

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0476T

IN THE MATTER OF THE APPLICATION GUNNISON/HINSDALE COMBINED
EMERGENCY TELEPHONE SERVICE AUTHORITY TO INCREASE THE EMERGENCY
TELEPHONE CHARGE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
AVIV SEGEV
ADDRESSING INTERVENTIONS**

Mailed Date: January 13, 2023

I. STATEMENT

A. Procedural Background

1. On October 31, 2022, Gunnison/Hinsdale Combined Emergency Telephone Service Authority (Applicant) filed a with the Commission an Application for Emergency Telephone Charge increase petitioned by a governing body to the Colorado Public Utilities Commission pursuant to § 29-11-102(2)(c), C.R.S. (Application). The Applications seeks approval from the Commission to increase Applicant's 911 surcharge in excess of the limit established by the Commission pursuant to § 29-11-102(2)(f)(II), C.R.S.

2. On November 2, 2022, the Notice of Application Filed (Notice) was filed to provide notice to interested persons, firms, and corporations of the Application.

3. On November 9, 2022, an Amended Notice of Application Filed (Amended Notice) was filed to provide notice to interested persons, firms, and corporations of the Application, setting an intervention deadline of November 23, 2022.

4. By Decision No. C22-0714-I, issued November 14, 2022, the Commission, among other things, shortened the notice and intervention period in this matter to November 23, 2022.

5. On November 23, 2022, the Colorado Cable Telecommunications Association (CCTA) filed the Colorado Cable Telecommunications Association's Motion to Permissively Intervene and Request for Hearing (CCTA's Motion to Intervene).

6. On November 29, 2022, Applicant filed the Gunnison/Hinsdale Combined Emergency Telephone Service Authority's Motion to Dismiss Colorado Cable Telecommunications Association's Motion to Permissively Intervene and Request for Hearing. Applicant opposes CCTA's Motion to Intervene and requests it be "dismissed." Given the timing of, and relief sought, this filing will be construed by the undersigned Administrative Law Judge (ALJ) as Applicant's response to CCTA's Motion to Intervene (Applicant's Response to CCTA Motion to Intervene).

7. On November 30, 2022, the Commission deemed the Application complete and referred this Proceeding to an ALJ by minute entry.

8. On December 13, 2022, CCTA filed the Colorado Cable Telecommunications Association's Response to Gunnison/Hinsdale Combined Emergency Telephone Service Authority's Motion to Dismiss Colorado Cable Telecommunications Association's Motion to Permissively Intervene and Request for Hearing. Given that CCTA argues that permissive intervention should be granted, CCTA's filing will be construed as a motion for leave to file a reply¹ and reply to Applicant's Response to CCTA's Motion to Intervene (CCTA's Reply to Applicant's Response to the Motion to Intervene).

¹ See Rule 1400(e), 4 *Code of Colorado Regulations* (CCR) 723-1.

9. On December 15, 2022, the Unopposed Motion to Permissively Intervene and for Late Intervention Filed by Colorado Council of Authorities, Inc. (CCOA's Motion to Intervene).

B. Legal Standard

10. A party to a proceeding includes a person² who is granted permissive intervention under rule 1401. Rule 1200(a)(V), 4 CCR 723-1.

11. A movant who seeks to permissively intervene in a Commission proceeding “must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant’s interests would not otherwise be adequately represented.” Rule 1401(c), 4 CCR 723-1.

12. The proponent of a Commission decision bears the burden of proof with respect to the relief sought. Rule 1500, 4 CCR 723-1.

C. CCTA’s Motion to Intervene

13. CCTA seeks permissive intervention because “CCTA represents the interest of cable companies that ... provide certain communication services, including Voice over Internet Protocol ... services, to customers in Colorado, including in the Gunnison-Hinsdale area...”³

14. In response, Applicant states that CCTA is not a non-profit corporation authorized to do business in Colorado. As such, it does not have standing to intervene.⁴ Applicant further contends that CCTA has no financial interest in the outcome of this proceeding.⁵ Applicant explains that CCTA “has no customers who will be impacted by this matter.”⁶

² According to Rule 1004(v), 4 CCR 723-1, the definition of “person” includes a corporation.

³ CCTA’s Motion to Intervene at 1 and 2.

⁴ Applicant’s Response to CCTA’s Motion to Intervene at 2.

⁵ *Id.* at 3.

⁶ *Id.*

15. In CCTA's Reply to Applicant's Response to the Motion to Intervene, CCTA reiterates that CCTA is, indeed, a non-profit corporation and trade association duly authorized, and in good standing, to transact business in Colorado under the trade name "Colorado Cable Television Association."⁷ CCTA explains that it "also describes itself as Cable Telecommunications... because the scope of services offered by [its] members have [sic] expanded over the years."⁸ CCTA further states that "[a]ny increased 911 surcharge resulting from this proceeding will have a direct effect on the operational costs of CCTA's members in Colorado; therefore, CCTA has a pecuniary and tangible interest..."⁹

16. The ALJ finds that CCTA is a non-profit corporation and trade association that is duly authorized and in good standing to transact business in Colorado, and as such has standing to intervene in this Proceeding.

17. The ALJ also finds that the granting of the Application may substantially affect the pecuniary or tangible interests of the members of CCTA, and as such CCTA's will be granted intervenor status.

D. CCOA's Motion to Intervene

18. In CCOA's Motion to Intervene, CCOA states that it "agrees with the arguments in [Applicant's Response to CCTA's Motion to Intervene]" and that "it wants its position regarding [CCTA's Motion to Intervene and Applicant's Response to CCTA's Motion to Intervene] be known."¹⁰ CCOA further states that "CCOA's participation is anticipated to pertain

⁷ CCTA's Reply to Applicant's Response to the Motion to Intervene at 2-3.

⁸ *Id.* at 3.

⁹ *Id.*

¹⁰ CCOA's Motion to Intervene at 6.

to the subjects and issues relevant to [CCTA's Motion to Intervene and Applicant's Response to CCTA's Motion to Intervene]."

19. CCOA failed to meet its burden of proof to show how the grant or denial of the Application might substantially affect the pecuniary or tangible interests of CCOA or its members. As such, CCOA did not comport with the permissive intervention requirement set forth in Rule 1401(c), 4 CCR 723-1.

20. In addition, denying CCOA's Motion would promote administrative efficiency. Applicant's and CCOA's arguments concerning CCTA's Motion to Intervene are entirely cumulative. The Applicant (who is represented by competent legal counsel) already opined on the very issues about which CCOA seeks to opine.

21. Based on the foregoing, CCOA's Motion to Intervene will be denied.

II. ORDER

A. It Is Ordered That:

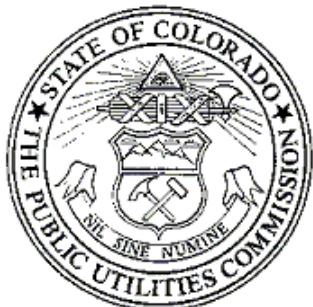
1. Colorado Cable Telecommunications Association's Response to Gunnison/Hinsdale Combined Emergency Telephone Service Authority's Motion to Dismiss Colorado Cable Telecommunications Association's Motion to Permissively Intervene and Request for Hearing, filed on December 13, 2022, is construed to include a request to file a reply and granted to allow the reply. Such reply will be considered.

2. Colorado Cable Telecommunications Association's Motion to Permissively Intervene and Request for Hearing, filed November 23, 2023, is granted.

3. The Unopposed Motion to Permissively Intervene and for Late Intervention Filed by Colorado Council of Authorities, Inc., filed December 15, 2022, is denied.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director