,000 inhabitants.
- (jjj) "Service affecting trouble report" means a report by the customer of:
- (I) impairment of the quality of the call such as noise, crosstalk, ringing, echo or diminished volume; or
 - (II) service quality deterioration such that the performance characteristics of the customer's local access line fall within the substandard range as defined in rule 2337.
- (kkk) "Service territory" means a geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to provide such services.
- (lll) "Station" means a device and any other necessary equipment at the customer's premises that allows the customer to establish and continue communication.
- (mmm) "Switched access" means the service or facilities provided by a local exchange provider to interexchange providers, which allows them to use the local exchange network or the public switched network to originate, terminate, or both originate and terminate interexchange telecommunications services.

- (nnn) "Telecommunications relay service" means any telecommunications transmission service that allows a person who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability. Such term includes any service that enables two-way communication between a person who uses a telecommunications device or other nonvoice terminal device and an individual who does not use such a device.
- (ooo) "Telecommunications service" and "telecommunications" have the same meanings as set forth in 47 U.S.C. § 153(53), 47 U.S.C. § 153(50) and § 40-15-102(29), C.R.S.
- (ppp) "Toll service" (interexchange telecommunications service) means a type of telecommunications service, commonly known as long-distance service that is provided on an intrastate basis between LATAs and within LATAs and that:
- (I) is not included as part of basic local exchange service;
 - (II) originates and terminates in different local calling areas; and
 - (III) was or is traditionally billed to the customer separately from basic local exchange service.
- (qqq) "Unbundling" means the disaggregation of facilities and functions into network products or services so that they can be separately offered to other providers of telecommunications service in a manner that allows requesting providers of telecommunications service to combine such elements in order to provide telecommunications services.
- (rrr) "Universal service", "Universal basic service", or "Universal basic local exchange service" means the availability of basic local exchange service to all citizens of Colorado at affordable rates.
- (sss) "Urban rate floor" means the basic local exchange service rate required to be charged in order to prevent a reduction in Federal high cost support.
- (ttt) "USOA" means Uniform System of Accounts.
- (uuu) "Voicegrade access" to the public switched network means the functionality that enables a user of telecommunications services to transmit voice communications within the frequency range of approximately 300 Hertz and 3,000 Hertz, for a bandwidth of approximately 2,700 Hertz. It also includes signaling the network that: the caller wishes to place a call; there is an incoming call; and the called party is ready to receive voice communications.
- (vvv) "Voice-over-internet protocol" or VoIP" means a service that:
- (I) enables real-time, two-way voice communications originating from or terminating at a user's in internet protocol or a successor protocol;
 - (II) utilizes a broadband connection from the user's location; and
 - (III) permits a user to generally receive calls that originate on the public switched network and to terminate calls to the public switched telephone network.
- (www) "Wire center" means the structure that houses the equipment used for providing telecommunications services and that terminates outside cable plant and other facilities for a designated serving area.
- (xxx) "Wire center serving area" means the geographic area of an exchange area served by a single wire center.

2002. Applications.

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application:
 - (I) for a CPCN to provide services, as provided in rule 2103;
 - (II) for the issuance of a LOR for services, as provided in rule 2103;
 - (III) to amend a CPCN or LOR, as provided in rule 2105;
 - (IV) to change exchange area boundaries, as provided in rule 2106;
 - (V) to discontinue the provisioning of basic emergency service, switched access service, or basic local exchange service provided by an ETC, EP, or HCSM recipient, as provided in rule 2109;
 - (VI) to transfer or encumber a CPCN, LOR, or assets, or to merge a provider with another entity, as provided in rule 2110;
 - (VII) to amend a tariff on less than statutory notice, as provided in subparagraph 2122;
 - (VIII) for certification as a basic emergency service provider, as provided in rule 2132;
 - (IX) for approval of a change to an emergency telephone charge in excess of the threshold set by the Commission, as provided in rule 2147;
 - (X) for approval of an increase in the number of concurrent sessions associated with a 9-1-1 governing body for purposes of determining distribution percentages from the 9-1-1 surcharge trust cash fund, as provided in rule 2151;
 - (XI) for designation as a POLR, as provided in rules 2183 and 2184;
 - (XII) for relinquishment of the designation as a POLR, ETC, or EP, as provided in rule 2186;
 - (XIII) for designation as an ETC, as provided in rule 2187;
 - (XIV) for approval of a disaggregation of a study area of a rural ILEC, as provided in rule 2189;
 - (XV) for reclassification of a Part II service to a Part III service, as provided in rule 2203;
 - (XVI) for deregulation of Part III Services, as provided in rule 2204;
 - (XVII) for approval of a refund plan, as provided in rule 2305; or
 - (XVIII) for any other authority or relief provided for in these rules, or for any other relief not inconsistent with statute or rule and not specifically described in this rule.
- (b) Unless otherwise noted in specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (I) the name and address of the applicant;

- (II) the name(s) under which the applicant is, or will be, providing telecommunications service in Colorado;
 - (III) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (IV) the name, address, telephone number, and e-mail address of the applicant's contact person for customer inquiries concerning the application, if that contact person is different from the person listed in subparagraph (III);
 - (V) a statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held;
 - (VI) a statement that the applicant agrees to respond to all questions propounded by the Commission or its Staff concerning the application;
 - (VII) a statement that the applicant shall permit the Commission or any member of its Staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VIII) a statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;
 - (IX) acknowledgment that, by signing the application, the applying utility understands that:
 - (A) the filing of the application does not by itself constitute approval of the application;
 - (B) if the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and with any conditions established by Commission order granting the application;
 - (C) if a hearing is held, the applying utility shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and
 - (D) in lieu of the statements contained in subparagraphs (b)(IX)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IX)(A) through (C) of this rule.
 - (X) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant; and
 - (XI) the company's proposed notice to the public and its customers, if such notice is required.
- (c) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure.

- (d) Except as required or permitted by § 40-3-104, C.R.S., if the applicant is required by statute, Commission rule, or order to provide notice to its customers of the application, the applicant shall, within seven days after filing an application with the Commission, cause to have published notice of the filing of the application in each newspaper of general circulation in the municipalities impacted by the application. The applicant shall provide proof of such customer notice within 14 days of the publication in the newspaper. Failure to provide such notice or failure to provide the Commission with proof of notice may cause the Commission to deem the application incomplete. The applicant may also be required by statute, Commission rule, or order to provide additional notice. Both the newspaper notice and any additional customer notice(s) shall include the following:
- (I) the title “Notice of Application by [Name of the Utility] to [Purpose of Application]”;
 - (II) state that [Name of Utility] has applied to the Colorado Public Utilities Commission for approval to [Purpose of Application]. If the utility commonly uses another name when conducting business with its customers, the “also known as” name should also be identified in the notice to customers;
 - (III) provide a brief description of the proposal and the scope of the proposal, including an explanation of the possible impact, including rate impact, if applicable, upon persons receiving the notice;
 - (IV) identify which customer class(es) will be affected and the monthly customer rate impact by customer class, if customers’ rates are affected by the application;
 - (V) identify the proposed effective date of the application;
 - (VI) identify that the application was filed on less than statutory notice or if the applicant requests an expedited Commission decision, as applicable;
 - (VII) state that the filing is available for inspection in each local office of the applicant and at the Colorado Public Utilities Commission;
 - (VIII) identify the proceeding number, if known at the time the customer notice is provided.
 - (IX) state that any person may file written comment(s) or objection(s) concerning the application with the Commission. As part of this statement, the notice shall identify both the address and e-mail address of the Commission and shall state that the Commission will consider all written comments and objections submitted prior to the evidentiary hearing on the application;
 - (X) state that if a person desires to participate as a party in any proceeding before the Commission regarding the filing, such person shall file an intervention in accordance with the rule 1401 of the Commission’s Rules of Practice and Procedure or any applicable Commission order;
 - (XI) state that the Commission may hold a public hearing in addition to an evidentiary hearing on the application and that if such a hearing is held members of the public may attend and make statements even if they did not file comments, objections or an intervention. State that if the application is uncontested or unopposed, the Commission may determine the matter without a hearing and without further notice; and

- (XII) state that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission or shall alternatively contact the External Affairs section of the Commission at its local or toll-free phone number. Such statement shall also identify both the local and toll-free phone numbers of the Commission's External Affairs section.

- (e) Filings shall be made in accordance with rule 1204.

2003. Petitions.

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate petition:
 - (I) for variance from a Commission rule, as provided in rule 1003;
 - (II) for issuance of a declaratory order, as provided in paragraph 1304(i);
 - (III) for the Declaration of Intent to Serve within the territory of a rural telecommunications provider, as provided in rule 2107;
 - (IV) for arbitration of an interconnection agreement, as provided in rules 2562 through 2579;
 - (V) for use of N-1-1 abbreviated dialing codes, as provided in paragraph 2742(e); or
 - (VI) for approval of funding of an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges, filed by a governing body or bodies as provided in paragraph 2152(g).
- (b) Unless otherwise noted in specific rules, all petitions shall include, the information contained in paragraph 2002(b).
- (c) If the petitioner is required by statute, Commission rule or order to provide additional notice to its customers of the petition, such notice shall include the same information as required by paragraph 2002(d).
- (d) Filings should be made in accordance with rule 1204.

2004. Disputes.

For purposes of this rule, a dispute is a concern, difficulty, or problem needing resolution that a customer brings directly to the attention of the provider without involvement of the Commission staff. In any dispute that a customer initiates directly with a provider, and that concerns jurisdictional services, the provider shall give to the customer the current address and phone numbers (local and toll free) of the External Affairs Section of the Commission if the customer and provider are unable to resolve the dispute.

2005. Records.

- (a) All providers of jurisdictional services shall make available required records to the Commission or Commission staff at any time upon request.
- (b) Providers shall preserve and retain all records related to jurisdictional services for not less than:
 - (I) two years after the date of entry of the record; or

- (II) for any longer period of time enumerated by a specific FCC or Commission rule, whichever is longer.
- (c) Records to be maintained include, as applicable:
 - (I) Each HCSM recipient shall keep a record showing all interruptions affecting service in an entire exchange area or any major portion of the exchange area that affects the lesser of 25 percent or 1,000 of the exchange's local access lines for one or more hours during the day. This record shall identify the date, time, duration, extent, and cause of the interruption. Each HCSM recipient shall also keep a record of all customers eligible for credits related to such interruptions, pursuant to subparagraph 2304(b)(IV).
 - (II) Each HCSM recipient shall keep customer billing and dispute records.
 - (III) Providers shall maintain and preserve carrier change authorization records of verification of subscriber authorization of service.
 - (IV) Held service orders.
 - (A) This rule applies to HCSM recipients and ETCs.
 - (B) During periods of time when the provider is not able to establish new primary line service to customers in areas of an exchange currently served by the provider within the time frames set forth in the applicable definition of held service order in rule 2001 of this Part, or by Commission order, the provider shall keep a record, by wire center serving area, identifying the following:
 - (i) the name and address of each applicant for service;
 - (ii) the date of the application;
 - (iii) the class of service (e.g., residence, business);
 - (iv) the order number assigned to the application for service;
 - (v) the reason for the delay in providing service to the applicant;
 - (vi) the expected in-service date; and
 - (vii) a record of all provider contacts, whether written or oral, with the applicant.
 - (C) During periods of time when the provider is not able to supply service to applicants within the time frames established by the applicable definitions of held service order in rule 2001 of this Part or by Commission order, the provider shall keep a record identifying:
 - (i) all expenses incurred in providing bill credits as a result of failure to timely provide service; and
 - (ii) all installation fees waived and credits issued in compliance with subparagraphs 2308(f)(III) and (IV).

- (D) When the number of held service orders to establish new primary line service exceeds 50 access lines at a wire center providing service to 2,000 or more access lines, or the number of held service orders to establish primary line service exceeds 20 access lines at a wire center serving fewer than 2,000 access lines, the provider shall maintain records including information on each held service order showing the application date, the cause(s) for the delay and number of days for installation beyond ten days or the applicant's requested installation date, if later.
- (V) Each provider of jurisdictional service shall maintain records showing the monthly and annual performance of the provider to determine the level of service for each item included in rules 2330 through 2399.
- (VI) Other records as the Commission may require.
- (d) Accounting records for jurisdictional services.
 - (I) Except as specifically provided by Commission rule, each provider shall maintain its books of accounts and records using Generally Accepted Accounting Principles (GAAP).
 - (II) Unless otherwise approved by the Commission, depreciation for book purposes shall be determined by applying the straight-line method of depreciation.
 - (III) ILECs shall use the Uniform System of Accounts (USOA) prescribed for Common Carriers, Classes A and B by the FCC, pursuant to 47 C.F.R. Part 32.
 - (IV) For all providers of jurisdictional service exempt by the FCC from USOA requirements, the system for keeping the books of account and associated records shall be capable of generating Colorado intrastate- specific information upon request. The books of account and records shall be maintained in sufficient detail to allow for a determination by the Commission that the provider complies with standards relating to cross-subsidization, affiliate transactions, separations, and other standards set forth by Commission order, rules, or applicable statute.

2006. Reports.

- (a) Pursuant to § 40-2-109, C.R.S., all providers that are required by the Department of Revenue to file an annual DR525 form shall file with the Commission, on or before May 15 of each year, a copy of the DR525 form filed with the Department of Revenue pursuant to § 40-2-111, C.R.S., for use in the Commission's budgetary process.
- (b) All providers that have been granted a CPCN or LOR by the Commission shall biennially file a completed Statement of Information, beginning on October 1, 2017 and every two years thereafter. Providers whose CPCN or LOR was granted after January 1, 2017, shall file the statement on the second July 1 anniversary following a Commission order granting the company a CPCN or LOR. The biennial statement shall contain any updates to the company's information previously provided to the Commission. The Statement of Information form is available on the Commission's website and shall be submitted through filing with the Commission's E-Filings System in the proceeding designated for this purpose.

2007. [Reserved].

2008. Incorporations by Reference.

- (a) The Commission incorporates by reference 47 C.F.R., Parts 32, 36, 54, 68, 69 and Part 64 Subparts I and K (as published February 4, 2015). No later amendments to or editions of these regulations are incorporated in these rules.
- (b) The Commission incorporates by reference the regulations published in 47 C.F.R. Part 64 Subpart U as revised on June 8, 2007. No later amendments to or editions of the C.F.R. are incorporated into these rules.
- (c) The Commission incorporates by reference the National Electrical Safety Code, C2-2007 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.
- (d) The Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319, as revised on January 28, 2013. No later amendments to or editions of these regulations are incorporated into these rules.
- (e) The Commission incorporates by reference the rule promulgated by the FCC's *LNP First Report and Order*, Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996. No later amendments to or editions of these requirements are incorporated into these rules.
- (f) The Commission incorporates by reference the FCC's Truth in Billing Rules found at 47 C.F.R. § 64.2401, et seq. revised on November 30, 2012. No later amendments to or editions of the C.F.R. are incorporated into these rules.
- (g) The standards and regulations incorporated by reference may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Incorporated standards shall be available electronically and provided in certified copies, at cost, upon request. Restrictions on the provision of physical copies due to copyright protections may apply. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library. The standards and regulations are also available from the agency, organization or association originally issuing the code, standard, guideline or rule as follows: Code of Federal Regulations: www.govinfo.gov/help/cfr; Federal Communications Commission: www.fcc.gov; and National Electrical Safety Code: www.standards.ieee.org.

CIVIL PENALTIES

2009. Definitions.

The following definitions apply to rules 2009, 2010, and 2011, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Civil penalty" means any monetary penalty levied against a public utility because of intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.
- (b) "Civil penalty assessment" means the act by the Commission of imposing a civil penalty against a public utility after the public utility has admitted liability or has been adjudicated by the Commission to be liable for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.

- (c) "Civil penalty assessment notice" means the written document by which a public utility is given notice of an alleged intentional violation of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders and of a proposed civil penalty.
- (d) "Intentional violation." A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute, rule, or order defining the violation.

2010. Regulated Telecommunications Utility Violations, Civil Enforcement, and Enhancement of Civil Penalties.

- (a) The Commission may impose a civil penalty in accordance with the requirements and procedures contained in § 40-7-113.5, C.R.S.; § 40-7-116.5, C.R.S.; § 29-11-103(7)(b) and (c), C.R.S. and paragraph 1302(b), 4 Code of Colorado Regulations 723-1; for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S.; Commission rules; or Commission orders as specified in §§ 40-7-113.5 and 40-7-116.5, C.R.S.; and in these rules.
- (b) The director of the commission or his or her designee shall have the authority to issue civil penalty assessments for the violations enumerated in § 40-7-113.5, C.R.S., or for delinquent payments, penalties, and interest as described in § 29-11-103(7)(b) and (c), C.R.S., subject to hearing before the Commission. When a public utility is cited for an alleged intentional violation, the public utility shall be given notice of the alleged violation in the form of a civil penalty assessment notice.
- (c) The public utility cited for an alleged intentional violation may either admit liability for the violation pursuant to § 40-7-116.5(1)(c) or the public utility may contest the alleged violation pursuant to § 40-7-116.5(1)(d), C.R.S. At any hearing contesting an alleged violation, trial staff shall have the burden of demonstrating a violation by a preponderance of the evidence.
- (d) In any written decision entered by the Commission pursuant to § 40-6-109, C.R.S., adjudicating a public utility liable for an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order, the Commission may impose a civil penalty of not more than two thousand dollars, pursuant to § 40-7-113.5(1), C.R.S. In imposing any civil penalty pursuant to § 40-7-113.5(1), C.R.S., the Commission shall consider the factors set forth in paragraph 1302(b).
- (e) The Commission may assess doubled or tripled civil penalties against any public utility, as provided by § 40-7-113.5(3), C.R.S., § 40-7-113.5(4), C.R.S., and this rule.
- (f) The Commission may assess any public utility a civil penalty containing doubled penalties only if:
 - (I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;
 - (II) the conduct for which doubled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable; and
 - (III) the conduct for which doubled civil penalties are sought occurred within one year after conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable.

- (g) The Commission may assess any public utility a civil penalty containing tripled penalties only if:
 - (I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted two or more prior intentional violations of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;
 - (II) the conduct for which tripled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has either admitted liability by paying the civil penalty assessment or been adjudicated by the Commission in an administratively final written decision to be liable, in at least two prior instances; and
 - (III) the conduct for which tripled civil penalties are sought occurred within one year after the two most recent prior instances of conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable.
- (h) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the date of such alleged conduct for which tripled civil penalties are sought.
- (i) Nothing in this rule shall preclude the assessment of tripled penalties when doubled and tripled penalties are sought in the same civil penalty assessment notice.
- (j) The Commission shall not issue a decision on doubled or tripled penalties until after the effective date of the administratively final Commission decision upon which the single civil penalty was based.
- (k) The civil penalty assessment notice shall contain the maximum penalty amount provided by rule for each individual violation noted, with a separate provision for a reduced penalty of 50 percent of the penalty amount sought if paid within ten days of the public utility's receipt of the civil penalty assessment notice.
- (l) The civil penalty assessment notice shall contain the maximum amount of the penalty surcharge pursuant to § 24-34-108(2), C.R.S., if any.
- (m) A penalty surcharge referred to in paragraph (l) of this rule shall be equal to the percentage set by the Department of Regulatory Agencies on an annual basis. The surcharge shall not be included in the calculation of the statutory limits set in § 40-7-113.5(5), C.R.S.
- (n) Nothing in these rules shall affect the Commission's ability to pursue other remedies in lieu of issuing civil penalties.

2011. Regulated Telecommunications Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
Rule 2109(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	\$2000
Rule 2110, text preceding (a) only	Applications to Transfer or Encumber	\$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	\$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	\$2000
Rule 2136	Obligations of Basic Emergency Service Providers	\$2000
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	\$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	\$2000
Rule 2143	Diverse Routing and Priority Service Restoration	\$2000
Rule 2150	Administration of the 9-1-1 Surcharge Trust Cash Fund	\$2000
Rule 2152	Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices	\$2000
Rule 2186(a),(d), (e) and (f)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000

Citation	Description	Maximum Penalty Per Violation
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2337(a)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2742	Abbreviated Dialing Codes	\$2000
Rule 2812	Incarcerated People's Communications Services Provider Reporting and Testing Requirements	\$2000
Rule 2823(a),(c)-(e)	Conformity with the Federal Americans with Disabilities Act of 1990	\$100
Rule 2824	Conformity with the Commission's Quality of Service Rules	\$100
Rule 2827(b)	Timely or Completely Filing or Making Appropriate Payments to the TRS Fund	\$100
Rule (TBD)	Timely or Completely Filing or Making Appropriate Payments to the HCSM Fund	\$100

2012. – 2099. [Reserved].

OPERATING AUTHORITY

Authority to Offer Services – Discontinuances – Transfers – Interexchange Provider Registration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish regulations regarding: applications for a Certificate of Public Convenience and Necessity (CPCN) to provide basic emergency services; applications for Letters of Registration (LOR) to provide switched access services; applications of providers of Part IV services for a CPCN or LOR; applications to discontinue services; applications to execute a merger, encumbrance or transfer; and registrations.

The statutory authority for promulgation of these rules is found at §§ 24-4-103, 40-2-108, 40-15-111, 40-15-204, 40-15-301(2), 40-15-302(2), 40-15-302.5, 40-15-303, 40-15-305(2), 40-15-501, 40-15-502, 40-15-503(2), 40-15-503.5, and 40-15-509, C.R.S.

2100. Applicability.

Rules 2100 through 2119 apply to CPCNs, LORs, registrations for interexchange telecommunications service providers, authority to discontinue service, and authority to execute a transfer, encumbrance, or any combination of these.

2101. Definitions.

The following definitions apply only in the context of rules 2100 through 2119:

- (a) "Alternate provider" means any provider of telecommunications service certified by the Commission that has an effective tariff on file to provide basic emergency service.
- (b) "Encumbrance" means any liability, lien, claim or restriction placed on a provider of telecommunications service's CPCN or LOR.
- (c) "Transfer" means any or all of the following:
 - (I) a transaction to convey, by sale, assignment, or lease: a CPCN; a LOR; or a combination of these;
 - (II) a transaction to obtain, whether by conveyance of assets or shares, controlling interest in a provider defined as a public utility;
 - (III) a conveyance of assets not in the ordinary course of business; or
 - (IV) an execution of a merger of a provider of telecommunications service defined as a public utility.

2102. Application Procedures.

- (a) The applicant shall submit filings in accordance with rule 1204 and any supporting documentation.
- (b) Rule 1206 shall apply to applications made pursuant to this rule, except that the Commission need only give notice by electronic posting on its website within seven days of receipt of an application for a CPCN or a LOR. Unless otherwise ordered by the Commission, the notice period will expire 30 days after the notice is posted.
- (c) No discontinuance of basic emergency service; switched access service; or basic local exchange service from HCSM recipients; or encumbrance of a CPCN, or LOR shall become effective until the Commission issues an order approving such application.

2103. Application for CPCN or LOR.

To request a CPCN to provide basic emergency services or a LOR to provide switched access services, an applicant shall submit the required information by filing an application or the LOR form provided by the Commission on its website. No CPCN or LOR is required for services classified in Part IV of Article 15 of Title 40 of the Colorado Revised Statutes. A provider is not required to, but may apply for a CPCN to provide Part IV services pursuant to this section, unless otherwise required by law or Commission rule.

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- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
- (I) the information required by paragraph 2002(b);
 - (II) name, mailing address, toll free telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to customer disputes;
 - (III) name, mailing address, telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to the Commission concerning customer informal complaints;
 - (IV) the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
 - (V) if the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;
 - (VI) a description of the geographic service area for which the applicant seeks authority;
 - (VII) name and address of applicant's Colorado agent for service of process;
 - (VIII) a description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;
 - (IX) the applicant's most recent audited balance sheet, income statement, and statement of retained earnings;
 - (X) if the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph (IX): detailed information on the sources of capital funds that will be used to provide the services that are the subject of the application, including the amount of any loans, lines of credit, or equity infusions that have been received or requested, and the names of each source of capital funds;
 - (XI) the names, business addresses, and titles of all officers, directors, partners, agents and managers who will be responsible for the provisioning of services in Colorado;
 - (XII) any management contracts, service agreements, marketing agreements or any other agreements between the applicant and any other entity, including affiliates of the applicant, that relate to the provisioning of services in Colorado;
 - (XIII) identification of any of the following actions by any court or regulatory body within the last five years regarding the provisioning of regulated telecommunications services by the applicant, by any of applicant's agents, officers, board members, managers, partners, or management company personnel, or by any of applicant's affiliates that resulted in:
 - (A) assessment of fines or civil penalties;
 - (B) assessment of criminal penalties;
 - (C) injunctive relief;
 - (D) corrective action;
 - (E) reparations;
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- (F) a formal complaint proceeding brought by any regulatory body;
 - (G) initiation of or notification of a possible initiation of a disciplinary action by any regulatory body, including, but not limited to, any proceeding to limit or to place restrictions on any authority to operate, any CPCN, or any service offered;
 - (H) refusal to grant authority to operate or to provide a service;
 - (I) limitation, de-certification, or revocation of authority to operate or to provide a service; or
 - (J) any combination of the above.
- (XIV) For each item identified in subparagraph (XIII) of this paragraph: an identification of the jurisdiction, summary of any applicable notification of a possible initiation or pending procedure, including the docket/proceeding, case, or file number, and, upon the request of the Commission or Commission staff, a copy of any written decision; and
- (XV) acknowledgment that by signing the application, the applicant:
- (A) certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the services for which it is applying;
 - (B) understands that:
 - (i) the filing of the application does not by itself constitute authority to operate; and
 - (ii) if the application is granted, the applicant shall not provide service until:
 - (a) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application;
 - and (b) has an effective tariff on file with the Commission, if applicable;
 - (C) agrees to respond in writing, within ten days, to all customer informal complaints made to the Commission;
 - (D) agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:
 - (i) Telecommunications Utility Fund
 - (ii) Colorado High Cost Support Mechanism;
 - (iii) Colorado Telephone Users with Disabilities Fund;
 - (iv) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and
 - (v) any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, and
 - (E) certifies that it will not unjustly discriminate among customers in the same class of service; and

- (F) certifies that the applicant will not permit any other person or entity to operate under its Commission-granted authority without explicit Commission approval.
- (b) An applicant may additionally seek a Commission determination that the services they provide or seek to provide are telecommunications services. An applicant may submit evidence, such as a verified statement from an officer, director, or manager detailing those services.
- (c) If an applicant is requesting a LOR for switched access services, its application shall include the information required by subparagraphs (a)(I) - (VII) and (XIII) – (XV).

2104. Registrations – Providers of Interexchange Telecommunications Service.

All providers of interexchange telecommunications service shall initially register and provide any necessary updates to their registration within 15 days after any change, including discontinuance, using the form provided by the Commission on its website. All forms shall be filed in the proceedings opened by the Commission for such purpose. All initial registrations will be effective 30 days from the date filed, unless the Commission orders otherwise.

2105. Application to Amend a CPCN or LOR.

To amend a CPCN or LOR, an applicant shall submit the required information by filing an application with the Commission.

- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments, to the extent that information has changed since the original grant of authority:
 - (I) the information required for a CPCN or for a LOR by subparagraphs 2103(a)(I) – (III) and(VI);
 - (II) the services affected by the proposed amendment;
 - (III) the reason for requesting the proposed amendment;
 - (IV) acknowledgment that by signing the application, the applicant:
 - (A) certifies that it meets the requirements pursuant to subparagraph 2103(a)(XVI)(A)
 - (B) understands that:
 - (i) the filing of the application does not by itself constitute approval to amend its authority;
 - (ii) if the application is granted, the applicant shall not provide the proposed service until the requirements pursuant to subparagraph 2103(a)(XVI)(B)(ii) are met.
 - (C) agrees to contribute in the manner described in subparagraph 2103(a)(XVI)(D); and
 - (D) certifies that it will not unjustly discriminate among customers in the same class of service.

2106. Application to Change Exchange Area Boundaries.

This rule applies to ILECs that seek to change exchange area boundaries. An applicant shall submit the required information by filing an application with the Commission. If the exchange area boundary change affects more than one provider of telecommunications service, the affected providers shall file a joint application containing the information applicable to each provider.

- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (I) the information required by paragraph 2002(b);
 - (II) a description and a map or GIS boundary file of the specific boundaries that the applicant proposes to change;
 - (III) the proposed exchange area maps;
 - (IV) the proposed effective date of the change;
 - (V) the facts (not in the form of conclusory statements) relied upon to show that the proposed change is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-111(2), 40-15-501, and 40-15-502, C.R.S.; and
 - (VI) acknowledgment that by signing the application, the applicant understands and agrees to the requirements of subparagraph 2002(b)(IX).
- (b) If a grant of the application will result in changing a customer's provider of telecommunications service, phone number, local calling area, or rates, the applicant shall provide customer notice to affected customers as follows:
 - (I) concurrent with the filing of the application, the applicant shall provide notice to the affected customers; and
 - (II) in addition to the information required by paragraph 2002(d), the notice shall provide details of the proposed change, including a description of changes in the provider of telecommunications service, rates, phone numbers, and local calling areas.

2107. Declaration of Intent to Serve within Territory of Rural Telecommunications Provider.

A provider that has been granted a CPCN to provide telecommunications services, and that wishes to provide such services in the service territory of an incumbent rural telecommunications provider, shall file with the Commission, a petition stating its Declaration of Intent to Serve at least 45 days prior to offering such services.

- (a) The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified attachments:
 - (I) the information required by paragraph 2003(b);
 - (II) identification of the rural telecommunications provider(s) operating in the service territory proposed to be served;
 - (III) a description of the service territory proposed to be served including lists of exchange areas and local calling areas, and a copy of the exchange maps for the proposed service territory;

- (IV) a description of the local telecommunications services to be provided;
 - (V) the method of providing each of the telecommunications services, i.e., resale, unbundled network elements, facilities-based, or a combination thereof; and
 - (VI) the notice provided to the affected rural telecommunications provider(s) as required by paragraph (c) below.
- (b) Commission notice. Within seven days of the receipt of the petition, the Commission shall provide notice by electronic posting on the Commission's website.
 - (c) Petitioner notice. Concurrent with the filing of the petition with the Commission, the petitioner shall send by first-class mail written notice to the affected rural telecommunications provider(s) within the proposed service territory. Such notice shall state that an intervention must be filed in accordance with the timelines and form specified by rule 1401 of the Commission's Rules of Practice and Procedure or any applicable Commission order.
 - (d) The Declaration shall become effective only upon order of the Commission.

2108. CPCN or LOR Deemed Null and Void.

A CPCN or a LOR shall be deemed null and void without further action of the Commission, if the provider of jurisdictional service fails to file an applicable tariff, if required, within one year after the effective date of the Commission order granting the CPCN and/or LOR. For good cause shown, the provider of jurisdictional service may file a motion to extend the one-year filing deadline at least 30 days prior to the expiration of the one-year deadline.

2109. Discontinuance of Services.

To discontinue basic emergency service or switched access service, any service required for the provisioning of basic emergency service, or basic local exchange service provided by an ETC or EP, in a selected service territory or portion(s) thereof, a provider of such service shall file an application with the Commission not less than 45 days prior to the effective date of the proposed discontinuance. The applicant may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

- (a) An application to discontinue service is not required if any of the following apply:
 - (I) the provider has no customers in Colorado and has notified the Commission under paragraph (f) of this rule;
 - (II) the provider is discontinuing interexchange service and has notified the Commission under rule 2104;
 - (III) the provider is discontinuing facilities-based long distance service and has notified the Commission and the provider's customers under subparagraph (g); or
 - (IV) the discontinuance is the result of a transfer, no interruption or change of service will occur, and the provider has filed an application to transfer under rule 2110.
- (b) Compliance with reporting and regulatory funding requirements.
 - (I) If the application is for a discontinuance of all jurisdictional services in Colorado the provider shall:

- (A) seek authority to cancel its tariffs;
 - (B) submit any required annual reports and remit payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;
 - (C) identify the name, title, address, phone number, facsimile number, and e-mail address of the officer or officers or agent responsible for completion of all subsequent reports and payments required by the Commission and an affidavit from the officers acknowledging their responsibility under this rule; and
 - (D) make all necessary and appropriate arrangements with underlying facilities-based provider of jurisdictional service regarding the discontinuation of services provided.
- (II) If the application is for a discontinuance of all facilities-based local exchange telecommunications services in Colorado the provider shall notify NANPA and/or the Number Pooling Administrator of the pending return of numbers if the applicant has been assigned numbering resources.
- (c) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (I) the information required by paragraph 2002(b);
 - (II) identification of the service territory or portion thereof proposed for discontinuance.
 - (III) a statement as to whether the granting of the application will result in the cancellation of its tariff in part or in its entirety, CPCN, and LOR.
 - (IV) a statement that the applicant has notified NANPA and/or the Number Pooling Administrator of the pending return of numbers, if applicable.
 - (V) the proposed effective date, which shall not be sooner than 45 days after the date on which the provider of telecommunications service files the application with the Commission.
 - (VI) the notice that will be provided to customers in accordance with paragraph (e) of this rule
 - (VII) acknowledgment that by signing the application, the applicant and its successors understand and agree that:
 - (A) filing of the application does not, by itself, constitute authority to discontinue any service;
 - (B) if the application is granted, any discontinuance is conditional upon fulfillment of conditions established by Commission order;
 - (C) if the application is granted, any discontinuance is conditional upon fulfillment of relevant statutory and regulatory obligations, including filing annual reports and remitting payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;

- (D) acknowledgement that the officer or officers or agent named in its application may be held personally liable if reports are not completed and submitted and if payments are not submitted to the appropriate regulatory agency, in accordance with § 40-7-106, C.R.S., and that the officer or officers may be punished as provided in § 18-1-106, C.R.S.; and
 - (E) if the application is granted, the provider of jurisdictional service shall, on not less than two business days' notice, make a compliance advice letter filing citing the applicable Commission decision number that cancels part or all of its tariffs.
- (d) If the applicant has been designated as a POLR, it shall supplement its application by providing the information required by the Commission's rule relating to relinquishment of the POLR designation, in accordance with rule 2186.
- (e) The applicant shall work with Commission staff on the content of the notice and shall provide such customer notice of the application to discontinue service.
 - (I) At least 30 days prior to the effective date of the proposed discontinuance, the applicant shall mail by a separate first-class mailing, or by hand delivery, the notice to each of the applicant's affected customers. A list of other providers of telecommunications service to include in the notice shall be obtained from the Commission.
 - (II) Except as may otherwise be ordered by the Commission, the notice shall:
 - (A) include the information required by subparagraphs 2002(d)(I) – (XII);
 - (B) provide details of the proposed discontinuance, including a description of the services affected;
 - (C) state the specific time period during which customers must select an alternate provider; and
 - (D) notify customers that if a customer does not select an alternate local provider within the specified time period, the customer's basic local exchange service will be disconnected, the customer will be without dialtone and the customer may not be able to retain his telephone number.
 - (III) The applicant shall file with the Commission an affidavit attesting to its compliance with this paragraph regarding notice not less than 15 days before the date of the proposed discontinuance. The affidavit shall state the date on which notice was completed and the method used to give notice. A copy the notice given shall accompany the affidavit.
- (f) If no customers are affected by the proposed discontinuance, the provider of telecommunications service is not required to file an application. However, at least 30 days prior to the proposed date of discontinuance, the provider of telecommunications service shall file with the Commission a written notification of discontinuance and an affidavit in the prescribed Commission format attesting that no customers will be affected.
- (g) If the proposed discontinuance requires an amendment of the provider's tariff, nothing in this rule shall be construed as a waiver or variance from statute or Commission rules regarding the provider's obligation to file an appropriate advice letter.

2110. Application to Transfer or Encumber.

To request authority to execute a transfer or encumbrance of a CPCN or LOR, the transferor and the transferee or lender for an encumbrance shall file a joint application with the Commission not less than 45 days prior to the effective date of the proposed transfer or encumbrance. If the transferee does not hold a Commission- issued CPCN and/or LOR, the transferee shall provide the Commission with the information required pursuant to rule 2103, and must receive an appropriate Commission grant of authority to assume the transferor's CPCN and/or LOR. The joint applicants may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (I) the information required by paragraph 2002(b);
 - (II) name under which the transferee or encumberer is, or will be, providing service in Colorado if the transfer or encumbrance is approved;
 - (III) the specific assets, including any operating authority or rights obtained under such operating authority that the applicants propose to transfer or encumber;
 - (IV) a statement of the facts (not in the form of conclusory statements) relied upon to show that the proposed transfer or encumbrance is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.; and
 - (V) acknowledgment that by signing the application, the joint applicants understand and agree that:
 - (A) the filing of the application does not, by itself, constitute authority to execute the transfer or encumbrance;
 - (B) the applicants shall not undertake the proposed transfer or encumbrance unless and until a Commission decision granting the application is issued;
 - (C) the granting of the application does not constitute execution of the transfer or encumbrance, but only represents the Commission's approval of the request for authority to transfer or encumber;
 - (D) if a transfer is granted, such transfer is conditional upon:
 - (i) the existence of applicable, effective tariffs for relevant services, including any required adoption notices;
 - (ii) compliance with the statutes and all applicable Commission rules, including the transferor's filing an annual report and remitting payment for all amounts due to all applicable funds or support mechanisms for the period up to the effective date of the transfer; and
 - (iii) compliance with all conditions established by Commission order; and

- (E) if the application to transfer or encumber is granted, the joint applicants shall notify the Commission if the transfer is not consummated within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. This notice shall include the proceeding and decision number(s) which granted the authority to execute the transfer or encumbrance.
- (b) If the Commission has designated either the transferor or the transferee as a POLR, the application shall also include the information required by rule 2186 relating to relinquishment of POLR designation.

2111. Financial Assurance.

The Commission may require a bond or other security as a condition of obtaining a Commission operating authority.

2112. – 2119. [Reserved].

Advice Letters, Tariffs, and Terms of Service Documents

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to describe the process by which a provider files tariffs, advice letters, or terms of service documents enabling the Commission to ensure that the rates, charges, terms, and conditions contained therein are just, reasonable, and not unduly discriminatory.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101(1), 40-3-102, 40-3-103, 40-3-104, 40-3-104(1)(c)(V), and 40-2-108, 40-15-208 and 40-15-502, C.R.S.

2120. Applicability.

Rules 2120 through 2129 are applicable to providers of switched access service, basic emergency service, and basic service provided by HCSM recipients in HCSM-supported areas as provided in each rule.

2121. Definitions [Reserved].

2122. Tariffs, Advice Letters and Terms of Service Documents.

- (a) All tariffs and advice letters shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.
- (b) All providers of basic emergency service shall file and maintain a tariff with the Commission.
- (c) All providers of switched access service shall file and maintain a tariff with the Commission.
- (d) HCSM recipients shall provide the Commission and publish on its website a Terms of Service document (TOS) for basic service offered in HCSM-supported areas. In addition to the requirements and contents in rule 1210, the following shall be included in a HCSM recipient's TOS, as applicable:
 - (I) a description of the provider's local calling areas, which shall include the exchange area and all other exchanges which are included in its local calling area;

- (II) a currently applicable exchange area boundary map for each of its exchanges within the state in which the HCSM recipient has been granted authority to provide service. Each map shall identify clearly the boundary lines of the exchange area and shall include a map scale. Exchange boundary lines shall identify, by appropriate measurement, the boundary line if the boundary line is not otherwise located on section lines, waterways, railroads, or roads. Maps shall include detail equivalent to the detail provided on county highway maps;
 - (III) the rates and charges for basic service pursuant to § 40-15-401(1)(b)(IV)(B), C.R.S.;
 - (IV) a description of subscribers' options regarding freezing their authorized local, intraLATA toll, and interLATA interexchange providers),;
 - (V) a description of the High Cost Support Mechanism (HCSM) surcharge, consistent with paragraphs 2847(f) and (g);
 - (VI) a description of the Telecommunications Relay Services (TRS) surcharge, consistent with rule 2827;
 - (VII) a description of all other state-mandated surcharges; and
 - (VIII) information sufficient to indicate that the HCSM recipient's terms of service comply with the requirements for basic service set forth in Rules 2300 through 2399.
- (e) All providers of telecommunications service proposing to introduce any jurisdictional service required to be tarified shall file an advice letter and proposed tariff pages on not less than 30-days' notice to the Commission and to the public. The Commission may order the provider of telecommunications service to give additional notice of the proposed new service.
- (f) Notice requirements for all tariff and TOS changes.
- (I) Any provider of tarified switched access or basic emergency services proposing to change any rate, or to change any rule, regulation, classification, term, or condition in a tariff that will result in an increase in rates or charges shall give notice in accordance with § 40-3-104, C.R.S.
 - (II) Any provider of tarified switched access or basic emergency services proposing to change any rate in a tariff that will result in a decrease in rates or charges shall file an advice letter and tariff pages on not less than 14-days' notice to the Commission. No additional public notice shall be required.
 - (III) Changing tariff terms or conditions on not less than 14-days' notice. Any provider of tarified switched access or basic emergency services proposing a change in its tariff terms or conditions shall file an advice letter and tariff pages on not less than 14-days' notice to the Commission. No additional notice is required, unless the Commission finds that it is in the public interest to order additional notice. If the Commission so orders, and to avoid rejection of the advice letter filing, the provider of telecommunications service shall extend the effective date of such advice letter to accommodate the additional notice.
 - (IV) A HCSM recipient shall notify the Commission of and publish on its website each change to its TOS document prior to that change taking effect, and shall notify the Commission at the same time it notifies its customers of each such change.

- (g) Changing tariffs upon less than 30-days' or 14-days' notice. A provider of tariffed switched access or basic emergency service may file an application for permission to change a tariff on less than 30-days or 14-days' notice, as applicable. The Commission, for good cause shown, under § 40-3-104(2), C.R.S., may grant permission to change a tariff without formal oral hearing on less than 30-days or 14-days' notice. No tariff change shall become effective unless the Commission orders: a change in the manner in which the tariff shall be filed and published; the change to be made to the tariff; and the date when the change shall take effect. In providing notice of the application, the provider of telecommunications service shall comply with paragraph 1207(a) concerning less-than-statutory notice. The following shall be included in the application: details of the proposed change to the provider's tariff; the tariff pages that the provider proposes to change; justification for the proposed change becoming effective on less than 14-days' or 30 days' notice, as applicable; any prior Commission action, in any proceeding, pertaining to the present or proposed tariff; and financial data supporting the proposed change, if appropriate.
- (h) Customer notice. If the utility is required by statute, Commission rule or order to provide additional notice to customers of the advice letter filing, such customer notice shall include, without limitation, the following:
 - (I) information required by subparagraphs 2002(d)(I) – (XII); and
 - (II) identification of the advice letter number, if known at the time the customer notice is provided.
- (i) All existing tariffs or tariff language on file with the Commission for services deregulated pursuant to § 40-15-401, C.R.S., are null and void. All tariffs on file with the Commission offering rates, terms and conditions for basic emergency service and tariffs offering rates, terms and conditions for the offering of switched access service remain effective.

2123. Customer-specific contracts and notice.

- (a) Irrespective of any tariff requirement, the Commission may permit a provider to contract for jurisdictional services.
- (b) A notice of contract shall be filed with the Commission under seal within 14 days of the date the contract is executed. The notice shall: disclose any early termination penalty to the customer; confirm that the charges exceed the company's costs; and confirm that the contract contains a provision acknowledging that it is subject to regulatory review. If a provider of jurisdictional service fails to timely make the required notice with the Commission, both parties of the contract may be subject to Commission sanctions, including civil penalties.
- (c) The contract shall be subject to Commission review to determine if:
 - (I) the negotiated contract is nondiscriminatory;
 - (II) the contract terms are not inconsistent with the public interest; and
 - (III) the contract terms are not inconsistent with applicable Commission rules.
- (d) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the provider of jurisdictional services shall bear the burden of proof with respect to the contract. If the Commission does not set the contract for hearing, the contract is effective according to its terms.

2124. – 2129. [Reserved].

Basic Emergency Service

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) define and describe basic emergency service as regulated by § 40-15-201, C.R.S.; (2) prescribe the process for certification of basic emergency service providers and outline the obligations of basic emergency service providers; (3) prescribe the required components of a basic emergency service tariff; (4) prescribe reporting and response requirements regarding basic emergency service outages; (5) establish a tariff-based funding mechanism for basic emergency service network reliability improvements; (6) permit use of 9-1-1 databases for outbound wide area notifications in times of emergency; (7) establish the 9-1-1 Advisory Task Force; (8) explicitly recognize the potential for multiple BESP.s in Colorado; (9) establish the process by which governing bodies may apply for approval to impose an emergency telephone charge rate in excess of a threshold established by the Commission; (10) prescribe the process for the establishment of the annual threshold, surcharge, and prepaid wireless 9-1-1 charge amounts; (11) establish annual reporting requirements for 9-1-1 governing bodies; (12) prescribe the processes for the collection and distribution of 9-1-1 surcharge funds; and (13) establish procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of emergency telephone charges and 9-1-1 surcharges.

The statutory authority for the promulgation of these rules is found at §§ 29-11-101.5; 29-11-102; 29-11-102.3; 29-11-102.5(2)(c); 29-11-102.7(2); 29-11-103; 29-11-106(3); 40-2-108; 40-3-102; 40-3-103; 40-4-101(1) and (2); 40-15-201; 40-15-301; and 40-15-503(2)(g), C.R.S.

2130. Applicability.

- (a) Except as otherwise provided, rules 2130 through 2159 apply to BESP.s.
- (b) Rules 2136, 2137, and 2143 apply to BESP.s actively providing service to a governing body or PSAP.
- (c) Rules 2147, 2151, 2153, and 2154 apply to 9-1-1 governing bodies.
- (d) Rules 2152 and 2155 apply to originating service providers.

2131. Definitions.

The following definitions apply only in the context of rules 2130 through 2159:

- (a) "9-1-1" means a three-digit abbreviated dialing code used to report an emergency situation requiring a response by a public agency such as a fire department or police department.
- (b) "9-1-1 access connection" means any communications service including wireline, wireless cellular, interconnected voice-over-internet-protocol, or satellite in which connections are enabled, configured, or capable of making 9-1-1 calls. The term does not include facilities-based broadband services. The number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
- (c) "9-1-1 Advisory Task Force" means the representative group established in accordance with rule 2145, which provides oversight of the statewide implementation and provision of basic emergency service, and periodically reports to the Commission on matters related to 9-1-1 service delivery in the state of Colorado.

- (d) "9-1-1 call" means a request for emergency assistance from the public by dialing 9-1-1 or addressing the ESInet regardless of the technology used, and may include voice, text, images, and video, whether originated by wireline, wireless, satellite, or other means.
- (e) "9-1-1 service" means the service by which a 9-1-1 call is routed and transported from the end user to the governing body or PSAP serving the caller's location. 9-1-1 service also includes location information routed to the PSAP.
- (f) "9-1-1 surcharge" or "state 9-1-1 surcharge" means the surcharge established pursuant to § 29-11-102.3, C.R.S.
- (g) "Alternate PSAP" means a PSAP or PSAPs designated to receive 9-1-1 calls when the BESP is unable to deliver those calls to the primary demarcation point, or at the request of the PSAP that is normally responsible for receiving calls in that geographic area or at the request of its governing body.
- (h) "Automatic Location Identification" (ALI) means the automatic provision to a PSAP for display, on equipment at the PSAP, of the telephone number and location of the caller. ALI data includes non-listed and non-published numbers and addresses, and other information about the caller's location.
- (i) "Automatic Number Identification" (ANI) means the automatic provision to a PSAP for display of the caller's telephone number at the PSAP
- (j) "Basic emergency service" (BES) means the aggregation and transportation of a 9-1-1 call directly to a demarcation point with a governing body or PSAP, regardless of the technology used to provide the service. The aggregation of calls means the collection of 9-1-1 calls from one or more OSPs or IASPs for the purpose of selectively routing and transporting 9-1-1 calls directly to a demarcation point with a governing body or PSAP. The offering or providing of location information or selective routing directly to a governing body or PSAP is also a basic emergency service. Basic emergency service does not include:
 - (I) the portion of a 9-1-1 call provided by an OSP;
 - (II) the portion of a 9-1-1 call or services provided by an IASP;
 - (III) the portion of a 9-1-1 call from the OSP or an IASP to a demarcation point with the BESP;
 - (IV) the portion of a 9-1-1 call after the demarcation point between the BESP and the governing body or PSAP; or
 - (V) the delivery of text messages to a governing body or PSAP via networks or connections separate from the basic emergency service network.
- (k) "Basic emergency service facilities" or "BES facilities" means the lines, wires, cables, conduit, ducts, poles, cross-arms, equipment, supporting structures, and other infrastructure used by the BESP to provide basic emergency service. "Facilities" has the same meaning, unless the context requires otherwise.
- (l) "Basic emergency service network" or "BES network" means the portion of the 9-1-1 call path that begins at the demarcation point between an OSP or IASP and a BESP and ends at the demarcation point between a BESP and a governing body or PSAP to provide basic emergency service.

- (m) “Basic Emergency Service Provider” (BESP) means any person certificated by the Commission to provide basic emergency service.
- (n) “Concurrent session” means a channel for an inbound simultaneous 9-1-1 call.
- (o) “Core BES component” means a component of basic emergency service that:
 - (I) must be purchased to receive routing and transport of voice 9-1-1 calls and associated location information to the primary demarcation point;
 - (II) should reasonably be provided by a BESP for technical or operational reasons related to the provision of basic emergency service; and
 - (III) may also include monitoring, measurement, and management of BES, such as the provision of call metrics services for 9-1-1 call delivery.
- (p) “Demarcation point” means a physical point of interconnection where the responsibility for a portion of 9-1-1 service changes from one party to another.
- (q) “Emergency notification service” (ENS) means a public alerting service that, upon activation by a public agency, rapidly distributes notifications within a specified geographic area of hazardous conditions or emergent events that threaten the health or lives of people or threatens damage or destruction of property, including, without limitation, floods, fires, and hazardous materials incidents.
- (r) “Emergency telephone charge” means a charge established by a governing body pursuant to § 29-11-102(2)(a), C.R.S., to pay for the expenses authorized in § 29-11-104, C.R.S.
- (s) “Geographic area” means the area such as a city, municipality, county, multiple counties or other areas defined by a governing body or other governmental entity for the purpose of providing public agency response to 9-1-1 calls.
- (t) “Governing body” means the organization responsible for establishing, collecting, and disbursing the emergency telephone charge in a specific geographic area, pursuant to §§ 29-11-102, 103, and 104, C.R.S.
- (u) “Improvement amount” means the amount approved by the Commission as described in subparagraph 2137(e)(II).
- (v) “Improvement plan” means the plan proposed by a BESP or approved by the Commission as described in paragraph 2143(b).
- (w) “Intermediary aggregation service provider” (IASP) means a person that aggregates and transports 9-1-1 calls for one or more OSPs for delivery to a demarcation point with a BESP.
- (x) “Location information” means ALI or its functional equivalent associated with a 9-1-1 call and provided by a BESP pursuant to its BES tariff.
- (y) “Multi-line telephone system” (MLTS) means a system comprised of common control units, telephones, and control hardware and software providing local telephone service to multiple customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures. Multi-line telephone system includes:

- (I) network and premises-based systems such as Centrex, PBX, and hybrid-key telephone systems; and
 - (II) systems owned or leased by governmental agencies, nonprofit entities, and for-profit businesses.
- (z) “Multiple-line telephone system operator” means the person that operates an MLTS from which an end user may place a 9-1-1 call through the public switched network.
- (aa) “Network Operations Center” (NOC) or “Basic Emergency Service Network Operations Center” means a 24x7, 365 days a year single point of contact for Basic Emergency Service (BES). The NOC is responsible for monitoring the BES network, notifying PSAPs of PSAP service disruptions, initiating repairs, troubleshooting, and resolving BES network issues.
- (bb) “Optional BES component” means a component of basic emergency service that is not a core BES component. Optional BES components may be purchased or declined by governing bodies or PSAPs purchasing BES from the BESP.
- (cc) “Originating service provider” (OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services supplying the ability to place 9-1-1 calls.
- (dd) “Primary demarcation point” means the demarcation point designated to the BESP as the primary or first location for delivery of 9-1-1 calls, ANI, and location information for a specific geographic area. This designation is determined by the governing body or PSAP with jurisdictional authority for the geographic area from which the call originates. The physical location of a primary demarcation point may be at a PSAP, at a point of interconnection with a governing body’s local network, or at any other location designated by the governing body or PSAP for delivery of 9-1-1 calls to a PSAP.
- (ee) “PSAP service disruption” means any situation in which a BESP is unable to deliver 9-1-1 calls, ANI, or location information to the primary demarcation point due to an event or incident inside the BES network or on the BESP’s side of the demarcation point. A PSAP service disruption includes, but is not limited to:
 - (I) any event or incident that occurs inside the BES network that results in or requires the BESP to reroute 9-1-1 calls to the demarcation point for an alternate PSAP or the governing body for an alternate PSAP; or
 - (II) any situation in which a PSAP is unable to receive 9-1-1 calls or location information as the result of an event or incident that occurs inside the BES network, even if the facilities involved in the event or incident also provide OSP connectivity.
- (ff) “Public Safety Answering Point” (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP.
- (gg) “Selective routing” means the routing of a 9-1-1 call to the demarcation point with a governing body or PSAP based upon the location information or other factors as agreed upon by the governing body or PSAP.

2132. -2133. [Reserved].

2134. Process for Certification of Basic Emergency Service Providers (BESPs).

- (a) The Commission finds and declares that the public convenience and necessity require the availability, and, when requested, the provision of basic emergency service throughout Colorado, and further that such basic emergency service is vital to the public health and safety and shall be provided solely by properly certificated BESPs.
- (b) A party shall not offer to provide BES in Colorado until it has applied for and been granted a certificate of public convenience (CPCN) and necessity by the Commission to provide BES. An application for CPCN to provide BES shall demonstrate that the applicant is technically, managerially, and financially qualified to provide the service, and if certificated, the applicant will (1) maintain a NOC staffed 24 hours per day, 365 days per year, and (2) have adequate personnel, equipment, spares and supplies to expediently restore service after an outage. The Commission may certify multiple BESPs to offer BES if it finds such certification is in the public interest.
- (c) Notwithstanding paragraphs 2103(a) and 2002(b), an application for CPCN to provide BES shall include the following information in the following order, specifically identified in the application or attachments thereto:
 - (I) the name and address of the applicant;
 - (II) the name(s) under which the applicant will be providing BES in Colorado;
 - (III) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (IV) the name, address, telephone number, and e-mail address of the applicant's contact person for customer inquiries concerning the application, if that contact person is different from the person listed in subparagraph (III);
 - (V) a statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held (if not at the Commission's offices in Denver, the town or city and any alternate town or city shall be within applicant's proposed initial service area);
 - (VI) a statement that the applicant agrees to respond to all questions propounded by the Commission or Commission staff concerning the application;
 - (VII) a statement that the applicant shall permit the Commission or Commission staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VIII) a statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;
 - (IX) acknowledgment that, by signing the application, applicant understands that:
 - (A) the filing of the application does not by itself constitute approval of the application;

- (B) if the application is granted, the applicant shall not commence the requested action until the applicant complies with applicable Commission rules and with any conditions established by Commission order granting the application;
- (C) if a hearing is held, the applicant shall present evidence at the hearing to establish its qualifications to provide BES, and that grant of the application is in the public interest; and
- (D) in lieu of the statements contained in subparagraphs (c)(IX)(A) through (C) of this rule, an applicant may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (c)(IX)(A) through (C) of this rule.
- (X) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applicant, as appropriate, who is authorized to act on behalf of the applicant; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant;
- (XI) the applicant's proposed notice to the public and its customers, if such notice is required;
- (XII) name, mailing address, toll free telephone number, and e-mail address of applicant's representative responsible for responding to customer disputes;
- (XIII) name, mailing address, telephone number, and e-mail address of applicant's representative responsible for responding to the Commission concerning customer informal complaints;
- (XIV) the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
- (XV) if the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;
- (XVI) name and address of applicant's Colorado agent for service of process;
- (XVII) a description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;
- (XVIII) the applicant's most recent audited balance sheet, income statement, and statement of retained earnings;
- (XIX) if the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph (XVIII); detailed information on the sources of capital funds that will be used to provide BES, including the amount of any loans, lines of credit, or equity infusions that have been received or requested, and the names of each source of capital funds;
- (XX) the names, business addresses, and titles of all officers, directors, partners, agents and managers who will be responsible for the provisioning of BES in Colorado;
- (XXI) any management contracts, service agreements, marketing agreements or any other agreements between the applicant and any other entity, including affiliates of the applicant, that relate to the provisioning of BES in Colorado;

- (XXII) an applicant which has contracted with or is otherwise relying upon one or more unaffiliated service providers to provide a major component of BES under its certificate shall identify all such contractors or unaffiliated service providers and which services they are providing. For the purposes of this section, a "major component" means call aggregation, transport, routing, location information, and database services;
- (XXIII) identification of any of the following actions by any court, regulatory body, agency or official within the last five years regarding the provisioning of regulated communications services by the applicant, by any of applicant's agents, officers, board members, managers, partners, or management company personnel, or by any of applicant's affiliates that resulted in:
 - (A) assessment of fines or civil penalties;
 - (B) assessment of criminal penalties;
 - (C) injunctive relief;
 - (D) corrective action;
 - (E) reparations;
 - (F) a formal complaint proceeding brought by any regulatory body;
 - (G) initiation of or notification of a possible initiation of a disciplinary action by any regulatory body, including but not limited to any proceeding to limit or to place restrictions on any authority to operate any CPCN or any service offered;
 - (H) refusal to grant authority to operate or to provide a service;
 - (I) debarment from providing services in any other jurisdiction or bidding on state or federal contracts;
 - (J) limitation, de-certification, or revocation of authority to operate or to provide a service; or
 - (K) any combination of the above.
- (XXIV) For each item identified in subparagraph (XXIII) of this paragraph: an identification of the jurisdiction, summary of any applicable notification of a possible initiation or pending procedure, including the docket, case, or file number, and, upon the request of the Commission or its Staff, a copy of any written decision;
- (XXV) a description and a visual representation of the major components of, and 9-1-1 call flow through, the applicant's proposed BES network;
- (XXVI) acknowledgment that by signing the application, the applicant:
 - (A) certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the BES for which it is applying;
 - (B) understands that:
 - (i) the filing of the application does not by itself constitute authority to operate;

- (ii) a Commission finding that the application is complete is not a ruling on the merits of the application;
 - (iii) if the application is granted, the applicant shall not provide service until:
 - (a) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application;
 - and (b) has an effective tariff on file with the Commission;
 - (C) agrees to respond in writing, within ten days, to all customer informal complaints made to the Commission;
 - (D) agrees to contribute, in a manner prescribed by federal or state statute, rule, or administrative order establishing an explicit subsidy mechanism or other fund to which BESP's are required to contribute;
 - (E) certifies that, pursuant to the tariff under which its service is offered, it will not unjustly discriminate among customers in the same class of service; and
 - (F) certifies that the applicant will not permit any other person or entity to provide BES under its BESP certification without explicit Commission approval.
- (XXVII) The BESP's service area shall be the state of Colorado, but the applicant shall identify the geographic area it initially intends to serve;
- (XXVIII) if the applicant has previously filed with the Commission current reports or material that include the information required in subparagraph (I) and (II), it may confirm this by filing an attestation of completeness and accuracy with proper citation of title and date of the other filed material; and
- (XXIX) a detailed statement describing the means by which it will provide basic emergency service. This statement shall include, but is not limited to:
- (A) the technical specifications for the system that will be used to provide BES, including information on emergency restoration of the system;
 - (B) all inter-company agreements used to implement and operate the service;
 - (C) a list of all interconnection agreements between the BESP and basic local exchange carriers, wireless carriers, other BESP's, and other telecommunications providers;
 - (D) a proposed schedule for testing, monitoring, maintaining, and replacing all equipment and electronics that will be used to provide BES; and
 - (E) proposed tariffs.
- (XXX) An acknowledgment that the applicant will provide BES in accordance with these rules and all applicable quality of service rules.
- (d) While the application is pending, the applicant shall amend its application to report any changes to the information provided within five business days of any such change, so as to keep its application current.
 - (e) By March 30, 2025, and each two years thereafter, each BESP actively providing BES shall file with the Commission updates regarding any changes to the following required information in

paragraph (c): items (I)-(IV), (XII)-(XVIII), (XX)-(XXV), and (XXIX)(A)-(C). Additionally, the BESP shall include with this filing an attestation that the information provided is true, accurate, and correct, and that the BESP remains financially and administratively sound and capable of providing the BES offered in its current tariff(s).

- (f) BESP that have not actively provided BES for a period of five years prior to the filing of a proposed tariff as described in rule 2137 must include in that filing an update to their certification information regarding paragraph (c): items (I)-(IV), (XII)-(XVIII), (XX)-(XXV), (XXIX), and (XXX). Additionally, the BESP shall include with this filing an attestation, which is made under penalty of perjury, that the information provided is true, accurate, and correct, and that the BESP remains financially and administratively sound and capable of providing the BES offered in its proposed tariff(s). The Commission will consider this information when considering approval of the advice letter and proposed tariff pages. The Commission will also determine whether the BESP must file an improvement plan as described in paragraph 2143(b) along with its proposed tariff.
- (g) Each BESP must offer BES on a statewide basis to all governing bodies or PSAPs.
- (h) Persons seeking to offer services that provide backup BES outside of a BESP's BES tariff must apply for BESP certification. Applications for backup BES must meet requirements in rule 2134 or seek waiver of specific rule requirements and demonstrate good cause for any waiver requested.
- (i) In any order approving the certification of a BESP, the Commission will also determine whether the BESP shall be required to file an improvement plan application as described in paragraph 2143(b) and set a deadline for filing the application.

2135. Uniform System of Accounts, Cost Segregation and Collection.

All BESP shall maintain their books and records and perform separation of costs as prescribed by rules 2400 through 2459, or as otherwise prescribed by the Commission.

2136. Obligations of Basic Emergency Service Providers.

- (a) A BESP certificated by the Commission shall interconnect with all OSPs and IASPs who have customers in areas served by the BESP. BESP shall interconnect with all other BESP for the purpose of transferring 9-1-1 calls to PSAPs served by the other BESP.
- (b) The BESP shall provide geographically diverse demarcation points for aggregating 9-1-1 calls and location information from OSPs and IASPs. At the request of an OSP or IASP, a BESP shall interconnect with the requestor for the purpose of aggregating and transporting 9-1-1 calls and location information from the requestor to the demarcation point with the governing body or PSAP. Interconnection shall be accomplished in a timely manner, generally not more than 30 days from the time the BESP receives a written order. Interconnection facilities shall generally be engineered as follows:
 - (I) dedicated facilities for connecting OSPs and IASPs to a BESP shall be based on the requirements established by the BESP to serve the customers within that local exchange; or

- (II) if shared or common facility groups are used to transport calls from an OSP or IASP to a BESP, they shall be sized to carry the additional call volume requirements. Additionally, common or shared groups shall be arranged to provide 9-1-1 calls on a priority basis where economically and technically feasible.
- (c) A BESP shall develop and file with the Commission tariffs that comply with the requirements set forth in rule 2137.
- (d) A BESP shall render to each governing body or PSAP a single monthly bill for its tariffed services. The monthly bill shall be sufficiently detailed to allow the governing body or PSAP to determine that it is being billed properly based on the billing increments as approved by the Commission.
- (e) BESP's shall ensure, to the extent possible and in the most efficient manner, that basic emergency service is available for transmitting 9-1-1 calls from deaf, hard of hearing, and persons with speech impairments to the appropriate PSAP.
- (f) A BESP shall ensure that all BES facilities, and interconnections between it and the OSPs and IASPs are engineered, installed, maintained, and monitored in order to provide a minimum of two circuits and a minimum P.01 grade of service (one percent or less blocking during the busy hour), or such other minimum grade of service requirements approved by the Commission.
- (g) Where a BESP obtains BES facilities from a basic local exchange carrier, the rates for such facilities shall be reflected in a tariff or agreement filed for approval with the Commission. Such tariffs or agreements shall ensure that such facilities are engineered, installed, maintained, and monitored to provide a minimum of two circuits and a grade of service that has one percent (P.01) or less blocking. The basic local exchange carrier providing such facilities shall not be considered a BESP. The provisions of this rule shall not apply to routing arrangements implemented pursuant to paragraph 2143(j)(II).
- (h) To expedite the restoration of service following a PSAP service disruption, each BESP shall designate a telephone number for governing bodies, PSAPs, IASPs, and OSPs to report trouble. Such telephone number shall be staffed seven days a week, 24 hours a day, by personnel capable of processing calls to initiate immediate corrective action.
- (i) A BESP shall keep on file with the Commission its contingency plan as described in paragraph 2143(e).
- (j) BESP's shall identify service providers supplying service within a governing body or PSAP's service area, or statewide, to the extent that the BESP possesses such information, in response to a request from a governing body, PSAP, or the Commission.
- (k) A BESP shall report to the Commission a list of every PSAP serviced by the BESP with the number of concurrent sessions provided to each PSAP. This report shall be updated and filed annually with the Commission by June 1 of each year.
- (l) These requirements are in addition to those in paragraph 2335(d). If the BESP is aware of repairs or maintenance being conducted or to be conducted that have the potential to impact service to a primary demarcation point, the BESP shall notify the associated PSAP(s) of the potential of a PSAP service disruption at least 24 hours prior to work commencing, or as soon as possible. This notification shall be provided by voice call to the PSAP, if possible, and to the contact maintained for the PSAP as described in paragraph 2143(c). When scheduling routing maintenance or repairs, the BESP should schedule such repairs at a time likely to cause the least impact to the affected PSAP(s). Wherever practicable, maintenance of the BES network shall be performed with no scheduled downtime. The BESP shall employ best efforts to ensure that planned events for routine maintenance are scheduled and communicated to avoid impacts to each affected

PSAP's 9-1-1 operations. Conduct of emergency or unscheduled repairs in order to restore service to a PSAP should not be delayed in order to make PSAP notification.

2137. Required Components of a Basic Emergency Service Tariff.

- (a) At a minimum, a BES tariff must include the following services:
 - (I) delivery of 9-1-1 calls to the demarcation point with the governing body or PSAP with primary responsibility for dispatching first responders to the caller's location unless otherwise directed by the PSAP or governing body;
 - (II) delivery of location information to the governing body or PSAP receiving the 9-1-1 call;
 - (III) the ability to automatically route 9-1-1 calls to one or more alternate PSAPs, as designated by the governing body or PSAP, in the event of a call overflow, PSAP service disruption, or PSAP abandonment, including split contingent routing of 9-1-1 calls to multiple alternate PSAPs if feasible;
 - (IV) the ability to transfer 9-1-1 calls to other Colorado governing bodies or PSAPs with location information;
 - (V) when feasible, the ability to transfer 9-1-1 calls to 10-digit lines without additional long distance charges;
 - (VI) if feasible, the ability to transfer 9-1-1 calls to a PSAP in another state with location information without additional long distance charges;
 - (VII) processes or tools that a governing body or PSAP and the BESP may use to pre-validate location information and routing information associated with specific telephone numbers and to correct such information or to report telephone numbers that do not have associated location information;
 - (VIII) minimum quality of service metrics that the BES will meet (examples: service availability percentage, jitter, packet loss, mean opinion score, latency, successful call delivery percentage, and call delivery accuracy percentage);
 - (IX) a description of the internal schedules for testing, monitoring, maintaining, and replacing all equipment and electronics that will be used to provide BES;
 - (X) the provision of technical support 24 hours per day, every day of each year;
 - (XI) reporting tools for access to service metrics, call processing, call status, and other call and service data;
 - (XII) nonrecurring charges for one-time costs, such as installation of equipment or change orders related to the delivery of BES must be listed separately in the tariff, unless those costs are included in the monthly recurring charges provided for in the tariff; and
 - (XIII) terms of payment for invoices for BES must be stated, including late fees.
- (b) BESP's with BES tariffs in place as of March 1, 2022 shall file an advice letter and tariff pages within 180 days of the effective date of this rule to comply with paragraph (a) of this rule.
- (c) All of the requirements listed in paragraph (a) shall be provided in conformity with the relevant standards of the National Emergency Number Association, to the extent feasible.

- (d) Additional features or services may be offered as part of a BES tariff, if they may reasonably be considered part of BES, or provide metrics related to that service.
- (e) The pricing and rates for BES shall be set forth on the BESP's BES tariff.
 - (I) Rates for BES must be established per concurrent session per month. The rate for all services and features included with the BES offering, as approved by the Commission, must be the same, per concurrent session, for all governing bodies or PSAPs purchasing service under the tariff. Such pricing must be based on actual costs plus a proposed profit margin. The BESP shall describe the methodology it used to determine the proposed pricing in the advice letter or tariff pages. Additional features or services may be offered in the tariff on an optional or individual case basis, provided:
 - (A) the additional features or services may reasonably be considered part of BES or monitoring and metrics for such service; and
 - (B) the offering of the additional features or services on an optional or individual case basis will not create differences in the uniformity of BES availability statewide.
 - (II) The tariff must include, as a separate line item, the improvement amount approved pursuant to paragraph 2143(b), if any. Within 45 days of the Commission's approval of the improvement amount, the BESP shall file an advice letter and tariff pages to reflect the approved improvement amount, with an effective date of the following March 1, unless otherwise directed by the Commission in its approval of the improvement amount. The improvement amount shall be assessed per concurrent session per month to every governing body or PSAP receiving service from the BESP.
 - (III) The tariff must state that the improvement amount described in subparagraph (II) above may be temporarily or permanently suspended by Commission decision.
- (f) In its advice letters and BES tariff, a BESP shall classify the components of its basic emergency service offering as core BES components or optional BES components. Components of basic emergency service shall not unreasonably be bundled such that certain components which could be classified as optional BES components are instead classified as core BES components.

2138. Obligations of Payphone Providers.

All payphone providers must ensure that access to dial tone, emergency calls, and telecommunications relay service calls for the deaf, hard of hearing, and individuals with speech impairments is available from all payphones at no charge to the caller, pursuant to 47 C.F.R. 64.1330(b).

2139. – 2140. [Reserved].

2141. Multi-line Telephone Systems (MLTS) Complaint Portal.

- (a) The Commission maintains an online portal by which members of the public or other interested parties may report violations of federal law or regulation regarding the 9-1-1 capabilities of multi-line telephone systems in Colorado. This includes but is not limited to reports of violations of 47 U.S.C. § 623.
- (b) The Commission shall relay all complaints received via this portal to the appropriate federal enforcement agency or agencies in a timely manner.

2142. Nondisclosure of Name/Number/Address Information.

- (a) ALI database information shall not be used for purposes other than for responding to requests for 9-1-1 emergency assistance (including maintenance of GIS address data used for 9-1-1 responses), initiating delivery of emergency warnings using an emergency notification service (including development of an emergency notification database and addressing verification), or periodic testing of these services. BESP that provide ALI service shall provide one database extract per year to requesting 9-1-1 governing bodies at no cost. Additional extracts may be purchased at cost.
- (b) If personal information is improperly disclosed and that disclosure is the fault of a BESP, the BESP shall pay the applicable for changing a customer's telephone number, unless the customer declines such number change.

2143. Basic Emergency Service Reliability and Outage Response.

- (a) All BESP that provide BES shall take reasonable measures to provide reliable BES including circuit diversity, central-office backup power, and diverse network monitoring. Where feasible, 9-1-1 circuits within the BES network shall be physically and geographically diverse.
 - (I) Circuits or equivalent data paths are physically diverse if they provide more than one physical route between end points with no common points where a single failure at that point would cause both circuits to fail. Circuits that share a common segment such as a fiber-optic cable or circuit board are not physically diverse even if they are logically diverse for purposes of transmitting data.
 - (II) Circuits or equivalent data paths are geographically diverse if they take different paths from endpoint to endpoint, not following the same geographic route.
- (b) On or before February 15, 2023, and each two years thereafter, each BESP shall file an improvement plan application or amendment. This application or amendment shall be subject to rule 2002.
 - (I) The improvement plan shall consist of the following, at a minimum:
 - (A) a list of service reliability items including, but not limited to, items reported to the FCC in its annual 9-1-1 reliability submission;
 - (B) a list of projects to improve the reliability of the BES network that the BESP proposes to implement over the course of a twenty-four month period. For each proposed project listed, the BESP shall include the following information:
 - (i) the proposed beginning and completion date of the project, along with any proposed intermediate milestones for phases of the project;
 - (ii) firm estimated costs for the project(s) or, for multi-phase projects, for the individual phases of the project to be completed within the improvement plan term, including a proposed profit margin of no more than 10.5 percent;
 - (iii) the portion of the cost of the project or project phase the BESP requests to be funded through the improvement plan;

- (iv) an explanation of different technological options and contractual arrangements considered by the BESP for this project, including, as appropriate, fiber, microwave, satellite, and third party facilities, and the reasons the BESP has selected the options included in its improvement plan for this project, including considerations of cost effectiveness and effectiveness at improving reliability;
 - (v) a statement describing whether the benefit of the improvement will be exclusive to BES, and, if not, the estimated percentage of the benefit to BES versus other uses of the improvement, such as commercial uses; and
 - (vi) a statement describing the expected impact of each proposed project, including what benefit the project may have for BES network reliability and which PSAP(s) may be expected to benefit from the project, and the reasons the BESP chose this project over other potential projects. Projects to be included in the application should be proposed based on the following categories, following informal consultation with stakeholders:
 - (1) projects that have the potential to reduce the likelihood of outages based on past patterns of outages in the BES network and based on the existence of points in the network, equipment, or software that represent a lack of redundancy or diversity;
 - (2) projects that have the potential to reduce the duration or scope of outages;
 - (3) projects that have the potential to improve reliability for more than one PSAP;
 - (4) projects that, when implemented with other projects proposed in the improvement plan application, balance improvements to portions of the network serving both urban and rural communities; and
 - (5) other projects that the BESP determines would be beneficial to the overall reliability and resiliency of the BES network.
- (C) Other changes that the BESP anticipates occurring in Colorado in the next two years that may impact BES.
- (D) A statement attesting that the BESP understands that it is responsible for the ongoing maintenance and operations of any improvement made in accordance with an approved improvement plan and funded through an approved improvement amount, unless otherwise approved by the Commission, and that the BESP understands that it may not discontinue the maintenance and operation of any approved and funded improvement without express permission of the Commission.
- (E) A proposed improvement amount, as described in subparagraph 2137(e)(II). This improvement amount shall be calculated to reimburse the BESP for its costs, including its proposed profit margin, for all proposed projects in the two-year improvement plan. The BESP may propose different improvement amounts for each of the two years.

- (II) As part of its decision to approve the improvement plan, the Commission shall also approve an improvement amount. Thereafter, but no more than annually, the BESP or Commission staff may request an adjustment to the improvement amount. The improvement amount shall be calculated to provide reimbursement to the BESP for all approved expenditures already incurred and all expenditures anticipated pursuant to an approved improvement plan. If approved prior August 1, the improvement amount shall be effective the following March 1. If approved after August 1, the improvement amount shall be effective March 1 of the year following the next August 1. The Commission will take the improvement amount into consideration when setting the 9-1-1 surcharge rate as described in subparagraph 2148(a)(II).
- (III) The Commission may approve the improvement plan application, in full or as modified by the Commission.
- (IV) Following a Commission decision approving an improvement plan application, the BESP shall:
 - (A) provide notice within 30 days of its intent to accept funds and implement the improvement plan, in full or in part; and
 - (B) file quarterly reports containing the following information:
 - (i) a description of all work completed pursuant to the improvement plan since the last quarterly report and cumulatively;
 - (ii) a list and total of all expenditures incurred by the BESP in completion of the work since the last quarterly report and cumulatively, and expenses expected to be incurred in the following quarter;
 - (iii) the funding obtained from the improvement amount since the last quarterly report and cumulatively;
 - (iv) anticipated expenses for the following quarter; and
 - (v) any actual or anticipated project delays that are expected to affect the dates of any project completion or milestone date as described in the approved improvement plan.
- (V) Following approval of the improvement plan, the BESP may file proposed amendments to the improvement plan for approval by the Commission for any significant unforeseen changes to the approved improvement plan.
- (VI) Following each quarterly report, if improvement amount revenues significantly exceed current and anticipated expenditures, following notice and comment by interested parties, the Commission may suspend the improvement amount until such time that future quarterly reports demonstrate that the approved expenditures exceed total revenue received by the BESP, or take other actions as appropriate.
- (VII) On or before February 15 every two years following the filing of the original improvement plan, unless otherwise approved by the Commission, the BESP shall file a proposed amendment to the improvement plan extending it for an additional two years or a new proposed improvement plan for a two-year period, including additional projects.

- (VIII) The Commission may, with cause, revoke approval of the improvement plan and terminate the BESP's authority to charge the improvement amount. The BESP shall be allowed to continue charging the improvement amount until any approved expenditures already made by the BESP have been reimbursed through the improvement amount.
- (c) Each BESP shall maintain contact information for each PSAP served by the BESP for notification of actual or potential PSAP service disruptions. No less than annually, the BESP shall contact each PSAP that is served by the BESP to verify the notification information on file.
- (d) The BESP shall obtain from each governing body or PSAP its preferred alternative method(s) for the governing body or PSAP and the BESP to communicate during a PSAP service disruption.
- (e) Beginning in 2023 and each year thereafter, each BESP shall develop a BES contingency plan in collaboration with all affected BESP, basic local exchange carriers from which the BESP obtains BES facilities, governing bodies, and PSAPs, to be confidentially filed annually with the Commission no later than April 30. The contingency plan shall include:
 - (I) identification and location of all primary and backup facilities, equipment, and databases or any and all other components related to BES;
 - (II) an identification and description of all demarcation points with governing bodies or PSAPs, or other BESP;
 - (III) all contingency processes and information from BESP, PSAPs, and governing bodies necessary for public safety operations until BES is restored;
 - (IV) the most current version of the contact information collected by the BESP pursuant to paragraph 2143(c), and an indication of whether the information has been updated or confirmed since the previous contingency plan filing;
 - (V) the results of the BESP's most recent 9-1-1 reliability certification report filed with the Federal Communications Commission pursuant to 47 CFR § 9.19, including, where applicable, reference regarding which PSAP(s) would potentially be impacted by an outage of an item in the report, for use by governing bodies and PSAPs to plan for and mitigate potential outages and continuity of operations;
 - (VI) any other details deemed relevant by the BESP or reasonably requested by the Commission;
 - (VIII) alternate communications plans as described in paragraph (g); and
 - (VIII) a template non-disclosure agreement that may be completed by governing bodies and PSAPs and filed in the proceeding.
- (f) The BESP shall meet with each governing body or PSAP, upon request, to review the information contained in the most recent contingency plan as it relates to the governing body or PSAP.
- (g) Where feasible, the BESP should develop plans for its technicians to communicate with the NOC in the event of an isolation of a central office serving a PSAP in a manner that will allow for expeditious resolution of the PSAP service disruption.

- (h) Each BESP shall provide each PSAP that it serves with a telephone number that the PSAP can use to report to the BESP technical issues regarding BES. The telephone number should be staffed at all times, including nights, weekends, and holidays, by personnel capable of processing the call to initiate immediate corrective action. The BESP shall log all calls and communications between the NOC and PSAPs or governing bodies by date, time, PSAP, party placing the call or sending the message, and individuals participating in the call and subject, with a summary of the call including any instructions provided the PSAP.
- (i) All call recordings and messages transmitted or received by the BESP regarding a PSAP service disruption shall be retained for at least 24 months. All logs, call recordings and messages concerning a specific disruption shall be assigned a unique trouble ticket number.
- (j) In the event of a confirmed or possible PSAP service disruption, the following shall occur.
 - (I) The BESP shall notify each affected governing body or PSAP via the contacts previously provided in accordance with paragraph (c) of this rule. Such notifications shall be made as soon as is practical, and shall include a trouble ticket number, the nature and extent of the confirmed or possible PSAP service disruption, if known, and the actions being taken to correct the disruption. If applicable, the notice shall include interim measures being taken to route 9-1-1 calls to alternate PSAPs or other locations. If known, the notification shall also include an estimated time of repair.
 - (II) If the confirmed or possible PSAP service disruption exceeds or is anticipated to exceed 15 minutes from the time a BESP becomes aware of the disruption, the BESP shall implement the appropriate contingency plan as established in paragraph (e) or provide temporary solutions so that 9-1-1 calls can be answered until the disruption is resolved. The BESP shall coordinate any alternate solutions with the contact(s) provided in accordance with paragraph (c) for the affected governing body or PSAP. In the event of a confirmed or possible PSAP service disruption, the BESP must deliver all 9-1-1 calls to an alternate PSAP, if possible, until the PSAP service disruption is resolved.
 - (III) If a confirmed or possible PSAP service disruption exceeds 30 minutes in duration, the responsible BESP shall inform the Commission within two hours of the time that the BESP becomes aware of the disruption. Such notification shall be made through a service disruption reporting form, available on the Commission's website.
 - (IV) In addition to the notification to Commission staff required by subparagraph (III), the BESP shall also copy Commission staff on all email notifications provided to Colorado PSAPs regarding confirmed or possible PSAP service disruptions at an email address designated for this purpose.
 - (V) The BESP shall notify the Commission of restoration of service by the beginning of the next business day following service restoration.
 - (VI) The BESP shall submit a final report to the Commission through the service disruption reporting form within 30 days of the restoration of service. The report shall include a statement as to whether call back numbers for 9-1-1 calls which could not be connected due to the confirmed or possible PSAP service disruption were provided to the PSAP as required by subparagraph 2143(j)(VII).

- (VII) Following the restoration of PSAP service, the BESP shall notify each affected governing body or PSAP whether call back phone numbers are available for calls that were made to 9-1-1 but could not be delivered due to the disruption. If available, these call back numbers shall be provided to each governing body or PSAP within two hours of the restoration of service. When possible, this information should also include location information. The BESP must provide this information to the governing body or PSAP without requiring a request from the governing body or PSAP.
- (VIII) In the event of a confirmed PSAP service disruption of more than four hours duration, or 12 hours in duration if the disruption is due to a fiber cut, the BESP shall provide a credit equal to the ratio of hours of the full duration of the disruption in hours to the total number of hours in the billing cycle. The credit shall be provided within no more than two billing cycles to the governing body or PSAP that normally receives the bill. If, as the result of a formal complaint proceeding or other proceeding, the Commission finds that a BESP has failed to provide a credit required under this paragraph, the Commission may order the amount of the credit to be doubled. The BESP must provide billing credits required under this rule automatically, without requiring a request from the governing body or PSAP. Additionally, civil penalties may be assessed as described in rules 2009 through 2011.
- (k) Commission staff shall commence an informal investigation regarding each confirmed or possible PSAP service disruption meeting the below criteria, despite the dispute resolution process in the BESP's tariff, if any. The 9-1-1 Advisory Task Force may participate in the investigation.
 - (I) Informal investigations are required when the service disruption meets any of the following criteria:
 - (A) multiple PSAPs are affected;
 - (B) the details of the service disruption, such as the cause, the beginning and end times, and the implemented mitigation strategies are unclear from the information available to Commission staff;
 - (C) the service disruption lasted longer than four hours;
 - (D) there was an apparent failure to notify the PSAP as required by subparagraph 2143(j)(l);
 - (E) there were repeated service disruptions of a similar nature or in the same area within a 30-day period;
 - (F) at the request of one or more affected PSAP or governing body; or
 - (G) when there was a possible violation of a Commission rule.
 - (II) Each informal investigation under this paragraph will be handled as follows.

- (A) Commission staff shall refer an informal investigation form to the BESP for its written response on a standardized form developed by Commission staff for that purpose. This form shall include questions developed by and solicited from the affected governing body or PSAP and the 9-1-1 Advisory Task Force. The BESP shall respond in writing with complete responses within thirty days, or such lesser or greater period as Commission staff may require if such period is reasonable under the circumstances of the informal investigation. If requested, the response shall include: (1) the NOC call log entries; and (2) copies of e-mails and transcripts or recordings of phone calls between the NOC and other parties related to the confirmed or possible PSAP service disruption.
 - (B) The BESP's responses shall fairly meet the substance of each request. The BESP may not provide an incomplete response citing a lack of information or knowledge unless it states it has made diligent and reasonable inquiry and requests that Commission staff allow a reasonable extension of time not to exceed fourteen days. Additional reasonable extensions of time may be granted upon request. Requests for any extensions shall be accompanied with estimates of when information may be provided.
 - (C) Commission staff, the affected governing bodies or PSAPs, or the 9-1-1 Advisory Task Force may also request a meeting with the BESP, which may be recorded, provided that the recording may not be used by any person for any purpose in subsequent proceedings before the Commission. The BESP should arrange for appropriate staff to participate in the meeting, including technical support, service, and management with relevant knowledge and sufficient level of authority or supervision.
- (III) During the pendency of an informal investigation, communications regarding the investigation between Commission staff and any participant in the investigation shall be in writing and copied to the BESP, Commission staff, the affected governing body or PSAP, and the Chair of the 9-1-1 Advisory Task Force or his or her designee. Commission staff shall maintain a complete file related to each informal investigation, including all communications and recordings, and access to and use of the file is subject to applicable Commission rules regarding information claimed to be confidential or highly confidential.
- (IV) Commission staff will document in a report the closure of each informal investigation within sixty days of the confirmed or possible PSAP service disruption, or such greater period as Commission staff may require if such period is reasonable under the circumstances of the informal investigation. The report should include whether the incident was a PSAP service disruption as defined in paragraph 2131(cc), whether the BESP handled the PSAP service disruption in a timely manner with the appropriate personnel, and whether the BESP has taken or committed to taking corrective action to prevent or mitigate a similar disruption from occurring in the future, specifying the corrective action and the timeframe, if applicable. The report shall also document any non-compliance with Commission rules or the BESP's tariff, including the BESP's service quality plan. Within 14 days, the 9-1-1 Advisory Task Force, the affected governing body or PSAP, or the BESP may submit to Commission staff written comments, which Commission staff shall append to the report and preserve in the informal investigation file.
- (V) At any time, Commission staff, the 9-1-1 Advisory Task Force, or the affected governing body or PSAP may commence a proceeding before the Commission, at which time the informal investigation process shall terminate, if not yet closed, other than Commission staff's preparation of the report. If the affected governing body or PSAP seeks relief in an

alternative forum, then the informal investigation process shall terminate, if not yet closed, other than Commission staff's preparation of the report.

- (l) Nothing in rule 2143 shall be construed to impose any obligation on any provider other than BESPs.

2144. Reports.

Each BESP shall furnish to the Commission at such time(s) and in such form as the Commission may require, a report(s) in which the provider shall specifically answer the Commission's questions regarding the provision of basic emergency service.

2145. 9-1-1 Advisory Task Force.

- (a) The Commission shall establish a 9-1-1 Advisory Task Force. The purpose of the Advisory Task Force is to provide oversight of the statewide implementation and provision of basic emergency service. The Advisory Task Force shall include, but is not limited to, the following representative parties directly interested in 9-1-1 services: customer groups, governing bodies, basic local exchange service providers, wireless service providers, providers of basic emergency services, customers of basic emergency service, ALI database providers, and other telecommunications providers. The Commission Staff shall be responsible for administering the Advisory Task Force and facilitating its meetings and agenda. The Advisory Task Force shall evaluate alternate technologies, service, and pricing issues related to implementing statewide 9-1-1 services in a cost effective fashion. The 9-1-1 Advisory Task Force shall provide periodic reports to the Commission on the implementation of 9-1-1 services statewide.
- (b) The Advisory Task Force shall:
 - (I) serve as a forum for the members to discuss matters pertaining to 9-1-1;
 - (II) make future recommendations and report to the Commission concerning the continued improvement and advancement of 9-1-1 services in Colorado;
 - (III) consider 9-1-1 service quality and cost in urban and rural areas in developing its report and recommendations;
 - (IV) investigate, analyze, or recommend resolutions for existing or anticipated 9-1-1 issues within the state;
 - (V) investigate and report to the Commission the development, implementation, and transition to any new 9-1-1 technologies and capabilities, including any impacts to the consumer, originating service provider, service end user, or PSAP; and
 - (VI) monitor and report to the Commission proceedings and activities of the FCC and other national organizations and agencies on matters that may affect 9-1-1 services in Colorado.

2146. Technical Standards.

The Commission may consider standards adopted by standards bodies using accredited, nonproprietary, consensus-based approaches to standards development, as appropriate, in connection with its interpretation, evaluations, or enforcement of rules 2130 through 2159. The Commission's 9-1-1 Advisory Task Force shall publish, at least annually, a list of standards that it recommends be considered by the Commission for this purpose.

2147. Applications by the Governing Body for Approval of an Emergency Telephone Charge in Excess of the Threshold Established by the Commission.

- (a) A governing body requesting approval pursuant to § 29-11-102(2)(c), C.R.S., for an emergency telephone charge in excess of the limit established by the Commission through the procedure described in rule 2148, shall file an application with this Commission.
- (b) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure and with rule 1204. The Commission may provide a form for this purpose, consistent with these rules. Applications must contain the following information:
 - (I) the name and address of the applicant;
 - (II) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (III) the name, address, telephone number, and e-mail address of the applicant's contact person for customer inquiries concerning the application, if that contact person is different from the person listed in subparagraph (II);
 - (IV) a statement indicating the town, city, or virtual forum and any alternate town, city, or virtual forum where the applicant prefers any hearings be held;
 - (V) a statement that the applicant agrees to respond to all questions propounded by the Commission or Commission staff concerning the application;
 - (VI) a statement that the applicant shall permit the Commission or Commission staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VII) a statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;
 - (VIII) acknowledgment that, by signing the application, the applying governing body understands that:
 - (A) the filing of the application does not by itself constitute approval of the application;
 - (B) if the application is granted, the applying governing body shall not commence the requested action until the applying governing body complies with applicable Commission rules and with any conditions established by Commission order granting the application; and
 - (C) if a hearing is held, the applying governing body shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and
 - (D) in lieu of the statements contained in subparagraphs (b)(VIII)(A) through (C) of this rule, an applying governing body may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(VIII)(A) through (C) of this rule.

- (IX) an attestation which is made under penalty of perjury; which is signed by an officer, employee, agent, or an attorney for the applying governing body, as appropriate, who is authorized to act on behalf of the applying governing body; and which states that the contents of the application are true, accurate, and correct; and which attests that within the last 18 months the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S., that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with 29-11-104(5), C.R.S.;
 - (X) a report showing actual revenues and expenses for at least three previous years;
 - (XI) a five-year projected budget for the governing body with the proposed emergency telephone charge, including proposed capital expenses;
 - (XII) documentation of all budgetary line items in excess of \$50000;
 - (XIII) any current intergovernmental agreement or equivalent document authorizing the governing body to collect and use emergency telephone charge funds;
 - (XIV) a resolution or equivalent decision by the governing body authorizing its agent to pursue approval for the requested emergency telephone charge;
 - (XV) a copy of the most recent audit performed of the governing body's finances, or the online address where a copy of such an audit may be found, or a statement that the governing body is exempt from audit requirements;
 - (XVI) a draft public notice and a statement regarding where the governing body proposes to publish the notice; and
 - (XVII) any additional supporting or explanatory documentation which may assist in the evaluation of the application.
- (c) Notice. Notwithstanding paragraph 2002(d), this rule shall establish the notice procedure for governing bodies applying for approval of an emergency telephone charge in excess of the amount established pursuant to § 29-11-102(2), C.R.S. Within three days after the Commission issues notice of the application, the applicant shall publish a notice of the application in at least one newspaper of general circulation in the area of applicability in at least one edition. The notice shall also be made available for a period of no less than two weeks on the governing body's website, if one exists. The notice shall include:
- (I) the name, address and telephone number of the requesting governing body and the Colorado Public Utilities Commission;
 - (II) a statement that the governing body has filed with the Colorado Public Utilities Commission an application to change its currently effective emergency telephone charge, and identify both the current and proposed emergency telephone charge;
 - (III) the proceeding number and the deadline for interventions or objections;
 - (IV) the proposed effective date of the new charge;
 - (V) a statement of the purpose of the application, including an explanation of the proposed changes;

- (VI) a statement that the application is available for inspection at the office of the governing body utility and at the Colorado Public Utilities Commission; and
 - (VII) a statement that any person may attend the hearing, if any, and may make a statement under oath about the application, even if such person has not filed a written objection or intervention.
- (d) All persons other than the Commission who are required to provide notice shall, within 15 days of providing notice, file an affidavit with the Commission stating the date notice was completed, and the method used to provide it. This affidavit shall be accompanied by a copy of the notice or notices provided.

2148. Process for the Establishment of Annual Emergency Telephone Charge Threshold, State 9-1-1 Surcharge Rate, Wireless Prepaid 9-1-1 Surcharge Rate, and Associated Fund Distribution Schedules.

- (a) On or before August 1 of each year, the Commission shall initiate a proceeding to be concluded on or before October 1 to establish the emergency telephone charge threshold, a statewide 9-1-1 surcharge, a wireless prepaid 9-1-1 charge, a distribution schedule for the funds raised by the state 9-1-1 surcharge, and a distribution schedule for the funds raised by the wireless prepaid 9-1-1 charge for the following calendar year.
- (I) The emergency telephone charge threshold:
 - (A) shall take into account inflation through the consideration of historical data and future projections; and
 - (B) shall take into account the needs of governing bodies through the consideration of historical data, inflation rates, the rate of increase of the average emergency telephone charge, comments provided under this rule, and other factors the Commission deems relevant.
 - (II) The 9-1-1 surcharge shall:
 - (A) not exceed fifty cents per month per 9-1-1 access connection;
 - (B) be not less than a rate sufficient to reimburse all governing bodies for the cost to purchase all components of basic emergency service offered under a BES tariff. If there is more than one BES tariff in effect, the Commission will use the most expensive BES tariff to determine this cost;
 - (C) be set considering the following additional factors:
 - (i) the needs of governing bodies to pay for the provision of emergency telephone service as defined in § 29-11-101(14), C.R.S.;
 - (ii) the historical rate of the 9-1-1 surcharge and amounts distributed to governing bodies;
 - (iii) comments provided under this rule;
 - (iv) the amount of the 9-1-1 enterprise fee imposed by the 9-1-1 Service Enterprise pursuant to § 29-11-108(8)(a), C.R.S.; and

- (v) an amount necessary to reimburse the governing bodies for the most recently approved improvement amount as described in subparagraph 2137(e)(II); and
 - (D) be uniform, regardless of the technology used to provide the 9-1-1 access connection.
- (III) The wireless prepaid 9-1-1 charge shall be calculated by determining the average of all local emergency telephone charges as they existed on July 1 of that year plus the amount of the statewide 9-1-1 surcharge established by the Commission for the upcoming year.
- (IV) The distribution schedule for the funds raised by the state 9-1-1 surcharge, excluding the 9-1-1 enterprise fee funds to be transmitted to the 9-1-1 enterprise services cash fund created pursuant to § 29-11-108(10)(a), C.R.S., shall be based on the number of concurrent sessions at all of the PSAPs associated with a governing body as a percentage of the total number of concurrent sessions statewide.
- (V) The distribution schedule for the funds raised by wireless prepaid 9-1-1 charge shall be based on the wireless 9-1-1 call volume at all of the PSAPs associated with a governing body as a percentage of the total number of wireless 9-1-1 calls received by all PSAPs statewide.
- (b) The decision initiating this proceeding shall be accompanied by proposed amounts and distribution schedules as described in (a) (I) through (V) for comment.
- (c) The wireless prepaid 9-1-1 charge rate and wireless prepaid 9-1-1 distribution schedule shall be transmitted to the Colorado Department of Revenue on or before October 1.
- (d) The new rates and distribution schedules established by this proceeding shall take effect on the following January 1.

2149. Annual Data Collection from 9-1-1 Governing Bodies.

- (a) No more than once per year, the Commission may issue a request for data to all 9-1-1 governing bodies. This data request shall include:
 - (I) an accurate and current description or GIS data set representing the boundaries of the 9-1-1 governing body's jurisdiction;
 - (II) other information necessary for the completion of annual data requests from the Federal Communications Commission, the National 9-1-1 Program, or other federal bodies, including but not limited to:
 - (A) the current emergency telephone charge rate set by the 9-1-1 governing body;
 - (B) the number of employees at all of the governing body's associated PSAPs, and how many are funded with either emergency telephone charge revenue, state 9-1-1 surcharge revenue, or wireless prepaid 9-1-1 charge revenue;
 - (C) the total cost of providing emergency telephone service at all of the governing body's PSAPs;

- (D) the total annual revenues received from emergency telephone charge remittances, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, broken down by source;
 - (E) a statement indicating whether any 9-1-1 funds, including emergency telephone charge funds, state 9-1-1 surcharge funds, or wireless prepaid 9-1-1 charge funds, were used for purposes other than those allowed pursuant to § 29-11-104, C.R.S.;
 - (F) that amount of funding the governing body has spent in preparation for the implementation of next generation 9-1-1;
 - (G) that amount of funding the governing body has spent on cybersecurity programs at its PSAPs;
 - (H) that sources, beyond emergency telephone charge remittance, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, are used to fund the equipment and operations of the governing body's associated PSAPs, and an estimate of what percentage each source represents as a total of the cost of operating and equipping the PSAP;
 - (I) the number of call taker equipment positions at each of the PSAPs associated with the 9-1-1 governing body; and
 - (J) total number of text-to-911 calls received by all PSAPs associated with the 9-1-1 governing body; and
- (III) a statement indicating which optional BES components are currently being purchased by the governing body or the PSAPs in the governing body's service area from a BESP.

2150. Administration of the 9-1-1 Surcharge Trust Cash Fund.

- (a) This rule does not apply to 9-1-1 access connections provided via prepaid wireless telecommunications services or emergency telephone charges remitted to governing bodies pursuant to § 29-11-102, C.R.S. The 9-1-1 surcharge is a statewide surcharge applied to all 9-1-1 access connections in the state of Colorado, and is separate from local emergency telephone charges that originating service providers are required to collect and remit pursuant to 29-11-102 C.R.S., the wireless prepaid 9-1-1 charge imposed upon retail transactions of prepaid wireless service pursuant to 29-11-102.5 C.R.S. and 1 CCR 201-5, Special Rule 43, the Colorado telecommunications relay service charge imposed pursuant to 40-17-101 C.R.S., et seq., and 4 CCR 723-2-2827(b), and the prepaid wireless TRS charge imposed pursuant to 29-11-102.7, C.R.S., and 201-5, Special Rule 43.
- (b) The Commission shall determine, and by appropriate order, impose a uniform 9-1-1 surcharge on each 9-1-1 access connection per month. The surcharge amount will be available on the Commission's web site at least 60 days prior to its effective date.
- (c) All originating service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado. The Commission will provide a form for this purpose, consistent with these rules. This form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Originating service providers shall provide an updated form within 15 days of any change of the information previously provided to the Commission including for any discontinuance of service. All Colorado telecommunications surcharge registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.

- (d) 9-1-1 surcharge.
 - (I) Effective January 1, 2021, all originating service providers shall collect and remit the 9-1-1 surcharge assessed upon each service user whose primary service address, if known, or billing address, if service address is unknown, is within the State of Colorado. The surcharge shall be assessed on each 9-1-1 access connection provided to that service user. Such charges shall be collected monthly and remitted as directed by the Commission, as discussed in paragraph (e).
 - (II) With respect to multi-line telephone systems, the number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
 - (III) If the originating service provider lists fees separately on its billing to the customer, the 9-1-1 surcharge shall be listed separately as the "Colorado 911 Surcharge." The listing for this charge and the local emergency telephone charge authorized by § 29-11-102, C.R.S. may not be combined on the bill presented to the customer.
 - (IV) The 9-1-1 surcharge is the liability of the service user and not of the originating service provider, except that the originating service provider is liable to remit all 9-1-1 surcharges that the originating service provider collects from service users. An originating service provider is liable only for the 9-1-1 surcharge collected until it is remitted to the Commission. The amount remitted by the originating service provider must reflect the state 9-1-1 surcharges actually collected on the number of 9-1-1 access connections provided in Colorado by the originating service provider.
 - (V) Each originating service provider may retain from the total 9-1-1 surcharges collected and timely remitted, a vendor fee in the amount of one percent of the total monthly charges collected by such provider.
 - (VI) Each originating service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last calendar day of the following month, even if that day falls on a holiday or weekend.
 - (VII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (e) Remittance procedure.
 - (I) Originating service providers shall submit a return and remit payment as instructed by Commission staff.
 - (II) Originating service providers shall submit all surcharge remittances to the custodial receiver directly.
 - (III) If payments are made by physical check, a printed copy of the completed return described in subparagraph (I) shall also be enclosed with the check.
- (f) From the remittances of the 9-1-1 surcharges received by the Commission pursuant to this section, the portions comprised of the 9-1-1 enterprise fees as described in § 29-11-108(8)(a), C.R.S., shall be transmitted to the 9-1-1 services enterprise cash fund created pursuant to § 29-11-108(10)(a), C.R.S.

- (g) All remittances of 9-1-1 surcharges, excluding the amounts from them as described in paragraph (f) and transmitted to the 9-1-1 enterprise service cash fund created pursuant to § 29-11-108(8)(a), C.R.S., shall be deposited in the 9-1-1 surcharge trust cash fund established pursuant to § 29-11-102.3(3)(c)(I), C.R.S.

2151. Use and Distribution of 9-1-1 Surcharge Trust Cash Fund.

- (a) The Commission may withdraw from the 9-1-1 surcharge trust cash fund an amount up to four percent of the total amount of the fund necessary for direct and indirect costs of administering the collection and remittance of the 9-1-1 surcharge, including costs related to conducting audits of service suppliers. Any funds withdrawn by the Commission for this purpose must be returned to the 9-1-1 trust cash fund if the Commission determines that the funds are not necessary to pay administrative costs.
- (b) Information from the BESP listing each governing body and the number of concurrent sessions being purchased by each shall be considered regarding the distribution percentages for the remaining funds in the 9-1-1 surcharge trust cash fund, as described in rule 2148. Reductions in the number of concurrent sessions being purchased by each governing body shall be reflected in the calculation. Increases in the number of concurrent sessions shall only be reflected in the calculation following an application process as described in paragraph (e).
- (c) On a monthly basis, the Commission shall distribute to each governing body the total funds received into the 9-1-1 surcharge trust cash fund, less the administrative retention fee authorized in paragraph (a), in percentages as determined by the method described in subparagraph 2148 (a) (IV). These distributions shall be made via ACH bank transfer to each governing body.
- (d) For the purposes of subparagraph 2148 (a)(IV), the number of concurrent sessions at each governing body, may only be adjusted annually at the time that the Commission establishes the formula for distribution for the following calendar year.
- (e) A 9-1-1 governing body may file an application to adjust its number of concurrent sessions for the purposes of the distribution of funds under this section no more than once per year.
 - (I) Applications for adjustment of the number of concurrent sessions must be approved by the Commission by August 1 in order to be considered in the distribution formula to be set on October 1. Applications approved after August 1 will be considered for the next distribution to be established in the following year.
 - (II) Applications for this purpose shall be filed with this Commission and processed in accordance with the Commission's Rules of Practice and Procedure and with rules 1204 and 2002. The Commission may provide a form for this purpose, consistent with these rules. In addition to the information required by paragraph (b) of rule 2002, applications must contain the following information:
 - (A) the current number of concurrent sessions at each of the PSAP(s) associated with the governing body;
 - (B) the total volume of calls delivered to the PSAP(s) associated with the governing body via the existing concurrent sessions over the previous 12 months of operation;
 - (C) peak volume statistics relevant to the governing body's request to change its number of concurrent sessions; and

- (D) any other information that the governing body deems relevant to its request to change its number of concurrent sessions.
- (III) No public notice shall be required in conjunction with this application.

2152. Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices.

- (a) Either the Commission or one or more governing bodies may conduct an audit of an OSP's books and records regarding collection and remittance of emergency telephone charges. Audits of OSP's books regarding the collection and remittance of state 9-1-1 surcharges may only be initiated by the Commission.
 - (I) Unless otherwise approved for Commission funding of the audit, as described in rule 2153, the governing body or bodies initiating the audit shall pay all expenses related to the audit.
 - (II) All expenses related to audits initiated by the Commission shall be paid for by the Commission from the administrative retention fund authorized by § 29-11-102.3(3)(c)(II), C.R.S.
 - (III) OSPs shall make relevant records available to auditors at no charge.
 - (IV) Governing bodies conducting audits pursuant to this section must have an audit and appeals procedure in place, adopted by ordinance or resolution, as appropriate.
 - (V) Audits initiated by the Commission shall be limited to the collection and remittance of emergency telephone charges and state 9-1-1 surcharges.
 - (VI) Audits initiated by governing bodies shall be limited to the collection and remittance of emergency telephone.
 - (VII) Any delinquent remittance of state 9-1-1 surcharges received by the Commission, including penalties and interest, shall be deposited into the 9-1-1 surcharge trust cash fund and distributed as prescribed in rule 2151.
- (b) All OSPs must collect and remit properly established emergency telephone charges.
 - (I) A properly established emergency telephone charge is one that is set at a rate that is no greater than the threshold established pursuant to rule 2148 or approved by the Commission in response to an application, as described in rule 2147.
 - (A) Changes to a local emergency telephone charge must have an effective date of either February 1 or June 1.
 - (B) Governing bodies must notify carriers of any change to the emergency telephone charge at least 60 days in advance of the effective date of the change.
 - (II) OSPs shall not bill or collect emergency telephone charges from 9-1-1 access connections purchased by state or local government entities.

- (III) OSPs must remit emergency telephone charges to the appropriate governing bodies no later than the last day of the month following the month in which the charges were collected. Each governing body may establish payment procedures and schedules that vary from these rules, in which case the originating service provider must follow those procedures and schedules.
 - (IV) OSPs must include with their remittance to the appropriate governing bodies a report in such form as required by each governing body.
 - (V) OSPs may retain no more than two percent of each emergency telephone charge collected.
 - (VI) Emergency telephone charge remittances must be based on the actual number of 9-1-1 access connections within the governing body's jurisdiction.
 - (VII) Failure to bill a customer for a properly established emergency telephone charge does not relieve the OSP from the obligation to remit the surcharge. An OSP is only responsible for remittance of emergency telephone charges successfully collected from a customer.
- (c) OSPs shall bill, collect, and remit the state 9-1-1 surcharge in accordance with rule 2150.
- (d) OSPs must list separately the emergency telephone charge and state 9-1-1 surcharge on the customer's bill if fees and charges are listed on the customer's bill.
- (e) OSPs shall provide governing bodies billing examples from a reasonable number of randomly selected addresses for verification of collection and remittance, and these billing examples shall be provided at no charge without disclosing any customer-identifying information.
- (f) OSPs shall maintain a record of the amount of each emergency telephone charge and state 9-1-1 surcharge collected and remitted by service user address for three years after the time that it was remitted.
- (g) If an OSP fails to file a report and remit emergency telephone charges in a timely manner, the governing body or the Commission may assess the OSP for the delinquent remittance in the following manner.
- (I) The governing body or the Commission shall estimate delinquent remittance based on available information.
 - (II) The governing body or the Commission shall issue notice of assessment to the OSP within three years of the original due date of the remittance, unless the three-year period is extended, in writing, in accordance with this rule.
 - (III) Before the expiration of the three-year period, the governing body or the Commission, and the OSP may extend the period for assessment by agreement, in writing. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The governing body and OSP shall provide the Commission the written notice of extension prior to the expiration of the initial three-year period or any prior extension. Any party seeking extension from the Commission shall do so by filing a petition.
 - (IV) The governing body or the Commission shall impose an additional 15 percent penalty in addition to the estimated amount of the delinquent remittance.

- (V) The governing body or the Commission shall assess an additional one percent interest monthly, assessed against the original principal owed, from the original due date until the delinquent remittance has been paid by the OSP.
- (VI) If the assessment was properly noticed within three years of the original due date of the remittance, or prior to the expiration of the period of time agreed to by the Commission and OSP in writing, the governing body or the Commission may file a lien, issue a distraint warrant, institute a suit for collection, or take other action to collect the amount up to one year after the expiration of said time period.
- (h) As an alternative to initiating an audit, a governing body or bodies may request that the Commission engage in informal mediation with the OSP, as described in rule 1301. Such requests shall be directed to the Commission's 9-1-1 program manager or other staff member designated for this purpose.

2153. Governing Body Funding Petition Requirements.

- (a) The governing body or bodies initiating an audit may petition the Commission for funding of the audit from the administrative fund authorized by § 29-11-102.3(3)(c)(II), C.R.S. Such petitions shall be submitted in accordance with rule 2003 and this rule and shall provide for a 14 days notice upon the Commission's acceptance of the petition, unless the petitioner requests a different notice and intervention period.
- (b) The governing body or bodies must submit petitions for funding of audits and receive Commission approval for the funding requested no less than 60 days prior to the audit being conducted.
- (c) Petitions for funding shall include, at a minimum:
 - (I) the scope of audit review anticipated;
 - (II) the amount of funding sought to conduct the audit;
 - (III) supporting information for the auditor selected, including credentials and selection criteria; and
 - (IV) any alleged discrepancies or concerns that instigated the audit.
- (d) The governing body or bodies submitting the petition must provide the petition to the 9-1-1 Advisory Task Force created by rule 2145.
- (e) Upon acceptance of the petition and consideration of intervention filings, the Commission may narrow or expand the scope of the audit and provide a funding cap for reimbursement if necessary.
- (f) Any governing body that commences an audit during the pendency of a funding petition for that audit under consideration by the Commission proceeds at its own risk and may not be reimbursed fully, if at all, depending on the outcome of the petition.

2154. Audit Notification Requirements.

- (a) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any audits initiated pursuant to these rules no later than 15 days from the initiation of the audit.

- (b) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any extension agreed to in writing.
- (c) The 9-1-1 Advisory Task Force shall publish the following:
 - (I) identification of audits conducted by staff of the Commission or a governing body, including whether the audit is ongoing, complete, and the outcome;
 - (II) identification of any Commission proceedings regarding notices of assessment or civil penalty assessments; and
 - (III) identification of individual entities subject to audit and the timeline of any audit periods, including whether extensions have been agreed to in writing either directly with a governing body, or as granted by the Commission.

2155. Disputes Regarding the Emergency Telephone Charge and 9-1-1 Surcharge.

- (a) Notice of Assessment.
 - (I) The director of the Commission or his or her designee shall have the authority to issue a notice of assessment under this rule and for delinquent remittance or other violations as provided in § 29-11-103, C.R.S., alone or in combination with civil penalties as provided in rule 2010 and paragraph (b) of this rule. Additional penalties for other violations of this rule or rule 2150 may incur additional penalties as outlined in rule 2011.
 - (II) The notice of assessment shall include all penalty and interest calculations.
 - (III) The OSP cited in the notice of assessment may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. Any notice of assessment not admitted within the 30-day period shall be immediately referred to an Administrative Law Judge for hearing. At any hearing contesting an alleged assessment, the designee of the director of the Commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.
 - (IV) Unless a proceeding has commenced through a notice of assessment or show cause proceeding as discussed in this rule, an OSP may seek revisions to any final audit report directly with the director of the Commission or his or her designee by providing information warranting the correction in writing. If the director or his or her designee reject the requested revision, the operating service provider may file a petition under rule 2003. The petition shall include, at a minimum, the audit report in question, the requested revisions, and supporting information regarding the requested change. The designee of the director of the Commission shall be a necessary party to any such petition.
- (b) Civil penalties for delinquent or miscalculated payments.
 - (I) No civil penalty assessment notice shall be issued in addition to a notice of assessment for the first instance of delinquent or miscalculated payments in any 12-month period if there are no other violations alleged.
 - (II) In the event the OSP is issued more than one assessment notices in any 12-month period, the director of the Commission, or his or her designee may request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the second notice of assessment in the 12-month period.

- (III) In the event the OSP is issued three or more assessment notices in any 24-month period, the director of the Commission, or his or her designee shall request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the notice of assessment in the 24-month period.
- (IV) The request that the Commission issue a decision to show cause provided with any notice of assessment shall include all penalty and interest calculations, and information relied on, along with separate statements for each alleged violation, if any, and the maximum penalty amount provided. If civil penalties are included in the assessment, information included shall also comply with rule 2010.
- (V) The OSP cited in the notice of assessment, and any accompanying request for the Commission to issue a decision to show cause, may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. At any hearing contesting an alleged assessment, the designee of the director of the Commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.

2156. – 2159. [Reserved].

2160. – 2179. [Reserved].

Designation of Providers of Last Resort, Eligible Telecommunications Carriers and Eligible Providers and Relinquishment of Designations

The basis and purpose of these rules is to: establish regulations concerning the designation of providers of last resort (POLRs) in geographic support areas for which the Commission provides HCSM support; establish the obligations that attach to such designation; establish procedures for changing or relinquishing such designation; establish regulations concerning the designation and relinquishment of eligible telecommunications carriers (ETCs) and eligible providers (EPs).

The statutory authority for the promulgation of these rules is found at §§ 40-15-201, 40-15-301, 40-15-502(5) and (6), and 40-2-108, C.R.S. These rules are consistent with 47 U.S.C. 254 and 47 C.F.R., Part 54.

2180. Applicability.

Rules 2180 through 2199 are applicable to all providers seeking to be designated as a POLR, ETC or EP; or to relinquish a designation as a POLR or as an ETC or EP.

2181. Definitions.

The following definitions apply only in the context of rules 2180 through 2199.

- (a) "Geographic area" means a Commission defined geographic unit usually the same as or smaller than an existing provider's serving area.
- (b) "Service area" means a geographic area established by the Commission for the purpose of determining federal universal service obligations and support mechanisms.

- (I) A service area defines the overall area for which the carrier may receive support from federal universal service support mechanisms. In the case of a service area served by a rural telephone company, "service area" means such company's "study area", as defined in 47 C.F.R., Part 36, unless and until the FCC and the Commission, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of the Telecommunications Act of 1934, establish a different definition of service area for such company.
- (II) If the Commission proposes to define a service area served by a rural telephone company to be other than such company's study area, the FCC will consider that proposed definition in accordance with the procedures set forth in 47 C.F.R. § 54.207(c).

2182. Incorporation by Reference.

References in rules 2180 through 2199 to Parts 36 and 54 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2183. Designation of Providers of Last Resort.

- (a) A provider of basic local exchange service that receives HCSM support in a geographic area shall be considered a POLR in those geographic areas.
- (b) If multiple providers receive HCSM support in the same geographic area, the Commission:
 - (I) may, in the case of an area served by a rural telecommunications provider, permit more than one POLR in a geographic area; and
 - (II) Shall, in the case of all other areas, permit more than one POLR in a geographic area.
- (c) The Commission shall, upon request by a person within an unserved geographic area, or upon its own motion, designate a POLR for that unserved geographic area, based upon a determination of the provider best able to provide basic local exchange service to the area.

2184. Application for Designation as an Additional Provider of Last Resort.

- (a) A provider of basic local exchange service seeking designation as an additional POLR shall file an application with the Commission requesting designation as such for a specific geographic area in which it receives HCSM.
- (b) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (I) the information required by paragraph 2002(b);
 - (II) a description of the geographic area for which applicant seeks designation as a POLR including a description of such geographic area and a map displaying the service area or GIS boundary file;
 - (III) an affirmative statement that the applicant will accept the responsibilities identified in rule 2185;
 - (IV) the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it has the managerial, financial, and technical ability to provide basic local exchange service throughout that relevant geographic area notwithstanding whether there are other providers of basic local exchange service in that area;

- (V) the facts (not in the form of conclusory statements) relied upon by the applicant to establish that the POLR designation for that geographic area serves the public interest by demonstrating that such designation is consistent with the legislative statements of intent in §§ 40-15-101, 40-15-501, and 40-15-502(7), C.R.S.;
- (VI) a statement that the applicant understands that the filing of the application does not constitute, by itself, designation as a POLR; and
- (VII) a statement that, if a designation is granted, applicant understands that such designation is conditional upon compliance with applicable Commission rules and any conditions established by Commission order.

2185. Obligations of Providers of Last Resort.

- (a) A POLR shall offer basic local exchange service to every customer who requests such service within a designated geographic area, regardless of the availability of facilities, unless said customer has an outstanding balance owing to the POLR and no agreement for repayment has been established.
- (b) A POLR shall advertise the availability of such service and charges using media of general distribution.
- (c) Report of held local exchange service orders exceeding 90 days (90-day held orders) and not subject to any applicable exceptions in rule 2308. This paragraph only applies with respect to a POLR's residential and small business customers. Consistent with paragraph 2308(f), when a does not supply basic local exchange service to any customer in an exchange area currently served by the POLR within 90 days, the POLR shall file a report with the Director of the Commission, stating the circumstances causing the delay, explaining if such circumstances are beyond the POLR's control, and providing an estimate of the time necessary to provide service. This report shall identify: the name and address of each applicant; the date of application for service; the class type applied for (e.g., residence or business); the date the application became a 90-day held order; the wire center from which the customer will receive service; and the order number assigned by the POLR to the application for service. This report shall be filed with the Director by the last business day of the following month and shall identify all customers where the period to provide local exchange service exceeds 90 days.
- (d) Report of service orders exceeding thresholds. This paragraph only applies with respect to a POLR's residential and small business customers. When the lesser of 50 or five percent of the total number of service applications in a wire center in a consecutive three-month period are held orders, the POLR shall, within five days of the close of the three-month period, submit to the Commission a report identifying the information required by subparagraph 2005(c)(IV) and identifying the number of days service has been delayed for each held order. The POLR shall further submit to the Commission, within 14 days of the close of the three-month period, a plan of its proposed action to reduce the number of these held service orders to fewer than the lesser of 50 or five percent of the total number of service applications in that wire center.

2186. Relinquishment of Designation as a Provider of Last Resort, Eligible Telecommunications Carrier or Eligible Provider.

- (a) As of July 1, 2016, only providers of basic local exchange service with POLR obligations in geographic areas in which they receive HCSM support retain POLR obligations.
- (b) Providers of basic local exchange service seeking to relinquish designation as a POLR, EP or an ETC, shall file an application with the Commission, at least 45 days before the effective date of the proposed relinquishment.

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- (c) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
- (I) the information required by paragraph 2002(b);
 - (II) a detailed explanation of the proposed relinquishment and the affected geographic area;
 - (III) an explanation as to how the customers currently served by the applicant will continue to be served. A list of known telecommunications providers of basic local exchange service shall be provided;
 - (IV) a plan for transition of customers to another provider of basic local exchange service, if the applicant proposes to discontinue the provision of basic local exchange service. The transition plan shall include sufficient notice to permit the purchase or construction of adequate facilities by a remaining POLR, ETC, EP or other provider of basic local exchange service; and
 - (V) the amount of support the provider of basic local exchange service receives from the federal universal service fund for the geographic serving area for which the relinquishment is sought.
- (d) If the applicant proposes to discontinue the provision of basic local exchange service, the Commission shall establish a time, not to exceed one year after the approval of the discontinuance, within which such purchase or construction of adequate facilities by a remaining POLR, ETC, EP or other provider of basic local exchange service shall be completed.
- (e) During the transition period, the applicant shall ensure that customers do not experience a break in service as a result of the applicant discontinuing service.
- (f) In addition to filing an application with the Commission, the applicant shall prepare a written notice regarding the proposed relinquishment and shall mail or hand-deliver the notice at least 30 days before the effective date to all currently served customers or subscribers, including all interconnecting telecommunications providers of basic local exchange service. The applicant shall separately provide notice to all potentially affected customers through publication for four consecutive weeks in a publication or publications that are distributed in the affected certificated area. A notice shall be mailed to the Board of County Commissioners of each affected county, and to the Mayor of each affected city, town or municipality.
- (I) In addition to the requirements of paragraph 2002(d), the notice shall:
 - (A) be signed by an authorized officer of the provider or its representative; and
 - (B) include said officer or representative's title and address.
 - (II) At least 15 days before the date of the proposed relinquishment, the applicant shall file with the Commission a written affidavit stating its compliance with this paragraph. The affidavit shall state the date notice was completed and the method used to give notice. A copy of the notice shall accompany the affidavit.
- (g) No hearing needs to be held if no objection, protest, or intervention is filed. If a hearing is to be held on an application, the Commission shall endeavor, within its operating constraints, to hold the hearing, or a portion thereof, at a location within the local calling area of the affected community.
- (h) No proposed relinquishment shall be effective until the Commission issues an order approving it.

2187. Eligible Telecommunications Carrier Designation.

- (a) The Commission shall, upon application, designate a common carrier that meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202 and paragraph 2187(b) as an ETC for a service area designated by the Commission.
- (b) Upon request and consistent with the public interest, convenience, and necessity, the Commission may, in the case of an area served by a rural telecommunications provider, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by the Commission, so long as each additional requesting carrier meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202. Before designating an additional ETC for an area served by a rural telecommunications provider, the Commission shall find that the designation is in the public interest.
- (c) Pursuant to Subpart E of 47 C.F.R., Part 54, as of January 27, 2015, all ETCs shall make available Lifeline service, as defined in § 54.401, to qualifying low-income customers.
- (d) The application for designation as an ETC shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (I) the information required by paragraph 2002(b);
 - (II) a description of the service area for which the applicant seeks designation as an ETC. The application shall include either a description of such service area by zip codes, census blocks, coverage map, GIS boundary file, or the underlying carrier's exchange area map displaying the applicant's service area;
 - (III) the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202;
 - (IV) an affirmative statement that the applicant will offer the services that are supported by the federal universal service support mechanisms under 47 U.S.C. § 254(c);
 - (V) an affirmative statement that the applicant is a common carrier;
 - (VI) an affirmative statement that the applicant (ETC) will advertise the availability of such service and charges using media of general distribution pursuant to 47 U.S.C. § 214(e)(1)(B) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996;
 - (VII) an affirmative statement that the applicant will make available Lifeline service, as defined in 47 C.F.R. § 54.401, to qualifying low-income customers;
 - (VIII) an affirmative statement that the applicant is in compliance with the Commission's rules;
 - (IX) a demonstration of the applicant's ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;
 - (X) a demonstration that the applicant will satisfy consumer protection and service quality standards. Wireless applicants that comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service will satisfy this requirement;

- (XI) a two-year build-out plan demonstrating how high-cost universal service support will be used to improve the applicant's coverage, service quality or capacity in every wire center for which it seeks designation and expects to receive universal service support. If a wire center is not part of the build-out plan and the applicant does not have existing facilities in the service area, a detailed explanation of how the applicant will provide service to a requesting customer in the service area for which it is seeking designation;
- (XII) common carriers seeking designation as an eligible telecommunications for purposes of receiving support only for low-income consumers other than for the purpose of receiving Lifeline broadband support must provide:
 - (A) a demonstration that it is financially and technically capable of providing the Lifeline service in compliance with 47 C.F.R. § 54.400, Subpart E;
 - (B) an affirmative statement that the applicant will offer local usage plans that meet the minimum service standards as prescribed by the FCC in order to receive Lifeline support; and
 - (C) an affirmative statement that the applicant will satisfy the requirements for an initial determination of a subscriber's eligibility and certification requirements pursuant to 47 C.F.R. § 54.400.
- (e) Within one year of the effective date of the Commission's decision approving an application for ETC designation, the ETC shall offer the supported services. If the ETC does not offer the supported services within one year, its ETC designation shall be cancelled and deemed null and void.
- (f) As required by the FCC's universal service regulations found at 47 C.F.R. § 54.313, and when appropriate, the Commission shall file an annual certification with the Administrator of the federal Universal Service Fund (USF) and the FCC on behalf of each ETC serving access lines in the state, stating that all federal high-cost support provided to such carriers within that state will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission shall require a carrier to provide the information it finds necessary and convenient to make such a certification. At a minimum, carriers shall furnish requested information outlined in paragraph (g). ETCs that have LATAs that cross the Colorado state boundary and have the primary study area located within an adjacent state to Colorado, will be allowed to file a copy of the adjoining state regulatory commission's ETC certification to the FCC in lieu of information requested in paragraph (g) no later than October 1st of each year.
- (g) Annual reporting requirements for Eligible Telecommunication Carriers.
 - (I) In order for an ETC previously designated by the Commission, or previously designated by the FCC, to be certified to receive federal support for the following calendar year, or to retain its ETC designation, it shall submit the reporting information specified below no later than August 15th of each calendar year to the Commission. ETCs failing to meet these annual report filing requirements and deadlines may not be certified by the Commission to the FCC and the Universal Service Administrative Company (USAC) as eligible to receive federal support for the following calendar year.
 - (II) FCC forms 481, 497, and 690.
 - (III) In addition to the information and certifications included in subparagraph (II) and required in §§ 54.313(b),(c), (d) and 54.316, each ETC receiving federal high cost support shall provide the wire center names associated with each of the locations reported.

- (IV) Certification that the ETC is complying with the applicable service quality standards and consumer protection rules, e.g., the CTIA Consumer Code for Wireless Service.
- (V) Certification that the ETC is able to function in emergency situations as set forth in 47 C.F.R. § 54.202(a)(2).
- (VI) The total amount of all federal high cost support received in the previous calendar year and year-to-date through June 30 for the current calendar year.
- (VII) Documentation the carrier offers and advertises the rate and availability of Basic Universal Service offerings, Lifeline, and Linkup programs throughout the service areas in Colorado where the carrier has been designated an ETC. Copies of written material used in newspaper advertisements, press releases, posters, flyers and outreach efforts and a log of when and where these materials were distributed. For newspaper advertisements, dated copies of the published newspaper advertisements may serve as copies of written material. For radio station advertising, a confirmation from broadcasters of when the public service announcement was aired.
- (VIII) A copy of cost study filing made on July 31st to NECA for current year. If an ETC is not required to file cost study to NECA, then a copy of the line count filing made to the FCC and USAC Administrator shall be submitted.
- (IX) Each ETC shall file with the Commission, on or before April 30 of each year, an annual report for the preceding calendar year. The ETC shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; and, shall ensure the forms are verified and signed by a person authorized to act on behalf of the ETC.
- (X) If a certified public accountant prepares an annual report for an ETC, within 30 days of publication, the ETC shall either file two copies of the report or shall file the report through the Commission's E-Filings System.
- (XI) An affidavit attesting to the fact that the information reported on the annual report and information submitted under this rule is true and correct. The affidavit must also state that the ETC is aware of the purpose of the support for the federal high-cost support and it is complying with the requirement set forth by the FCC in 47 U.S.C. § 254(e). An officer, director, partner, or owner of the company must sign the affidavit.
- (XII) If a review of the data submitted by an ETC indicates that the ETC is no longer in compliance with the Commission's criteria for ETC designation, the Commission may refrain from certifying the carrier to the FCC or revoke the carrier's designation as an ETC. In addition, ETCs must submit their reports on a timely basis.

2188. Combined Applications.

Applicants may file to be designated as a POLR, to be designated as an ETC, and/or to be designated as an EP in a combined application. Applicants may file to relinquish designation as a POLR, to relinquish designation as an eligible provider, and to relinquish designation as an ETC in a combined application. In a combined application, the applicant shall follow the application process and shall provide all information required for each separate component of the combined application.

2189. Disaggregation Plans.

- (a) The Commission shall use the disaggregation plans of each rural ILEC established pursuant to 47 C.F.R. § 54.315, November 30, 2001 for disaggregation of the study area of the rural ILEC pursuant to 47 C.F.R. 54.207 into smaller discrete service areas.
- (b) A provider of telecommunications service must file an application to modify a disaggregation plan of a rural ILEC pursuant to paragraph (a). Such application shall include the information required by paragraph 2002(b) in addition to the requirements of this paragraph:
 - (I) a description of the geographic area to be disaggregated, other providers offering similar services in that geographic area, and the level of the proposed disaggregation;
 - (II) the proposed method of disaggregation and targeting of Universal service support plan, if applicable; and
 - (III) support in the form of a description of the rationale used, including the methods and data relied upon to develop the disaggregation area.
- (c) The Commission shall make a determination as to whether the disaggregation plan is in the public interest.

2190. – 2199. [Reserved].

Regulation of Providers of Switched Access Services; Regulation of Providers of Interexchange Services; Reclassification of Parts II and III Services; and Effective Competition Areas.

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish procedures and standards concerning: reclassifying a regulated telecommunications service as an emerging competitive service; deregulating an emerging competitive service; and conducting proceedings to determine effective competition areas.

The statutory authority for the promulgation of these rules is found at §§ 40-15-101, 40-15-203, 40-15-203.5, 40-15-207, 40-15-301, 40-15-302, 40-15-305, 40-15-501, 40-15-502, 40-15-503, and 40-2-108, C.R.S.

2200. Applicability.

Rules 2200 through 2299 are applicable to providers of Part II or Part III services pursuant to § 40-15-201, C.R.S. et seq., or § 40-15-301, C.R.S. et seq., and proceedings to reclassify Part II or Part III services or determine effective competition areas.

2201. Regulation for Providers of Switched Access Service.

- (a) Except where FCC rules and orders require otherwise or as otherwise provided by law, the Commission shall regulate the terms and conditions, including rates and charges, under which switched access service is offered and provided to customers exclusively in accordance with the provisions of §§ 40-4-101(1), 40-4-111, 40-4-112, 40-5-105, 40-15-301, 40-15-302, 40-15-303, and 40-15-307, C.R.S.
- (b) All tariffs and advice letters shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.

- (c) In addition to the requirements and contents in rule 1210, providers of switched access service shall comply with the following:
 - (I) Consistent with § 40-15-105(1), C.R.S., and except where FCC rules and orders require otherwise or as otherwise provided by law:
 - (A) a provider's access charges shall be cost-based, as determined by the Commission; and
 - (B) shall not exceed the rate of the competing ILEC, unless the provider of telecommunications service is determined to be a rural CLEC pursuant to FCC 47 C.F.R. §§ 61.26 and 61.3. A rural CLEC competing with a non-rural ILEC, shall not file rates for its intrastate access above the rates prescribed in the NECA access tariff.
 - (C) Each switched access provider's charges by rate element shall be capped at that provider of telecommunications service's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate changes pursuant to federal requirements.

2202. Regulation of Providers of Interexchange Service.

- (a) An Interexchange provider shall:
 - (I) agree to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the:
 - (A) Telecommunications Utility Fund; and
 - (B) Colorado High Cost Support Mechanism; and
 - (C) any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2)(b)(V), C.R.S.; and
 - (II) file an updated registration form within 15 days of any change in the information previously provided to the Commission, including any discontinuance of service.
- (b) For the purposes of enforcing § 40-15-112, C.R.S. and § 40-15-113, C.R.S, the Commission may invoke all lawful remedies available under Title 40, Articles 1 through 7, C.R.S. Failure to comply with applicable statutes or Commission rules is cause for revocation of the registration, an order to cease and desist, an order to the appropriate local exchange providers of telecommunications service to disconnect an interexchange provider's service, or any other remedy deemed appropriate by the Commission.

2203. Reclassification of a Part II Service to a Part III Service.

- (a) The Commission, if it finds that effective competition exists in the relevant market for a Part II service and that reclassification of such service to a Part III service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may reclassify such service upon its own motion or upon application by any Part II provider. Such reclassification shall be in compliance with the requirements of § 40-15-207, C.R.S.
- (b) Any application under this rule shall comply with the requirements of § 40-15-207, C.R.S. and shall include the information required by paragraph 2002(b).

- (c) At the time the application is filed, the applicant shall file its direct testimony and attachments to be offered at the hearing.
- (d) Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves or requires an alternative notice procedure. The notice shall include the requirements of paragraph 2002(d).

2204 Deregulation of Part III Services.

- (a) The Commission, if it finds that effective competition exists in the relevant market for a Part III service and that deregulation of such service to a Part IV service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may deregulate such service upon its own motion or upon application by any Part III provider of telecommunications service. Such deregulation shall be in compliance with the requirements of § 40-15-305, C.R.S.
- (b) Any application under this rule shall comply with the requirements of § 40-15-305, C.R.S., and shall include the information required by paragraph 2002(b).
- (c) At the time the application is filed, the applicant shall file its direct testimony and attachments to be offered at the hearing.
- (d) Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves or requires an alternative notice procedure. The notice shall include the requirements of paragraph 2002(d).

2205. Adjudicatory Proceedings for Determination of Effective Competition Areas

- (a) Based upon evidence provided through an adjudicatory proceeding initiated by the Commission or any person, the Commission may find that certain geographic areas in Colorado are designated as effective competition areas (ECAs).
- (b) A geographic area is defined as a wire center serving area unless the Commission determines otherwise. If a proposal for a relevant geographic service area that is smaller than a wire center for an ECA designation, the proponent must provide data and information supporting the use of such smaller geographic area.
- (c) In adjudicatory proceedings addressing evaluating the level of effective competition of basic local exchange service pursuant to § 40-15-207, C.R.S., the Commission may consider similar services offered by multiple, non-affiliated, providers of telecommunications service regardless of technology.
- (d) If the Commission finds that a geographic area is an ECA, then the ECA is deregulated pursuant to § 40-15-401, C.R.S.
- (e) HCSM support will be discontinued in an ECA beginning on the effective date of a Commission order designating the geographic area as an ECA.

2206. – 2299. [Reserved].

RELATIONSHIPS BETWEEN CUSTOMERS AND PROVIDERS

Services Provided to the Public

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish standards for the adequate provisioning and performance of services.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-102, 40-3-103, , 40-4-101(1), 40-4-101(2), 40-15-112, 40-15-113, 40-15-201(1), 40-15-302(1)(a), 40-15-503(2), and 40-2-108, C.R.S.

2300. Applicability.

Except as otherwise provided in rules 2305, 2308 and 2310, rules 2300 through 2310 apply only to basic emergency service, switched access service, and basic service provided by HCSM recipients.

2301. Definitions. [Reserved].

2302. Customer Deposits.

- (a) With the exception of paragraph (b) of this rule, this rule governs deposits for HCSM recipients.
 - (I) Each HCSM recipient shall process an application for service made orally, in writing, or via a secure website in a non-discriminatory manner.
 - (II) The HCSM recipient shall establish and maintain a written procedure for determining an applicant's credit status and include this on its website.
- (b) Each HCSM recipient's deposit and credit policy shall be equitable and non-discriminatory and shall not impose more stringent requirements than the HCSM imposes in areas where HCSM support is not provided.
- (c) A deposit required under this rule may be in addition to any advance payment, contribution to, or guarantee in connection with construction of lines or facilities, as provided in the line extension policy of the HCSM recipient's TOS documents, if applicable, on file with the Commission.
- (d) The payment of a deposit shall not relieve any customer of the obligation to pay current bills when due. If forfeited, a deposit shall be applied only to the indebtedness of the customer.
- (e) A customer who is required by an HCSM recipient to pay a deposit shall pay the deposit in full, prior to receiving service, or if agreed to by the HCSM recipient, enter into a written installment arrangement for payment of the deposit.
- (f) Interest and deposits.
 - (I) Simple interest shall be paid by the HCSM recipient upon a deposit at the percentage rate per annum as determined by Commission staff on an annual basis, payable upon the return of the deposit. Interest on a deposit shall be earned for the time the deposit is held by the HCSM recipient, and shall be calculated from the date the deposit is received by the HCSM recipient to the date of refund to the customer.

- (II) When it is determined that a change in the interest rate is warranted, the Commission shall send a letter to each HCSM recipient within the state by November 15th identifying the new rate to be paid beginning on January 1 of the next year. Following notification by the Commission, each provider of telecommunications service shall change its TOS to be effective January 1 of the following year. To the extent any of the dates contemplated herein are modified, there shall be at least 30 days between the date of the notification letter and the effective date of the rate change.
- (g) Refund of deposits. Upon discontinuance of service, or when a customer establishes satisfactory credit, the HCSM recipient shall promptly refund any deposit, plus accrued simple interest, or the balance, if any, in excess of the unpaid bills.
- (h) Each HCSM recipient shall include in its TOS its deposit requirement policy, explaining in detail under what circumstances a deposit shall be required, and under what conditions the deposit shall be returned.

2303. Denial or Discontinuance of Service.

- (a) No HCSM recipient shall deny or discontinue service to a customer in an area where HCSM support is provided without prior written notice except for the following reasons.
 - (I) If a safety condition that is immediately dangerous or hazardous to life, physical safety, or property exists.
 - (II) Upon order by an appropriate court, the Commission, or any other duly authorized public authority.
 - (III) If service, having already been properly discontinued, has been restored by someone not authorized by the company and the original cause for discontinuance has not been cured.
 - (IV) Any condition that may adversely affect the safety of any person or the integrity of the provider of telecommunications service.
 - (V) Failure of the customer to permit the provider of telecommunications service reasonable access to its facilities or equipment.
 - (VI) The customer obtained service by subterfuge. Subterfuge includes, without limitation:
 - (A) obtaining service in another person's name with the intent to avoid outstanding charges; or
 - (B) applying for new service at a location:
 - (i) where a person has outstanding charges for basic service including outstanding charges for any associated taxes and surcharges; and
 - (ii) where such person continues to reside.
- (b) In an area where HSCM support is provided, a HCSM recipient may temporarily suspend or permanently discontinue service and may sever the connection and remove any of its equipment from the customer's premises after at least 15-days written notice only for one of the following reasons:

- (I) non-payment of any past due bill for basic local exchange service and any associated taxes and surcharges. Solely for the purposes of this paragraph, a bill is past due if not paid within 30 days of the due date which must be at least 15 days after the billing date; or.
 - (II) if the HCSM recipient determines service was obtained fraudulently or is being used for fraudulent purposes.
- (c) Restrictions on denial or discontinuation of service in HCSM-supported area – Disposition of payments.
 - (I) Basic local exchange service shall not be denied or discontinued for delinquency or nonpayment of charges for service unless the customer has been issued a bill for the charges consistent with the billing requirements under rule 2304.
 - (II) A HCSM recipient shall not deny or discontinue basic local exchange service for delinquency in payment for service rendered to a previous occupant of the premises to be served, for unpaid charges for services or facilities not ordered by the applicant or customer, or for any other indebtedness, except as incurred for basic local exchange service and any associated taxes and surcharges.
 - (III) A HCSM recipient may not use its purchase of a customer's indebtedness, i.e., the accounts receivable, from another provider of telecommunications service to deny or discontinue providing its basic services to that customer.
 - (IV) If a customer pays or is willing to pay all current charges, a HCSM recipient shall not discontinue service for non-payment of a past due amount for these services when the customer has entered into a payment arrangement with the HCSM recipient. If the payment arrangement is not satisfied, the service may be disconnected for non-payment without further notice.
 - (V) Unless requested by the customer, a HCSM recipient shall disconnect dial tone only during the normal business hours of the HCSM recipient's business or customer service offices. There shall be no disconnection of dial tone when the business or customer service offices of the HCSM recipient is not open or after noon the day before the business or customer service offices will not be open.
 - (VI) Medical emergencies.
 - (A) A HCSM recipient shall postpone discontinuance of basic local exchange service to a residential customer for 60 days from the date of a medical certificate issued by a Colorado-licensed physician or health care practitioner acting under a physician's authority which evidences that discontinuance of service will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this subparagraph 2303(c)(VII)(A) only once in any twelve consecutive months.

- (B) As a condition of obtaining a new installment payment plan on or before the last day covered by a medical certificate, a customer who had already entered into a payment arrangement, but had broken the arrangement prior to seeking a medical certification, may be required to pay all amounts that were due up to the date of the original medical certificate as a condition of obtaining a new payment arrangement. At no time shall a payment from the customer be required as a condition of honoring a medical certificate.
 - (C) The certificate of medical emergency shall be in writing, sent to the HCSM recipient from the office of a licensed physician, and show clearly the name of the customer or individual whose illness is at issue; the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical emergency. Such certification shall be incontestable by the LEC as to the medical judgment, although the HCSM recipient may use reasonable means to verify the authenticity of such certification.
- (d) Notice requirements.
 - (I) Except where prior written notice is not required, consistent with paragraph 2303(a) above, the customer shall be notified of the intention of a HCSM recipient to discontinue basic local exchange service and shall be allowed no fewer than 15 days from the date the notice was issued in which to respond to the company. The notice shall clearly state the amount that is past due and the date by which an installment payment arrangement must be entered into or payment must be received to prevent interruption of service. It shall also state that disconnection of basic local exchange service cannot occur for non-payment of other charges, such as for optional services, wireless service, or other companies' services. If the customer has chosen electronic billing, the notice of disconnection may be provided electronically.
 - (II) All discontinuance notices shall be printed in English and Spanish.
- (e) Restoration of service
 - (I) Any service already discontinued must be restored without any additional charge if it was not properly discontinued or restored as provided in this rule 2303.
 - (II) Service must be restored within 24 hours, or by 5:00 p.m. on the next business day in the event the end of the 24-hour period falls on a Saturday, Sunday, or holiday unless prevented by safety concerns, or circumstances beyond the company's control, if the customer:
 - (A) Within ten days of the discontinuance of service, remits the full amount shown on the notice for basic services, plus any deposit as may be specifically required by the HCSM recipient's TOS by:
 - (i) paying the HCSM recipient directly; or
 - (ii) paying an authorized payment agent of the HCSM recipient, contacting the HCSM recipient by telephone and providing the HCSM recipient with the date paid, the amount paid and the valid receipt information;
 - (B) Presents a medical certificate, as provided in subparagraph 2303(c)(VI), within 24 hours of a disconnection for non-payment; or

- (C) Demonstrates to the HCSM recipient that the cause for the discontinuance, if other than non- payment, has been cured.

2304. Customer-Billing Requirements.

- (a) The Commission incorporates by reference the FCC's Truth in Billing Rules, as identified in rule 2008. In addition to the requirements found in the FCC's Truth in Billing Rules, all bills for basic service provided by HCSM recipients shall clearly display the billing date and the payment due date, which must be at least 15 days after the billing date. At the option of the customer, and where it is technically feasible, electronic billing (e-billing) is permitted.
- (b) Payment of bills, billing disputes, and bill credits or refunds for HSCM.
 - (I) Whenever a customer makes a partial payment, the HCSM recipient shall apply it first to past due basic local exchange service and any associated taxes and surcharges in such a manner consistent with preserving basic local exchange service, unless otherwise instructed by the customer.
 - (II) In the event of a billing dispute between the customer and the provider of telecommunications service, the provider may require the customer to pay the undisputed portion of the bill to avoid discontinuance of service for non-payment. The provider of telecommunications service shall make a prompt investigation appropriate to the case and report the results to the customer. In the event the dispute is not reconciled, the provider shall advise the customer that an informal complaint may be registered with Commission Staff or that a formal complaint may be filed with the Commission.
 - (III) Whenever billing for basic local exchange service and any associated taxes and surcharges has not been determined accurately because of a HCSM recipient's omission or negligence, the HCSM recipient shall offer the following:
 - (A) Whenever a HCSM recipient over-bills a customer for the service, the HCSM recipient shall offer the customer a refund or credit. When the amount of the refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. If the customer elects a one-time payment, the HCSM recipient shall mail the refund within thirty days. If the customer discontinues service, the provider shall refund to the customer any remaining credit due within thirty days. Such over-billing shall not be subjected to interest. Refunds for over-billing shall not be provided for a period of time exceeding two years.
 - (B) Whenever a HCSM recipient under-bills a customer for service, the customer shall be allowed to make an installment payment arrangement when the amount exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges. A customer shall be advised that any installment payment agreement may, at the option of the customer, extend over a time period equal in length to the period over which the errors were accrued. Charges for under-billing shall not be billed for a period of time exceeding two years and shall not include late payment fees or interest.

- (C) Whenever a HCSM recipient collects from a customer more money than is due the HCSM recipient because of an erroneous payment or electronic transfer, the HCSM recipient shall electronically issue or mail the customer a credit or refund within five days of realizing the mistake. When the amount of the credit or refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. If the customer discontinues service, the provider shall refund to the customer any remaining credit due within thirty days. Such refunds shall not be subjected to interest. Refunds for erroneous payments shall not be provided for a period of time exceeding two years.
- (IV) In the event the customer's basic local exchange service is interrupted and remains out of order for eight or more hours during a continuous 24-hour period after being reported by the customer, or is found to be out of order by the HCSM recipient (whichever occurs first), appropriate adjustments shall be automatically made by the HCSM recipient to the customer's bill.
 - (A) The adjustment shall be, at a minimum, a credit on the monthly bill for basic local exchange service and any associated taxes and surcharges proportional to the duration of the service interruption, with each occurrence of the loss of service for eight or more hours during the 24-hour period counting as one day. For the purpose of administering this rule, every month is considered to have 30 days.
 - (B) The HCSM recipient is not required to provide an adjustment for the loss of service during time periods due to the following conditions:
 - (i) the negligence or willful act of the customer;
 - (ii) a malfunction of facilities other than those under the control of the HCSM recipient;
 - (iii) natural disasters or other events affecting large numbers of customers such as described in paragraph 2336(c); or
 - (iv) the inability of the HCSM recipient to gain access to the customer's premises when required.
- (V) In the event the HCSM recipient misses a service call, i.e., an appointment for a premises visit associated with installation of new service by more than four hours, the HCSM recipient shall make a credit to the monthly bill of the customer in the amount of one-third the rate for installation as reflected in the HCSM recipient's TOS. This credit shall also apply when the HCSM recipient misses scheduled installation work to be done in the central office.
- (VI) The bill credit policies set forth in paragraphs (a) and (b) are minimum requirements. HCSM recipients that merely adopt paragraphs (a) and (b) as their bill credit policy are not required to file a TOS that incorporate this rule. HCSM recipients that wish to have additional bill credit policies shall file a TOS that fully describes such additional policies. All bill credit policies shall be non-discriminatory and non-preferential.

2305. Refund Plans.

Any provider proposing or required by Commission order to make a refund to customers by class of service shall file an application for Commission approval of the plan of refund. The application shall contain the analysis of the feasibility and costs of customer-specific refunds in lieu of a general refund.

- (a) Unless the Commission orders otherwise, an application for approval of a plan of refund shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (I) the information required by paragraph 2002(b);
 - (II) a detailed description of the proposed refund plan, including but not limited to: a description of the telecommunications service that is the subject of the refund plan; the dollar amount of the proposed refund by class of service; the date applicant proposes to start making the refund, which shall be at least 60 days after the filing of the application; the date by which the applicant proposes to complete the refund; the means by which the refund is proposed to be made; an identification of the service area(s) impacted by the refund; the interest rate that will be paid to customers, equal to the current rate paid on customer deposits unless the Commission establishes an alternative interest rate; and the proposed treatment of unclaimed refunds, consistent with § 40-8-101, C.R.S., et seq.;
 - (III) a statement describing in detail the extent to which the applicant has any financial interest in any other company involved in the refund plan;
 - (IV) a reference by proceeding number, decision number, and date of any Commission decision requiring the refund; and/or a copy of any federal agency or other state order, if the refund is to be made because of the applicant's receipt of monies under any such order;
 - (V) if the applicant proposes to refund less than all of the monies received as described in subparagraph (a)(II), a detailed statement justifying the proposed refund of a lesser amount, with a copy of applicant's most recent balance sheet, dated not earlier than three months before the date of the filing of the application, with a copy of an income statement and a retained earnings statement as of the date of the balance sheet;
 - (VI) a statement showing the accounting entries for the refund plan; and
 - (VII) a statement that if the application is granted, applicant will file an affidavit with the Commission establishing that the refund has been made in accordance with the Commission decision.
- (b) The Commission shall give notice of the filing of an application to make a refund, as provided in rule 1206 of the Rules Regulating Practice and Procedure.
- (c) The applicant shall give notice of the filing of an application to make a refund, as provided in paragraphs 1207 of the Commission's Rules Regulating Practice and Procedure. Such notice shall also include the requirements of paragraph 2002(d).

2306. Public Information.

- (a) Each HCSM recipient shall have one or more business offices or customer service centers staffed to provide access in person or by telephone to qualified personnel, including supervisory personnel when warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and generally act as customer service representatives of the HCSM recipient. Toll free calling to the business office and customer service centers shall be provided to customers.
- (b) Each HCSM recipient shall, at a minimum, provide the following information to the public, as applicable and upon request, at each business office open to the public and may also be available on the provider's website:
 - (I) copies of all TOS documents as filed with the Commission;
 - (II) for each exchange that includes any area where HCSM support is provided, maps showing the exchange, base rate area and zone (if applicable) boundaries in sufficient size and detail from which all customer locations can be determined and mileage and zone charges measured from these boundaries can be quoted;
 - (III) publicly announced information about the present and intended future availability of services at the location of a potential customer; and
 - (IV) publicly announced information concerning plans for major service changes in the area served by the provider of telecommunications service.

2307. Local Exchange Service Standards.

- (a) As part of its obligation to provide adequate basic local exchange service in areas where HCSM support is provided, each HCSM recipient shall construct and maintain its telecommunications network so that the instrumentalities, equipment, and facilities within the network shall be adequate, efficient, just, and reasonable in all respects in order to provide the following services or capabilities to each of its customers within its service area:
 - (I) individual line service or its functional equivalent constructed and maintained to meet the general parameters and characteristics of rule 2337;
 - (II) voice grade access to the public switched network;
 - (III) the local exchange usage necessary to place calls to or receive calls from all local exchange access lines within a Commission approved local calling area;
 - (IV) access to emergency services;
 - (V) access to toll services;
 - (VI) customer billing to the extent described in rule 2304;
 - (VII) public information assistance to the extent described in rule 2306;
 - (VIII) access to operator services;
 - (IX) provisioning of service during maintenance or emergencies to the extent described in rule 2335; and

- (X) any HCSM recipient must offer basic local exchange service by itself as a separate offering; however, this subparagraph does not preclude the HCSM recipient from also offering basic local exchange service packaged with other services.
- (b) In order to maintain a reasonable uniformity between all localities in the state for adequate basic local exchange service in the ordinary course of its business, each HCSM recipient shall construct and maintain its telecommunications network so as to provide for universal (i.e., ubiquitous) availability of the following services or capabilities when requested by a customer within areas where HCSM support is provided:
 - (I) the basic service standard defined in paragraph 2307(a);
 - (II) E9-1-1 service, either by providing the necessary facilities and identification (name/number, etc.) information to a BESS or as provided by the LEC under rules 2130 through 2159; and
 - (III) services to which the customer may voluntarily subscribe:
 - (A) services that deny or limit access to providers of interexchange service; and
 - (B) services that deny access to other information service providers.
- (c) In areas where HCSM support is provided, local calling areas as established by the Commission shall meet either the community of interest or incremental extended service criteria. Any HCSM recipient shall provide at least one option to its customers that includes that same local calling area, unless modified by order of the Commission. In general, and to the extent possible, each local calling area shall:
 - (I) allow customers to place and receive calls without payment of a toll charge to 9-1-1, their county seat, municipal government, elementary and secondary school districts, libraries, primary centers of business activity, police and fire departments, and essential medical and emergency services;
 - (II) be provided in both directions between the two exchange areas; and
 - (III) not exhibit any discontinuities (i.e., an exchange area physically located between two exchanges that is not included in a local calling area that serves the two exchanges).

2308. Expanding a Local Calling Area.

LECs must notify the Commission 45 days prior to expanding any local calling area. The notice for an expanded local calling area shall include the following:

- (a) a description of the existing local calling area;
- (b) a description of the proposed local calling area;
- (c) attestation of the date the Local Exchange Routing Guides (LERG) will be modified;
- (d) customer and carrier notifications; and
- (e) the implementation date of the local calling area expansion.

2309. Availability of Service -- Adequacy of Facilities.

Each HCSM recipient shall employ prudent management planning practices, including budgeting and prioritizing resources, to ensure that adequate facilities and equipment are in service to provide service to prospective customers in its service territory and in areas where HCSM support is provided in conformance with the HCSM recipient's line extension policy.

- (a) Each HCSM recipient shall maintain, as part of its TOS, the rules, regulations, circumstances, terms, and conditions under which line extensions or extensions of service by the HCSM recipient will be made in order to render service to a prospective end user within the exchange area.

A HCSM recipient's line extension policies:

- (I) shall not discriminate among the HCSM recipient's prospective customer by class of service;
 - (II) shall include rate schedules for service connections, extensions, and line mileage, as applicable;
 - (III) shall provide a construction credit to prospective customers which reflects the amount of its capital investment that is supported by customers' revenues, the HCSM, and all other price support mechanisms established by the federal and state governments if the HCSM recipient receives support from such price support mechanisms (i.e., its supported costs); and
 - (IV) shall be on file at a business location in Colorado and shall be on the HCSM recipient's website, and shall be available for inspection by the public during normal business hours.
- (b) Date of application for service.
- (I) When a customer orders service and the HCSM recipient is not required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date of the first oral or written customer contact with the HCSM recipient to request service.
 - (II) When a customer orders service and the HCSM recipient is required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date on which the customer makes payment or partial payment of initial construction charges. If no payment is required from the customer, the date of application for service is the date the estimate was provided to the customer.
- (c) Information to be provided to residential or small business customers at the time of application for service.
- (I) At the time of the first customer contact to apply for service, the HCSM recipient shall provide the customer an order number. If construction charges are, or may be required to provide the customer service, the customer shall be informed during the first customer contact that construction may be required to provide service. The HCSM recipient must subsequently inform the customer within 30 days of the customer's first contact that construction will be required and a construction charge estimate is necessary before the HCSM recipient quotes the estimated construction charge. If the TOS documents of the HCSM recipient require the payment of an engineering fee prior to the provision of a construction charge estimate, the customer shall be informed of the required fee at the time of second customer contact.

- (II) The HCSM recipient shall specifically ask customers who contact the HCSM recipient to inquire about service availability if the customer desires to initiate, at that time, a request for service. The HCSM recipient shall not discourage the customer from placing an order at the time of such inquiry and shall use the date offered for service or a date otherwise agreed upon with the customer for service as the due date for installation.
 - (III) A HCSM recipient shall provide any information and assistance necessary to enable customer to choose from the lowest cost basic service or other alternatives it provides which conform to the customer's or applicant's stated needs.
- (d) Construction charge estimate. When a customer orders service and the TOS document of the HCSM recipient requires the provision of a construction charge estimate, the HCSM recipient shall provide to the customer, within 30 days from the date of the customer's request for an estimate, a good faith written cost estimate of the amount of the required payment. If the HCSM recipient's TOS document requires the payment of an engineering fee prior to the provision of a construction charge estimate, the payment of the engineering fee shall be notice to the HCSM recipient that the customer desires a construction charge estimate to be performed within 30 days. For group applications, the 30 days commence after all applicants have paid the required engineering fee. The good faith written cost estimate shall inform the customer that receipt of payment or partial payment is required before the customer's request will be considered an application for service.
- (e) Notices to residential and small business customers. All customers who are not provided service within ten days of the date of application for service or by the customer's requested date for service, whichever is later, shall be provided a written notice by the HCSM recipient, stating the order number assigned by the HCSM recipient to the application for service, the general status of the order, and a phone number to call with questions. This notice shall be postmarked on or before the 15th day after the date of application.
- (f) Provision of basic local exchange service.
- (I) Time frames for providing basic local exchange service and any remedies associated with not providing service by these time frames shall apply to all applications for service for the primary (first) residential and primary (first) business lines.
 - (II) Time frames for provision of service.
 - (A) Each HCSM recipient shall provide 95 percent of its customers with primary basic local exchange service no later than ten days from the date of the customer's application for service, except that when the customer requests a later date of service, the service shall be provided by the requested date, unless construction of new facilities is required in which case subparagraph (B) below shall apply. The HCSM recipient shall provide primary basic local exchange service to the remaining five percent of customers within 30 days of the application date for service.
 - (B) If construction of new facilities is required, the HCSM recipient shall provide that customer with basic local exchange service no later than 90 days from the date of the customer's application for service. When construction is required during the months of October through May, or when construction is required in counties that have construction moratoriums in place, a HCSM recipient shall provide primary basic local exchange service no later than 150 days from the date of the customer's application for service.
 - (III) Remedies to customers not receiving basic local exchange service within 30 days.

- (A) If a HCSM recipient fails to provide basic local exchange service within the later of 30 days or (if applicable) the deadlines provided pursuant to subparagraph (f)(II)(B) above, the HCSM recipient shall provide a remedy to the customer for the first residential and the first business line. These remedies shall continue to be provided until the customer receives the basic local exchange service.
 - (B) Remedies shall include a credit that shall be applied to the customer's account no later than the second bill issued for service that has been provided in an amount at least equal to the pro rata monthly local exchange service charge for each day thereafter that service is not provided, a monthly credit up to \$40 to reimburse the cost of a temporary alternative to basic local exchange service and an installation charge waiver. These monthly credits shall accrue until the customer receives basic local exchange service.
- (IV) The credits and installation charge waivers described in subparagraph (III) shall be offered in addition to, and not in lieu of, any other remedy available to the customer or the Commission, including, but not limited to:
 - (A) an order by the Commission that the HCSM recipient provide basic local exchange service by a date certain; or
 - (B) penalties under § 40-7-105, C.R.S.
- (g) HCSM recipients may seek a variance of any part of this rule, subject to all the following limitations.
 - (I) A request by a HCSM recipient for a blanket variance shall not be granted. Requested variances for individual customers, or individual developments or areas, shall be considered.
 - (II) A variance may be granted only in those instances where the HCSM recipient has demonstrated a good faith effort to comply with the provisions of this rule and the Commission finds that good cause exists to grant the variance.
 - (III) All HCSM recipients may request a variance from the Commission by application that sets forth in detail the grounds upon which the variance is sought.

2310. Changing Providers of Interexchange Telecommunications Service/Carrier Presubscription

- (a) The following definitions apply only in the context of this rule.
 - (I) "Authorized carrier" means any interexchange telecommunications carrier chosen by the subscriber in accordance with the procedures specified in this rule. Authorized carrier can refer to a POLR, an intraLATA long distance carrier or an interLATA long distance carrier.
 - (II) "Electronic authorization" means approval for any carrier change that is initiated by a telephone call, either by the subscriber or by an independent third party.
 - (III) "Executing carrier" means any interexchange telecommunications carrier that implements a request that a subscriber's telecommunications carrier be changed.
 - (IV) "Slamming" means any change in an end-use subscriber's presubscription to a telecommunications service that is made without appropriate consent of the customer.

- (V) "Submitting carrier" means any interexchange telecommunications carrier that requests that the subscriber's telecommunications carrier be changed.
 - (VI) "Subscriber" means any one of the following:
 - (A) the party identified in the account records of an interexchange carrier as responsible for payment of the telephone bill;
 - (B) any adult person authorized by such party to change interexchange telecommunications services or to charge services to the account; or
 - (C) any person (e.g., a payphone agent or building owner) who is contractually or otherwise lawfully authorized to represent such party.
 - (VII) "Unauthorized carrier" means any interexchange telecommunications carrier that is providing telecommunications service to a subscriber without the subscriber's authorization.
 - (VIII) "Unauthorized change" means a change to a subscriber's carrier of interexchange telecommunications service that is made without the subscriber's authorization in accordance with the procedures specified in this rule.
- (b) Verification of orders for service.
- (I) No interexchange telecommunications carrier shall submit or execute a change in a subscriber's authorized carrier except in accordance with the procedures in this rule.
 - (II) No submitting carrier shall request a change in a subscriber's authorized carrier prior to obtaining the subscriber's authorization by one of the following methods:
 - (A) A written or electronically signed (Internet or e-mail) letter of agency.
 - (i) A submitting carrier shall obtain a written or electronically signed letter of agency to obtain authorization to change a subscriber's authorized carrier. Any letter of agency that does not conform to this rule is void.
 - (ii) The letter of agency shall be a separate document or shall be located on a separate screen or web page including only the authorizing language described below. The sole purpose of the letter of agency is to authorize a carrier change. The letter of agency shall be signed and dated by the subscriber. The letter of agency shall not be combined with inducements of any kind on the same document, screen or web page. A letter of agency shall not be valid if it is presented to the customer for signature in connection with a sweepstakes or other game of chance.
 - (iii) The letter of agency may be combined with checks that include only the required letter of agency language prescribed and the necessary information to make the check a negotiable instrument. The letter of agency check shall not include any promotional language or material. The letter of agency check shall include, in easily readable, bold-faced type on the front of the check, a notice that the subscriber is authorizing a carrier change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

- (iv) At a minimum, the letter of agency shall be printed in a sufficiently sized and readable type to be clearly legible and shall include clear and unambiguous language, in separate statements, that confirms: the subscriber's billing name and address, and each telephone number to be covered by the authorized carrier change order; the decision to change the authorized carrier from the current telecommunications carrier to the soliciting carrier; the subscriber's approval for the submitting carrier to act as the subscriber's agent for the respective authorized carrier change; the subscriber's understanding that one carrier can be, but does not have to be, the subscriber's authorized carrier for local exchange, intraLATA toll, and interLATA toll services (or any combination of these services) for any one telephone number (although a separate letter of agency for each choice is not necessary); and the subscriber's understanding that a change in an authorized carrier may involve a charge to the subscriber.
 - (v) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the customer's current authorized carrier.
 - (vi) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.
 - (vii) Letters of agency submitted with an electronically signed authorization must include the customer disclosures required by § 101(c) of the Electronic Signatures in Global and National Commerce Act.
- (B) Telephone call initiated by a subscriber. The subscriber must place a telephone call to the carrier of choice. The carrier shall obtain the subscriber's authorization that must confirm the subscriber's billing name and address, the decision to change to the new carrier, and the subscriber's understanding of the executing carrier's change fee. The submitting carrier electing to confirm a change in service electronically shall establish one or more toll free telephone numbers exclusively for that purpose. Calls to the toll free number(s) shall connect a subscriber to a voice response unit or similar mechanism that records the required information regarding the carrier change, including automatically recording the originating number using Automatic Number Identification (ANI).
- (C) Third-party verification.
 - (i) An independent third-party verifier shall not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; shall not have any financial incentive to confirm authorized carrier change orders for the carrier or the carrier's marketing agent; and shall operate in a location physically separate from the carrier or carrier's marketing agent.
 - (ii) Automated third-party verification may be used for verification purposes as long as the requirements of subparagraphs (II)(C)(iii) and (iv) are satisfied.
 - (iii) A carrier or carrier's sales representative initiating a call through an automated verification system shall drop off the call once the three-way connection has been established.

- (iv) All third-party verification methods shall elicit, at a minimum: the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call intends to make the carrier change; the telephone number(s) to be switched; and the types of services involved in the change. Third-party verifiers may not market the carrier's services by providing additional information, including information regarding authorized carrier freeze procedures.
 - (v) All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. Automated systems shall provide customers with an option to speak with a live person at any time during the call.
 - (c) An interexchange telecommunications carrier shall submit an authorized carrier change on behalf of a subscriber within three days of obtaining the subscriber's authorization.
 - (d) Each HCSM recipient's TOS shall describe the subscribers' options, if any, regarding freezing their authorized carriers.
 - (e) Enforcement.
 - (I) A carrier that violates any provision included in these rules is subject to enforcement and penalties as provided in Articles 1-7 and 15 of Title 40, C.R.S.
 - (II) Upon notification from a subscriber of a change to another interexchange telecommunications carrier without authorization, the executing carrier shall switch the subscriber's line(s) back to the authorized carrier at no charge to the subscriber.
 - (III) An interexchange telecommunications carrier that initiates an unauthorized change in a subscriber's authorized interexchange telecommunications carrier, i.e., an unauthorized carrier, in violation of this section is liable:
 - (A) to the subscriber, the subscriber's previously selected carrier, or both, as determined by the Commission, for all intrastate long distance charges, all interstate long distance charges, local exchange charges, carrier switching fees, the value of any premiums to which the customer would have been entitled, and other relevant charges incurred by the subscriber during the period of the unauthorized change; and
 - (B) to the executing carrier for the change fees associated with the unauthorized change.
 - (f) Waiver for the sale or transfer of subscribers.
 - (I) A HCSM recipient or ETC that acquires, through a sale or transfer, part or all of another carrier's subscriber base, shall comply with all the following provisions:
 - (A) No later than 45 days prior to the planned transfer of the affected subscribers from one carrier to another, the acquiring carrier shall file with the Commission an application for waiver of this rule. The application shall include the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the proposed date of the transfer. This application for waiver shall also include a copy of the notice that will be sent to the affected subscribers.

- (B) The notice to subscribers shall be provided at least 45 days prior to the transfer or sale. The acquiring carrier is required to fulfill the obligations set forth in the notice. The notice shall, in addition to the requirements of paragraph 2002(d)(I) – (XII), include:
 - (i) the proposed date on which the transfer will occur;
 - (ii) the rates, charges, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the transfer or sale;
 - (iii) a statement that the acquiring carrier will be responsible for any charges associated with the transfer to the new carrier;
 - (iv) a statement that reflects the subscriber's right to select a different authorized carrier for the telecommunications service(s), if an alternative carrier is available;
 - (v) a statement that all subscribers receiving notice, even those with an authorized carrier freeze(s) in place, will be transferred to the acquiring carrier, unless the subscriber selects a different carrier before the transfer date;
 - (vi) a statement that an existing authorized carrier freeze(s) will be lifted to execute the transfer, and advising the customer to ask the new carrier to institute a freeze after the transfer; and
 - (vii) the toll free customer service number of the acquiring carrier.

2311. – 2329. [Reserved]

Quality of Services Provided to the Public

2330. Applicability.

Rules 2330 through 2359 apply to providers of switched access service, basic emergency service, and basic service provided by HCSM recipients as provided in each rule.

2331. Definitions [Reserved].

2332. Incorporation by Reference.

References in these rules to Part 68 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2333. Construction and Maintenance of Plant and Equipment -- Generally.

The telecommunications plant used to provide services identified in rule 2330 shall be constructed, installed, maintained and operated in accordance with good engineering practice in the telecommunications industry to assure, as far as reasonably possible, uniformity in the quality of service provided and the safety of persons and property.

2334. Construction and Maintenance Practices.

- (a) The provider of services identified in rule 2330 shall use, as a minimum standard of accepted good engineering practice, the 2007 National Electric Safety Code, as identified in rule 2008.

- (b) For any telecommunications plant constructed or installed prior to February 5, 2001, the minimum standard of accepted good engineering practice shall be the edition of the National Electric Safety Code in effect at the time of beginning construction or installation of the telecommunications plant.
- (c) Telecommunications plant that is constructed, installed, maintained, or operated in accordance with the National Electric Safety Code in effect at the time of its construction or installation shall be presumed to comply with accepted good engineering practice in the telecommunications industry and the provisions of this rule.
- (d) Providers of the services identified in rule 2330 shall use as a minimum standard of safe practice 47 C.F.R., Part 68, dated August 30, 2013, for the interconnection of new or existing telecommunications plant with terminal equipment of a customer.
- (e) The provider shall coordinate with other entities concerning construction work initiated by itself, or other entities, that may affect its facilities used for serving the public. For example, the provider of telecommunications service shall:
 - (I) economically minimize construction expenditures by coordinating construction with other entities, such as the joint use of trenches for cable, where joint construction is both safe, cost effective, and in the best interest of the provider;
 - (II) take reasonable action to protect service to the public, such as identifying the location of underground facilities that may be affected by construction work for other entities;
 - (III) maintain a database or some other form of quickly accessible information at its facilities sufficient to allow facility location coordination and participation in a program on a statewide basis to minimize service interruptions caused by accidental cutting of cables; and
 - (IV) engage in coordination with electric power utilities in the area prior to constructing new plant or a major rebuild of existing plant that may be impacted by inductive interference from the electric power systems.
- (f) Each provider of services identified in rule 2330 shall adopt a program of periodic tests, inspections, and preventative maintenance aimed at achieving efficient operation of its system to permit the rendering of safe, adequate, and continuous service at all times as recognized by general practices within the telecommunications industry. The presence of inductive interference, cut-offs, cross-talk, and excessive noise generation by communication system facilities are symptomatic of inadequate service, and a maintenance program shall be designed to minimize or prevent those occurrences.
- (g) Each provider of services identified in rule 2330 shall keep records of the tests and inspections necessary to meet industry and Commission service standards on file in its office for review by the Commission. These records shall show the nature of the equipment tested or inspected, the reason for the test or inspection, the general conditions under which the test or inspection was made, the results of the test or inspection, and any corrections made as a result of the test or inspection.

2335. The Provision of Service During Maintenance or Emergencies.

The following paragraphs describe minimum standards for maintaining service.

- (a) Each provider of services identified in rule 2330 shall make reasonable provisions to meet emergencies resulting from: power failures; sudden and prolonged increases in traffic; staff shortages; and fire, storm, or acts of God. Each such provider shall issue instructions to its employees identifying procedures to be followed in the event of an emergency in order to prevent or mitigate interruptions or impairment of telecommunications service.
- (b) In the event of a commercial power failure, each provider of services identified in rule 2330 shall furnish a minimum of four hours of backup power or battery reserve rated for peak traffic load requirements from the provider's power source to the network interface in landline (coaxial, fiber, or copper) applications in order to support existing basic service to lines that use a traditional ringer.
- (c) All local central offices, toll switching or tandem switching offices, repeater huts, microwave radio sites, and other interoffice facilities requiring supplied power shall have available a minimum of four hours of battery reserve (or backup power) rated for peak traffic load requirements. If the facility is not continuously attended by trained personnel, or does not include a permanent auxiliary power unit, additional battery reserve shall be installed to provide for travel time.
- (d) Service interruptions for an extended time due to maintenance requirements shall be performed at a time that causes minimal inconvenience to impacted customers. Each provider of services identified in rule 2330 shall take reasonable steps to notify the customer in advance of extended maintenance requirements. If possible, such providers shall also make access to emergency service as defined in paragraph 2001(b), and basic emergency service, as applicable, available by alternative means when the provider knows that the service interruption affects 1,000 or more access lines and when the provider knows, based upon the prior experience of the provider, that the interruption may last more than four hours during the hours of 8 a.m. to 10 p.m. If a basic emergency service provider experiences a possible or confirmed PSAP service, it shall file a report of the occurrence as required by subparagraph 2143(j)(III).
- (e) Each provider of services identified in rule 2330 shall develop a general contingency plan to prevent or minimize any service interruptions due to the catastrophic loss of a central office switch that serves more than 10,000 access lines or is the toll or tandem switching office for 10,000 access lines. The plan shall describe the actions and systems installed to prevent or minimize the probability of such an occurrence as well as describe the actions and systems available to minimize the extent of any incurred service interruption.

2336. Adequacy of Service.

- (a) Each provider of services identified in rule 2330 shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available at all times, including the average busy hour of the busy season. To meet this objective, each such provider shall conduct traffic studies, employ reasonable procedures for forecasting future service demand and maintain the records necessary to demonstrate to the Commission that sufficient equipment is in use and that an adequate operating force is provided.
- (b) The criteria for quality of service define a minimum acceptable standard for the most basic elements of service. The rules do not attempt to define all criteria for all service applications or the most desirable service level for any basic element except for the minimal acceptable standard. In the event this subchapter does not cover a specific service element, each provider of services identified in rule 2330 shall meet generally accepted industry standards for that element and the total service. Organizations that are recognized for establishing standards that may be appropriate for telecommunications services provided in this state include the IEEE, ANSI, the Rural Utility Service (RUS), and the FCC.

- (c) The standards within this subchapter establish the minimum acceptable quality of service under normal operating conditions. They do not establish a level of performance to be achieved during the periods of emergency, catastrophe, natural disaster, severe storm, acts of terrorism, acts of negligent or willful misconduct by a customer or third parties including but not limited to outages originating from the introduction of a virus onto the network of a provider of services identified in rule 2330, or other events affecting large numbers of customers nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events for which a provider of telecommunications service may not have been expected to accommodate, or which are outside of the provider's control including but not limited to failure of the customer to permit the provider of telecommunications service reasonable access to its facilities, equipment or customer premise, and delay caused by local, state, federal or tribal government entities in approving easements or access to rights of way. To the extent such conditions affect the measurement records required or the ability of the provider to meet any other service standards, it is the responsibility of the provider to separately document the duration and magnitude or effect of such occurrences in its records.

2337. Standard Performance Characteristics for Customer Access Lines.

Providers of services identified in Rule 2330 shall construct and maintain all basic service local access lines used for individual line service to meet generally accepted industry standards as the specifications evolve and improve over time. Organizations that are recognized for establishing standards that may be appropriate for local access lines include the IEEE, the ANSI and the FCC. Specifications for resale or unbundled network elements may also be appropriate for establishing such standards.

- (a) Testing. Each such provider shall, as good utility practice, engage in testing its physical plant for all the following purposes:
 - (I) identifying potential trouble (routine, preventive, or proactive testing).;
 - (II) locating or specifying the type of circuit problem or deficiency (diagnostic testing); and
 - (III) determining the appropriate course of action upon receipt of a customer trouble report to resolve the customer trouble report. Upon receipt of a trouble report pertaining to the provider's network, the provider shall test the local access line. The records of these test results shall be maintained pursuant to subparagraph 2005(c)(V). The test results shall be made available to the customer, upon request. This information shall be provided to the Commission upon request.

2338. Network Call Completion Requirements.

- (a) Direct dialed calls.
 - (I) Each HCSM recipient shall construct and maintain sufficient central office local usage message path capacity, interoffice channel capacity, and other necessary facilities to meet the following minimum requirements during any normal busy hour:
 - (A) dial tone within three seconds for 98 percent of call attempts on the switched network;
 - (B) correct termination of 98 percent of properly dialed intraoffice or interoffice calls within an extended service area; and
 - (C) correct termination of 98 percent of properly dialed intraLATA or interLATA calls when the call is routed entirely over the network of the HCSM recipient.

- (II) A dialed call shall be considered properly terminated if:
 - (A) the calling party receives an indication of ringing, a ringing signal is delivered to the station location of the called party, the called party answers, and a connection is established between the calling and called parties;
 - (B) if the called number is busy, the calling party receives a busy signal; or
 - (C) a call to a non-working code or inoperative customer number is directed to the intercept service of the HCSM recipient.
- (III) A dialed call shall not be considered properly terminated if a connection cannot be established between the calling and called parties, and the calling party receives an overflow announcement or an overflow signal that is different from the called party busy signal.

2339. – 2399. [Reserved].

COSTING AND RATES

Cost Allocation

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: prescribe methodologies that prevent the price of deregulated services from being set below cost by use of subsidization from customers of regulated services; and prescribe cost-allocation methodologies for the segregation of intrastate investments and expenses for providers that offer both regulated and deregulated telecommunications services.

The statutory authority for the promulgation of these rules may be found at §§ 40-15-108(2) and 40-2-108, C.R.S.

2400. Applicability.

- (a) Except as specifically provided otherwise, rules 2400 through 2459 apply to all intrastate providers who provide both regulated and deregulated telecommunications services as permitted by law.
- (b) Except as otherwise specifically noted, rule 2415 is applicable to rural telecommunications providers, as defined in § 40-15-102(24.5), C.R.S., that:
 - (I) Are not average-schedule companies as defined in 47 C.F.R. §§ 69.605 to 69.610 (average-schedule LEC); and
 - (II) Have opted to have their access charges regulated by the Commission in accordance with § 40-15-105(2), C.R.S.
- (c) Rule 2416 is applicable to all rural telecommunications providers.
- (d) CLECs are exempt from paragraph 2404(a), rule 2406, and paragraphs 2407(b) through (f), and, under specific circumstances, paragraph 2405(a).

2401. Definitions.

The following definitions apply only in the context of rules 2400 through 2459.

- (a) "Cross-subsidization" occurs when telecommunications services which are not subject to the jurisdiction of the Commission (deregulated services) are priced below cost by use of subsidization from customers of services subject to the jurisdiction of the Commission (regulated services); or when a provider's deregulated services derive benefits from the regulated operations without the regulated operations receiving just and reasonable compensation from the deregulated operations for the benefits derived.
- (b) "Fully distributed costs" (FDC) means the costs derived by assigning the total historical costs of the firm to individual products or services using cost accounting, engineering, and economic standards. FDCs include not only all costs related to the provision of service but also the return on investment.

2402. Incorporation by Reference.

References in these rules to Parts 32, 36, 64, and 69 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2403. Applicability to Specific Types of Services.

- (a) Each provider shall file with the Commission a list of each service that it offers, providing a description of such service and its classification of service as a regulated or deregulated telecommunications service, as those terms are used in Title 40, Article 15, C.R.S., and as determined by the Commission. This list shall be updated as changes occur.
- (b) Providers are permitted to continue accounting for non-tariff services as regulated services when they are offered incidental to tariff services provided that all of the following conditions are met:
 - (I) The non-tariff services are outgrowths of regulated operations.
 - (II) The total revenue from all non-tariff services does not exceed:
 - (A) For all providers except rural telecommunications providers, one percent of the provider's total annual Colorado operating revenue for regulated services; for rural telecommunications providers, seven percent of such provider's total annual Colorado operating revenue for regulated services; or
 - (B) The provider-specific revenue levels as ordered by the Commission.
 - (III) The service is a non-line-of-business service.
 - (IV) The service has traditionally been treated as an incidental service.
- (c) Providers are permitted to continue accounting for deregulated de minimis services, which have traditionally been offered in conjunction with tariff services, as regulated services provided that the following conditions are met:
 - (I) The sum of the revenues from the incidental services of paragraph (b) and these de minimis deregulated services does not exceed:
 - (A) For all providers except rural telecommunications providers, one percent of the provider's total annual Colorado operating revenue for regulated services; for rural telecommunications providers, seven percent of such provider's total annual Colorado operating revenue for regulated services, provided that the rates charged for such de minimis deregulated services are compensatory; or

- (B) The provider-specific revenue levels as ordered by the Commission.
- (II) The service has traditionally been treated as a de minimis service.
- (d) Providers shall specify precisely which services they propose to treat as incidental services and which services they propose to treat as de minimis services.
- (e) Each provider shall demonstrate that any activity proposed for treatment as either an incidental service or as a de minimis service complies with this rule.

2404. Uniform System of Accounts.

- (a) All providers shall maintain their books and records in accordance with FCC regulations found at 47 C.F.R., Part 32, Class A, except for rural telecommunications providers, who may use 47 C.F.R., Part 32, Class A or Class B.
- (b) In the event a provider, other than a CLEC, is authorized by the FCC to maintain its books of account and records in a manner other than under the USOA, it may seek a variance from paragraph (a) allowing it to maintain its books of account and records as permitted by the FCC. However, the provider requesting such a variance shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.
- (c) Providers who were already authorized by the Commission prior to April 30, 1990, to maintain their books of account and records in a manner other than the USOA need not seek a variance from paragraph (a) and are authorized to continue maintaining their books of account and records in the manner previously authorized by the Commission.
- (d) CLECs are automatically exempt from paragraph (a). However, a CLEC shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

2405. State-Interstate Separation of Costs.

- (a) Any provider that provides facilities or equipment for use by customers or providers of interstate telecommunications services shall apply federal cost allocation and separations principles as described in 47 C.F.R., Part 64 (The Cost Allocation Manual) and 47 C.F.R., Part 36 (The Separations Manual).
- (b) A provider, other than a CLEC, which is not required by the FCC to apply the Part 36 rules may apply for a variance of paragraph (a) as it relates to Part 36. However, the provider requesting such a variance shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.
- (c) If a CLEC has been given an exemption by the FCC from either Part 64 or Part 36, it is automatically exempt from all corresponding requirements of paragraph (a). However, the CLEC shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

2406. Cost Segregation Standards Generally.

For purposes of these rules, and in order to comply with §§ 40-15-106 and 40-15-108(2), C.R.S.:

- (a) All providers of telecommunications services may perform a FDC study for Commission use. In performing an FDC study, all providers shall follow generally accepted cost accounting and cost causation principles.

- (b) When performing a FDC study the following cost-segregation principles shall be used by all providers (listed in descending order of preferred application):
 - (I) Cost causation: Costs are assigned to all services that cause those costs to be incurred.
 - (II) Traceability: Costs that are identified in their entirety with a specific service are directly assigned to that service.
 - (III) Variability: Costs that are not directly traceable to a particular service, but do vary in total with some measure of the volume of activity that is associated with services, are segregated according to the estimated rate of variability.
 - (IV) Capacity Required: Costs of capacity are assigned according to whether they are necessary for the performance of the service.
 - (V) Beneficiality: A service benefits from a cost if that cost is necessary to render that service.
- (c) Any investments or expenses that are used jointly by two or more different services or that are used in common by services shall be segregated among all of those services using allocators that, to the maximum extent practicable, track how those costs are incurred.
- (d) Consistent with FCC Docket 86-111, adopted December 23, 1986, paragraph 131, these rules do not require or suggest the sole use of Cost Accounting Standards Board (CASB) standards.
- (e) The method for segregating investments and associated expenses which are common or jointly used shall ensure that all services that use those investments and expenses are allocated a portion of the joint investments and expenses. Incremental marginal cost studies will not be accepted for the purposes of this rule.

2407. Specific Cost-Segregation Standards and Guidelines.

- (a) All investments and expenses attributable to interstate jurisdictional services are to be allocated using applicable federal rules. Each provider shall be able to demonstrate that such rules have been properly applied.
- (b) Each service shall be treated specifically in the cost-segregation procedure. There shall be a description of each service provided by the provider that identifies the service, the service family, and describes how the service or service family is provided. Unless the service qualifies for treatment as an incidental service under paragraph 2403(b) or a de minimis service under paragraph 2403(c), sufficient information about the service shall be given to determine the appropriate cost categories to be employed.
- (c) In order to provide a consistent approach to segregating all costs, the Commission requires that the following factors be applied (listed in descending order of preferred application):
 - (I) Costs shall be directly assigned whenever possible. Directly assignable costs are defined as those costs that can be attributed only to a specific service (this employs the Traceability principle in subparagraph 2406(b)(II)). Where more than one service uses an investment or causes a cost to be incurred, direct assignment is inappropriate.

- (II) Methods of segregating common or joint investments and expenses shall use the provider's own engineering and service-provisioning design criteria as the primary assumptions (this employs the Variability principle in subparagraph 2406(b)(III)). When design criteria are used, the segregation method employed shall include the following to the maximum extent possible:
 - (A) If the service incorporates amounts of use that vary by time period and the engineering design criteria are sensitive to the peak-period usage (for example, end office or toll switching), then the segregation method shall also follow the engineering cost causation.
 - (B) Common or joint costs that vary in direct proportion to the relative amounts of use of a service shall be segregated based upon those relative amounts of use.
- (III) Common or joint costs that do not vary in direct proportion to the relevant amounts of use of the service shall be segregated by a surrogate measure that has a logical or observable correlation to the use of the service (this employs the Capacity Required principle in subparagraph 2406(b)(IV)); except that a time-reporting method of allocation shall be used for certain labor-intensive items as required in subparagraph (IV).
- (IV) A time-reporting method of allocation shall be used for labor-intensive customer operations, service related expenses, or investments of significance. The allocation of joint marketing (USOA Account Number 6610), operator services, local business office, and planning costs shall employ actual time-reporting methods for the allocation, if not directly assigned.
 - (A) An allocation method that uses statistically valid samples based on time reporting is permissible.
 - (B) A method other than a strict time-reporting allocation method may be approved by the Commission if it can be verified that the surrogate method is reasonably related to the expense being allocated.
- (V) Residual common marketing expenses that cannot be directly assigned or directly or indirectly attributed shall be allocated using a general marketing allocator. This allocator shall be derived from the previously assigned or attributed marketing expenses between regulated and deregulated operations.
- (VI) Common costs for which there is no direct or indirect measure of allocation shall be segregated using an appropriate general allocator that is based upon total expenses otherwise assigned (this employs the beneficiality principle in subparagraph 2406(b)(V)).
- (d) General allocators shall be used only in exceptional cases and, then, only when the justification for their use is fully explained.
- (e) Providers shall provide the Commission with all the data necessary to verify the cost segregation.
- (f) It is inappropriate to allocate investments or expenses associated with the newly developed services exclusively to existing services. As new services begin to use joint and common investments and expenses are incurred, the methods of segregation shall be modified to track the usage and expenses.

2408. Implementation and Enforcement.

- (a) A certified audit report shall be filed with the Commission when a provider files a general rate case, which includes requests for a change in revenue requirements, a change in the spread of rates, a change in rate base, and a change in the rate-of-return.
- (b) A provider seeking any change in revenue requirements shall have the burden of demonstrating that the change is based on cost information and standards established by these rules.

2409. Informational Requirements.

Each provider subject to these rules shall provide the following information:

- (a) A description of each service provided by the provider that identifies the service, the service family, and describes how the service or service family is provided in order to provide sufficient information about the service to ascertain its cost treatment.
- (b) A statement of whether the service is regulated or deregulated. The statement shall also identify the services subject to a Commission decision and order if, in association with these services, the provider is required by the Commission to file an accounting plan that segregates assets, liabilities, revenues, and expenses in order to define rate base and to implement alternatives to rate-of-return regulation in accordance with rule 2205.
- (c) A list of all services that the provider now treats as incidental services, that are accorded incidental accounting treatment, and the justification for treating each service as incidental.
- (d) A list of all services which the provider now treats as de minimis services, accords de minimis accounting treatment, and the justification for treating each as de minimis.
- (e) If the provider is a local exchange provider, a chart showing all corporate affiliates and a statement identifying those affiliates that engage in transactions (as described in rule 2413) with the provider and describing the nature, terms, and frequency of those transactions.

2410. Reporting and Record Keeping.

- (a) Each provider shall keep records and all supporting documentation for cost segregations for two years following the close of the fiscal year associated with the records.
- (b) Each provider, except rural telecommunications providers, shall file with the Commission its segregated financial statements as part of its annual report.

2411. Auditing.

- (a) Certified auditor's reports required under paragraph 2408(a) shall include the following information:
 - (I) The scope of work conducted, specifying the items examined and the extent of examination;
 - (II) The auditor's conclusion as to whether actual methods and procedures designed and implemented by the provider conform to the procedures described in these rules;
 - (III) Any material exceptions or qualifications that the auditor may have identifying the adequacy of the procedures;

- (IV) Any limitations in the scope of review imposed upon the auditor by the provider; and
 - (V) A statement that the attestation standards have been fully met during the examination.
- (b) Any work papers used by independent auditors shall be made available for Commission Staff review. The provider shall authorize the release of such work papers by the auditors to the Staff of the Commission.

2412. Confidential Information.

The certified auditor's report, detailed specifications, documentation, supporting information, and Appendix B may be treated as confidential pursuant to applicable Commission rules governing confidential information.

2413. Affiliate Transactions - Local Exchange Providers.

- (a) Transactions with affiliates involving asset transfers or provision of services into or out of the regulated accounts shall be recorded by the provider in its regulated accounts as provided in paragraphs (b) through (e).
- (b) Transfer of assets:
- (I) Assets sold or transferred between a provider and its affiliate pursuant to a tariff shall be recorded in the appropriate revenue accounts at the tariff rate. Non-tariffed assets sold or transferred between a provider and its affiliate that qualify for prevailing price valuation as defined in paragraph (d) shall be recorded at the prevailing price.
 - (II) All other assets sold by or transferred from a provider to its affiliate shall be recorded at either fair market value or net book cost, whichever is higher. All other assets purchased by or transferred to a provider from its affiliate shall be recorded at either fair market value or net book cost, whichever is lower. For purposes of this subparagraph, providers shall make a good faith determination of fair market value.
- (c) Valuation of services provided to or by an affiliate:
- (I) Services provided between a provider and its affiliate pursuant to a tariff shall be recorded in the appropriate revenue accounts at the tariff rate. Non-tariff services provided between a provider and its affiliate pursuant to publicly-filed agreements submitted to the Commission pursuant to section 252(e) of the Communications Act of 1934 or statements of generally available terms pursuant to section 252(f) shall be recorded using the charges appearing in such publicly-filed agreements or statements. Non-tariff services provided between a provider and its affiliate that qualify for prevailing price valuation, as defined in paragraph (d), shall be recorded at the prevailing price.
 - (II) All other services provided to an affiliate shall be recorded at the greater of fair market value or FDC. All other services received by a provider from its affiliate shall be recorded at either fair market value or FDC, whichever is lower, except that services received by a provider from an affiliate which exists solely for the purpose of providing services to members of the provider's corporate family shall be recorded at FDC. For purposes of this subparagraph, providers shall make a good faith determination of fair market value.

- (d) In order to qualify for prevailing price valuation, sales of a particular asset or service to third parties shall be greater than 50 percent of all such products or services sold by an entity. Providers shall apply this 50 percent threshold on an asset-by-asset, service-by-service basis, rather than on a product line or service line basis. In the case of transactions for assets and services subject to § 272 of the Communications Act of 1934, a RBOC may record such transactions at prevailing price regardless of whether the 50 percent threshold has been satisfied.
- (e) Income taxes shall be allocated among the regulated activities of the provider, its non-regulated divisions, and members of affiliated groups. If income taxes are determined on a consolidated basis by the provider and other members of an affiliated group, the income tax expense to be recorded by the provider shall be the same as if determined for the provider separately for all time periods, except that the tax effect of carry-back and carry-forward operating losses, investment tax credits, or other tax credits generated by operations of the provider shall be recorded by the provider during the period they are applied in settlement of the taxes otherwise attributable to any member, or combination of members, of the affiliated group.
- (f) All providers, except rural telecommunications providers and interexchange providers, shall provide a statement identifying all affiliates that engage in transactions with the provider and describing the nature, terms and frequency of those transactions as defined below.
 - (I) Nature of transactions. The provider shall state, for each service transaction, whether the service involves the provision of services or asset transfers and how such transactions are accomplished.
 - (II) Terms of affiliate transactions. The provider shall state the terms at which the service is provided (i.e., at a tariff rate, the prevailing market price, or at the FDC).
 - (III) Frequency of affiliate transactions. The provider shall state the frequency with which the service is rendered.

2414. Affiliate Transactions - Interexchange Providers.

Notwithstanding any provisions of these rules to the contrary, interexchange providers shall file contemporaneously with the Commission any reports they are required to file with the FCC concerning affiliate transactions pursuant to 47 C.F.R., Part 64.

2415. Separation of Colorado Intrastate Access Costs.

- (a) Pursuant to § 40-15-108(1), C.R.S., each rural telecommunications provider who provides facilities or equipment for use by interstate customers or providers of telecommunications services shall separate all investments and expenses associated therewith according to applicable federal separation procedures and agreements. Prior to separating intrastate costs, each provider shall segregate its intrastate investments and expenses in accordance with rules 2400 through 2459.
- (b) Colorado intrastate access costs shall be separated from other jurisdictional costs using the separation procedures set forth at 47 C.F.R., Part 36, except as follows:
 - (I) Common line allocation. As provided in subparagraphs (I)(A) and (B), the lesser of 26.5 percent or twice the subscriber line usage (SLU) as measured by the ratio of intrastate interexchange holding time minutes of use to total holding time minutes of use applicable to traffic originating and terminating in the study area, as defined in 47 C.F.R., Part 36, shall be allocated to Colorado switched access. This allocation factor shall be known as the "basic allocation factor".

- (A) The basic allocation factor specified in this subparagraph shall be modified by multiplying it by a weighting factor, which results in the "Colorado basic allocation factor".
 - (i) For rural telecommunications providers reporting an average unseparated loop cost per working loop less than or equal to 115 percent of the national average for this cost, the weighting factor shall be one (1).
 - (ii) For rural telecommunications providers reporting an average unseparated loop cost per working loop in excess of 115 percent of the national average for this cost, the weighting factor shall be 115 percent of the national average unseparated loop cost per working loop divided by the rural telecommunications provider's average unseparated loop cost per working loop.
- (B) The Colorado basic allocation factor shall be used for allocating: Subcategory 1.3 of Exchange Line Cable and Wire facilities, Category 4.13 of Exchange Line Circuit equipment excluding Wideband, and Category 1 of Other Information Origination/Termination Equipment.
- (C) Local switching allocations. Except as provided in this subparagraph, the allocation of Category 3 of Local Switching Equipment shall follow 47 C.F.R. § 36.125, using Colorado relative dial equipment minutes of use (DEM) for interLATA and intraLATA switched access. The Colorado DEM factors shall be weighted by a factor of 1.5. In no event shall the sum of all the interstate and the intrastate allocation factors be greater than 0.85. If the arithmetic sum exceeds 0.85, the intrastate allocation factor(s) shall be reduced accordingly.

2416. Colorado Intrastate Access Charge Elements.

- (a) The rate elements included in the access tariffs of rural telecommunications providers who are not average-schedule rural telecommunications providers, shall be based on the application of 47 C.F.R. §§ 69.1 to 69.502, to the intrastate access revenue requirement of the rural telecommunications provider.
- (b) The intrastate access charge elements in the s of average-schedule rural telecommunications providers shall be set at the average, as determined by the HCSM Administrator, of the access rate elements of the rural telecommunications providers who are not average-schedule LECs prevailing at the time that the average-schedule rural telecommunications provider's tariff rate elements are established. Average-schedule rural telecommunications providers are not required to modify their access charge elements each time the administrator recalculates the average of the access charge elements, but each shall comply with the provisions of paragraph 2855(f). When modified access charge elements are established, through a request by the LEC, a formal complaint, or other proceeding, the access charge elements shall be set at the then-current average.

2417. - 2459. [Reserved].

Costing and Pricing of Regulated Telecommunications Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify standards for determining costs for pricing of regulated services and to provide guidelines for appropriate market and cost analyses that underlie just and reasonable rates.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-110, and 40-2-108, C.R.S.

2460. Applicability.

Except as provided by rule 2466, these Costing and Pricing Rules apply to all providers other than CLECs whose rates the Commission regulates. In the event of any inconsistency between these Costing and Pricing Rules and the Cost Allocation Rules, the latter shall apply.

2461. Definitions.

The following definitions apply only in the context of rules 2460 through 2499.

- (a) "Average cost pricing" means the practice of setting the price of a product equal to the average total cost of that product. Such a result can be achieved by adding a mark-up to the average variable cost of the product.
- (b) "Average fixed cost" means the sum of the relevant fixed costs of producing a given quantity of output, divided by the total number of units produced.
- (c) "Average service long-run incremental cost" means the total service long-run incremental cost divided by the total number of units of the service.
- (d) "Average total cost" means the total cost of producing a given quantity of output, divided by the total number of units produced. Average total cost equals the sum of average variable cost and average fixed cost.
- (e) "Average variable cost" means the sum of all variable costs of producing a given quantity of output, divided by the total number of units produced.
- (f) "Bundling" means a situation in which the rate elements and tariff provisions for a service are aggregated such that customers are unable to buy some features and functions included within the aggregation without buying them all.
- (g) "Cost accounting standards" means the assignment of costs to products, services, or customer classes using the following five criteria:
 - (I) Cost causation. Costs are assigned to the revenue-producing products or services that cause those costs to be incurred;
 - (II) Traceability. Costs are assigned using the cost attribute that permits the resources represented by the costs to be identified in their entirety with a revenue-producing activity;
 - (III) Variability. Costs that vary in total with variations in some measure of the volume of activity that is associated with the revenue-producing product or service but that are not traceable to a revenue-producing product or service, are assigned to the revenue-producing product or service based upon the estimated rate of variability;
 - (IV) Capacity required. Costs of capacity are assigned according to whether they are necessary for the performance of the service; and
 - (V) Beneficiality. Costs are assigned to various services based upon the degree of benefit derived by each service.

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- (h) "Direct cost" means a cost specifically identifiable with the production of an individual service. These costs would not be incurred if the service was not offered.
- (i) "Economies of scale" exist if the average cost of producing any group of services increases less than proportionately to an increase in quantity of those services.
- (j) "Economies of scope" exist if the cost of producing any group of services by one firm is less than the sum of the costs of producing the same group and quantities of those services by two or more firms providing mutually exclusive subsets of those services.
- (k) "Elasticity of demand" means the percentage change in the quantity demanded of a service, divided by the percentage change in the price of the service.
- (l) "Elasticity of supply" means the percentage change in the quantity supplied of a service, divided by the percentage change in the price of the service.
- (m) "Fixed cost" means a cost that does not vary with respect to the volume of output within the specified planning horizon. Such a cost must be paid regardless of how many units the firm produces, or whether it produces at all, as long as the firm does not withdraw entirely from the relevant market.
- (n) "Fully distributed costs" (FDC) means the costs derived by assigning the total historical costs of the firm to individual products or services using cost accounting, engineering, and economic standards. FDCs include not only all justifiable costs related to the provision of service but also the return on investment.
- (o) "Functional component" means a cost element or group of cost elements representing the smallest feasible level of unbundling capable of being in a tariff and offered as a service.
- (p) "Historical costs" are the investments or expenses incurred at the time an input or resource is purchased. Such costs are not necessarily equal to the current cost of replacing the input or resource and are directly obtainable from accounting records of the provider.
- (q) "Imputation" means the practice of including the tariff price of a Part II or fully regulated Part III service in the price floor for the service in question, where:
- (I) Part II or fully regulated Part III services are bundled with other services; or
 - (II) Part II or fully regulated Part III services are used as inputs to provide either a final or intermediate service.
- (r) "Incremental service incremental cost" means the change in total cost resulting from increasing (or decreasing) the quantity of output of a service by a small number of units, divided by that small number of units. If total cost changes in a continuous fashion as output changes and the increment is sufficiently small, incremental service incremental cost approximates marginal cost.
- (s) "Joint cost" means a cost that occurs when the production process involves intermediate or final outputs that maintains fixed proportions with respect to two or more services.
- (t) "Long-run costs" means the costs incurred by a firm within a specified planning horizon where all elements of the production process can be varied, including the size and type of facilities and other used resources.
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- (u) "Marginal cost" means a theoretical change in total cost resulting from an extremely small change in output. In mathematical terms, marginal cost is the first derivative of the total cost function with respect to output.
- (v) "Marginal cost pricing" means the theoretical practice of establishing the price of a product equal to the marginal cost of the last unit of output of the product.
- (w) "Market power" means any power exerted by a firm in a market where the competitive process cannot produce the theoretical outcomes and benefits of perfect competition. The degree of market power is determined by a consideration of the following factors:
 - (I) The relevant market, as determined by service and geographic substitutability on both the demand and supply sides of the market.
 - (II) The market share of the particular service held by the regulated provider in the relevant market.
 - (III) The supply responsiveness (or elasticity) of competitors in the relevant market, as determined by an assessment of entry and expansion conditions of competitors.
 - (IV) The market demand characteristics in the relevant market. (For example, the more elastic the total market demand the more customers view other services as substitutes or alternatives for the provider's service.)
- (x) "Monopoly", in the strictest sense, means a situation in which the sole supplier of a service for which there are no substitutes has many buyers of that service. The simple economic analysis of monopoly relaxes the assumption of no substitutes, but assumes that the monopolist faces a relatively stable and predictable downward-sloping market demand curve.
- (y) "Natural monopoly" exists if a single firm produces its set of outputs at less cost than could be achieved by dividing that set among two or more firms.
- (z) "Overhead costs" means shared costs related to the production of all services offered by a firm.
- (aa) "Perfect competition":
 - (I) A market structure is perfectly competitive when the following conditions prevail:
 - (A) There are a large number of firms each with an insubstantial share of the market;
 - (B) The firms possess perfect information and produce a homogeneous service using identical production processes; and
 - (C) There is free entry into and exit from the industry.
 - (II) Perfect competition implies that both marginal revenue and average revenue are equal to price in long run equilibrium. Thus, firms are price takers and can sell as much as they are capable of producing at the prevailing price.
- (bb) "Price ceiling" means the maximum level at which a provider may price a service.
- (cc) "Price discrimination" means the act of selling different units of a service at price differentials not directly corresponding to differences in cost.
 - (I) Price discrimination includes both:

- (A) The sale of identical units of the service to different customers at different prices; and
 - (B) The sale of identical units of the service to the same customer at different prices.
- (II) In order for a firm to practice price discrimination profitably with respect to a particular service, it shall have:
 - (A) Some control over the price it charges for that service;
 - (B) The ability to segregate its customers for that service into groups with different price elasticities of demand; and
 - (C) The ability to prevent resale of the service by those customers who can buy it at the lower price.
- (dd) "Price floor" means the minimum level at which a provider may price a service.
- (ee) "Ramsey pricing" means, as subject to relevant regulatory constraints, the practice of pricing all products and services such that the sum of customer and producer welfare is maximized.
- (ff) "Replacement cost" means the cost that the provider of a service would incur to construct its plant and facilities using the current, best technology at current prices but without changing the physical position of such facilities.
- (gg) "Residual pricing" means that service price is set so that revenues from the service equal all costs not covered by revenues from all other services offered by the firm once their prices are set.
- (hh) "Service-specific fixed cost" means a fixed cost caused by the existence of a specific service within the array of services currently offered that does not vary with changes in the number of units produced but would be eliminated if the specific service were deleted from the current array of services offered.
- (ii) "Shared cost" means a cost incurred for facilities and resources used in common for the production of two or more services.
- (jj) "Short-run costs" means the costs incurred by a firm operating within a planning horizon where many elements of the production process are fixed and cannot be readily varied, including the size and type of certain used facilities.
- (kk) "Stand alone cost" means the total cost incurred by a firm to produce a given volume of a service or group of services as if it were the sole service or group of services produced by that firm.
- (ll) "Sunk cost" means a cost that has already been incurred, is irretrievable, and cannot be avoided, even by discontinuing production entirely.
- (mm) "Total cost" means the sum of all costs (including fixed and variable costs) incurred by the firm to produce any given level of output.
- (nn) "Total incremental cost" means the change in total cost resulting from an increase or decrease in output. In mathematical terms, total incremental cost equals total cost assuming the increment is produced, minus total cost assuming the increment is not produced.
- (oo) "Total service incremental revenue" means the change in the firm's total revenues resulting from adding or deleting a service.

- (pp) "Total service long run incremental cost" (TSLRIC) is equal to the firm's total cost of producing all of its services assuming the service (or group of services) in question is offered minus the firm's total cost of producing all of its services excluding the service (or group of services) in question.
- (I) The strict definition of TSLRIC requires that it be calculated by producing two total cost studies and then subtracting one from the other. An estimate of TSLRIC can be made directly.
- (II) The strict definition of TSLRIC incorporates a forward looking concept which shall, therefore, include the costs that the firm would incur today if it were to install its own original network. An estimate of TSLRIC can be arrived at by assuming that the geographic locations of routes and possible switching locations are the same as those available to the firm today and that future technological changes can be anticipated. In making this estimate, the assumptions underlying it shall be made explicit and the estimating procedure shall reflect the time period in which the resulting prices are anticipated to be in effect.
- (III) TSLRIC includes both fixed and variable costs specific to the service (or group of services) in question.
- (IV) The TSLRIC for a group of services is at least equal to the sum of the TSLRICs of the individual services within the group. If the TSLRIC for the group is greater than this sum, the difference is equal to the shared costs attributable to the group of services and/or to some subset of that group. In other words, these shared costs are part of the TSLRIC of the group but are not part of the TSLRIC of any individual service within the group.
- (qq) "Unbundling" means a situation in which the rate elements and tariff provisions for a retail service are disaggregated to the lowest level practicable to permit customers to buy the features and functions they desire without having to purchase those they do not want.
- (rr) "Variable cost" means a cost that changes (but not necessarily proportionately) either with the number of units produced of a given set of services or with the number of services provided.

2462. Service Applicability.

Colorado statutes (§ 40-15-101, C.R.S., et seq .) categorize telecommunications service regulation into three segments: Regulated Telecommunications Services (Part 2), Emerging Competitive Telecommunications Services (Part 3), and Deregulated Telecommunications Services (Part 4). The statutes, Commission decisions, and Commission rules categorize these telecommunications services into three regulatory schemes. The level of actual competition in a specific service is the primary determinant for the extent of regulation of that service under the statute.

- (a) Rule 2463 shall cover Part II telecommunications services.
- (b) Part III telecommunications services shall be treated differently depending upon the amount of actual demonstrated competition for each service.
- (I) Part III telecommunications services for which the Commission has not made a determination regarding the level of competition or has determined that competition is absent or negligible (i.e., the provider has significant market power for the service(s)) shall be covered by rule 2463.
- (II) Part III telecommunications services for which the Commission has determined competition is sufficient to warrant relaxed regulatory treatment shall be covered by rule 2464.

- (c) Rules 2463 and 2464 do not apply to Part 4 telecommunications services. It is assumed that the competitive market determines prices for Part 4 services. Additional protection is provided by applicable Commission rules prohibiting cross-subsidization.

2463. Fully Regulated Telecommunications Services.

- (a) Costing.
- (I) TSLRIC studies shall be provided at the time a service rate proposal is submitted. Other cost studies may be provided if deemed relevant. TSLRIC studies will be used to establish price floors as described below in subparagraph (b)(I). FDC studies shall be filed annually, within 120 days after the close of a provider's fiscal year. FDC studies shall be used as a component of the actual pricing process described in subparagraph (b)(IV).
 - (II) If a provider offers a new service that uses a part of the existing investment, a surrogate for a FDC study shall be performed for the new service for the purpose of allocating an appropriate portion of that existing investment to the new service. This is termed a surrogate study because most FDC studies are performed on existing products and services using historical information. The surrogate FDC study shall allocate the existing investment and expenses that the new service uses employing either actual historical or pro forma adjusted investments and expenses. Pro forma adjusted investments and expenses will be considered in cases where the provider desires to reflect a more current view of expenses and/or investments; for example, in situations wherein the provider has obsolete investments or one-time expenses on the books of account that would be inappropriate to include in a cost study for a new service. The estimates of existing costs to be allocated to new services would reduce the total allocations of these costs to existing services by the same amount.
 - (III) Cost studies shall be performed either for all specific service offerings or for all functional components that make up the entirety of services offered. The provider shall notify the Commission in its documentation that it is using either service level or functional component level cost studies. If functional component level cost studies are used, the provider shall also provide information sufficient to match functional components to services.
 - (IV) The FDC studies shall use the cost accounting standards defined in paragraph 2461(g), and the TSLRIC studies shall use the standards presented in the definition of TSLRIC to properly include all costs identifiably related to a given service. Any deviation from these standards shall be clearly stated, a justification provided, and approved by the Commission.
 - (V) Cost studies shall include, but are not limited to, the relevant costs for billing, marketing, advertising, and network costs in addition to any other relevant costs associated with the service.
 - (VI) Cost studies for any service offerings that include, as underlying functionalities, any tariff Part II services or fully regulated Part III services must impute the tariff rates as part of the costs of the services in question.
 - (VII) Cost studies must be approved by the Commission.
 - (VIII) Individual cost studies for each service or functional component must have been performed within three years of being filed.
- (b) Pricing.

- (I) The Commission shall set the prices for all fully regulated telecommunications services. Such prices shall be designed to advance universal service at just and reasonable rates. The price for each service must be set to satisfy the following conditions:
 - (A) Total revenue from the given service is equal to or greater than its total service long run incremental cost.
 - (B) Total revenue from any group of services in which the given service appears is equal to or greater than the TSLRIC of the group of services.
 - (C) Total revenue for the given service (or any group of services in which the given service appears) shall be equal to or less than the stand-alone cost for the service (or group of services). However, since stand-alone cost studies may be difficult and burdensome to execute, the Commission may use the FDC for the service (or group of services) plus some determined mark-up as a surrogate price ceiling. For a new service, a FDC study must be produced in accordance with subparagraph (a)(II).
 - (D) The access loop is not a separate service but rather is an input necessary for the provision of many telecommunications services. As such, costs associated with the access loop shall not appear in the TSLRIC of any single service requiring the access loop. Rather, it shall appear as part of the total service long run incremental cost of the entire group of services requiring the loop. Consequently, prices must be set so that the sum of the revenues from all services requiring the access loop covers not only the sum of the total service long run incremental costs for the individual services but also the shared cost of the loop. Finally, regarding the computation of stand-alone costs, since each service in this group requires the access loop, the entire cost of the loop shall appear in the stand-alone cost for each of these services.
- (II) Subparagraph (b)(I) will not apply if the Commission specifically determines that, for reasons of public policy, the price for a fully regulated telecommunications service may be below the price floor or above the price ceiling established in subparagraph (b)(I).
- (III) When the Commission sets the price of a fully regulated telecommunications service below its respective price floor, the amount below the price floor and the source from which the resulting deficit is made up must be identified and specifically approved by the Commission.
- (IV) The price set by the Commission for a fully regulated telecommunications service may include some portion of the overhead costs of the provider in order to allow the provider to recover its overall revenue requirement. The amount of overhead costs to be recovered by each fully regulated telecommunications service must be specifically identified and must represent the contributions of various services to the covering of overhead costs. As part of this pricing process, the Commission will consider FDC studies. In addition, the following non-exclusive list of factors may be considered by the Commission on a case-by-case basis, depending upon the complexity of the issues and the magnitude of the net revenue involved:
 - (A) Other cost studies;
 - (B) Market studies designed to determine market structure, extent of competition, etc.
 - (C) Elasticity of demand and supply studies;

- (D) Focus group results;
- (E) Survey results;
- (F) Social obligations, e.g., promotion of universal service and absence of rate shock;
- (G) Rate continuity; and/or
- (H) Statutory requirements.
- (V) Any changes to rates for fully regulated telecommunications services shall be made through the traditional tariff review process prior to implementation. This includes, but is not limited to, revenue neutral rate changes of any fully regulated telecommunications services.
- (VI) Residual pricing may not be used for any services.
- (VII) Nothing in this paragraph shall be construed to limit the Commission's powers to do all things necessary in fulfilling its statutory duties.

2464. Part III Emerging Competitive Services Subject to an Alternative Form of Regulation.

- (a) Costing. The cost studies referred to in this rule must conform to the specifications outlined in paragraph 2463(a).
- (b) Pricing.
 - (I) The price floor for Part III emerging competitive services subject to an alternative form of regulation shall be determined pursuant to paragraph 2463(b) and shall include imputation, as defined in paragraph 2461(q).
 - (II) The price ceiling for Part III emerging competitive services subject to an alternative form of regulation shall be determined pursuant to subparagraph 2463(b)(I)(C) unless the Commission explicitly adopts an alternative such as, for example, the current price.
 - (III) A provider may request that the Commission review an existing price floor and/or price ceiling by filing a formal request with the Commission. The request shall be supported by appropriate revised cost studies, including imputation.
 - (IV) The exact form of regulation of a Part III emerging competitive service subject to an alternative form of regulation shall be specified in the Commission order(s) granting the alternative form of regulation pursuant to rule 2205.

2465. Cost Studies to be provided to the Commission.

- (a) Contents.
 - (I) The cost study results submitted by a provider must specify the type of costs being estimated, irrespective of any legitimate simplification and/or approximation incorporated into the studies.
 - (II) Cost studies must be produced in accordance with the definition of the type of costs being estimated.

- (III) The provider shall identify all instances in which its estimate deviates from the definitions of the cost type. A written explanation justifying each such deviation on the basis of data limitations, methodological simplicity, or other practical considerations shall be provided. The explanation shall be sufficiently clear and detailed to allow interested parties to determine whether the deviation is justified and to understand its potential significance. The Commission has discretion to grant or deny each proposed deviation.
 - (IV) The provider shall identify the costs and elements of the production process it considers to be fixed within the specified planning horizon and the costs it considers to be variable.
 - (V) The provider shall identify any included sunk costs and shall calculate the cost reduction that results from the exclusion of such sunk costs.
 - (VI) The provider shall identify all shared and overhead costs and specify those included in or excluded from the cost study. The provider shall separately quantify the reduction in the cost estimates that would result if shared and overhead costs were to be excluded. This subparagraph does not apply to FDC studies.
 - (VII) Nothing in this paragraph shall be construed to limit the Commission's authority to accomplish its statutory duties.
- (b) Cost estimate requirements.
- (I) In any incremental cost estimate submitted, the increment of output analyzed must be relevant to the issues under consideration.
 - (II) In any incremental cost estimate submitted, the estimated change in costs must approximate the cost difference between a "business as usual" scenario accommodating existing and future demand and a scenario assuming output levels that are higher (lower) by the relevant increment (decrement).
 - (III) A cost estimate for a service that uses or displaces another service offered by the provider shall reflect the revenue that would have been derived from the other service. For example, the cost estimate for message toll service shall reflect the access revenues that are foregone when the customer purchases toll service from the provider instead of from a competitor.
- (c) Required work papers.
- (I) A cost estimate submitted to the Commission shall be accompanied by a complete set of supporting work papers and source documents.
 - (II) Work papers shall clearly and logically present all data used in developing the estimate and provide a narrative explanation of all formulas or algorithms applied to such data. They shall also allow others to replicate the methodology and calculate equivalent or alternative results using equivalent or alternative assumptions.
 - (III) Work papers shall clearly set forth all significant assumptions and identify all source documents used in preparing the cost estimate.
 - (IV) Work papers shall be organized so that a person unfamiliar with the study will be able to work from the initial investment, expense, and demand data in order to calculate the final cost estimate. The significance of each number used in developing the estimate shall be clearly identified in the work papers and the source of each number not included within the work papers shall be clearly identifiable and readily available.

- (V) Any input expressed as a “dollars per minute,” “dollars per foot,” “dollars per loop,” “dollars per port,” or similar units must be traceable to the original source documents including without limitation the dollars, minutes, feet, loops, and ports from which such figures are calculated.
- (VI) Unless impracticable, all data and work papers shall be provided in electronic format using standard, commercially-available spreadsheet or database software formats. Data and work papers shall be accompanied by files or internal comments that define the contents of each data set or work paper, and shall include an explanation of the definitions, formulae, equations, and data provided.
- (VII) An index or detailed table of contents of the work papers and source documents shall be provided. In addition, to the extent practicable, a cross index shall be included that allows others to track key numbers through the various source documents, work papers, and exhibits.

2466. Exceptions.

- (a) Any local exchange provider who, prior to July 1, 1996, had either served only rural exchanges with a combined total of 10,000 or fewer access lines or served fewer than 10,000 customers in rural exchanges only, shall be deemed to be in compliance with these rules by providing the Commission with its required filing information under the Commission's Cost Allocation Rules 2400-2459. Providers of local exchange service who commenced providing such service on or after July 1, 1996, shall be subject to all provisions of these rules, in the absence of a specific variance or an alternative form of regulation.
- (b) This rule does not modify any prior order of the Commission granting a provider a specific form of costing and pricing for a specific service.

2467. - 2499. [Reserved].

PROVIDER OBLIGATIONS TO OTHER PROVIDERS

Basis, Purpose, and Statutory Authority

The basis and purpose of rules 2500-2599 is to: prescribe non-discriminatory access to, and interconnection with, the facilities of providers' networks by other providers; and provide for the unbundling of certain providers' networks. Nothing in these rules affects, modifies, or expands:

- (a) an entity's obligations under sections 251 and 252 of the federal “Communications Act of 1934,” as amended, and codified in 47 U.S.C. § 251 and 252;
- (b) any commission authority over wholesale telecommunications rates, services, agreements, providers, or tariffs; or
- (c) any commission authority addressing or affecting the resolution of disputes regarding intercarrier compensation.

The statutory authority for the promulgation of these rules is found at §§ 40-15-109(3); 40-15-401(2)(a), (b) and (c), 40-15-404, 40-15-503(2)(c) and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252.

Interconnection and Unbundling

2500. Applicability.

Rules 2500 through 2529 are applicable to all telecommunications carriers that provide telecommunications exchange services in the State of Colorado.

2501. Definitions.

The following definitions apply only in the context of rules 2500 through 2529:

- (a) "Common transport link" means a communications path:
 - (I) Used by multiple customers; and
 - (II) Containing one or more circuits connecting two switching systems in a network.
- (b) "Customer network interface" or "network interface device" (NID) means the facilities on or near the customer's premises that allow the customer to connect to the network.
- (c) "Dedicated transport link" means a communications path:
 - (I) Used by one customer; and
 - (II) Containing one or more circuits connecting two switching systems in a network.
- (d) "Essential facilities" or "essential functions" mean those network elements that a telecommunications provider is required to offer on an unbundled basis.
- (e) "Exchange access" means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.
- (f) "Interconnection" means the process of providing a seamless connecting link between competing networks for the completion of local traffic that originates in the network of one provider and terminates in the network of another provider.
- (g) "Loop" means the facilities that connect a customer network interface to a main distribution frame, or its equivalent.
- (h) "Operator systems" means systems that provide for live or mechanized operator functions that assist end users with call completion and directory assistance.
- (i) "Originating provider" means the telecommunications provider that serves the end user who originates a local call.
- (j) "Service control point" (SCP) means a node in the signaling network to which informational requests for service handling (for example, routing) are directed and processed. The SCP includes both the service logic and the customer specific information necessary to process individual requests.
- (k) "Signal transfer point" (STP) means a facility that provides the function of connecting signal links in order to transfer appropriate signals from and between the various elements of a signaling network.

- (l) "Signaling links" means transmission facilities in a signaling network which carry all out-of-band signaling traffic between the end office and signal transfer point, the tandem office and signal transfer point, the signal transfer point and service control point, and the signal transfer point and another signal transfer point.
- (m) "Switch" means a facility that provides the functionalities required to connect appropriate lines or trunks to a desired communications transmission path. These functionalities may include, but are not limited to, recognizing service requests, obtaining required call specific information, data analysis, route selection, call completion or hand-off, testing, recording, or signaling.
- (n) "Tandem switch" means a facility that provides the function of connecting trunks to trunks for the purpose of completing inter-switch calls.
- (o) "Telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services. This definition includes Commercial Mobile Radio Service (CMRS) providers, interexchange providers, and to the extent they are acting as telecommunications carriers, companies that provide both telecommunications and information services.
- (p) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (q) "Terminating provider" means the telecommunications provider that serves the end user who receives a local call.

2502. Interconnection.

- (a) All telecommunications carriers shall interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.
- (b) All LECs shall:
 - (I) Not prohibit and not impose unreasonable or discriminatory conditions or limitations on the resale of its telecommunications services;
 - (II) Provide number portability;
 - (III) Provide dialing parity to competing providers of telephone exchange service and telephone toll service;
 - (IV) Permit all competing providers to have non-discriminatory access to telephone numbers, operator services, directory assistance, and directory listings, with no unreasonable dialing delays;
 - (V) Afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, charges, terms, and conditions that are consistent with 47 U.S.C. § 224; and
 - (VI) Establish reciprocal compensation arrangements for the transport and termination of telecommunications.
- (c) In addition to the above obligations, all ILECs shall provide for the interconnection with the facilities and equipment of any requesting telecommunications carrier:

- (d) In addition to the above obligations, all ILECs shall provide for the interconnection with the facilities and equipment of any requesting telecommunications carrier:
 - (I) For the transmission and routing of telephone exchange service and exchange access;
 - (II) At any technically feasible point within the ILEC's network;
 - (III) That is at least equal in quality to that provided by the ILEC to itself or to any subsidiary, affiliate, or any other party to which the ILEC interconnects;
 - (IV) At rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory;
 - (V) In accordance with the rates, charges, terms, and conditions established by the ILEC pursuant to contract or arbitration, as applicable; and
 - (VI) Consistent with the Commission's rules regarding the Costing and Pricing of Regulated Telecommunications Services.
- (e) Collocation: An ILEC shall provide, for the physical collocation of equipment necessary for interconnection or access to unbundled network elements at the ILEC's premises at rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory. An ILEC may provide virtual collocation if the Commission determines that physical collocation is not practical for technical or space limitation reasons.
- (f) Each telecommunications carrier shall be responsible for constructing and maintaining the facilities on its side of the point of interconnection unless the interconnecting carriers agree to some other arrangement.
- (g) Each telecommunications carrier shall construct and maintain its interconnection facilities in accordance with accepted telecommunications engineering standards and practices. Each terminating carrier shall make available to all originating providers all technical references to documents that provide the technical specifications of the terminating provider's interconnection interfaces. In no event shall a telecommunications carrier construct or maintain its interconnection facilities under terms and conditions different from the terms and conditions the provider offers to itself, its affiliates, or another telecommunications carrier.
- (h) All Commission quality of service rules shall apply to the provision of interconnection facilities, unless the provider has opted into a Performance Assurance Plan mechanism.
- (i) Terminating providers shall make all required interconnection facilities available within 90 days of a bona fide written request. No unreasonable refusal or delay, or discriminatory provision of service by a terminating provider shall be allowed.

2503. Compensation for Terminating Local Traffic.

- (a) For purposes of this rule, local calls originate at the customer network interface of the calling party's provider and terminate at the customer network interface of the called party's provider.
- (b) Except as provided in paragraphs (g) and (h), a terminating provider may charge the originating provider a termination fee for all local calls that originate on the originating provider's network and terminate on the terminating provider's network.
- (c) The termination fee shall be based on the costs associated with each network element:
 - (I) On the terminating provider's side of the point of interconnection; and

- (II) Used by the terminating provider to terminate the call.
- (d) If the originating provider is either interconnected to the terminating provider through the purchase of one or more unbundled elements owned by the terminating provider or a third provider, or uses one or more unbundled elements owned by the terminating provider or a third provider to originate the call:
 - (I) The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and
 - (II) The provider of the unbundled elements shall charge the originating provider for the use of the unbundled elements.
- (e) If the terminating provider is either interconnected to the originating provider through the purchase of one or more unbundled elements owned by the originating provider or a third provider, or uses one or more unbundled elements owned by a third provider to terminate the call:
 - (I) The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and
 - (II) The provider of the unbundled elements shall charge the terminating provider for the use of the unbundled elements.
- (f) The termination fee, subject to Commission approval, may reflect:
 - (I) A usage-sensitive charge based on, for example, distance, duration, or time of day;
 - (II) A flat charge based on, for example, capacity port charges based on either the trunk group size or the peak-use of interconnecting capacity; or
 - (III) Any combination thereof or an alternative mechanism.
- (g) The terminating provider's costs associated with the termination of local calls may be recovered, as approved by the Commission, in the rates the terminating provider charges for services provided to its customers.
- (h) If the terminating provider provides the originating provider with dial tone, the terminating provider may charge the originating provider with the use of unbundled local switching for the generation of dial tone when the terminating provider terminates calls from the originating provider on the terminating provider's network.

2504. Other Intercompany Arrangements.

- (a) Telecommunications carriers shall deal with other telecommunications carriers in a good faith and cooperative manner.
- (b) All telecommunications carriers are obligated to serve their customers in accordance with the Commission's rules.
- (c) All telecommunications carriers shall provide reasonable access to poles, ducts, conduits, and rights-of-way when feasible and when access is necessary for other telecommunications carriers to provide service. Upon application by a telecommunications carrier, the Commission shall determine any matters concerning reasonable access to poles, ducts, conduits, and rights-of-way, upon which agreement cannot be reached, including but not limited to, matters regarding valuations, space, capacity restraints, and compensation for access.

- (d) All LECs shall provide interconnecting telecommunications carriers with both answer and disconnect supervision as well as all available call detail information necessary to enable proper customer billing.
- (e) Interconnecting telecommunications carriers shall be required to enter into mutual billing and collection agreements so that each telecommunications carrier can accept other telecommunications carrier's telephone line number and other nonproprietary calling cards and can bill collect or third-party calls to a number served by another provider.
- (f) All LECs shall offer the interoperability of non-optional operator services between networks including, but not limited to, the ability of operators on each network to perform such operator functions as completing collect calls, third-party calls, busy line verification calls, and busy line interrupt.
- (g) Telecommunications carriers shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.
- (h) Telecommunications carriers shall cooperate in developing and implementing procedures for repair service referrals so that trouble reports are directed to the correct carrier or carriers.
- (i) All LECs shall offer, in a non-discriminatory manner pursuant to contract, the necessary operational support to enable other telecommunications carriers the opportunity to provide their customers quality of service as is available to the LEC's customers, consistent with rules 2330 through 2359. Such contracts shall be approved by the Commission, and available for review pursuant to Commission order.
- (j) Telecommunications carriers shall make available access to technically reasonable, non-proprietary, as determined by the Commission, signaling protocols used in the routing of local and interexchange traffic; including signaling protocols used in the query of call processing databases such as 800 Database Service, Alternate Billing Service (ABS), and Line Information Data Base (LIDB); and shall make available the signaling resources and information necessary for the routing of local and interexchange traffic.
- (k) Telecommunications carriers shall be prohibited from interfering with the transmission of signaling information between customers and other telecommunications providers in a manner that is injurious to network integrity or that results in fraud. This shall not preclude a telecommunications carrier from blocking specific signaling information to the extent required by the end user's service (e.g., CLASS services).

2505. Unbundling and Resale

- (a) As identified in rule 2008, the Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319.
- (b) Nothing in paragraph (a) shall be construed to limit the Commission's duties and responsibilities under § 40-15-503, C.R.S., et seq.
- (c) A detailed record of all requests for unbundling shall be documented and maintained in accordance with the requirements of the change management process. This information shall include the name of the requesting person, the date of the request, the specific type of unbundling requested, the provider's planned and actual response date, and the provider's response.
- (d) ILECs have the duty to provide unbundled access and resale pursuant to 47 U.S.C. § 251(c)(3) and (4).

2506. Process and Imputation.

- (a) The LEC shall have the burden of proving that any proposed rates, charges, terms, or conditions are consistent with the following:
 - (I) rates shall be cost-based, just, and reasonable, and may include a reasonable profit;
 - (II) rates, charges, terms, and conditions shall be non-discriminatory and competitively neutral;
 - (III) rates, charges, terms, and conditions shall be established to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality telecommunications service; and
 - (IV) rates shall be designed so that products or services that are subject to regulation do not subsidize products and services that have been specifically deregulated by statute, rule, or Commission order.
- (b) Imputation.
 - (I) As applicable, each LEC shall impute its rates for interconnection, the termination of local traffic, unbundled network elements, and directory listings into the rates of its own services in accordance with the Commission's rules on Costing and Pricing.
 - (II) Imputation of unbundled network elements shall only be required if the unbundled network element is a bottleneck monopoly input. The Commission shall, as necessary, determine if an unbundled network element is a bottleneck monopoly input.

2507. Exemption for Rural Telephone Companies.

- (a) Rules 2502, 2503, 2505, and 2506, and paragraphs 2504(d) through (j) and 2504(l) shall not apply to a rural telephone company until:
 - (I) such company has received a bona fide request for interconnection, services, or the purchase of an unbundled network element; and
 - (II) such request is deemed by the Commission to be technically feasible and not unduly economically burdensome.
- (b) A telecommunications carrier making such a bona fide request shall submit a notice of its request to the Commission.
 - (I) The Commission shall conduct a hearing for the purpose of determining whether to terminate the rural telecommunications carrier's exemption under paragraph (a).
 - (II) The Commission shall determine within 120 days after it receives notice of the request if such termination of the exemption is technically feasible, is not unduly economically burdensome, and is consistent with the state and federal universal service requirements.
 - (III) Upon termination of an exemption, the Commission shall establish an implementation schedule for compliance with the request.

- (c) A LEC with fewer than 2 percent of the aggregate nationwide installed subscriber lines may file an application with the Commission for a suspension, modification, or specific exemption of certain telephone exchange service facilities as specified in such application. The Commission grant the application.
- (d) The Commission shall act upon such application filed pursuant to paragraph (c) within 180 days after its receipt. Pending such action, the Commission may suspend enforcement of the requirement or requirements to which the application applies with respect to the carrier filing such application.

2508. – 2529. [Reserved].

Interconnection Agreements

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process the Commission uses to review interconnection agreements and any amendments thereto; the criteria for Commission approval or rejection of such agreements; and the timelines for Commission action regarding both negotiated and arbitrated interconnection agreements.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-401(2); 40-15-404; and 40-2-108, C.R.S., and at 47 U.S.C. §§ 252 and 271.

2530. Applicability.

Pursuant to 47 U.S.C. 252(a)(1), rules 2530 through 2549 apply to all agreements, and any amendments thereto, for interconnection, services, or network elements between ILECs and telecommunications carriers negotiated before or after February 8, 1996, the date of enactment of the Telecommunications Act of 1996. Pursuant to 47 U.S.C. 252(e)(1), any interconnection agreements adopted by negotiation or arbitration shall be submitted for approval to the Commission.

2531. Definitions.

The following definitions apply only in the context of rules 2530 through 2579.

- (a) “Arbitrated interconnection agreement” means an interconnection agreement or portion thereof, reached through compulsory arbitration.
- (b) “Interconnection agreement” (ICA) means, for purposes of § 252(e)(1) of the Telecommunications Act of 1996, a binding contractual agreement or amendment thereto, without regard to form, whether negotiated or arbitrated, between an ILEC and a telecommunications carrier or carriers that includes provisions concerning ongoing obligations pertaining to rates, charges, terms, and/or conditions for interconnection, network elements, resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, or collocation.
- (c) “Negotiated interconnection agreement” means an interconnection agreement, or portion thereof, reached through negotiation.
- (d) “Party to the agreement” means any telecommunications carrier that is a signatory to an interconnection agreement or any subsequent amendment submitted for approval to the Commission.

- (e) "Report of adoption" (report) means a filing with the Commission pursuant to rule 2533 made by a party seeking approval of an interconnection agreement or an amendment to an agreement previously approved by the Commission.
- (f) "Statement of generally available terms and conditions" (SGAT) means, pursuant to 47 U.S.C. § 252(f), a statement of the terms and conditions for wholesale products and services, including rates and charges, that an ILEC generally offers within Colorado.

2532. Incorporation by Reference.

References in these rules to Parts 51 and 69 are references to rules issued by the FCC and have been incorporated herein by reference, as identified in rule 2008.

2533. Submission of Agreement and Amendments for Approval.

- (a) Pursuant to 47 U.S.C. 252(a)(1) and 47 U.S.C. 252(e)(1), and within 30 days of execution of an interconnection agreement (ICA) or ICA amendment, by all parties, or one of the parties, shall submit the ICA, or ICA amendment, under a cover letter to the Commission for approval. The cover letter shall serve as notice to the Commission and shall include the following:
 - (I) The names and addresses of the parties;
 - (II) The name(s) under which the submitting party(ies) are or will be providing telecommunications service(s) in Colorado;
 - (III) The name(s) address, telephone number, facsimile number and e-mail address of the submitting party(ies) representative to whom all inquiries concerning the submission should be made;
 - (IV) The caption and proceeding number(s), if applicable, of the proceeding;
 - (V) The date of the submission of the ICA or ICA amendment;
 - (VI) A short description of the nature of the ICA, or ICA amendment;
 - (VII) A statement as to whether the ICA or ICA amendment was the result of negotiation or arbitration or whether it was an opt-in of a previously approved and effective SGAT or another previously approved and effective ICA or ICA amendment;
 - (VIII) In the case of a new ICA, the cover letter shall describe the primary source documents, if any, that served as the framework for the agreement. In the case of an amendment to an ICA, the cover letter shall list all sections of the ICA that have been amended;
 - (IX) A statement that intervention and public comment must be filed within ten days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within five days of the posting of the notice on the Commission's website for an arbitrated interconnection agreement or an amendment thereto. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules; and

- (X) A statement that the Commission Staff intervention shall be filed within 20 days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within 15 days of the posting of the notice on the Commission's website for an arbitrated ICA or ICA amendment. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules.
- (b) Filing entity. The Commission prefers that the parties jointly submit the ICA or ICA amendment. However, a single party may make the filing.
- (c) Number of copies. Unless filing through the Commission's E-Filings System, parties shall file an original plus two paper copies of the ICA or ICA amendment, an original plus two copies of the cover letter and a copy on disk in an electronic format acceptable to the Commission of the cover letter and the ICA or ICA amendment.
- (d) Upon initial receipt of an ICA the Commission will assign a proceeding number to the submission. Any subsequent amendment to the agreement submitted for approval to the Commission shall use the original proceeding number.

2534. Approval of Interconnection Agreements and Amendments to Interconnection Agreements.

- (a) Notice and opportunity for public comment.
 - (I) Notice. The cover letter submitted pursuant to paragraph 2533(a) shall serve as the notice and shall be submitted in an electronic format acceptable to the Commission. The Commission shall give notice of the filing of the ICA or ICA amendment by posting the cover letter on its website within two business days of the submission.
 - (II) Public review and comment.
 - (A) The ICA or ICA amendment shall be posted on the Commission's website within two business days of the filing and shall be available for review at the Commission during its normal business hours.
 - (B) Public comment on the submission seeking approval of a negotiated ICA or ICA amendment or an arbitrated ICA or ICA amendment shall be due within ten days of the posting of the required notice.
 - (C) The public comment shall include the following information at a minimum:
 - (i) a detailed statement of the person's interest in the ICA or ICA amendment, including a description of how approval of the agreement may adversely affect those interests;
 - (ii) specific allegations that the ICA or ICA amendment, or specific portion(s) thereof:
 - (1) discriminates against a telecommunications carrier that is not a party to the agreement;
 - (2) is not consistent with the public interest, convenience and necessity; and/or
 - (3) is not consistent with other requirements of state law.

- (iii) The specific facts upon which the allegations are based.
- (III) Intervention.
 - (A) Interventions shall be filed within ten days from posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.
 - (B) Interventions by Commission Staff shall be filed within 20 days from the posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.
- (IV) Commission review. The Commission will review the ICA or ICA amendment using the standards for review set forth in 47 U.S.C. § 252. Pursuant to 47 U.S.C. § 252(e)(4), if the Commission does not act to approve or reject the ICA or ICA amendment within 90 days after submission by the parties of an ICA adopted by negotiation under 47 U.S.C. § 252(a), or within 30 days after submission by the parties of an ICA adopted by arbitration under 47 U.S.C. § 252(b), the ICA or ICA amendment shall be deemed approved.

2535. Confidentiality.

- (a) Information submitted to the Commission is subject to the provisions of §§ 24-72-201, C.R.S., et seq., and rules 1100 through 1102. Under those provisions it is generally presumed that information in Commission files is public information.
- (b) An agreement for interconnection services or network elements, including the detailed schedule of itemized charges, and any subsequent amendments shall not be considered confidential and shall, pursuant to the provisions of rule 2540, be made available for public inspection.

2536. – 2549. [Reserved].

Requests for Commission Participation in the Negotiation and Mediation of Interconnection Agreements

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process to be used and the information required by the Commission when an entity negotiating an interconnection agreement requests that the Commission participate in the negotiation and, mediate any differences arising in the course of the negotiation.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; 40-15-401(2); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252(a)(1), (a)(2), and (e).

2550. Applicability.

Rules 2550 through 2559 apply to any negotiation of an ICA relating to telecommunications services in Colorado in which any party to the negotiations has requested that the Commission mediate any differences arising during the negotiations.

2551. Definitions.

The following definitions apply only in the context of rules 2550 through 2559:

- (a) "Negotiation/mediation request" (request) means a filing made by a telecommunications carrier with the Commission asking the Commission to participate in the negotiation of an interconnection agreement (ICA) and to mediate any differences.
- (b) "Party to the negotiation" (party) means a telecommunications carrier negotiating for an agreement with another telecommunications carrier pursuant to 47 U.S.C. § 252(a).
- (c) "Telecommunications mediator" (mediator) means the person assigned by the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

2552. Request Process.

- (a) Pursuant to 47 U.S.C. 252(a)(2), any party to the negotiation may, at any point in the negotiation, ask the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.
- (b) A party shall file a letter with the Director to request negotiation/mediation.
- (c) The negotiation/mediation request shall include the following information, either in the request or in appropriately identified, attachments:
 - (I) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party to the negotiation making the request;
 - (II) the name(s), address(es), telephone number(s), facsimile number(s), and e-mail address(es), if applicable, of the other parties to the negotiation;
 - (III) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party's representative who is participating in the negotiations and to whom all inquiries should be made;
 - (IV) the negotiation history, meeting times, and locations;
 - (V) available schedule dates of party representatives; and
 - (VI) the issues on which the requestor seeks Commission participation and mediation.

2553. Negotiation/Mediation Process.

- (a) Pursuant to 47 U.S.C. 252(a)(2), the Commission shall participate in the ICA negotiations and mediate any differences arising in the course of the negotiation.
 - (I) Upon receipt of a request for Commission negotiation/mediation, the Commission shall assign a proceeding number to the matter.
 - (II) The Commission will respond to the request within ten days after receipt. The response shall identify the assigned mediator.
- (b) The mediator shall promptly schedule negotiation/mediation sessions. These sessions shall continue until:
 - (I) all outstanding issues are settled;
 - (II) a party makes a written declaration that the mediation proceedings are terminated; or

- (III) the mediator makes a written declaration that further efforts at mediation are no longer worthwhile.

2554. Confidentiality.

The mediator shall not voluntarily disclose nor, through discovery, be required to disclose any oral or written communication prepared or expressed for the purposes of, in the course of, or pursuant to, any mediation or negotiation hereunder.

2555. – 2559. [Reserved].

Commission Arbitration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish a Commission process for arbitration of issues arising in the course of negotiation of interconnection agreements under 47 U.S.C. § 252.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; 40-15-401(2); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and at 252(a)(1) and (e).

2560. Applicability.

Pursuant to 47 U.S.C. 252(b), rules 2560 through 2579 apply to any petition filed by any party to the negotiation of an interconnection agreement requesting that the Commission arbitrate any unresolved issues in the negotiations. These provisions apply only to petitions filed during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 251 and 47 U.S.C. § 252.

2561. Definitions.

The following definitions apply only in the context of rules 2560 through 2579.

- (a) “Agreement being negotiated” means an interconnection agreement (ICA) being negotiated between or among telecommunications carriers, following a request for negotiation made by a telecommunications carrier to an ILEC.
- (b) “Petition for arbitration” means the petition requesting arbitration of any unresolved issues in the interconnection agreement being negotiated.
- (c) “Petitioner” means the party to the interconnection agreement being negotiated that files the petition for arbitration.
- (d) “Respondent” means a non-petitioning party to the agreement being negotiated.

2562. Petition Process.

- (a) Pursuant to 47 U.S.C. § 252(b), any party to an ICA being negotiated may, during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 252, petition the Commission to arbitrate any unresolved issues in the negotiation.
- (b) To request Commission arbitration, a party shall file a petition with the Commission. The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified attachments:

- (I) Identifying information:
 - (A) the name, address, telephone number, facsimile number, and e-mail address, if applicable of the party to the negotiation making the request;
 - (B) the names, addresses, telephone number(s), facsimile number(s), and e-mail addresses, if applicable, of the other parties to the negotiation;
 - (C) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the petitioner's representative who is participating in the negotiations and to whom all inquiries should be made;
 - (D) the negotiation history, meeting times, and locations; and
 - (E) available schedule dates of party representatives.
 - (F) All other relevant documentation and arguments concerning:
 - (i) the unresolved issues;
 - (ii) the position of each of the parties with respect to those issues;
 - (iii) the specific relief requested by the petitioner with respect to each issue; and
 - (iv) any other issues discussed and resolved by the parties.

2563. Notice.

- (a) Pursuant to 47 U.S.C. § 252(b)(2)(B), a party petitioning the Commission to arbitrate shall deliver by first-class mail, express mail, or by hand delivery a copy of the petition and any attached documents to the other party or parties to the agreement being negotiated no later than the day on which the Commission receives the petition.
- (b) The petitioner shall also furnish written notice to:
 - (I) any telecommunications carrier known to be negotiating an ICA, as included on a list maintained by the Commission; and
 - (II) any telecommunications carrier with an effective ICA with any of the parties to the petition.
- (c) Contents and manner of service. The written notice shall include a statement that a petition for arbitration has been filed with the Commission; the names of the parties; the date that the request for negotiation with the ILEC was made; a summary of the issues; and that interventions must be filed with the Commission within ten days of the filing date. The notice shall be delivered by first-class mail, by express mail, or by hand delivery not later than the day on which the petition for arbitration is filed with the Commission.
- (d) Certificate of service. The petition shall include a certificate of service showing that notice was given in accordance with this rule.

2564. Opportunity to Respond to Petition.

- (a) Other parties. A respondent shall respond to the petition for arbitration within 25 days after the petition is filed with the Commission. If a respondent seeks to have issues arbitrated that are not set out in the petition, the respondent shall state those issues, the position of each of the parties with respect to those issues, and the specific relief requested with respect to those issues. The respondent to a petition for arbitration shall become a party to arbitration proceedings upon service of the petition in accordance with paragraph 2563(a).
- (b) Intervention and public comment or intervention. A person seeking to intervene on the petition shall file a motion to intervene within ten days of the date that the petition for arbitration was filed with the Commission. A person may submit public comment on the petition within 25 days of the date that the petition for arbitration was filed with the Commission.

2565. Role of Commission during Arbitration.

- (a) The Commission shall:
 - (I) review all submitted documentation and written arguments; and
 - (II) hold a hearing on the petition.
- (b) The Commission may require the petitioning and responding parties to provide additional information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any request from the Commission, the Commission may proceed on the basis of the best information available.
- (c) The Commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement rule 2566 upon the parties to the arbitrated agreement.
- (d) The Commission shall conclude the resolution of any unresolved issues no later than nine months after the date on which the ILEC received the request for negotiation for interconnection under 47 U.S.C. § 252 in accordance with the Commission's own procedures and specified statutes or rules.
- (e) The Commission may order the parties to the arbitration to pay for a transcript of the arbitration proceedings. In such case, the Commission will apportion the cost among the parties in an equitable fashion.

2566. Standards for Arbitration.

Pursuant to 47 U.S.C. § 252(c), in resolving any unresolved issues by arbitration under 47 U.S.C. § 252(b) and imposing conditions upon the parties to the agreement, the Commission shall:

- (a) ensure that such resolution and conditions meet the requirements of 47 U.S.C. § 251, including the regulations prescribed by the FCC pursuant to 47 U.S.C. § 251;
- (b) establish any rates for interconnection, services, or network elements according to 47 U.S.C. § 252(d); and
- (c) provide a schedule for implementation of the rates, charges, terms, and conditions of the agreement by the parties.

2567. Duty to Negotiate in Good Faith during Arbitration.

Pursuant to 47 U.S.C. § 251(c)(1), each ILEC has, among other duties, the duty to negotiate in good faith, in accordance with 47 U.S.C. § 252, the particular rates, charges, terms, and conditions of agreements to fulfill the duties described in 47 U.S.C. § 251(b)(1) through (5), and 47 U.S.C. § 251(c). The requesting telecommunications carrier also has the duty to negotiate in good faith the rates, charges, terms, and conditions of such agreements.

2568. Refusals to Negotiate.

Pursuant to 47 U.S.C. § 252(b)(5), the refusal of any party to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a breach of the duty to negotiate in good faith.

2569. – 2699. [Reserved].

NUMBERING ADMINISTRATION

Efficient Use of Telephone Numbers

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify procedures to ensure the efficient use and assignment of telephone numbers.

The statutory authority for the promulgation of these rules is found at §§ 40-2-108, C.R.S. Relevant federal law exists at 47 U.S.C. § 251 (e)(1), 47 C.F.R., Part 52.15 (January 11, 2016) and Part 52.19 (October 1, 2002).

2700. Applicability.

Rules 2700 through 2719 are applicable to all providers who request telephone numbers directly from the numbering administrators and have accepted or make use of numbering resources in the Numbering Plan Areas (NPAs) assigned to Colorado or who assign numbering resources in any NPA assigned to Colorado.

2701. Definitions.

The following definitions apply only in the context of rules 2700 through 2719:

- (a) “Central office code” means the second three digits (NXX) of a ten-digit telephone number in the form NPA-NXX-XXXX. A central office code is also called an NXX code. The “N” denotes numbers 2 through 9 and X denotes numbers 0 through 9.
- (b) “Central office code administrator” means the entity responsible for the administration of the NXXs within an NPA. The central office code administrator is also known as the North American Numbering Plan Administrator (NANPA).
- (c) “Contaminated block” means any thousand block of telephone numbers where at least one telephone number is not available for assignment to end users.
- (d) “Numbering Plan Area” (NPA) means the first three digits of a ten-digit telephone number in the North American Numbering Plan. This is also called an area code. NPAs are classified as either geographic or non-geographic.

- (e) "NXX code holder" means any telecommunications service provider that has been assigned at least one central office code by the central office code administrator.
- (f) "Pooling administrator" means the entity responsible for the administration and assignment of the thousand blocks in a pooling environment.
- (g) "Thousand block" means a range of a thousand consecutive telephone numbers within a single NXX code, e.g., numbers NXX-1000 through NXX-1999 constitute a thousand block.

2702. Assignment of Telephone Numbers in Colorado.

- (a) All providers with numbers assigned from the NPAs in the Colorado (303, 719, 970, 720, or any future NPAs assigned to Colorado) shall assign numbers from a single opened thousand block within an NXX before assigning telephone numbers from an uncontaminated thousand block.
- (b) Notwithstanding paragraph (a), a provider may assign telephone numbers in a thousand block different from the thousand block described in paragraph (a) if the available numbers in the opened thousand block are not sufficient to meet a specific customer request.
- (c) The Central Office Code Administrator and Pooling Administrator must perform their central office code administration and thousand block administration functions in such a manner as to support these rules.
- (d) Upon implementation of any number pooling between providers in Colorado, providers participating in pooling must make uncontaminated thousand blocks and thousand blocks with less than ten percent contamination available to the Pooling Administrator for possible reassignment to other providers in a number pooling process.
- (e) All providers that are required to be local number portability (LNP) capable pursuant to paragraph 2724(c) shall participate in number pooling for a particular geographic area when implemented by the Pooling Administrator.
- (f) All providers shall provide services in such a manner as not to encourage the inefficient use or depletion of telephone numbers in any Colorado NPA.
- (g) All VoIP providers authorized to request numbering resources directly from the Numbering Administrators must file a notice with the Commission at least 30 days before requesting numbers from the Numbering Administrators on a form provided by the Commission on its website.
- (h) All VoIP providers must maintain accuracy of all contact information and certification. If any contact information and certification is no longer accurate, the VoIP provider must file a correction with the Commission within 30 days of the change.

2703. Variance.

Any provider seeking relief from the requirements of rules 2700 through 2719 or pursuant to 47 C.F.R. 52.15(g) shall request a variance by request to Commission staff. The request shall demonstrate and provide (1) a request from an end-user customer detailing the specific need for telephone numbers; and (2) the carrier's inability to meet the customer's request from the carrier's current inventory of numbers. The designated Commission staff shall act on the request within 14 days of receiving the required information. If the provider disagrees with Commission staff's determination, the provider may formally file a petition requesting a Commission ruling.

2704. – 2719. [Reserved].

Local Number Portability and Administration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish local number portability (LNP) regulations so that end users can choose between providers without losing their telephone numbers; to establish mechanisms supporting LNP; and to identify LNP database network architecture.

The statutory authority for the promulgation of these rules is found at §§ 40-2-108 C.R.S. and 47 C.F.R. § 52 Subpart C.(November 30, 2015)

2720. Applicability.

Rules 2720 through 2739 shall apply to all providers who request telephone numbers directly from the numbering administrators.

2721. Definitions.

The following definitions apply only in the context of rules 2720 through 2739:

- (a) “Limited Liability Company” (LLC) means the legal entity given the responsibility of selecting and managing the Number Portability Administration Center (NPAC) in Colorado. This entity is made up of representatives of providers that are or will be porting numbers.
- (b) “Number portability administration center” (NPAC) means the independent third-party administrator of the Service Management System (SMS) and LNP database.
- (c) “Portable NXX” means an NXX that the public switched telephone network, in doing call routing, recognizes as an address that may require routing on the basis of something other than the dialed digits, and that the telephone company billing system, in determining which provider of serves the billed telephone number, recognizes may involve a provider other than the one to which the NXX is assigned.
- (d) “Ported telephone number” means a telephone number (TN) that is served (receives dial tone) from a switch other than the one to which the NXX is assigned.

2722. Incorporation by Reference.

The FCC’s LNP First Report and Order, Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996, is incorporated by reference, as identified in rule 2008.

2723. Customer Number Portability.

If a customer changes basic local exchange providers and remains within the same rate center, the customer shall have the option to retain the customer’s telephone number(s).

2724. Provider Number Portability.

- (a) Number portability, as described in rule 2723, shall be attained by means of a database network architecture.
- (b) The database network architecture employed shall meet the following performance criteria:

- (I) supports network services, features, and capabilities existing at the time number portability is implemented, including emergency services, Custom Local Area Signaling System (CLASS) features, operator and directory assistance services, and intercept capabilities;
 - (II) efficiently uses numbering resources;
 - (III) does not require customers to change their telephone numbers;
 - (IV) does not result in unreasonable degradation in service quality or network reliability;
 - (V) does not result in any degradation in service quality or network reliability when customers switch carriers;
 - (VI) does not result in a carrier having a proprietary interest in the network architecture;
 - (VII) is able to migrate to location and service portability; and
 - (VIII) has no significant adverse impact outside the areas where number portability is deployed.
- (c) Implementation. All providers offering service in the top 100 Metropolitan Statistical Areas (MSAs) as defined by the U.S. Bureau of Census, including those listed in the FCC's LNP First Report and Order, Decision No. FCC 96-286 in CC Docket No. 95-116, Appendix D, must provide a long-term database method for number portability upon entry. All providers offering service in areas outside the top 100 MSAs must make number portability available six months after a request from a competing carrier.
- (d) NPAC.
- (I) The long-term service provider portability database shall be administered by an NPAC. The NPAC shall be the exclusive source of LNP database information for facilities-based Colorado service providers.
 - (II) The NPAC shall be selected and contracted to perform its duties by the LLC.

2725. – 2739. [Reserved].

N-1-1 Abbreviated Dialing Codes

Basis, Purpose, and Statutory Authority

The basis and purpose for these rules is to establish Colorado N-1-1 regulations so that the use of N-1-1 in Colorado is consistent with the FCC assignments by: identifying the designated uses of N-1-1 codes; identifying the limitations of the N-1-1 code usage; and establishing Commission procedures regarding petitions for N-1-1 use or assignment.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-15-201, and 40-2-108, C.R.S. These rules are consistent with the FCC's rules found at 47 C.F.R., Part 52 (June 22, 2010).

2740. Applicability.

Rules 2740 through 2799 are applicable to all providers who request telephone numbers directly from the numbering administrators.

2741. Definitions.

- (a) "Abbreviated dialing codes" enable callers to connect to a location in the telephone network that otherwise would be accessible only through the use of a seven or ten-digit telephone number. The network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number, including toll free numbers, and route the call accordingly.
- (b) "Affected area" means the geographic area within which a 3-1-1 abbreviated dialing code is sought to be used, will be used, or (after implementation) is used for the purpose of providing non-emergency police and other governmental service information to the public.
- (c) "Government entity" or "entity" means a department or agency of the state of Colorado, any county, or any city, municipality or town as those terms are defined in § 31-1-101 C.R.S.; and any Ambulance District, Fire Protection District, Health Service District or Metropolitan District as those terms are defined in § 32-1-103 C.R.S.
- (d) "N-1-1" codes are three-digit codes of which the first digit can be any digit other than 1 or 0, and the last two digits are both 1. N-1-1 codes "0-1-1" and "1-1-1" are unavailable because "0" and "1" are used for switching and routing purposes.

2742. Abbreviated Dialing Codes.

- (a) The following abbreviated dialing codes have been designated and assigned by the FCC and shall be used for the FCC's stated purpose in Colorado:
 - (I) 2-1-1 - Community Information and Referral Services;
 - (II) 3-1-1 - Non-emergency governmental police and other governmental service information;
 - (III) 5-1-1 - Traffic and Transportation Information;
 - (IV) 7-1-1 - Telecommunications Relay Service;
 - (V) 8-1-1 - Advanced Notice of Excavation Activities; and
 - (VI) 9-1-1 - Emergency Service.
- (b) The following abbreviated dialing codes are commonly used for the FCC's stated purpose in Colorado, but may be used for other purposes:
 - (I) 4-1-1 - Directory Assistance and Directory Assistance Call Completion; and
 - (II) 6-1-1 - Repair Service.
- (c) A provider in Colorado may assign or use N-1-1 dialing codes only as directed by the Commission.
- (d) The following limitations apply to a provider's use of N-1-1 dialing codes for internal business and testing purposes:
 - (I) the provider's use shall not interfere with the assignment of such numbers by the FCC or with the North American Numbering Plan (NANP); and

- (II) the provider's use shall be discontinued upon 30-days' notice if the dialing code is reassigned on a statewide or nationwide basis, provided that the code not be reassigned earlier than six months after the provider's use is discontinued in order to allow sufficient time for customer education regarding the discontinuance and reassignment of the dialing code.
- (e) An entity submitting a petition for use of an abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any petitioner that is granted the authority to offer N-1-1 access shall comply with this rule and any provisions set out in the Commission decision granting such authority.
 - (I) Assignment of N-1-1 abbreviated dialing code. The assignment of N-1-1 abbreviated dialing code will be considered by the Commission upon:
 - (A) the Commission's own motion; or
 - (B) the petition of an information and referral organization, governmental organization or other entity, as applicable.
 - (II) An entity filing a petition to request assignment of a N-1-1 abbreviated dialing code shall present evidence that a public benefit exists. The petition shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (A) background of the applicant, including composition of any governing board or agency;
 - (B) demonstration of public need;
 - (C) comprehensive list of participating agencies including proposed process to add to or delete agencies from the list;
 - (D) historic volume of calls seeking relevant information;
 - (E) a description of the affected area including list of cities, towns, counties, and central offices, if known, and any plans for expansion of that initial geographic area;
 - (F) staffing expectations, including hours and days of operation;
 - (G) proposed cost recovery solution, including funding or support mechanisms;
 - (H) letters of support from stakeholders (e.g., community members, government agencies, non-profit organizations);
 - (I) a statement that the entity agrees to answer all questions propounded by the Commission or its Staff concerning the petition;
 - (J) proposed plan for community notification and outreach; and
 - (K) other information demonstrating a public benefit.
 - (III) Additional requirements for entities filing a petition for 3-1-1 abbreviated dialing code for non-emergency governmental police and other governmental service information:

- (A) The proposed method for routing the 3-1-1 calls to the call center.
- (B) Estimated cost of implementation and the on-going provisioning of the 3-1-1 abbreviated dialing code. If two or more entities file a petition with the Commission to use the same N-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (f)(II) to establish one assignee, except petitions for 3-1-1 shall attempt to negotiate a settlement as to which entity shall provide the service in conflict. In the event the entities are not able to resolve a conflicting request for 3-1-1 service, the Commission shall have the final authority to determine which entity shall provide 3-1-1 service.
- (IV) When a petition is granted by the Commission under subparagraph (f)(II), all providers that provide service in the geographic area outlined in the petition shall complete the following tasks:
 - (A) If an affected provider is using N-1-1 code for purposes other than stated in subparagraph 2741(b), that provider shall discontinue use for that non-compliant purpose.
 - (B) If the affected provider plans to seek recovery of its costs associated with N-1-1 implementation, the affected provider shall calculate the cost for the necessary translations and facilities work and shall file with the Commission.
 - (C) The affected provider shall estimate the time required to perform the necessary translation and/or facilities work to allow N-1-1 call completion from its subscribers as requested in the petition.
- (V) Upon a showing that the public will benefit from the assignment of N-1-1 to a petitioner and factoring in the provider filed information, the Commission will establish a timeline for assignment and use of the N-1-1 abbreviated dialing code in the affected geographic area. All providers serving customers in the affected area shall comply with this assignment date unless a variance is sought and granted.
- (f) Discontinuance of offering of N-1-1 access.
 - (I) Any entity that has been granted the authority to offer N-1-1 access and wishes to discontinue providing the N-1-1 service shall file a notification with the Commission not fewer than 45 days prior to the effective date of the proposed discontinuance. The Commission may give notice of the notification if it determines notice would be in the public interest.
 - (II) Contents of the notification. The notification shall contain the following information:
 - (A) the entity's name, complete mailed address (street, city and zip code), telephone number, and e-mail address;
 - (B) name, mailing address, telephone number and e-mail address of the person to contact for questions regarding the discontinuance;
 - (C) the proposed effective date, which shall not be sooner than 45 days after the date on which the notification is filed with the Commission;
 - ((D) the reason(s) for the discontinuance;

- (E) a detailed description of the affected area, including a map of the affected area; and
 - (F) the notice to the affected users of the discontinuance of N-1-1 service and a list of all the newspapers of general circulation in which the notice of discontinuance will be published.
- (g) Neither an entity granted the use of a N-1-1 abbreviated dialing code nor a provider of telecommunications service may charge end users a fee on a per-call or per-use basis for using the N-1-1 system without the consent of the Commission.
- (h) Sale or transfer of N-1-1 codes through private transactions is not allowed.

2743. – 2799. [Reserved].

PROGRAMS

9-8-8 Surcharge

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to prescribe the process for the collection and remittance of 9-8-8 surcharge funds and to establish the procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of 9-8-8 surcharges.

The statutory authority for the promulgation of these rules is found at §§ 40-17.5-102 and 103, C.R.S.

2800. Applicability.

Rules 2801 through 2803 apply to 9-8-8 originating service providers.

2801. Definitions.

- (a) "9-8-8" means the three-digit abbreviated dialing code used to report a behavioral health crisis.
- (b) "9-8-8 access connection" means any communications service including wireline, wireless cellular, interconnected voice over internet protocol, or satellite in which connections are enabled, configured, or capable of making 988 calls. "988 access connection" does not include facilities-based broadband services. The number of 988 access connections is determined by the configured capacity for simultaneous outbound calling. for example, for a digital signal-1 (ds-1) level service or equivalent that is channelized and split into separate channels for voice communications, the number of 988 access connections would be equal to the number of channels capable of making simultaneous.
- (c) "9-8-8 crisis hotline enterprise" or "enterprise" means the enterprise created in § 27-64-103, C.R.S., created to provide intervention services and crisis care coordination to individuals calling the 9-8-8 crisis hotline, and other purposes.
- (d) "9-8-8 originating service provider" (9-8-8 OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services to any customer in the state that includes the ability to place 9-8-8 calls.
- (e) "9-8-8 surcharge" means the charge established by § 40-17.5-102, C.R.S. and imposed by the enterprise on originating service providers that provide 9-8-8 access connections.

- (f) "Enterprise" means the 9-8-8 Crisis Hotline Enterprise created by § 27-64-103.
- (g) "Prepaid wireless 9-8-8 charge" means the charge established by § 40-17.5-104, C.R.S. and imposed by the enterprise on sellers of prepaid wireless telecommunications service.

2802. Administration of the 9-8-8 Crisis Hotline Cash Fund.

- (a) This rule does not apply to 9-8-8 access connections provided via prepaid wireless telecommunications services. The 9-8-8 surcharge is a statewide surcharge applied to all 9-8-8 access connections in the state of Colorado, and is separate from the wireless prepaid 9-8-8 charge pursuant to § 27-64-103(4)(b), C.R.S.
- (b) Annually prior to October 1, the Commission shall collaborate with the Enterprise to assist the Enterprise in its establishment of the 9-8-8 surcharge rate and prepaid wireless 9-8-8 charge rate, including but not limited to providing the Enterprise with relevant information regarding the number of statewide 9-8-8 access connections and prepaid wireless transactions. After the Enterprise's annual establishment of the 9-8-8 surcharge rate to take effect on the following January 1, the Commission will publish the 9-8-8 surcharge rate on its website and notify 9-8-8 originating service providers at least 60 days prior to the effective date of the surcharge.
- (c) 9-8-8 surcharge.
 - (I) Effective January 1, 2022, all 9-8-8 originating service providers shall collect and remit the 9-8-8 surcharge assessed upon each service user whose primary service address, if known, or billing address, if service address is unknown, is within the state of Colorado. The surcharge shall be assessed on each 9-8-8 access connection provided to that service user. Such charges shall be collected monthly and remitted as directed by the Commission, as described in paragraph (d).
 - (II) With respect to multi-line telephone systems, the number of 9-8-8 access connections is determined by the configured capacity for simultaneous outbound calling.
 - (III) The 9-8-8 surcharge must be listed separately or on the same line as the 9-1-1 surcharge established in § 29-11-102.3, C.R.S. If combined, the line item must be listed as "state 911 and 988 surcharges".
 - (IV) The 9-8-8 surcharge is the liability of the service user and not the 9-8-8 originating service provider, except that the 9-8-8 originating service provider is liable to remit all 9-8-8 surcharges that the originating service provider collects from service users. An originating service provider is liable only for the portion of the 9-8-8 surcharge collected until it is remitted to the Commission. The amount remitted by the 9-8-8 originating service provider must reflect the state 9-8-8 surcharges actually collected on the number of 9-8-8 access connections provided in Colorado by the 9-8-8 originating service provider.
 - (V) Each 9-8-8 originating service provider may retain from the total 9-8-8 surcharges collected and timely remitted, a vendor fee in the amount of one percent of the total monthly charges collected by such provider.
 - (VI) Each 9-8-8 originating service provider shall remit the 9-8-8 surcharge amount the provider collected for the previous month, less the applicable vendor fee, no later than the last calendar day of the following month, even if that day falls on a holiday or weekend.

- (VII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (d) Remittance procedure.
 - (I) Originating service providers shall submit a return and remit payment as instructed by Commission staff.
 - (II) Originating service providers shall submit all 9-8-8 surcharge remittances to the custodial receiver directly.
 - (III) If payments are made by physical check, a printed copy of the completed remittance form described in subparagraph (I) shall also be enclosed with the check.
 - (IV) All remittances of the 9-8-8 surcharges received by the Commission pursuant to this rule shall be deposited in an 9-8-8 receipt account established for that purpose.
- (e) The Commission may withdraw from the 9-8-8 receipt account an amount up to four percent of the total amount of the fund necessary for the direct and indirect costs of administering the collection and remittance of the 9-8-8 surcharge, including costs related to conducting audits of 9-8-8 originating service providers. Funds deducted for this purpose will be kept in a 9-8-8 administrative retention account created by the Commission until expended. Any funds withdrawn by the Commission for this purpose will be returned to the 9-8-8 trust cash fund if the Commission determines that the funds are not necessary to pay administrative costs.
- (f) On a monthly basis, the Commission shall transfer the amount of funds received into the 9-8-8 receipt account to the 9-8-8 surcharge trust cash fund, less the administrative retention fee authorized in paragraph (e). This transfer shall be made via ACH bank transfer.

2803. Audit of 9-8-8 Originating Service Providers Regarding 9-8-8 Surcharge Practices.

- (a) The Commission may conduct an audit of a 9-8-8 originating service provider's books and records regarding the collection and remittance of the 9-8-8 surcharge.
 - (I) All expenses related to audits initiated by the Commission shall be paid for by the Commission from the administrative retention fund as authorized by § 40-17.5-102(3)(c)(II), C.R.S.
 - (II) 9-8-8 originating service providers shall make relevant records available to auditors at no charge.
 - (III) Audits shall be limited to the collection and remittance of the 9-8-8 surcharge. However, audits regarding the collection and remittance of 9-8-8 surcharges may be conducted concurrently with audits regarding the collection and remittance of 9-1-1 surcharges, emergency telephone charges, and telecommunications relay service surcharges.
 - (IV) Any delinquent remittance of 9-8-8 surcharges received by the Commission, including penalties and interest, shall be deposited into the 9-8-8 receipt account and transferred to the 9-8-8 surcharge trust cash fund, less allowable administrative expenses, as prescribed in rule 2802.
- (b) 9-8-8 originating service providers shall maintain a record of the amount of each 9-8-8 surcharge collected and remitted by service user address for three years after the time that it was remitted.

- (c) If a 9-8-8 originating service provider fails to file a combined Colorado telecommunications surcharge remittance form and remit 9-8-8 surcharges in a timely manner, the Commission may assess the 9-8-8 originating service provider for the delinquent remittance in the following manner.
 - (I) The Commission shall estimate delinquent remittance based on available information.
 - (II) The Commission shall issue a notice of assessment to the 9-8-8 originating service provider within three years of the original due date of the remittance, unless the three-year period is extended, in writing, in accordance with this rule.
 - (III) Before the expiration of the three-year period, the Commission and the 9-8-8 originating service provider may extend the period for assessment by agreement, in writing. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. Any party seeking extension from the Commission shall do so by filing a petition.
 - (IV) The Commission shall impose an additional 15 percent penalty in addition to the estimated amount of the delinquent remittance.
 - (V) The Commission shall assess an additional one percent interest monthly, assessed against the original principal owed, from the original due date until the delinquent remittance has been paid by the 9-8-8 originating service provider.
 - (VI) If the assessment was properly noticed within three years of the original due date of the remittance, or prior to the expiration of the period of time agreed to by the Commission and 9-8-8 originating service provider in writing, the Commission may file a lien, issue a distraint warrant, institute a suit for collection, or take other action to collect the amount up to one year after the expiration of said time period.

2804. – 2809. [Reserved].

Incarcerated People's Communications Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to prescribe the process and requirements for reporting and disclosures by incarcerated people's communications services (IPCS) providers.

The statutory authority for the promulgation of these rules is found at § 17-42-103, C.R.S.

2810. Applicability.

Rules 2810 through 2812 are applicable to incarcerated people's communications services providers, as defined in rule 2811.

2811. Definitions.

- (a) "Call", for the purposes of rules 2810-2812, means two-way, realtime electronic communication between an incarcerated individual and another person and does not include electronic mail or messaging services. Unless otherwise specified, such calls may be conducted by video or voice.
- (b) "Commissions" means any form of monetary payment, thing of value, in-kind payment, gift, exchange of services or goods, fee other than for direct cost recovery, or technology allowance paid to a correctional facility or other government entity by an IPCS provider.

- (c) "Correctional facility" means any building, structure, enclosure, institution, or place, whether permanent or temporary, fixed or mobile, where persons are or may be lawfully held in custody or confined and that is operated by a city, county, city and county, state government, or private entity, including but not limited to a jail or prison.
- (d) "Incarcerated people's communications services (IPCS)" or "Penal communications services" means communications services, including but not limited to telephone, video, or electronic mail or messaging services provided to a correctional facility for use by end users.
- (e) "Incarcerated people's communications services (IPCS) provider" or "Penal communications services provider" means a person or company that contracts with a correctional facility to provide IPCS or the means to access IPCS regardless of the technology used to provide the services. A person or company that provides one type of communications service but not others is also an incarcerated people's communications services provider.

2812. Incarcerated Person's Communications Services Provider Reporting and Testing Requirements

- (a) Within 14 days after the end of each quarter, each IPCS provider must submit the following records and data to the Commission for each correctional facility to which it provides IPCS:
 - (I) a copy of the existing contract between the IPCS provider and the government entity to provide IPCS to persons in custody in a correctional facility, unless this contract was provided in a previous quarterly report and is unchanged;
 - (II) the total number of video calls and total number of voice calls made from the correctional facility using the IPCS;
 - (III) the total number of video call minutes and total number of voice call minutes made from the correctional facility using the IPCS;
 - (IV) the total revenue, before any commissions payments, collected by the IPCS provider for providing IPCS, including revenue for voice calls, video calls, e-mail, and other electronic messaging, for both intrastate and interstate communications, broken out or combined as directed by Commission staff;
 - (V) a summary of all commissions paid to the correctional facility or any other government entity for all IPCS provided by the IPCS provider;
 - (VI) a copy of the IPCS provider's unclaimed funds policy, unless a copy of this policy was provided in a previous quarterly report and is unchanged;
 - (VII) a list of the rates charged by the IPCS provider to persons in custody making calls to persons not in custody, regardless of whether those rates are paid directly by the person in custody or by the correctional facility on the person's behalf, including any rates charged for:
 - (A) the first minute of an in-state call;
 - (B) minutes subsequent to the first minute of an in-state call;
 - (C) the first minute of an out-of-state call; and
 - (D) minutes subsequent to the first minute for an out-of-state call;

- (VIII) a list of the fees charged to persons in custody making voice calls to persons not in custody, including fees charged for:
 - (A) initiating a call;
 - (B) depositing money into the incarcerated person's account for IPCS;
 - (C) opening, maintaining, funding, or closing an account with an IPCS provider;
 - (D) receiving a refund from an IPCS provider;
 - (E) receiving a paper bill from an IPCS provider; and
 - (F) making payments to the IPCS provider through a third-party company; and
 - (IX) other information as may be requested by Commission staff regarding any other commissions, fees, and charges for the voice calls provided by the IPCS provider; and
 - (X) the total number of complaints related to video quality.
- (b) Commission staff may provide a form to facilitate the quarterly reporting required in paragraph (a).
 - (c) Starting on January 1, 2022, rate caps established by the Federal Communications Commission, including any updated rate caps, apply to all in-state debit, prepaid, and collect calls to or from a correctional facility.
 - (d) IPCS providers shall cooperate, as necessary, with biannual trial tests conducted by Commission staff and correctional facilities on a statistically valid sample of communications services to and from correctional facilities served by the IPCS provider, including voice calls, at a minimum, but may also include video calls.
 - (I) Tests will include trial voice calls to staff phone numbers not already in the provider's system.
 - (II) Tests will assess and monitor the costs and quality of calls, including how the IPCS provider is charging and addressing consumer complaints regarding poor quality calls, including dropped calls.
 - (III) Tests will generally be conducted remotely.
 - (e) IPCS providers shall include the following language on their website: "The Public Utilities Commission (PUC) gives consumers the opportunity to file informal complaints about problems with the communications services that the PUC regulates. Complaints can be filed through <https://puc.colorado.gov/inmate-communication-services> or <https://puc.colorado.gov>".
 - (I) Both "<https://puc.colorado.gov>" and "<https://puc.colorado.gov/inmate-communication-services>" in the statement shall be hyperlinked to allow visitors to the website to directly access the websites.
 - (II) The language must be posted on the homepage or customer service page of the IPCS provider's website. If posted to the customer service page, this page must be accessible with a single click from the homepage. The language must be displayed in an easy-to-read font, font size, and color.

- (III) Informal complaints received by Commission staff shall be handled in accordance with rule 1301.

2813. – 2819. [Reserved].

Telecommunications Relay Services for Telephone Users with Disabilities

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to implement Article 17 of Title 40, C.R.S., Telecommunications Relay Services (TRS) for Telephone Users with Disabilities compliant with the federal Americans with Disabilities Act of 1990 and which are consistent with the Commission's quality of service rules; require relay-communicated messages to be delivered promptly, accurately, privately, and confidentially; specify the types of calls that are included as telecommunications relay services; and implement a cost recovery mechanism.

The statutory authority for the promulgation of these rules is found at §§ 29-11-102.7; 40-3.4-106; 40-15-502(3)(a); 40-17-103(2) and (3); and 40-2-108, C.R.S.

2820. Applicability.

Rules 2820 through 2839 are applicable to all providers of voice services to the general public within the state.

2821. Definitions.

- (a) "Telephone access line" means each voice grade channel or its equivalent assigned to a residential or commercial end user customer by a voice service provider, regardless of the technology used to provide the service.
- (b) "Telecommunications relay services" (TRS) means any telecommunications transmission services that allow a person who has a hearing or speech disability to communicate by wire or radio in a manner that is functionally equivalent to the ability of a person who does not have a hearing or speech disability. Such terms include any service that enables two-way communication between a person who uses a telecommunications device or other non-voice terminal device and a person who does not use such a device.
- (c) "Voice service provider" means a company that provides telephone access lines to members of the general public who are its customers for voice service.
- (d) "TRS contractor" means the company that provides telecommunication relay services in accordance with the state's TRS request for proposal and all Colorado Public Utilities Commission and Federal Communication Commission's rules and regulations for TRS.
- (e) "TRS custodial receiver" means a designee selected by the Commission that performs certain administrative functions of the TRS program under the direction of the Commission.

2822. Incorporation by Reference.

References in rules 2820 through 2839 to Part 64 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2823. Conformity with the Federal Americans with Disabilities Act of 1990.

- (a) Adoption of federal regulations. For the purpose of providing telecommunications relay services in Colorado, the Commission adopts the FCC's rules and regulations establishing mandatory minimum operational and technical standards, found at 47 C.F.R. §§ 64.601 and 64.604 (a) and (b). These rules require that telecommunication relay service providers relay communicated messages promptly and accurately, maintain the privacy of persons who receive telecommunications relay services, and preserve confidentiality of all parties in connection with relayed messages.
- (b) Enforcement. The Commission shall resolve any formal complaint alleging a violation of this rule pursuant to its normal complaint process, except that the Commission shall take final action regarding such formal complaint within 180 days after the formal complaint is filed.
- (c) Public access to information. All voice service providers shall assure that callers in their service areas are aware of the availability and the use of all telecommunications relay services pursuant to the FCC's rules and regulations found at 47 C.F.R. §§ 64.604(c)(3).
- (d) The FCC has assigned the abbreviated dialing code 7-1-1 for access to telecommunications relay services. All voice service providers must allow for call completion using this abbreviated dialing code.
- (e) Jurisdictional separation of costs.
 - (I) Where appropriate, the costs of providing telecommunications relay services shall be separated in accordance with applicable federal separations procedures and agreements (see § 40-15-108(1)).
 - (II) Costs caused by interstate telecommunication relay services shall be recovered according to applicable federal rule. Costs caused by intrastate telecommunication relay services shall be recovered from the intrastate jurisdiction consistent with this rule.

2824. Conformity with the Commission's Quality of Service Rules.

The provider of TRS in Colorado shall be subject to any applicable Commission quality of service rule(s). In the case of conflict between the Commission's rule and the federal rule incorporated by reference in rule 2822, the more stringent of the two shall apply.

2825. Rates – Calls Included as Telecommunications Relay Calls.

Intrastate local, intraLATA interexchange, and interLATA interexchange calls shall be included as TRS. The costs of any toll service or any other service that is not a basic local exchange service is to be borne by the TRS user; however, the TRS user shall pay rates no greater than the rate paid for functionally equivalent voice communication services with respect to factors such as the duration of the call, the time of day, and the place of origination to the place of termination.

2826. Commission Powers and Duties.

- (a) The Commission shall administer and contract for telecommunications relay services with a telecommunications provider (TRS contractor). The Commission, as Administrator, shall direct that the cost of these services shall be paid from the Colorado Telephone Users with Disabilities Fund. The contract shall conform to these rules, and shall make available adequate procedures and remedies for enforcing the requirements.

- (b) Each month, the TRS contractor shall request reimbursement of its expenses from the Commission. The Commission shall, upon its approval of the expenses, remit the approved amount to the Contractor and shall debit the approved amount from the Colorado Telephone Users with Disabilities Fund.
- (c) Each voice service provider shall maintain a record of the monthly surcharge imposed on each customer and collected by the voice service provider for a period of three years from the date of billing.
- (d) The Commission, at its own expense, may require an audit of a voice service provider's records for the sole purpose of ensuring compliance with §§ 40-17-101 through 105, C.R.S.
- (e) The Commission may annually adjust the monthly surcharge when necessary to accurately reflect a change in the costs of providing telecommunications relay services, pursuant to § 40-17-103, C.R.S.

2827. Administration of the Colorado Telephone Users with Disabilities Fund.

- (a) Fund administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each commercial and residential access line in a uniform amount. In order to adjust the uniform charge, the Commission requires certain information.
 - (I) In compliance with annual state budget cycle timelines and requirements, the Commission shall estimate its administrative expenses incurred under §§ 40-17-101 through 104, C.R.S.
 - (II) The monthly uniform charge, per telephone access line, as determined by the Commission, shall not exceed 15 cents.
 - (III) All voice service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado. The Commission will provide a form for this purpose, consistent with these rules. This form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Voice service providers shall provide an updated form within 15 days of any change in the information previously provided to the Commission including for any discontinuance of service. All Colorado telecommunications surcharge registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.
- (b) Uniform charge.
 - (I) All voice service providers shall collect and remit the TRS charge assessed on each telephone access line for which the primary service address, if known, or billing address, if service address is unknown, is within the state of Colorado. Such charges shall be billed monthly and remitted as directed to the Commission, as discussed in paragraph (c).
 - (II) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed monthly to each access line provided by each voice service provider. Each multi-line voice communication service that is capable of simultaneous outbound calling shall constitute a separate telephone access line; however, the number of telephone access lines for which a customer may be assessed a monthly charge cannot exceed the number of outbound voice calls that the voice service provider has enabled and activated to be made simultaneously.

- (III) A seller of prepaid wireless service shall collect a prepaid wireless TRS charge from a consumer, pursuant to § 29-11-102.7, C.R.S. and remit the charge to the Department of Revenue. The Department of Revenue shall transmit the money collected to the State Treasurer for deposit into the Colorado Telephone Users with Disabilities Fund, created in § 40-17-104(1), C.R.S.
 - (IV) The TRS charge shall not be assessed or collected on any federally supported Lifeline service or customer. Each provider exempt from collecting the uniform charge on a Lifeline customer shall maintain complete documentation and shall make such documentation available to the Commission upon request.
 - (V) The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each voice service provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Surcharge."
 - (VI) Each voice service provider may retain, from the total charges collected, a vendor fee in the amount of three-fourths of one percent of the amount of total monthly uniform charges collected by such local exchange provider.
 - (VII) Effective January 1, 2021, each voice service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last calendar day of the following month, even if that day falls on a holiday or weekend.
 - (VIII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (c) Remittance procedure.
- (I) Voice service providers shall submit a return and remit payment as instructed by Commission staff.
 - (II) Voice service providers shall submit all surcharge remittances to the TRS custodial receiver directly.
 - (III) If payments are made by check, a printed copy of the completed remittance form described in subparagraph (I) shall also be enclosed with the check.

2828. – 2839. [Reserved].

High Cost Support Mechanism and High Cost Administration Fund

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process used by the Commission to implement and the provisions of the high cost support mechanism while remaining consistent with the relevant rules and orders of the FCC.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-15-208(2)(a), 40-15-502, and 40-2-108, C.R.S.

2840. Applicability.

Rules 2840 through 2869 govern the operation of the Colorado High Cost Support Mechanism (HCSM) and the Colorado High Cost Administration Fund and shall apply to all providers of intrastate telecommunications services.

2841. Definitions.

The following definitions apply only in the context of rules 2840 through 2869:

- (a) "Administrator" means the Commission, or a designee employed by the Commission, pursuant to § 40-15-208(3), C.R.S., that performs the administrative functions of the HCSM under the direction of the Commission.
- (b) "Broadband deployment account" means the account held by the Commission for broadband deployment purposes consistent with § 24-37.5-905(2)(b)(I), C.R.S.
- (c) "Broadband network" has the same meaning as set forth in § 40-15-102(3.7), C.R.S.
- (d) "Colorado broadband office" or "office" means the entity created by § 24-37.5-903, C.R.S. for, among other purposes, administration of the broadband deployment grant program as described in § 24-37.5-905, C.R.S.
- (e) "Colorado High Cost Administration Fund" (Fund) means the fund created in the state treasury for the purpose of reimbursing the Commission acting as Administrator for its expenses incurred in the administration of the HCSM.
- (f) "Geographic area" means a Commission-defined area of land which can be smaller than an incumbent provider's wire center serving area included wholly within the incumbent's wire center boundaries.
- (g) "Geographic support area" means a geographic area where the Commission has determined that the furtherance of universal basic service requires that support be provided by the HCSM.
- (h) "High Cost Support Mechanism" (HCSM) means the mechanism created by Colorado statute for the support of universal service for basic local exchange service within a rural Colorado, high-cost geographic support area and provide access to broadband service in unserved areas pursuant to §§ 40-15-208 and 24-37.5-905, C.R.S.
- (i) "Intrastate proxy cost" means that portion of proxy cost that is jurisdictionally applicable to the provision of intrastate supported services. Pursuant to § 40-15-108, C.R.S., the intrastate proxy cost is produced by applying the separation factors of 47 C.F.R., Part 36, to the estimated investments and expenses produced by the Commission approved Proxy Cost Model.
- (j) "Proxy cost" means a per access line estimate of the cost required to compensate a provider for the provisioning of specific supported services and features based upon the level of investment calculated by the Commission-approved Proxy Cost Model.
- (k) "Proxy cost model" means a model which produces a per access line estimate of the reasonable, required level of investment and expenses in a particular geographic area (i.e., wire center basis) for a defined set of telephone services and features assuming least-cost efficient engineering and design criteria and technology-neutral deployment of current state-of-the-art technology, and using the current local exchange network topology and the total number of access lines in each area.

- (l) "Retail revenues" means the gross revenues associated with contribution levels to the HCSM from the sale of intrastate telecommunications pre-paid and post-paid services to end-use customers. Intrastate telecommunications services may include, but are not limited to, all types of local exchange service; non-basic, vertical, or discretionary services, also known as advanced features, such as call waiting, call forwarding, and caller identification, or premium services such as voicemail; listing services; directory assistance service; wireless and other cellular telephone and paging services; mobile radio services; personal communications services (PCS); both optional and non-optional operator services; wide area telecommunications services (WATS) and WATS-like services; toll free service; 900 service and other informational services; toll service; private line service; special access service; special arrangements; special assemblies; CENTREX, Centron, and Centron-like services; ISDN, IAD and other multi-line services; video and/or teleconferencing services; satellite telecommunications service; the resale of intrastate telecommunications services; payphone services; any services regulated by the Commission under § 40-15-305(2), C.R.S.; and such other services as the Commission may by order designate from time to time as equivalent or similar to the services listed above. Revenues associated with the sale of video services other than video conferencing identified in § 40-15-401(1)(a), C.R.S., shall not be considered a part of retail revenues associated with contribution levels.

2842. Incorporation by Reference.

References in rules 2840 through 2869 to Parts 32, 36, 54, 64, and 69, are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2843. General.

The HCSM shall be coordinated with the Federal Universal Service Fund (USF), as described by regulations found at 47 C.F.R. § 36 and § 54 and any other Universal Service Support Mechanism that may be adopted by the FCC pursuant to 47 U.S.C. 254 of the Communications Act, as amended by § 101 of the Telecommunications Act of 1996.

- (a) The HCSM shall operate on a calendar-year basis. The Commission shall, by November 30 of each year, adopt a budget for the HCSM including the:
- (I) estimated quarterly contributions that may be collected through a rate element assessment by each telecommunications provider;
 - (II) estimated quarterly amount of the HCSM money collected from which distributions are to be made for the following calendar year; and
 - (III) estimated quarterly amount of administrative costs to administer the HCSM program.

2844. Specific Services and Features Supported by the HCSM.

The HCSM supports basic service, as defined in rule 2307, in rural, high cost areas and provides access to broadband service through broadband networks in unserved areas. In addition, the HCSM supports access to 9-1-1 service and such other elements, functions, services, standards or levels necessary to attain Commission-prescribed service-quality standards or other criteria established pursuant to statute or Commission rule.

2845. Contributors; Reporting Requirements; Rate Element Calculation; Application of Rate Element to Customer Billings; and Remittance of Contributions.

- (a) Contributors. The high cost support mechanism shall be supported through a neutral assessment on all telecommunications providers in Colorado.

- (I) Revenues associated with the sale of cable services identified in § 40-15-401(1)(a), C.R.S., other than video conferencing, shall not be considered when determining a provider's assessment.
- (b) Process for determining the HCSM rate element.
 - (I) Contributor reporting requirements. Each provider shall provide to the Administrator a verified accounting of its gross retail revenues, and such other revenues, and uncollectibles as the Administrator shall request for purposes of determining contributions and disbursements under these rules. The accounting shall be submitted using the form identified as the HCSM Worksheet available from the Commission or on its website. The completed HCSM Worksheet shall be submitted to the Administrator twice a year. The HCSM Worksheet shall be due March 31, of each year, containing data for the prior calendar year. The HCSM Worksheet shall be due September 1, of each year, containing data for the six-month period from January 1 through June 30 for the current calendar year.
 - (II) Rate element calculation. The HCSM rate element shall be maintained at the existing rate of 2.6 percent until July 1, 2023 and applied through a neutral assessment on all telecommunications providers in Colorado.
 - (III) On or after July 1, 2023, the Commission may reduce the rate element factor so that the amount of money collected shall not exceed \$25 million for calendar year 2024. The Commission shall issue an order reducing the HCSM rate element at least 15 days prior to the reduction's effective date and shall post notice of the rate element on the Commission's website.
- (c) Application of the rate element to telecommunications providers. The HCSM rate element shall be assessed upon all providers in Colorado. Telecommunications providers may, at their option, apply the rate element to the retail revenues of each provider's end users as a line item on the monthly bill. For those telecommunications providers opting to apply the rate element to their end user customers, the location of the telecommunication service delivery shall be used to determine whether the HCSM rate element applies where an end user service location receiving the bill and an end user service location receiving the service differ.
- (d) Remittance of contributions. All telecommunications providers shall be responsible for remitting quarterly to the HCSM according to the following procedure:
 - (I) Each quarter, or as necessary, the Administrator shall issue an invoice instructing each contributor to remit its HCSM contribution to the HCSM escrow account.
 - (II) The HCSM contributions shall be remitted as directed by the Administrator no more than 30 days after the end of each quarter. If the amount owed is not remitted by that date, the Administrator shall bill the provider a late payment charge equal to one percent per month of the late amount. If the provider establishes a history of making late contributions, the Commission may initiate an appropriate process to ascertain and implement proper corrective measures including, but not limited to, withholding future support from the HCSM and/or penalties pursuant to §§ 40-7-101, C.R.S., et seq.
 - (III) Reconciliation. The Administrator shall review each EP's HCSM account transactions. The review shall reconcile HCSM contributions, receipts, and other projected account transactions to the actual HCSM entitlement, as provided in paragraph 2848(f). The Administrator shall analyze any deviation between the estimated amount and the verifiable contribution amount. Adjustments to the standard quarterly transaction amount or any other reconcilable adjustments will be performed in a subsequent quarter.

- (e) Continuing customer education. For those telecommunications service providers opting to apply the rate element to their end user customers, in the first billing cycle of the third quarter of each calendar year, each provider that is collecting the rate element (also known as the "Colorado Universal Service Charge") from its end users shall provide to each of its customers, by message directly printed on the bill, by bill insert, or by separate first-class mail, or any combination of these alternatives, the continuing customer education material as may be ordered by the Commission.

2846. Support through the HCSM.

- (a) The Commission shall, by order, establish geographic areas throughout the state. Such geographic areas may be revised at the discretion of the Commission.
- (b) HCSM support amounts shall be provided consistent with prior Commission orders. Support shall be allocated and provided on a quarterly basis and by the end of the month following the previous quarter.
 - (I) Each rural telecommunications provider, both wireline and wireless, that received support as of January 1, 2017, will continue to receive the same level of support on a quarterly basis in each subsequent year by averaging the payments received for calendar years 2015 and 2016, consistent with § 40-15-208(4), C.R.S.
 - (II) The Commission shall allocate to the broadband deployment account 100 percent of the total amount of HCSM money collected minus the Commission's administrative costs and distributions to rural telecommunications providers, both wireline and wireless, consistent with § 40-15-208(2)(a)(IV), C.R.S. and subparagraph 2846(b)(I).
- (c) The Administrator will arrange payments to be made within 30 days of the last day of each quarter.
- (d) Distributions of HCSM shall not be based on effective competition determinations as defined by rule 2205 or § 40-15-207, C.R.S.

2847. Administration.

The HCSM shall operate under the direction of an Administrator, which shall be the Commission or its designee.

- (a) The Commission may engage a third-party entity who meets the criteria in this rule to perform such duties of the Administrator as the Commission may, from time to time, deem necessary or convenient. The Commission shall select the entity using Colorado State Government contracting procedures. Until such time as an entity has been engaged, or during times when the entity is not available to fulfill its duties, the Commission shall act as the Administrator.
 - (I) The third-party entity shall meet all of the following criteria:
 - (A) be neutral and impartial;
 - (B) not be a party in any matter before the Commission, nor advocate specific positions before the Commission in any telecommunications service matter;
 - (C) not be a member in a trade association that advocates positions before the Commission;
 - (D) not be an affiliate of any provider of telecommunications services;

- (E) not issue a majority of its debt to, nor derive a majority of its revenues from, nor hold stock in any provider(s) of telecommunications services. This prohibition also applies to any affiliates of the third-party entity; and
 - (F) not have a Board of Directors that includes members with direct financial interests in entities that contribute to or receive support from the HCSM.
- (b) The reasonable expenses incurred in the administration of the HCSM, including administrative costs incurred in association with broadband service, shall be a cost of the HCSM and shall be paid from the funds contributed to the HCSM, consistent with § 40-15-208(2)(a)(VI)(3)(a), C.R.S.
- (c) The Administrator shall determine the amount each telecommunications provider must pay into the HCSM and determine the disbursement each rural telecommunications provider, both wireline and wireless, may receive from the HCSM.
- (d) The Administrator shall engage and determine the compensation for such professional and technical assistance as may, in its judgment, be necessary for the proper administration of the fund.
- (e) If the Commission has delegated such duties, the third-party entity shall have access to the books of accounts of all providers to the limited extent necessary to verify the intrastate retail revenues and other information used in determining contributions and disbursements from the HCSM.
- (f) The Administrator will develop appropriate forms to be used by all providers for reporting information as required by rule 2845. Forms will be made available on the Commission's website and at the offices of the Commission.
- (g) The Commission shall perform an annual review of HCSM fund recipients. One purpose of this review shall be a verification of continued eligibility. Another purpose shall be a verification of the receipt by each rural telecommunications provider, both wireline and wireless, of the funds to which each provider is entitled and is projected to receive from the HCSM. Subject to such reviews, the Administrator will recommend any required adjustments to HCSM contribution methods, distributions, necessary rule changes and other relevant items that shall be considered in connection with the HCSM.
- (h) The Administrator and the Fund may operate on a fiscal year from July 1 to June 30 of the succeeding year.
- (i) An independent external auditor chosen by the Commission shall periodically, at its discretion, audit the Fund and associated HCSM records, including both collections and disbursements from the Fund. The costs for conducting audits shall be included in the computation of HCSM requirements.
- (j) An annual report of the Fund prepared by the Administrator shall be filed with the Commission by December 1 of each year. A copy of the Administrator's annual report shall be provided to the Legislative Audit Committee and be posted on the Commission's website. This report shall summarize the preceding fiscal year's activity and include the following:
 - (I) a record of the total cost of administration of the HCSM; and
 - (II) the most recent audit report.

- (k) A written annual report of the HCSM, prepared by the Administrator, shall be submitted to the committees of reference in the Senate and House of Representatives that are assigned to hear telecommunications issues, in accordance with § 24-1-136, C.R.S., by December 1 of each year. A copy of the Administrator's annual report of the HCSM shall be provided to the Legislative Audit Committee and posted on the Commission's website. The report shall account for the operation of the HCSM during the preceding calendar year and include the following information, at a minimum:
- (I) the total amount of money the Commission collected through a rate element assessment collected by each provider for which distributions were made;
 - (II) the total amount of money distributed to each provider and to the broadband deployment account from the HCSM;
 - (III) the basis on which the distribution to providers was calculated;
 - (IV) as to each provider receiving a distribution, the amount received by geographic support area and the type of customer, the way in which the benefit of the distribution was applied or accounted for; and
 - (V) the estimated contributions to be collected through a rate element assessment by each telecommunications provider, and the proposed total amount of the HCSM from which distributions are to be made for the following calendar year.

2848. Plan for Elimination of Regulatory Obligations in Unsupported Areas.

- (a) Consistent with the plan requirement in § 40-15-208(5), C.R.S. and projected HCSM distribution reductions to non-rural incumbent carriers for basic service, for each year listed, effective January 1 of each year through December 31 of the same year, the Commission provides HCSM support for basic service to non-rural incumbent carriers for the following wire center serving areas.
- (I) 2019 supported wire center serving areas: Debeque, Yampa, Aguilar, Mesa Verde, Deckers, Hot Sulphur Springs, Mancos, Oak Creek, Meeker, Elbert, Limon, Minturn, Keenesburg, New Castle, Fairplay, Silverton, Del Norte, Kremmling, and Walsenburg.
 - (II) 2020 supported wire center serving areas: Debeque, Yampa, Aguilar, Mesa Verde, Deckers, Hot Sulphur Springs, Mancos, Oak Creek, Meeker, Elbert, Limon, Minturn, Keenesburg, and New Castle.
 - (III) 2021 supported wire center service areas: Debeque, Yampa, Aguilar, Mesa Verde, Deckers, Hot Sulphur Springs, Mancos, Oak Creek, and Meeker.
 - (IV) 2022 supported wire center serving areas: Debeque, Yampa, Aguilar, Mesa Verde, Deckers, and Hot Sulphur Springs.
- (b) The obligations imposed in §§ 40-15-401(1)(b)(IV) and 40-15-502(5)(b) and (6)(a), C.R.S. are not applicable in any wire center serving area not listed for the corresponding year as of January 1 each year.
- (c) The plan described in paragraphs (a) and (b) above is based on a forecast that HCSM surcharge collections will be approximately \$31.5 million for 2019, \$29 million for 2020, \$26.8 million for 2021, and \$24.7 million for 2022.

- (d) No later than September 1 each year, the HCSM Administrator will provide the Commission with an update on actual contributions for the first six months of the year compared to estimated projections. Subject to such reviews, the Administrator may, but need not, recommend any required adjustments to the subsequent year's wire centers defined in subsection(a) above to be implemented through a variance process consistent with 4 CCR 723-1-1003.
- (e) The HCSM administrator shall post actual collection amounts quarterly on the Commission's website no later than 45 days following each quarter. On or before February 15 of each year, the HCSM administrator shall provide actual collection amounts for the preceding year on the Commission website.
- (f) A request for variance, consistent with 4 CCR 723-1-1003, may be filed to revise the supported wire center areas subject to regulation set forth in paragraph (a), provided actual contributions presented by the HCSM Administrator periodically each year, as required in paragraphs (d) and (e), vary from the projections set forth in paragraph (c) by ten percent.
- (g) Effective January 1, 2023, no wire center serving area shall be funded for basic service by the HCSM and obligations imposed in §§ 40-15-401(1)(b)(IV) and 40-15-502(5)(b) and (6)(a), C.R.S. are eliminated.

2849. Enforcement.

- (a) Holder of a CPCN. A provider holding a CPCN issued by the Commission that fails to make timely reports or to pay, in a timely manner, its contribution when it is due and payable under these rules, may, after notice and opportunity for hearing, have its CPCN revoked as provided in Article 6, Title 40, C.R.S., be denied interconnection to the public switched network, and/or have other appropriate remedies imposed upon them by the Commission.
- (b) Uncertificated provider. If a provider does not hold a CPCN from the Commission and fails to make timely reports or payment of its contribution, the provider may be subject to a Commission action including but not limited to a formal complaint:
 - (I) to the FCC seeking an order directing the delinquent provider to make the payment or for further appropriate remedies;
 - (II) for an action for damages in an appropriate court; or
 - (III) for other appropriate remedies.
- (c) Any provider that disputes the requirement that it pay into the HCSM shall:
 - (I) post a bond in an amount determined by the Commission pending the resolution of that dispute; and
 - (II) repay all other providers with interest (at a rate determined by the Commission) in the event the Commission determines that the provider should have been paying into the fund.

2850. Net Neutrality Violation.

- (a) The Colorado broadband office shall file a petition pursuant to the Commission's Rules of Practice and Procedure 4 CCR 723-1-1304(i) requesting that the Commission initiate a proceeding and issue a written order pursuant to §§ 40-15-209(2)(a) and 24-37.5-905, C.R.S., and notifying the Commission that the office has determined that:

- (I) a federal agency has issued a final order or entered into a settlement or consent decree regarding, or a court of competent jurisdiction has issued a final judgment against, an internet service provider;
 - (II) the order, settlement consent decree or judgment concludes that the internet service provider has engaged in a net neutrality violation specified in § 40-15-209 (1)(a) through (d), C.R.S.;
 - (III) the internet service provider is not otherwise exempt according to §40-15-209 (3), C.R.S.; and
 - (IV) the internet service provider should be required to fully refund any money that the internet service provider received in the twenty-four months preceding the office's determination from the high cost support mechanism pursuant to a grant awarded by the office under § 24-37.5-905, C.R.S.
- (b) A petition filed by the office pursuant to this rule must include at least the following information:
- (I) federal agency final order, settlement and consent decree or final judgment from a court of competent jurisdiction and any supporting documentation used by the office to determine the net neutrality violation;
 - (II) documentation of the final determination by the office that the final order, decree, or judgment that the internet service provider engaged in conduct specified in § 40-15-209(1)(a) through (d);
 - (III) affirmation supported by an affidavit or in the final office determination attesting that the office determined exceptions specified in § 40-15-209(3) are inapplicable;
 - (IV) certification of the effective date for the office's final determination;
 - (V) itemized grant award amounts paid to the internet service provider for the 24 months preceding the office's final determination and documentation demonstrating that the payments were made to the internet service provider; and
 - (VI) any additional information the office finds relevant.
- (c) The office shall be a necessary party in any proceeding confirming that the office made a decision pursuant to § 40-15-209(2)(a), C.R.S., and that it determined no exceptions apply to the violating activity, and requesting that the Commission fully refund any money that the internet service provider received in the 24 months preceding the office's determination.
- (d) Through proceedings under this rule, the Commission shall confirm that the office made determinations set forth in paragraph (a) of this rule. Upon such confirmation, the Commission shall issue a written order directing the internet service provider to fully refund any money that the internet service provider received in the 24 months preceding the office's determination from the HCSM pursuant to a grant awarded by the office under § 24-37.5-905, C.R.S.
- (e) Any final Commission decision under this rule 2850 shall:
- (I) include an itemized statement of the amount of money that the internet service provider is required to refund and instructions on how to refund the money; and
 - (II) instruct the HCSM administrator and the third party contractor to return the money to the HCSM account dedicated to broadband deployment.

- (f) An internet service provider required to refund HCSM funding caused by a net neutrality violation pursuant to § 40-15-209, C.R.S. is not relieved of any provider-of-last resort obligations.

2851. – 2869. [Reserved].

Discount Rate for Eligible Intrastate Services Purchased by Eligible Colorado Schools and Libraries

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the discount rate for services that are available to elementary schools, secondary schools, and libraries consistent with 47 U.S.C. § 254(h).

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-3-103, and 40-2-108, C.R.S.

2870. Applicability.

The discounts included in rules 2870 through 2889 shall apply to the rates for all eligible intrastate services.

2871. Definitions.

The meaning of terms used within rules 2870 through 2889 shall be consistent with the definitions in the FCC's Universal Service Support for Schools and Libraries Rules found at 47 C.F.R., Part 54, Subpart F. The following definitions apply only in the context of rules 2870 through 2879:

- (a) "Eligible intrastate services" means services eligible for discounts including all commercially available and offered intrastate telecommunications services. In addition to intrastate telecommunications services, special services eligible for discounts include Internet access and installation and maintenance of internal connections.
- (b) "Rural or urban schools or libraries" means, pursuant to 47 C.F.R. § 54.505(b)(3)(i), the Administrator shall designate a school or library as urban if the school or library is located in an urbanized area or urban cluster area with a population equal to or greater than 25,000, as determined by the most recent rural-urban classification by the Bureau of the Census. The Administrator shall designate all other schools and libraries as rural.

2872. Incorporation by Reference.

References in rules 2870 through 2879 to Part 54 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2873. Discount for Eligible Intrastate Services for Eligible Schools and Libraries.

After receiving a *bona fide* request from such schools or libraries, a provider of telecommunications service shall apply the specified discount rate to eligible intrastate services. The following matrix shall be used to set a discount rate to be applied to eligible intrastate services purchased by eligible schools, school districts, libraries, or library consortia based upon the institution's level of disadvantage or eligibility and the location in either an "urban" or "rural" area.

Schools & Libraries Discount

Percentage of Students Eligible for National School Lunch Program	Urban Discount Percent	Rural Discount Percent
<1%	20%	25%
1 - 19%	40%	50%
20 - 34%	50%	60%
35 - 49%	60%	70%
50 - 74%	80%	80%
75 - 100%	90%	90%

2874. Rate Disputes.

Pursuant to 47 C.F.R. § 54.504(c), schools, libraries, and consortia including those entities, and providers of telecommunications service may seek a determination from the Commission regarding intrastate rates if they believe that the lowest corresponding price is unfairly high or low.

2875. Discount Administration.

The FCC or its designee, pursuant to 47 C.F.R. § 54.707, shall determine the resolution of disputes dealing with the authority, practice, discount and fund accounting, and administration of the Schools and Libraries Discount Fund.

2876. Response to Request for Services.

A provider of telecommunications service shall respond in writing to a written request for eligible intrastate services within four weeks of the receipt of the request.

2877. – 2889. [Reserved].

Colorado No-Call List

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to implement the Colorado No-call List Act, §§ 6-1-901, C.R.S., et seq. including establishing procedures by which residential telephone subscribers and wireless telephone service subscribers can decide whether or not to receive telephone solicitations by phone or facsimile; establishing procedures for the Commission to contract with a designated agent for No-call services and to establish a No-call database; to set guidelines for the designated agent; and to set the annual registration fees charged by the designated agent to telephone solicitors.

The statutory authority for these rules is found in §§ 6-1-905(3) and 40-2-108, C.R.S.

2890. Applicability.

Rules 2890 through 2899 apply to the designated agent, wireless telephone service providers, and local exchange providers regulated by the Commission.

2891. Definitions.

The following definitions apply only in the context of rules 2890 through 2899.

- (a) “Colorado No-call List” means the database of Colorado residential subscribers and wireless telephone service subscribers that have given notice, in accordance with rules promulgated by the Commission, of such subscribers’ objection to receiving telephone solicitations.

- (b) "Conforming list broker" means any person or entity that provides lists for the purpose of telephone solicitation, if such lists shall have removed, at a minimum of every 30 days, any phone numbers that are included on the Colorado No-call List.
- (c) "Designated agent" means the party with whom the Commission contracts to administer the Colorado No-call List program.
- (d) "Established business relationship" means a relationship that:
 - (I) Was formed, prior to the telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber, or wireless service subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor;
 - (II) Has not been previously terminated by either party; and
 - (III) Currently exists or has existed within the immediately preceding 18 months.
 - (IV) With respect to a financial institution or affiliate, as those terms are defined in § 527 of the federal Gramm-Leach-Bliley Act of 1999, an established business relationship includes any situation in which a financial institution or affiliate makes solicitation calls related to other financial services offered, if the financial institution or affiliate is subject to requirements regarding privacy of Title V of the Federal Gramm-Leach-Bliley Act of 1999, and the financial institution or affiliate regularly conducts business in Colorado.
- (e) "Internet" means the international computer network consisting of federal and non-federal, interoperable packet-controlled switched data networks.
- (f) "Residential subscriber" means:
 - (I) A person who has subscribed to residential telephone service with a local exchange provider, as defined in § 40-15-102(18), C.R.S., or
 - (II) Another person living or residing with the person described in subparagraph (I) of this paragraph.
- (g) "Residential telephone service" includes wireline transmission of voice or facsimile communication to residential telephone customers.
- (h) "Telephone solicitation":
 - (I) "Telephone solicitation" means any voice, facsimile, graphic imaging, or data communications, including text messaging, communication over a telephone line or wireless telephone for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether such communication originates from a live operator, through the use of automated dialing and recorded message equipment, or by other means.
 - (II) "Telephone solicitation" does not include communications:
 - (A) To any residential subscriber or wireless telephone service subscriber with that subscriber's prior express invitation or permission;

- (B) By or on behalf of any person or entity with whom a residential subscriber or wireless telephone service subscriber has an established business relationship;
 - (C) For 30 days after a residential subscriber or wireless telephone service subscriber has contacted a business to inquire about the potential purchase of goods or services or until the subscriber requests that no further calls be made, whichever occurs first;
 - (D) By or on behalf of a charitable organization that is required to and that has complied with the notice and reporting requirements of § 6-16-104, C.R.S., or is excluded from such notice and reporting requirements by § 6-16-103(7), C.R.S.;
 - (E) Made for the sole purpose of urging support for or opposition to a political candidate or ballot issue; or
 - (F) Made for the sole purpose of conducting political polls or soliciting the expression of opinions, ideas, or votes.
- (i) "Telephone solicitor" means any person or entity that makes a telephone solicitation or that causes a telephone solicitation to be made.
 - (j) "Wireless telephone" means a telephone that operates without a physical wireline connection to the provider's equipment. The term includes, but is not limited to, cellular and mobile telephone.
 - (k) "Wireless telephone service subscriber" means a person who has subscribed to a telephone service that does not employ a wireline telephone, or that employs both wireline and wireless telephone equipment on the same customer account.

2892. Administrative Procedures.

- (a) Telephone solicitor registration fee. Persons or entities that wish to make telephone solicitations or otherwise access the database of telephone numbers and zip codes included in the Colorado No-call List database shall pay to the designated agent the annual registration fee set by the Commission. Persons or entities with fewer than five employees shall pay no fee. Conforming list brokers or nonprofit corporations, as defined in § 7-121-401(26), C.R.S., shall pay no fee. The maximum fee set by the Commission shall be charged only to persons or entities with more than 1,000 employees.
- (b) Determination of annual registration fee. The Commission will set the annual registration fee on a sliding scale. The sliding scale ranges from zero for persons or entities with fewer than five employees to the maximum fee of no more than \$500 for persons or entities with more than 1,000 employees. The sliding scale between five and 1,000 employees is directly related to the number of employees a particular entity has within that range. The designated agent shall use monies from such fees to cover the direct and indirect costs for the operation of the Colorado No-call List. Monies from such fees shall be collected and paid directly to the designated agent. The Commission may adjust the fees annually based on the revenue history of the fees received by the designated agent. The annually adjusted fees will become effective on January 1 of each year.

- (c) Audit and inspection of records. The designated agent shall permit the Commission to audit, inspect, examine, excerpt, copy or transcribe any of its records relating to the No-call List program. The designated agent shall make all requested information available to Commission Staff for audit on request including, but not limited to: salaries and benefits associated with both operators and managerial employees, local exchange access charges, operating expenses, building rent and utilities costs, equipment depreciation, corporate overhead allocations, advertising and marketing expenses, expenses for consultants and temporary employees, and expenses for account management.

2893. Designated Agent's Responsibilities.

- (a) Implementation. The designated agent shall update the database on an ongoing basis with information provided by residential subscribers and wireless service subscribers and local exchange providers as required in these rules.
- (b) Annual registration. The designated agent shall provide a means for on-line registration. The designated agent shall also accept payment by credit card, check, or money order for annual registration fees charged to any telephone solicitor that wishes to make telephone solicitations or otherwise access the database.
- (c) No-call database. The designated agent shall provide the No-call List database to all telephone solicitors who properly register with the No-call List program.
 - (I) The designated agent shall make the data in the No-call List database available online at the No-call List designated website.
 - (II) The designated agent shall allow telephone solicitors to select and sort the data for downloading by zip code and telephone area code.
 - (III) The No-call List shall be made available to registered telephone solicitors as a downloadable extract file from the Colorado No-call List website. This extract file must meet, at a minimum, the following requirements:
 - (A) The file created shall be a standard ASCII text file. The file must be operating system and applications program independent.
 - (B) The file shall be generated using, at a minimum, a standard comma-delimited file format. At the discretion of the designated agent, other format options (tab-delimited, fixed-width, html, etc.) may also be provided to the registered telephone solicitor downloading the file.
 - (C) Registered telephone solicitors shall have the option to download the No-call List file using zip code or telephone area code as the sort and selection criteria.
 - (D) For each extract file created, a separate informational or "Readme", file shall also be generated. This file shall include at least the following information: general information about the No-call List extract file created; the date the extract file was created; the user defined selection and sort criteria used to create the extract file; the number of records included in the extract file; the file layout used; and information about all fields included within the file and how they are delimited.

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- (d) Use of existing data. Upon expiration of the designated agent's contract to operate and maintain the Colorado No-call List, the designated agent shall cooperate fully in the transfer of operations to any new designated agent selected by the Commission so that the No-call List program continues without interruption. Such cooperation shall include providing the new designated agent with the current No-call List in an electronic format such that the new designated agent can use the list immediately.
 - (e) Record maintenance. The designated agent shall maintain electronically the current business name, business address, e-mail address (if available), and telephone number of each person or entity registering to make telephone solicitations or otherwise accessing the No-call List. This information must be updated when changes occur.
 - (f) Toll free telephone number. The designated agent shall pay for and maintain a toll free statewide telephone number for use to register for the No-call list and to file complaints.
 - (g) Notice of objection. The designated agent shall provide the means by which each residential subscriber or wireless service subscriber of telephone service may give notice of objection to receiving telephone solicitations. The designated agent is required to provide two methods by which subscribers can provide notice of objection to receiving telephone solicitations:
 - (I) By entering the area code, phone number and zip code of the subscriber directly into the database using an Internet application housed on the designated website.
 - (II) By entering the area code, phone number and zip code of the subscriber directly into the database using the designated statewide toll free telephone number.
 - (h) Revocation of notice. The designated agent shall provide means by which each residential subscriber or wireless service subscriber of telephone service may revoke its No-call list registration. The designated agent is required to provide two means by which residential subscribers can revoke the registration.
 - (I) By entering the area code, phone number, and zip code of the subscriber directly into the database using an Internet application housed on the designated website.
 - (II) By entering the area code, phone number, and zip code of the subscriber directly into the database using the designated statewide toll free telephone number.
 - (i) Transaction dates. The designated agent must record and maintain the date of each transaction identified in paragraphs (g) and (h).
 - (j) No-call List updates. No later than the 10th day of every calendar quarter (i.e., January 10, April 10, July 10, and October 10) the designated agent shall electronically update the Colorado No-call List to include any additions, deletions, changes, and modifications made to the Colorado No-call List by residential and wireless telephone service subscribers. No later than the 10th day of every calendar quarter the designated agent shall remove all telephone numbers from the No-call List that have been disconnected or reassigned within the previous calendar quarter.
 - (k) Information requirements.
 - (I) The designated agent shall submit quarterly to the Commission the following information in order for the Commission to accurately adjust the registration fees. The information shall be submitted no later than 30 days after the end of the quarter. The Commission will determine the exact format of this report which shall include:
 - (A) Revenues from registration fees for the previous quarter;
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- (B) Capital investment purchased for use in No-call List activities during the previous quarter;
 - (C) Operating expenses related to the administration of the No-call List for the previous quarter; and
 - (D) Such other information as the Commission shall request for purposes of determining the annual registration fees.
- (l) Information distribution. Neither the designated agent nor any person or entity collecting information to be transmitted to the designated agent shall use or distribute subscriber information included in the No-call List except as expressly authorized by the Commission or by the No-call List Act.
- (m) Complaint system.
 - (I) The designated agent shall maintain an automated, on-line complaint system and a toll free statewide telephone complaint system for residential subscribers to report suspected violations of § 6-1-904, C.R.S.
 - (A) The on-line complaint system shall be a web-based system and shall have the capability to electronically collect, sort, and report suspected violations to the Colorado Attorney General.
 - (B) The telephone complaint system shall be a toll free statewide telephone number and the complaint information shall ultimately be transformed into an electronic format by the designated agent in order for the suspected violation to be sent to the Colorado Attorney General.
 - (II) The designated agent shall collect from the complainant the following information: the complainant's name, address, telephone number, the date and time of the call, the name of the telemarketer, and the product or service being marketed. The designated agent shall collect such other information requested by the Colorado Attorney General upon approval by the Commission.
- (n) Federal No-call List program. The designated agent shall receive from and provide to the Federal Trade Commission (FTC) all No-call list data, if so directed by the Commission.
- (o) Help line. The designated agent shall provide mechanisms on both its website and its statewide toll free telephone number to assist residential subscribers in placing their telephone number and zip code on the Colorado No-call List.

2894. Local Exchange Carriers' Responsibilities - Notification of Designated Agent.

Not later than the 5th day of every calendar quarter (i.e., January 5, April 5, July 5, and October 5) LECs shall provide electronically to the designated agent a list including all changed, transferred, and disconnected telephone numbers for residential subscribers from the previous calendar quarter. Data shall be in the format defined by subparagraph 2893(c)(III) such that the designated agent can use this information to amend the No-call List.

2895. – 2899. [Reserved].

GLOSSARY OF ACRONYMS

ABS	Alternate Billing Service
ALI	Automatic Location Identification
AMA	Automatic Message Accounting
AML	Actual Measured Loss
ANI	Automatic Number Identification
ANSI	American National Standards Institute
BER	Bit Error Rate
BESP	Basic Emergency Service Provider
BRI	Basic Rate Interface
BSA	Basic Serving Arrangement
BSE	Basic Service Element
CASB	Cost Accounting Standards Board
CCR	Code of Colorado Regulations
CEI	Comparably Efficient Interconnection
CFR	Code of Federal Regulations
CLASS	Custom Local Area Signaling System
CLEC	Competitive Local Exchange Carrier
CMRS	Commercial Mobile Radio Service
CNS	Complementary Network Service
CPCN	Certificate of Public Convenience and Necessity
CPNI	Customer Proprietary Network Information
CRCP	Colorado Rules of Civil Procedure
CRS	Colorado Revised Statutes
CSR	Customer Service Record
dB	Decibel
DMS	Data Management System
DS0,DS1,DS3	Digital Signaling levels 0, 1 and 3
E9-1-1	Enhanced 911
e-mail	Electronic mail
ENS	Emergency Notification Service
EP	Eligible Provider
ESP	Enhanced Service Provider
ETC	Eligible Telecommunications Carrier
ETS	Emergency Telephone Service
FCC	Federal Communications Commission
FDC	Fully Distributed Cost
FOC	Firm Order Confirmation
GAAP	Generally Accepted Accounting Principles
HCSM	High Cost Support Mechanism
Hz	Hertz
ICB	Individual Case Basis
IPCS	Incarcerated People's Communication Services
IEEE	Institute of Electrical and Electronics Engineers
ILEC	Incumbent Local Exchange Carrier
ISDN	Integrated Services Digital Network kbit/sec kilobit per second (1,000 bits per second)
LATA	Local Access Transport Area
LCA	Local Calling Area
LEC	Local Exchange Carrier
LIDB	Line Identification Database
LLC	Limited Liability Company
LNP	Local Number Portability
LOR	Letter of Registration
LRIC	Long Run Incremental Cost
LSR	Local Service Request

ma	milliamps
Mbps	Megabits per second
MLTS	Multi-line Telephone System
MSA	Metropolitan Statistical Area
MSAG	Master Street Address Guide
MTB	Minimum Transport Bandwidth
MTE	Multi-Tenant Environment
NANP	North American Numbering Plan
NANPA	North American Numbering Plan Administrator
NECA	National Exchange Carrier Association
NENA	National Emergency Number Association
NID	Network Interface Device
NIIF	Network Interconnection Interoperability Forum
NPA	Numbering Plan Area
NPAC	Number Portability Administration Center
OC1	Optical Carrier-Level 1 Signal
ONA	Open Network Architecture
OSS	Operational Support Systems
PCS	Personal Communications Service
PIN	Personal Account Identification Number
POLR	Provider of Last Resort
PRI	Primary Rate Interface
PSAP	Public Safety Answering Point
RBOC	Regional Bell Operating Company
RTEZ	Rural Technology Enterprise Zone
RTF	Rich Text Format
RUS	Rural Utility Service
SCP	Service Control Point
SGAT	Statement of Generally Available Terms and Conditions
SLU	Subscriber Line Usage
SS7	Signaling System #7
STP	Signal Transfer Point
TDD	Telecommunications Device for the Deaf
TRS	Telecommunications Relay Services
TSLRIC	Total Service Long Run Incremental Cost
UCA	Office of Consumer Advocate
UNE	Unbundled Network Element
USF	Universal Service Fund
USOA	Uniform System of Accounts
WATS	Wide Area Telephone Service

Editor's Notes

History

Entire rule eff. 08/01/2007.

Rule 2147 eff. 07/30/2010.

Rules SB&P, 2009, 2010, 2895 eff. 09/14/2010.

Rules 2187, 2188, Programs-High Cost Support eff. 12/30/2011.

Rules 2202.(f)(III), 2203.(a)(II)(C), 2843.(c), 2856(unnumbered paragraph), 2856.(d)-(e), 2856.(g), emer. rule eff. 02/21/2012; expired 09/18/2012.

Rules 2000, 2186.(a), 2186.(b)(IV), 2186.(c), 2186.(e)(I)(B), 2202.(e), 2202.(f)(II)-(III), 2203.(a)(I)-(II), 2213-2215, 2216-2299, 2843(c), 2856-2869 eff. 04/14/2013.

Rules 2006.(g)-2007, 2103.(a)(XV)(D)(iv)-(v), 2104.(a)(IV)(C)(iv)-(vi), 2122.(b)(VII)-(IX), 2800-2809, 2847.(c)-(g), 2895, Glossary of Acronyms eff. 12/15/2013.

Rules 2307, 2504.(I)(II)-(III) eff. 03/17/2014.

Rules 2131, 2148 emer. rules eff. 07/28/2014; expired 02/23/2015.

Rules 2131, 2148 emer. rules eff. 02/23/2015; expired 09/21/2015.

Rules 2800-2821, 2823.(c)-(d), 2825-2827 emer. rules eff. 06/15/2016.

Rules 2800-2821, 2823.(c)-(d), 2825-2827 eff. 12/01/2016.

Rules Basis, Purpose, and Statutory Authority, 2000-2111, 2120-2124, 2180-2190, 2200-2206, 2300-2311, 2330-2341, 2500-2507, 2530-2535, 2550-2553, 2560-2568, 2700-2743, 2870-2876, Glossary of Acronyms eff. 09/01/2017. Rules 2160-2169, 2207, 2210-2212, 2215, 2580-2588, 2894 repealed eff. 09/01/2017.

Rules 2008, Basic Emergency Service 2130-2148 eff. 03/02/2018.

Rules 2841, 2843-2855 eff. 02/14/2019.

Rule 2008.(g) eff. 04/30/2019.

Rules 2841, 2850 eff. 02/14/2020.

Rules 2130, 2148, 2149 emer. rules eff. 08/17/2020. Rules 2148, 2149 expired 03/15/2021.

Rules Basic Emergency Service Basis, Purpose, and Statutory Authority, 2130, 2131, 2150, 2151, 2827 emer. rules eff. 11/10/2020; expired 06/08/2021.

Rules Basic Emergency Service Basis, Purpose, and Statutory Authority, 2131, 2148 emer. rules eff. 07/29/2021.

Rules Basic Emergency Service Basis, Purpose, and Statutory Authority, 2130, 2131, 2150, 2151, 2827 emer. rules eff. 08/11/2021.

Rules 2002.(a), 2003.(a), 2010.(a)-(b), 2011, Basic Emergency Service Basis Purpose, and Statutory Authority, 2130, 2131, 2136.(I), 2141, 2147-2155, 2827 eff. 10/15/2021.

Rules 9-8-8 Surcharge Basis, Purpose, and Statutory Authority, 2800-2803 emer. rules eff. 12/29/2021.

Rules 9-8-8 Surcharge Basis, Purpose, and Statutory Authority, 2800-2803 eff. 01/30/2022.

Rules Basic Emergency Service Basis, Purpose, and Statutory Authority, 2130, 2131, 2134, 2136, 2137, 2143, 2148(a)(II)(B), 2152, 2154, 2155 eff. 03/30/2023.

Rules 2150, 2802, 2827 eff. 10/30/2023.

Rule 2846 eff. 03/30/2024.

Rule 2846 emer. rule eff. 08/14/2024; expired 03/12/2025.

Rules 2001.(b), 2011, 2131, 2134.(e), 2136, 2137.(a)(III), 2143, 2335.(d) eff. 10/30/2024.

Rules 2011, Incarcerated People's Communications Services 2810-2812, Glossy of Acronyms eff. 12/30/2024.

Rules 2106(a)(II), 2148(a)(II),(IV), 2150(f),(g), 2184(b)(II), 2187(c),(d)(II), 2841(b)-(h), 2846, 2847(k)(II), 2850 eff. 03/17/2025.

Rules 2131, 2137(f), 2148(a)(II), 2149(a)(I), 2149(a)(II)(J), 2149(a)(III) eff. 10/30/2025.