

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

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PART 2 RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS

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BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is generally to: regulate jurisdictional telecommunications providers, services, and products; administer and enforce the telecommunications provisions of Title 40 of the Colorado Revised Statutes; and regulate telecommunications proceedings 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); 39-32-104; 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; 40-15-101; 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.

All rules in this Part 2, the "2000" series, shall apply to all telecommunications service providers, and to all Commission proceedings and operations concerning providers, unless a specific statute or rule provides otherwise. Other 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) 723-41-2.1 "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) 723-2-2.1 "Access to emergency services" means access to services, such as 9-1-1 and enhanced 9-1-1, provided by local governments or other public safety organizations to the extent the local government or the public safety organization in a LEC's service area has implemented 9-1-1 or enhanced 9-1-1 systems.
- (c) 723-2-2.3 "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) 723-2-2.2 "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 carrier's network.

- (e) 723-New "Advice Letter" means a letter from a provider to the Director that accompanies each request by the provider to establish, modify, or change its Colorado Tariff.
- (f) 723-New "Affiliate" or "Affiliated company" means a company that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the accounting company.
- (g) 723-2-2.4 "Base rate area" means the geographic area within an exchange service area, as defined in the tariff 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.
- (h) 723-2-2.5 "Basic local exchange service" (basic service) means the telecommunications service that provides a local access line, and local usage necessary to place or receive a call within a local calling area and any other services or features that may be added by the Commission under § 40-15-502(2), C.R.S. Basic service is comprised of those capabilities, services, and features listed in paragraph 2308(a).
- (i) 723-2-2.6 "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 maximum load. The 60-minute periods are generally measured from hour-to-hour or from half-hour to half-hour.
- (j) 723-New "Busy line interrupt service" means operator interrupt service.
- (k) 723-New "Busy line verify service" means operator verification service.
- (l) 723-2-2.7 "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.
- (m) 723-2-2.8 "Calls" means customers' telecommunications messages.
- (n) 723-New "Carrier" means provider.
- (o) 723-2-2.9 "Central office" means the plant, facilities, and equipment, including, but not limited to, the switch, located inside a structure of a provider 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.

- (p) 723-25-2.2 "Certificate of Public Convenience and Necessity" (CPCN) means the Commission-granted authority to provide Part II regulated telecommunications services, subject to terms and conditions established by the Commission in its decision granting the authority.
- (q) 723-2-2.10 "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.
- (r) 723-2-2.11 "Class of service" means a classification of a telecommunication 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).
- (s) 723-39-2.1 "Collocation" means the following:
 - (I) Physical collocation occurs when one telecommunications provider owns interconnection facilities physically located within another telecommunications provider's 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.
- (t) 723-41-2.6 "Common carrier" means a telecommunications services provider 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.
- (u) 723-2-2.13 "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.
- (v) 723-25-2.3 "Competitive local exchange carrier" (CLEC) means a provider that has been granted a CPCN to provide Part II regulated telecommunications services in the State of Colorado on or after February 8, 1996, pursuant to § 40-15-503(2)(f), C.R.S.

- (w) 723-New "Control" or "controlling interest" means the possession directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement with, one or more other companies, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, affiliated companies, contract, or any other direct or indirect means.
- (x) 723-2-2.15 "Customer" means a person who has applied for, been accepted to receive, or is currently receiving a 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.
- (y) 723-2-2.14 "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.
- (z) 723-New "Day" means a calendar day.
- (aa) 723-2-2.16 "Decibel" means the unit of measurement for the logarithmic ratio to the base 10 of two power signals. The abbreviation dB is commonly used for the term decibel.
- (bb) 723-2-2.17 "Decibel above reference noise level using C-message weighting" (dBrnC) means the reference noise level of one Pico watt that is defined as 0 dBrnC. C-message weighting accounts for the frequency characteristics of a typical telephone set by weighting the noise signal at various frequencies to calculate the composite average noise signal value.
- (cc) 723-25-2.5 "Declaration of Intent to Serve" means a filing with the Commission in which a provider that holds a CPCN states its intent to provide local exchange telecommunications services within the service territory of a rural telecommunications provider.

- (dd) 723-53-2.4 "Dedicated transport facility" means a transmission path between locations used to transport traffic to which the end user is granted exclusive use, and which operates at DS1 or higher transmission speeds (high-bandwidth facility).
- (ee) 723-38-2.9 "Deregulated telecommunications services" (Part IV services or deregulated 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.
- (ff) 723-New "Designated default provider" means an alternate provider designated by the Commission to provide local exchange telecommunication services to customers that do not select another carrier in situations where the customers' existing provider no longer provides such services.
- (gg) 723-New "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.
- (hh) 723-2-2.18 "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.
- (ii) 723-2-2.19 "Dual tone multifrequency signaling" (Touchtone) means a method of signaling used on a local access line that uses a combination of one of a lower group of frequencies and one of a higher group of frequencies to represent each digit or character transmitted from the customer's station to the central office.
- (jj) 723-22-2.4 "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.
- (kk) 723-42-2.3 "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).
- (ll) 723-41-2.7 "Eligible Provider" (EP) means a basic local exchange provider who has been designated by the Commission as qualified to receive disbursements from the Colorado High Cost Support Mechanism.

- (mm) 723-25-2.6 "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.
- (nn) 723-39.2.7 "End user" means a person, other than another telecommunications provider, who purchases a telecommunications service from a telecommunications provider.
- (oo) 723-2-2.20 "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.
- (pp) 723-2-2.22 "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 telecommunication service to customers located in a geographic area defined by a provider's Tariff. An exchange may include more than one central office location or more than one wire center.
- (qq) 723-2-2.21 "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.
- (rr) 723-New "FCC" means the Federal Communications Commission.
- (ss) 723-2-2.23 "Flat rate service" means telecommunications service provided at a fixed, recurring charge without separate billing for the number, time of day, distance, or duration of calls placed or received during the month.
- (tt) 723-29-2.1.18 "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.
- (uu) 723-2-2.26 "Held service order":
 - (I) 723-2-2.26.1 For all LECs, except rural telecommunications providers, "held service order" means an application by a customer for basic local exchange service in the LEC's service territory that the LEC is unable to provide by the customer's requested service date. The application shall be notice to the LEC that the customer desires service. Oral or written requests shall both be considered applications.

- (II) 723-2-2-26.2 For rural telecommunications providers, "held service order" means an application by a customer for basic local exchange service in the rural telecommunications provider's service territory that the rural telecommunications provider 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 LEC that the customer desires service. Oral or written requests shall both be considered applications.
- (vv) 723-38-2.12 "Incumbent local exchange carrier" (ILEC) means either:
 - (I) 723-38-2.12.1 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) 723-38-2.12.2 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.
- (ww) 723-2-2.28 "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.
- (xx) 723-2-2.29 "Intercept service" means a service arrangement provided by the LEC that routes calls placed to a disconnected or discontinued telephone number to a recording or to an operator that:

- (I) Informs the calling party that the called telephone number has been disconnected, discontinued, or changed to another number; or
- (II) Informs the calling party that another telephone number is receiving calls.
- (yy) 723-18-2.7 "Interexchange carrier" (IXC) or "Interexchange provider" means a person who provides telecommunications services between exchange areas.
- (zz) 723-2-2.30 "Jurisdictional service" means any telecommunications 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.
- (aaa) 723-25-2.7 "Letter of Registration" (LOR) means Commission-granted authority to provide Part III emerging competitive telecommunications services, subject to terms and conditions established in the Commission decision granting the authority.
- (bbb) 723-2-2.31 "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.
- (ccc) 723-2-2.32 "Local access line" means a telecommunications channel or message path between a customer's service location and the serving central office switch that is used to provide local exchange service to a customer.
- (ddd) 723-18-2.9 "Local call" means any call originating and terminating within the same local calling area.
- (eee) 723-2-2.33 "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.
- (fff) 723-2-2.34 "Local exchange carrier" (LEC) means any person engaged in the business of providing telecommunications services to the public under the jurisdiction of the Commission when all or part of these services are defined by the Commission to fall within the provisions of § 40-15-201(2), C.R.S.
- (ggg) 723-25.2.8 "Local exchange telecommunications service" means basic local exchange service and other such services identified in § 40-15-201, C.R.S., or defined by the Commission pursuant to

§ 40-15-502(2), C.R.S., regulated advanced features, premium services, and switched access as defined in § 40-15-301(2)(a), (b), and (e), C.R.S.; or any of the above singly or in combination.

- (hhh) 723-2-2.35 "Local usage" means the usage necessary to place and receive calls within a local calling area in which the customer is located.
- (iii) 723-29-2.1.20 "Master Street Address Guide" (MSAG) means the file of street names and ranges used to define emergency service agencies particular to a telephone number.
- (jjj) 723-2-2.36 "Measured rate service" means a service that depends on the measurement of actual usage (*i.e.*, number, duration, time of day, or length of haul) to compute the charges that apply for outgoing completed calls.
- (kkk) 723-2-2.37 "Message rate service" means a service that charges for each outgoing completed call in excess of a specified allowance of calls during the billing period.
- (lll) 723-39-2.13 "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.
- (mmm) 723-29-2.1.21 "Non-listed service" means an optional service in which the customer's telephone number is not published in the telephone directory but is available through directory assistance.
- (nnn) 723-18-New "Non-optional operator services" means operator services requiring an operator for individualized call processing or specialized or alternative billing, including without limitation, credit card calls, calls billed to a third number, collect calls, and person-to-person calls.
- (ooo) 723-29-2.1.22 "Non-published service" means an optional service in which the customer's telephone number is neither published in the telephone directory nor available through directory assistance.
- (ppp) 723-39-2.14 "Operations support systems" (OSS) means the mechanisms and systems used to mutually exchange information between local exchange providers in order to efficiently transfer customers between the providers in a manner consistent with federal and Colorado statutes. These mechanisms and systems include, but are not limited to, the taking and receipt of

service and repair orders, and the exchange of billing data and customer account data. This information is exchanged in a variety of ways that includes, but is not limited to, electronic interfaces, technical interfaces, and access to databases.

- (qqq) 723-New "Operator interrupt service" means a service provided at the request of a customer to interrupt a conversation on another customer's line.
- (rrr) 723-New "Operator services" means services, other than directory assistance, provided either by live operators or by the use of recordings or computer-voice interaction, to enable customers to receive individualized and select telephone call processing or specialized or alternative billing functions. Operator services include non-optional operator services, optional operator services, and operator services necessary for the provision of basic local exchange service.
- (sss) 723-18-2.10 "Operator service provider" means any provider of a non-optional operator service or any other person determined by the Commission to be providing a non-optional operator service.
- (ttt) 723-New "Operator verification service" means a service provided at the request of a customer to determine if another customer's line is busy or not in service.
- (uuu) 723-New "Optional operator services" means operator services other than non-optional operator services and operator services necessary for the provision of basic local exchange service including, without limitation, operator services provided in connection with conference calling, foreign language translation, and voice messaging.
- (vvv) 723-2-2.38 "Out-of-service trouble report" means customer's report 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 transmission levels using the local access line.
- (www) 723-2-2.39 "Outside plant" means the telecommunications plant, equipment, and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between a central office and customers' locations or between central offices.
- (xxx) 723-New "Part II service" means a service subject to regulation pursuant to Title 40, Article 15, Part 2, C.R.S.

- (yyy) 723-43-3.14 "Plain old telephone service" (POTS) means single-line, basic telephone service provided to a customer's premises.
- (zzz) 723-New "Price List" means a provider's rate schedule, filed with the Commission by Transmittal Letter, listing rates for regulated telecommunications services and products. A Price List typically does not include information duplicating information in a Tariff; and does not include rate bands, ceilings, or floors.
- (aaaa) 723-New "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.
- (bbbb) 723-2.41 "Private line service" means any point-to-point or point-to-multipoint service dedicated to the exclusive use of an end user for the transmission of any telecommunications services.
- (cccc) 723-New "Promotional Letter" means a letter filed with the Commission that describes a promotional offering or a volume discount offering to a provider's customers.
- (dddd) 723-2-2.47 "Provider" means any person under the jurisdiction of the Commission engaged in the business of providing telecommunications services to the public. "Provider" includes telephone utilities and telephone corporations as described in § 40-1-103(1), C.R.S.
- (eeee) 723-25-2.10 "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 area.
- (ffff) 723-29-2.1.24 "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.
- (gggg) 723-New "Rate area" means the surrounding geographic area determined by wire center boundaries for which a particular rate center's vertical and horizontal coordinates apply when calculating long distance charges. A rate area may be comprised of a single wire center or multiple wire centers.
- (hhhh) 723-New "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.

- (iiii) 723-New "Regional Bell Operating Company" (RBOC) means an ILEC that was, or is a successor to, one of the seven bell operating companies created at the time of divestiture.
- (jjjj) 723-40-2.4 "Reseller of basic local exchange service" means a certified provider of telecommunications services who purchases, pursuant to a Commission-approved contract or an interconnection agreement, or an effective Tariff, local telecommunications services from a facilities-based telecommunications provider and then offers the services, either by themselves as a separate Tariff offerings or in combination with other services, to an end user.
- (kkkk) 723-2-2.43 "Rural telecommunications provider" or "rural provider" 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.
- (llll) 723-30-2.37 "Service" means any intrastate telecommunications product or service offered by providers.
- (mmmm) 723-NEW "Service affecting trouble report" means a report by the customer of:
- (I) Impairment of the quality of the call such as noise, crosswalk, 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.

- (nnnn) 723-25-2.14 "Service territory" means a geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to provide such services.
- (oooo) 723-2-2.44 "Station" means a device and any other necessary equipment at the customer's premises that allows the customer to establish and continue communication.
- (pppp) 723-2-2.45 "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.
- (qqqq) 723-New "Tariff" means the document filed and maintained with the Commission that contains the provider's rates, charges, classifications, terms, conditions, rules, regulations, and service offerings, and that functions in lieu of a contract between the customer and the provider.
- (rrrr) 723-44-2.13 "Telecommunications" means the transmission, using optical or electronic media, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received regardless of the technology used to transmit the information.
- (ssss) 723-28-1.2 "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.
- (tttt) 723-2-2.48 "Telecommunications service" means the electronic or optical transmission of information between separate points by prearranged means.
- (uuuu) 723-2-2.49 "Toll blocking" means a service that permits customers to disallow the completion of outgoing 1+ toll calls from a customer's local access line.
- (vvvv) 723-2-2.49 "Toll control" means a service that allows a customer to specify a certain volume or dollar value of toll usage per month or billing cycle that may be incurred on a customer's access line.
- (wwwv) 723-2-2.49 "Toll limitation service" means either:

- (I) The provision of both toll blocking and toll control by LECs that are capable of providing both services; or
 - (II) The provision of either toll blocking or toll control services by LECs incapable of providing both services.
- (xxxx) 723-25-2.16 "Toll reseller" means any person who provides toll services to customers by using the transmission facilities, including without limitation wire, cable, optical fiber, or satellite or terrestrial radio signals of another person. A toll reseller may possess its own switching facilities.
- (yyyy) 723-2-2.49 "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) Is traditionally billed to the customer separately from basic local exchange service.
- (zzzz) 723-2-2.50 "Transmission insertion loss" means the ratio, expressed in decibels, of the power delivered to the load or station, in the case of an access line or channel, before and after activation of the channel. For the purposes of this Part 2, insertion loss shall be considered equivalent to transducer loss which is the ratio of available power from a power source connected to one end of a channel or access line to the delivered power at the load, station or standard impedance, connected to the other end of the channel.
- (aaaaa) 723-New "Transmittal Letter" means a letter, from a provider to the Director that accompanies each request by the provider to modify its Price List for Colorado services.
- (bbbbb) 723-39-2.28 "Unbundling" means the disaggregation of facilities and functions into network products or services so that they can be separately offered to other telecommunications providers in a manner that allows requesting providers to combine such elements in order to provide telecommunications services.
- (ccccc) 723-41-2.18 "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.
- (ddddd) "USOA" means Uniform System of Accounts.

(eeeeee) 723-2-2.51 "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 with 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.

(ffffff) 723-2-2.52 "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.

(ggggg) 723-2-2.53 "Wire center serving area" means the geographic area of an exchange area served by a single wire center.

(hhhhh) 723-29-2.1.32 "Wireless carrier" means a cellular licensee, a personal communications services licensee, or certain specialized mobile radio providers designated as covered carriers by the FCC in 47 C.F.R. § 20.18.

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 Part II regulated telecommunications service, as provided in rule 2103;

(II) For the issuance of a LOR for Part III emerging competitive telecommunications services, as provided in rule 2103;

(III) To amend a CPCN or LOR, as provided in rule 2104;

(IV) To change exchange area boundaries, as provided in rule 2105;

(V) To discontinue the provisioning of telecommunications services, as provided in rule 2108;

(VI) To transfer a CPCN or assets or to merge a provider with another entity, as provided in rule 2109;

(VII) To amend a Tariff on less than statutory notice, as provided in subparagraph 2122(a)(VII)(D);

(VIII) For certification as a basic emergency service provider, as provided in rule 2134;

(IX) For designation as a POLR, as provided in rules 2183 and 2184;

- (X) For removal of the designation as a POLR, as provided in rule 2186;
 - (XI) For designation as an ETC, as provided in rule 2187;
 - (XII) For removal of designation as an EP or ETC, as provided in rule 2188;
 - (XIII) For an alternative form of regulation, as provided in rule 2205;
 - (XIV) To refrain from regulation, as provided in rule 2207;
 - (XV) For reclassification of a service offering, as provided in rule 2208;
 - (XVI) For deregulation of a service offering, as provided in rule 2209;
 - (XVII) For approval of a refund plan, as provided in rule 2305;
 - (XVIII) For the expansion of a local calling area, as provided in subparagraph 2309(a)(III) and paragraph 2309(b);
 - (XIX) For approval of a cost allocation manual, as provided in rules 2400 through 2459;
 - (XX) For designation as an Eligible Provider (EP), as provided in rule 2847;
 - (XXI) 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) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (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, facsimile 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, facsimile 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; and
 - (IX) An affidavit (which verifies the application) signed by an authorized agent, officer, partner, or owner, as appropriate, stating that the contents of the application are true, accurate, complete, and correct.
- (c) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure.

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 2106;
 - (IV) For expansion of a local calling area, as provided in paragraph 2309(c); or
 - (V) For arbitration of an interconnection agreement, as provided in rules 2562 through 2579.
- (b) In addition to the requirements of specific rules, all petitions shall include, in the following order and specifically

identified, the following information, either in the petition or in appropriately identified attached exhibits:

- (I) The name and address of the petitioner;
- (II) The name(s) under which the petitioner is providing telecommunications service in Colorado;
- (III) The name, address, telephone number, facsimile number, and e-mail address of the petitioner's representative to whom all inquiries concerning the petition should be made;
- (IV) A statement indicating the town or city, and any alternate town or city, where the petitioner prefers any hearings be held;
- (V) A statement that the petitioner agrees to respond to all questions propounded by the Commission or its Staff concerning the petition;
- (VI) A statement that the petitioner shall permit the Commission or any member of its Staff to inspect the petitioner's books and records as part of the investigation into the petition;
- (VII) A statement that the petitioner understands that if any portion of the petition is found to be false or to contain material misrepresentations, any relief granted may be revoked upon Commission order; and
- (VIII) An affidavit (which verifies the petition) signed by an authorized agent, officer, partner, or owner, as appropriate, stating that the contents of the petition are true, accurate, complete, and correct.

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, the provider shall:

- (a) 723- NEW Make a full and prompt investigation of all disputes. Providers shall comply with all other rules regarding timeliness of responding to informal complaints;
- (b) 723-NEW Keep a record of all such disputes and the record shall show the name and address of the customer, the date and character of the issue and the adjustment or disposition made thereof. This record shall be open at all times to the inspection of the duly authorized representative of the Commission and shall be retained by the utility for a period of 2 years;

- (c) 723-2-7.2 When a customer is dissatisfied with the provider's proposed disposition of the dispute, the provider shall inform the customer of the right to have the dispute addressed by another consumer representative or the provider's supervisory personnel. If a customer requests review by supervisory personnel, such supervisory personnel shall promptly notify the customer of the proposed disposition of the dispute after having made a good faith attempt to resolve it, and shall provide such notification in writing if requested; and
- (d) 723- NEW Inform the customer of the right to request an informal complaint with the External Affairs section of the Commission when a customer is dissatisfied with the provider's proposed disposition of the dispute, and shall provide the address and toll free number for the External Affairs section of the Commission.

2005. Records.

- (a) 723-2-3. Location of records. Unless otherwise authorized by the Commission, all required records shall be made available to the Commission or its authorized representatives at any time upon request.
- (b) 723-2-4 Retention of records. Providers shall preserve and retain all required records 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:
 - (I) 723-2-6.3 Service interruptions. Each LEC 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 LEC shall also keep a record of all customers eligible for credits related to such interruptions, pursuant to subparagraph 2304(b)(IV).
 - (II) Test equipment. Each provider shall keep records concerning testing of test equipment under paragraphs 2334(f) and (g).
 - (III) Customer-billing and dispute records. Each provider shall keep customer billing and dispute records for a minimum period of two years.

- (IV) Carrier change authorization records. Submitting carriers shall maintain and preserve records of verification of subscriber authorization of service for a minimum period of two years after obtaining such verification.
- (V) 723-2-8.6.1 Deposits. Each provider shall keep a record of each deposit received from a customer until two years after the deposit is returned to the customer. The record shall identify the following:
 - (A) The name of each customer making a deposit;
 - (B) The amount and date of the deposit;
 - (C) Each premises occupied by the customer while the deposit is retained by the provider; and
 - (D) Each accounting transaction related to the deposit, such as the date the deposit was refunded and the amount of interest paid on the deposit.
- (VI) 723-2-6.2 Held service orders.
 - (A) 723-2-6.2.1 During periods of time when the provider is not able to supply 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 Section 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) and grade of service (*e.g.*, first line or additional line) requested by the applicant;
 - (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.

- (B) During periods of time when the provider is not able to supply service to customers within the time frames established by the applicable definitions of held service order in Section 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 vouchers issued in compliance with subparagraphs 2310(f)(III) and (IV).
- (C) 723-2-6.2.2 When the number of held service orders exceeds 50 access lines at a wire center providing service to 2,000 or more access lines, or the number of held service orders exceeds 20 access lines at a wire center serving fewer than 2,000 access lines, the provider shall maintain records that allow a calculation of the average days for the installation of service for each affected wire center, including information on each held service order showing the application date, the cause(s) for the delay and number of days for installation beyond five days or the customer's requested installation date, if later.
- (VII) 723-2-16.1.3 Each provider 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.
- (VIII) 723-2-6.4 Maintenance and operations records. Each provider shall maintain records of the various tests and inspections, including but not limited to, non-routine corrective maintenance actions and monthly traffic analysis summaries for network administration. Corrective maintenance records shall show the line or facility, such as a specific trunk, that was tested or inspected. The records shall also include the reason for the test, the general conditions under which the test was made, the results of the test, and any corrections made as a result of the test and inspection.
- (IX) 723-2-6.5 Plant facilities. Each provider shall keep complete maps and records showing the location and description of its plant and facilities, including, but not limited to, the number of interexchange circuits, the nature and amount of plant and equipment used in providing telecommunications services, and the areas served by the provider.

- (X) Other records as required by this Part 2, but not specifically enumerated by this rule.
 - (XI) Other records as the Commission may require.
- (d) Accounting Records.
- (I) 723-1-25(c)(1) 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) 723-1-25(c)(2) 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) 723-1-25(c)(3) For all providers exempt 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 statutes.

2006. Reports.

Each provider shall submit reports to the Commission as follows:

- (a) 723-1-25(a) Annual reports of Colorado jurisdictional operations. Each provider shall file with the Commission, on or before April 30 of each year, an annual report for the preceding calendar year. The provider 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 provider. If the Commission grants the provider an extension of time to file the annual report, the provider shall nevertheless file with the Commission, on or before April 30, the provider's total gross operating revenue from intrastate telecommunications business transacted in Colorado for the preceding calendar year.
- (b) 723-1-25(a) Provider statistical reports, annual reports, or certified public accountant reports to stockholders. If a provider publishes an annual report or provides an annual statistical report to its stockholders, other security holders or members, or receives an annual certified public accountant's

report of its business, it shall file one copy with the Commission within 30 days after publication or receipt of each report.

- (c) 723-2-24.5 Report of held local exchange service orders exceeding 90 days (90-day held orders). Consistent with subparagraph 2310(f)(II), when a LEC does not supply local exchange service to any customer in an exchange area currently served by the LEC within 90-days, the LEC shall file a report with the Director of the Commission, stating the circumstances causing the delay, explaining if such circumstances are beyond the LEC'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 and grade of service applied for (e.g., primary line or additional line, residence or business, single-line or multi-line service); 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 LEC to the application for service. This report shall be filed with the Director by the 15th day of the following month and shall identify all customers where the period to provide local exchange service exceeds 90-days.
- (d) 723-2-6.2.3 Report of service orders exceeding thresholds. 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 provider 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)(VII)(A) and identifying the number of days service has been delayed for each held order. The provider 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.
- (e) 723-2-24.6 Costs incurred and revenue foregone for failure to meet service requirements. In compliance with subparagraphs 2310(f)(III) and (IV), a LEC shall report, on a monthly basis, all costs incurred and revenues foregone in providing bill credits, installation fee waivers, and vouchers. Such expenses, revenues foregone, bill credits, installation fee waivers, and vouchers shall be identified by class and type of service and duration. This report shall be filed with the Director by the last day of the following month.
- (f) 723-2-5.5 Accidents. Within 24 hours of an accident, a provider shall submit a report to the Director regarding the accident.
 - (I) 723-2-5.5.1 For purposes of this paragraph, a reportable accident is one that occurred in connection with the

operation of its property, facilities, or jurisdictional services and that:

- (A) Resulted in death or hospitalization for a serious condition; or
 - (B) Resulted in serious property damage with destruction or temporary loss of use of a facility or specific piece of equipment for more than 24 continuous hours in which the provider has an investment of at least \$1,000,000.
- (II) The report to the Commission shall describe in detail:
- (A) The date, time, place, and location of the accident;
 - (B) The extent of injuries and other damage;
 - (C) The names of all parties involved; and
 - (D) A description of the accident.
- (III) 723-2-5.5.1 In addition, upon the setting of any formal investigation of the accident, a provider shall immediately notify the Commission of the date, time, and place of the investigation.
- (IV) 723-2-5.5.2 All accident reports submitted to the Commission shall be submitted under seal pursuant to the Commission's Rules Regulating Practice and Procedure.
- (g) Reports related to E9-1-1 and 9-1-1 services, as required by paragraph 2143(h) and rule 2144.
 - (h) Reports related to affiliate transactions, as required by rules 2413 and 2414.
 - (i) Reports related to wholesale service quality, as required by rule 2626.
 - (j) Reports related to Low-Income Telephone Assistance, as required by rule 2804.
 - (k) Reports related to Telecommunications Relay Services for Disabled Telephone Users, as required by subparagraph 2827(b)(IV).
 - (l) Reports related to administration of the Colorado High Cost Support Mechanism, as required by rule 2846.
 - (m) Reports from the Commission's designated agent who administers the No-call list, as required by rule 2893.

(n) Other reports as required by this Part 2, but not specifically enumerated by this rule.

(o) Other reports as the Commission may require.

2007. - 2099. [Reserved].

OPERATING AUTHORITY

AUTHORITY TO OFFER LOCAL EXCHANGE OR EMERGING COMPETITIVE TELECOMMUNICATIONS SERVICES - DISCONTINUANCES - TRANSFERS - TOLL RESELLER 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 Part II regulated telecommunications services; applications for Letters of Registration (LOR) to provide Part III emerging competitive telecommunications services; applications to offer local exchange telecommunications service within the territory of a rural telecommunications provider; applications to discontinue any telecommunications services or authorities; applications to execute a merger or transfer; and registration as a toll reseller.

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

2100. 723-25-1 Applicability.

Rules 2100 through 2119 apply to all telecommunications providers applying for a CPCN to provide Part II regulated telecommunications services, a LOR to provide Part III emerging competitive telecommunications services, authority to offer local exchange telecommunications service within the territory of a rural telecommunications provider, authority to discontinue any telecommunications service or authorities, and authority to execute a transfer, or any combination of these. Rules 2100 through 2119 also apply to providers required to register as toll resellers.

2101. Definitions.

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

- (a) 723-New "Alternate provider" means any telecommunications carrier certified by the Commission that has an effective Tariff on file to provide local exchange telecommunications service.
- (b) 723-25-2.17 "Transfer" means any or all of the following:
 - (I) A transaction to convey, by sale, assignment, or lease: a CPCN; a certificate to provide local exchange telecommunications services in existence on July 30, 2001; a LOR; or any 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 telecommunications provider defined as a public utility.

2102. Application Procedures.

- (a) 723-25-3.1 and 723-25-3.5 The applicant shall submit a verified original and four copies of an application and any supporting documentation.
- (b) 723-25-4.2 Commission Notice. 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, a LOR, or a combined CPCN/LOR. Unless otherwise ordered by the Commission, the notice period will expire 30 days after the notice is posted on the Commission's website.
- (c) 723-25-3.5 No CPCN, LOR, authority to discontinue service, or authority to execute a transfer shall become effective until the Commission issues an order approving such application.
- (d) 723-25-3.4 Deficiencies. If the provider does not submit all required information in the application, Commission Staff shall notify the provider of the deficiencies within 15 days of the filing of the application. If the deficiencies are not cured within 30 days of the original filing date of the application, the Commission may reject it.

2103. Application for CPCN or LOR.

To request a CPCN to provide Part II regulated telecommunications services, a LOR to provide Part III emerging competitive services, or both, an applicant shall submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

- (a) 723-25-4.1 Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required by paragraph 2002(b);
 - (II) 723-25-4.1.3 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) 723-25-4.1.4 A copy of the applicant's applicable organizational documents, *e.g.*, Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
- (V) 723-25-4.1.5 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) 723-25-4.1.6 Name and address of applicant's Colorado agent for service of process;
- (VII) 723-25-4.1.7 A description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;
- (VIII) 723-New A copy of the applicant's most recent audited balance sheet, income statement, and statement of retained earnings;
- (IX) 723-New If the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph (VIII): detailed information on the sources of capital funds that will be used to provide telecommunications services, 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;
- (X) 723-New A copy of the applicant's business plan for providing telecommunications services for which authority is being requested;
- (XI) 723-New The names, business addresses, titles, and resumes of all officers, directors, partners, agents, and managers who will be responsible for the provisioning telecommunications services;
- (XII) 723-New A copy of 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 telecommunications services;
- (XIII) 723-25-4.1.8 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 officers, board members, managers, partners,

agents, 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) 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, case, or file number, and, upon the request of the Commission or its Staff, a copy of any written decision;
- (XV) 723-New The method of providing each of the telecommunications services, *i.e.*, resale, unbundled network elements, facilities-based, or a combination thereof.
- (XVI) 723-25-4.1.9 A list of the Part III emerging competitive telecommunications services to be provided in conjunction with its LOR; and
- (XVII) 723-25-4.1.10 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 telecommunications services for which it is applying;

- (B) Understands that:
 - (i) The filing of the application does not by itself constitute authority to operate;
 - (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; (b) has an effective Tariff on file with the Commission; and (c) the Commission approves its Declaration of Intent to Serve, if seeking to provide local exchange service in the service territory of a rural telecommunications provider;
 - (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) The Fixed Utility Fund;
 - (ii) The Colorado High Cost Support Mechanism;
 - (iii) The Colorado Disabled Telephone Users Fund;
 - (iv) The Low-Income Telephone Assistance Program;
 - (v) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and
 - (vi) 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
 - (E) Certifies that, pursuant to its Tariff, it will not unjustly discriminate among customers in the same class of service.
 - (F) Certifies that the applicant will not permit any other person or entity to operate under any Commission-granted authority without explicit Commission approval.
- (b) If an applicant is requesting only a LOR for Part III emerging competitive services, its application shall include the information required by subparagraphs a(I) - (VII) and (XIII) - (XVII).

2104. 723-New 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) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits, to the extent that information has changed since the original grant of authority:
 - (I) The information required for a CPCN by subparagraphs 2103(a)(I) - (XVII); or for a LOR by subparagraphs 2103(a)(I) - (VII) and (XIII) - (XVII);
 - (II) A list of services affected by the proposed amendment;
 - (III) 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 telecommunications services for which it is applying;
 - (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:
 - (a) the Commission approves the application;
 - (b) the applicant has an effective Tariff reflecting the amended authority on file with the Commission; and (c) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application;
 - (C) Agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:
 - (i) The Fixed Utility Fund;
 - (ii) The Colorado High Cost Support Mechanism;
 - (iii) The Colorado Disabled Telephone Users Fund;
 - (iv) The Low-Income Telephone Assistance Program;

- (v) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and
 - (vi) 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
- (D) Certifies that, pursuant to its Tariff, it will not unjustly discriminate among customers in the same class of service.
- (b) Combined applications. An applicant may file a combined application for amending the applicant's CPCN and LOR.

2105. 723-New Application to Change Exchange Area Boundaries.

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, the affected providers shall file a joint application containing the information applicable to each provider.

- (a) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required by paragraph 2002(b);
 - (II) The specific boundaries described by metes and bounds that the applicant proposes to change;
 - (III) A copy of the proposed Advice Letter and exchange area maps;
 - (IV) The proposed effective date of the change;
 - (V) The decision numbers designating the applicant as a POLR, EP, and/or ETC;
 - (VI) A statement of 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
 - (VII) Acknowledgment that by signing the application, the applicant understands and agrees that:
 - (A) The filing of the application does not, by itself, constitute authority to implement the change;

- (B) The applicant shall not implement the change unless and until a Commission decision granting the application is issued; and
- (C) If the application is granted, the grant is conditional upon:
 - (i) The existence of an applicable, effective Tariff;
 - (ii) Compliance with all conditions established by Commission order; and
 - (iii) Filing of the approved Advice Letter and Tariff sheets upon not less than one days notice.
- (b) Notice. If a grant of the application will result in changing a customer's service provider, 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 mail the notice by a separate first-class mailing, or by hand delivery.
 - (II) The notice shall:
 - (A) Be titled "Notice of Application for Change to an Exchange Area Boundary";
 - (B) State the name of the service provider;
 - (C) State that the provider has applied to the Commission for approval to change an exchange area boundary;
 - (D) Provide details of the proposed change, including a description of changes in service provider, rates, phone numbers, and local calling areas;
 - (E) State the proposed effective date of the change;
 - (F) State that any person may object to the application by sending a letter to or calling the Commission;
 - (G) State the Commission's address and local and toll free phone numbers;
 - (H) State that a person's mere objection does not permit such person to participate as a party in any proceedings before the Commission;
 - (I) State that if a person desires to participate as a party in any proceedings before the Commission, such

person shall file with the Commission a motion to permissively intervene, in accordance with the Commission's Rules Regulating Practice and Procedure; and

- (J) State that a motion to intervene must be filed at least ten days before the application's proposed effective date.

2106. Declaration of Intent to Serve within Territory of Rural Telecommunications Provider.

A provider that has been granted a CPCN to provide Part II regulated 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) 723-25-5.1 Contents. The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified attached exhibits:
 - (I) The information required by paragraph 2003(b);
 - (II) 723-25-5.1.3 Identification of the rural telecommunications provider(s) operating in the service territory proposed to be served;
 - (III) 723-25-5.1.4 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) 723-New A description of the local telecommunications services to be provided; and
 - (V) 723-New The method of providing each of the telecommunications services, i.e., resale, unbundled network elements, facilities-based, or a combination thereof.
- (b) 723-25-5.2 Commission notice. Within seven days of the receipt of the petition, the Commission shall provide notice by electronic posting on the Commission's website. In addition, the Commission shall send by first-class mail written notice to the affected rural telecommunications provider(s) within the proposed service territory.
- (c) 723-25-5.2 Rural telecommunications providers have 20 days from the date the Commission's notice is mailed in which to protest or intervene.

- (d) 723-25-5.3 Deficiencies. If the petition is incomplete, Commission Staff shall notify the petitioner of the deficiencies within 15 days of the filing of the petition. If the deficiencies are not cured within 30 days of the original filing date of the petition, the Commission may reject the petition.
- (e) 723-25-5.4 The Declaration shall become effective only upon order of the Commission.
- (f) 723-New Once the Declaration becomes effective, the petitioner shall file an Advice Letter and proposed Tariff, or modification of an existing Tariff, which shall identify the exchanges, local calling areas, and service offerings. This filing shall be on not less than 30-days notice. The provider shall not offer or provide services until the Tariff or Tariff change, as applicable, is effective.

2107. 723-25-6 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 fails to file an applicable Tariff and optional Price List within one year after the effective date of the Commission order granting the CPCN and/or LOR. For good cause shown, the provider may file a motion to extend the one-year filing deadline.

2108. 723-25-7 Discontinuance of Regulated Services.

To discontinue regulated telecommunications service, any service required for the provisioning of regulated telecommunications service, or any service in a selected service territory or portion(s) thereof, a provider 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) 723-25-7.1 Exemptions. 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 2108(f).
 - (II) The provider is discontinuing toll resale service and has notified the Commission under subparagraph 2110(b)(III).
 - (III) 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 2109.
 - (IV) The discontinuance is not basic local exchange service or long distance service; the rates, charges, terms, and conditions for existing customers will remain unaffected;

and the provider has amended all Tariffs and Price Lists affected in accordance with applicable rules.

- (b) 723-New Compliance with reporting and regulatory funding requirements.
 - (I) If the application is for a discontinuance of all telecommunications services in Colorado the provider shall:
 - (A) Cancel its Tariffs and Price Lists;
 - (B) Submit its 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; and
 - (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;
 - (II) If the application is for a discontinuance of all local 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) 723-25-7.2 Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required by paragraph 2002(b).
 - (II) 723-25-7.2.3 Identification of the telecommunications services to be discontinued and the associated service territory or portion thereof proposed for discontinuance.
 - (III) 723-New If the applicant is requesting discontinuance of all services offered pursuant to its CPCN and/or LOR, a statement that the applicant acknowledges that granting the application will result in the cancellation of its Tariff, Price List, CPCN, and LOR.
 - (IV) 723-New If the applicant is requesting discontinuance of all local services and the applicant has been assigned numbering resources, a statement that the applicant has notified NANPA and/or the Number Pooling Administrator of the pending return of numbers.

- (V) 723-25-7.2.4 The proposed effective date, which shall not be sooner than 45 days after the date on which the provider files the application with the Commission.
- (VI) 723-25-New A detailed transition plan for the transfer of customers to an alternate provider. If another provider has agreed to become the default provider, the application shall include an affidavit, signed by an authorized representative of the default provider, acknowledging that the representative has reviewed the transition plan, that the contents of the plan are true and correct, and that the default provider will abide by Commission rules and the conditions of the approved transition plan.
- (VII) 723-25-New A copy of the notice that will be provided to customers in accordance with paragraph 2108(e).
- (VIII) 723-25-New A request for a waiver of the Commission's slamming rule, 2311, for itself and any default provider designated by the Commission for the sole purpose of transfer to the default provider of customers who did not choose an alternate provider.
- (IX) 723-25-7.2.6 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 shall, on not less than one-day notice, make a compliance

filing citing the applicable Commission decision number that includes, as necessary:

- (i) An Advice Letter to cancel part or all of its Tariffs; and
 - (ii) A Transmittal Letter to cancel all or part of its Price List.
- (d) 723-25-7.3 Provider of last resort. 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, 2186.
- (e) 723-25-7.4 Customer Notice. The applicant shall provide customer notice of the application to discontinue service, as follows:
 - (I) 723-25-7.5 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.
 - (II) 723-25-7.6 and 7.7 Except as may otherwise be ordered by the Commission, the notice shall:
 - (A) Be titled "Notice of Application for Discontinuance of Telecommunications Service";
 - (B) State the name of the service provider;
 - (C) State that the provider has applied to the Commission for approval to discontinue the offering of telecommunications service to persons receiving the notice;
 - (D) Provide details of the proposed discontinuance, including a description of the services affected;
 - (E) State the proposed effective date of the discontinuance;
 - (F) State that any person may object to the application by sending a letter to or calling the Commission;
 - (G) State the Commission's address and local and toll free phone numbers;
 - (H) State that a person's mere objection does not permit such person to participate as a party in any proceedings before the Commission;

- (I) State that if a person desires to participate as a party in any proceedings before the Commission, such person shall file with the Commission a motion to permissively intervene, in accordance with the Commission's Rules Regulating Practice and Procedure; and
 - (J) State that a motion to intervene must be filed at least ten days before the application's proposed effective date.
- (III) In addition to the requirements of subparagraph 2108(e)(II), for applications to discontinue only basic local exchange service, customer notice shall:
- (A) State the specific time period during which customers must select an alternate provider;
 - (B) State that basic local telephone service will continue to be available to persons receiving the notice regardless of the outcome of Commission proceedings, and that if the Commission grants the application, another telecommunications provider will be available to offer service;
 - (C) Notify the customer that there will be no charge to change to another provider as a result of the discontinuance of service;
 - (D) Notify customers that they will be allowed to retain their current telephone numbers;
 - (E) Notify customers of their option to select another local exchange provider and that a list of alternate local providers is attached and is available from the Commission;
 - (F) Notify customers that if customers do not select an alternate local provider within the specified time period, the customers will be transferred automatically to the default provider as designated by the Commission;
 - (G) Notify customers that customers will receive toll service from the customer's same preferred long distance provider unless the customer contacts the default provider to authorize a change in toll providers; and
 - (H) State that a default or alternate provider may refuse service to a transferred customer if that customer owes an outstanding balance for jurisdictional

services and has not entered into an agreement with the default provider to pay the outstanding charges.

- (IV) In addition to the requirements of subparagraph 2108(e)(II), for applications to discontinue only toll service, customer notice shall notify customers that if they do not select an alternative long distance provider, the customer will not have a designated long distance provider.
- (V) In addition to the requirements of subparagraph 2108(e)(II), for applications to discontinue both basic local exchange and toll service, customer notice shall comply with the requirements of both subparagraphs 2108(e)(III) and (IV).
- (VI) 723-25-7.8 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 of each notice given shall accompany the affidavit.
- (f) 723-25-7.9 Discontinuance when no customers are affected. If no customers are affected by the proposed discontinuance, the provider is not required to file an application. However, at least 30 days prior to the proposed date of discontinuance, the provider 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) 723-25-7.10 Amendment of Tariff or Price List. If the proposed discontinuance requires an amendment of the provider's Tariff or Price List, 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 or Transmittal Letter.

2109. Application to Transfer.

To request authority to execute a transfer, the transferor and the transferee shall file a joint application with the Commission not less than 45 days prior to the effective date of the proposed transfer. 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) 723-25-8.1 Contents. The application shall include, in the following order and specifically identified, the following

information, either in the application or in appropriately identified attached exhibits:

- (I) The information required by paragraph 2002(b), for each joint applicant;
- (II) 723-25-8.1.3 Name under which the transferee is, or will be, providing service in Colorado if the transfer is approved;
- (III) 723-25-8.1.4 The specific assets, including any operating authority or rights obtained under such operating authority that the applicants propose to transfer;
- (IV) 723-25-8.1.5 The proposed effective date of the transfer;
- (V) 723-25-New A copy of the transfer agreement;
- (VI) 723-25-8.1.6 A statement of the facts (not in the form of conclusory statements) relied upon to show that the proposed transfer 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
- (VII) 723-25-8.1.8 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;
 - (B) The applicants shall not undertake the proposed transfer unless and until a Commission decision granting the application is issued;
 - (C) The granting of the application does not constitute execution of the transfer, but only represents the Commission's approval of the request for authority to transfer;
 - (D) If a transfer is granted, such transfer is conditional upon:
 - (i) The existence of applicable, effective Tariffs or Price Lists 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) 723-25-New If the application to transfer 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 docket and decision numbers.

(b) 723-25-8.2 Provider of last resort. If the Commission has designated either the transferor or the transferee as a POLR, the application shall also include the information required by Commission rules relating to relinquishment of POLR designation, 2186.

2110. Toll Reseller Registration and Obligations.

Toll resellers shall be regulated in the following manner:

(a) 723-25-9.1 Registration. All toll resellers shall register using the form provided by the Commission on its website.

(b) 723-25-9.2 Obligations. A toll reseller shall:

(I) 723-25-9.2.1 Submit an annual report and other reports required by Commission rules;

(II) 723-25-9.2.2 Agree to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the:

(A) Fixed Utility Fund;

(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.

(III) 723-25-9.2.3 File an updated registration form within 15 days of any change in the information previously provided to the Commission, including any discontinuance of service.

(c) 723-25-9.3 Remedies for misconduct by toll resellers. For the purposes of enforcing § 40-15-112, 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 to disconnect a toll reseller's service, or any other remedy deemed appropriate by the Commission.

2111. - 2119. [Reserved].

ADVICE LETTERS, TARIFFS, TRANSMITTAL LETTERS, PRICE LISTS, PROMOTIONAL AND DISCOUNT
OFFERINGS, AND PROMOTIONAL LETTERS

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to describe the process by which a provider produces and files Tariffs, Price Lists, Advice Letters, Promotional Letters, and Transmittal Letters enabling the Commission to ensure that jurisdictional rates, charges, terms, and conditions 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, C.R.S.

2120. Applicability.

Rules 2120 through 2129 are applicable to all providers, except toll resellers, regulated under Parts II or III or Article 15, Title 40, C.R.S.

2121. Definitions [Reserved].

2122. Tariffs and Advice Letters.

(a) Tariffs.

- (I) 723-2-5.2 Tariffs. All providers, unless specifically exempted by the Commission, shall have current Tariffs for all jurisdictional services on file with the Commission.
- (II) 723-1-40.1.1 Filing. With the exception of toll resellers, each telecommunications provider operating in the State of Colorado shall file an Advice Letter requesting that the Commission approve its Tariff and approve any subsequent modifications to its Tariff.
- (III) Public inspection. The provider shall have its current Tariff available for public inspection at its principal place of business during normal business hours. Alternatively, the provider may also have its Tariff available on the provider's website or may make a copy available.
- (IV) 723-New Format. Providers shall file Tariffs using the form available from the Commission or from its website. Filings that do not conform to the Commission's format may not be processed. If the Commission does not process the filing, the party will be notified within 3 days after the filing, that the filing will not be processed and that a new filing must be submitted.

- (V) 723-1-40.1.1; 723-1-Form T Contents. In addition to the provider's rates, charges, terms, and conditions, all of the following shall be included in the Tariff:

(A) A title page including:

- (i) The provider's name, address, website address, and telephone number, including a toll free customer service telephone number;
- (ii) The name and title of the provider's employee responsible for regulatory contacts with the Commission; and
- (iii) A statement of the services to which the Tariff applies.

(B) A table of contents.

(C) A list explaining the provider's Tariff paragraph numbering sequence, in the format available from the Commission or its website.

(D) A list explaining Tariff change symbols, in the format available from the Commission or from its website. At a minimum, the following symbols shall be used:

Symbol	Signifying
C	Change in text due to a changed regulation, term, or condition.
D	Discontinued service or deleted material.
I	Rate increase.
R	Rate reduction.
M	Material moved from or to another part of the provider's Tariff; a footnote indicating where the material was moved from and where the material was moved to shall accompany all "M" classified changes.
N	New product, rate, or material.
T	Change in text, but no change in a rate, charge, term, or condition of the Tariff.

- (E) A list of all abbreviations and definitions used in the Tariff.
- (F) A list of all exchanges included in the provider's service territory.
- (G) A description of the provider's local calling areas.
- (H) 723-2-5.3 Exchange maps. Each LEC shall have on file with the Commission, as part of its Tariff, a currently applicable exchange area boundary map for each of its exchanges within the state in which the LEC 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. In lieu of filing a separate set of exchange area boundary maps, the Tariff of a CLEC may incorporate by reference the exchange area boundary maps of a LEC or LECs that describe the CLEC's service territory, provided the CLEC's service territory mirrors the service territory of the other LEC or LECs.
- (I) The provider's rates and charges for Colorado jurisdictional services or alternatively, the provider's maximum rates or range of rates if the provider is also filing a Price List.
- (J) The provider's rule, regulations, terms, and conditions for providing service including, but not limited to, the following:
 - (i) Line extension requirements consistent with paragraph 2310(a), if applicable;
 - (ii) Customer deposit requirements and policies consistent with rule 2302, if applicable;
 - (iii) Return check charges consistent with § 13-21-109, C.R.S., if applicable;
 - (iv) Disconnection of service policies consistent with rule 2303;
 - (v) Billing and payment requirements consistent with rule 2304;

- (vi) Liability limitations, if applicable;
- (vii) Late payment charge policies, if applicable;
- (viii) The general terms and conditions of promotional and discount offerings, if the provider intends to provide promotional offerings;
- (ix) A description of subscribers' options regarding freezing their authorized local, intraLATA toll, and interLATA toll carriers consistent with subparagraph 2311(d), except that providers who are registered solely as toll resellers shall not be subject to this requirement;
- (x) 723-12-4.2.7 The rates, charges, terms, and conditions for providing customer proprietary network information (CPNI) and the specific types of customer-specific and aggregate CPNI that it offers, consistent with the requirements of rule 2605;
- (xi) 723-7-5.8 The rates, charges, terms, and conditions associated with the offering of services that use or disclose personal information, consistent with rule 2363;
- (xii) 723-39-7.1.1 The rates, charges, terms, and conditions for interconnection, consistent with rules 2500 through 2529;
- (xiii) A description of the Colorado High Cost Support Mechanism (CHCSM) surcharge, consistent with paragraphs 2847(f) and (g);
- (xiv) A description of the Low-Income Telephone Assistance Plan (LITAP) surcharge, consistent with rule 2803, if applicable;
- (xv) A description of the Telecommunications Relay Services (TRS) surcharge, consistent with rule 2827; and
- (xvi) A description of all other state-mandated surcharges, as applicable.

The following information shall be included on each Tariff page:

- (xvii) Provider's name;

- (xviii) The Tariff number ("Colorado PUC No. ____");
 - (xix) An identification of the document as a Tariff, by labeling it as a "Tariff";
 - (xx) The Tariff title, which identifies the types of services included in the Tariff;
 - (xxi) The Tariff page numbers (e.g., "Original Sheet No. 34"); or, if the page cancels another page, a listing of the cancelled page number shall be included (e.g., "First Revised Sheet No. 34", "Cancels Original Sheet No. 34");
 - (xxii) Relevant section or heading captions;
 - (xxiii) An identification of the corresponding Advice Letter number implementing the Tariff or the Tariff change and an identification of the corresponding Commission decision number, if applicable; and
 - (xxiv) The Tariff's effective date.
- (VI) 723-New Initial Tariff. Each provider shall file an initial Tariff accompanied by an initial Advice Letter, in compliance with this rule and any relevant Commission order, on not less than 30-days notice to the Commission. If the provider chooses to also file a Price List, the Tariff shall state the provider's maximum or range of rates whereas the Price List shall identify the actual prices that will be charged to its customers.
- (VII) Changing existing Tariffs.
- (A) 723-1-41.4 Introducing a new regulated service. Any provider proposing to introduce any new regulated service 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 to give additional notice of the proposed new service. A new regulated service does not include new package offerings of existing services; adding new term periods and rates to existing services; or adding different configuration and rates to an existing service.
 - (B) Changing Tariffs on 14-days notice. A provider that has been granted an alternative form of regulation for Part III emerging competitive services or that has been granted a form of price regulation other than rate-of-return regulation, or a CLEC that is

providing service pursuant to a default form of regulation may propose a change in its Tariff by filing an Advice Letter and Tariff pages on not less than 14-days notice.

(C) 723-1-41.3 ILEC notice requirements for Tariff changes.

(i) Changing Tariffs on not less than 30-days notice. Any ILEC 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) 723-21-3 Changing Tariffs to decrease rates. Any ILEC 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) 723-21-4.2 Changing Tariff terms or conditions on not less than 14-days notice. Any ILEC 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 shall extend the effective date of such Advice Letter to accommodate the additional notice.

(D) 723-1-41.5 Changing Tariffs upon less than 30-days or 14-days notice. A provider 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 shall comply with paragraph 1206(f) 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 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.

(VIII) 723-1-41.3. Effective date calculation. In calculating the proposed effective date of a Tariff, the date filed with the Commission shall not be counted. Additionally, the 14th or 30th day, as applicable, must expire prior to the proposed effective date of the Tariff.

(IX) 723-1-40.1.6 Optional Price List. A provider that has been granted a form of price regulation other than rate-of-return regulation, an alternative form of regulation for Part III emerging competitive services, or a CLEC that provides services pursuant to the default form of regulation may file a Price List in addition to its Tariffs.

(b) Advice Letters.

(I) 723-1-40.1.2 Filing with Tariff. A provider shall file an Advice Letter with each Tariff or proposed Tariff change.

(II) 723-1-40.1.2; 723-1-Form U The Advice Letter shall include:

- (A) The provider's name and address;
- (B) The sequentially numbered identification of the Advice Letter;
- (C) An identification of the corresponding Tariff number;
- (D) If applicable, an identification of the corresponding Commission docket number, decision number, and mailed date of the Commission order;
- (E) The purpose and brief description of the proposed Tariff changes;
- (F) An identification of Tariff page numbers included in the filing;
- (G) The Tariff's proposed effective date;
- (H) The name, telephone number, facsimile number, and e-mail address of the person to contact regarding the filing; and

- (I) The signature of the authorized agent of the telecommunications provider.
- (III) 723-1-40.1.2; 723-1-Form U If the provider proposes to revise or cancel existing Tariff pages, the Advice Letter shall also include:
 - (A) A listing of the revised page numbers;
 - (B) A listing of the cancelled page numbers;
 - (C) A listing of the titles of the revised pages;
 - (D) The purpose and brief description of each proposed change;
 - (E) An explanation of what class or classes of service will be affected by the proposed changes;
 - (F) An explanation of how revenues will be affected by the proposed changes; and
 - (G) An explanation of how customers will be notified of the proposed changes.
- (IV) 723-1-40.1.5 The provider may, or upon request of the Commission or its Staff the provider shall, within three days of the request, supplement its Advice Letter with the information that supports a conclusion that the Tariffs filed with the Advice Letter are just, reasonable, and not unduly discriminatory, in accordance with § 40-3-101, C.R.S. For example, such information may include an explanation of the facts, financial data, cost and revenue estimates, and engineering and economic analyses relied upon by the provider to establish a proposed rate.
- (V) 723-New If there is a change in any information on the title page of the Tariff, the provider shall file an Advice Letter with the new information and the new title page. The Advice Letter and title page may be filed on not less than one-day notice if the only revision to the Tariff is to provide the new information on the title page.
- (VI) 723-1-40.1.2 Form U. The Advice Letter shall be filed in the prescribed form as available from the Commission or its website. Filings that do not conform to the Commission's form may result in the filing party being notified that the filing will not be processed and that a new filing must be submitted.
- (VII) 723-1-40.1.4 Number of copies.

- (A) Unless otherwise ordered by the Commission, the provider shall file with the Commission:
 - (i) An original and three copies of each Tariff page;
 - (ii) An original and ten copies of each Advice Letter; and
 - (iii) An original and three copies of any supporting documentation, if applicable.
 - (B) If a filing is made pursuant to a specific Commission decision, the provider shall file an original and three copies of each Tariff page and each Advice Letter.
 - (C) If a provider desires a file-stamped copy of any Tariff, Advice Letter, or supporting documentation, such provider shall file one additional copy of the filing, and shall include a self-addressed envelope with adequate postage affixed thereto.
- (VIII) 723-1-43 Rejection. The Commission may reject any proposed Tariff that is not in the prescribed format or does not include the information required by statutes, rules, regulations, orders, or decisions of the Commission. Any Tariff rejected by the Commission shall be void and shall not be used. However, the Commission may, in lieu of rejection, suspend the effective date of the Tariff and set the matter for hearing.
- (IX) 723-1-41.6 Suspension and hearing. When a provider files a Tariff, the Commission may suspend the effective date of the Tariff and, upon reasonable notice, hold a hearing concerning the propriety of the Tariff, if the Commission believes that a hearing is required and that the Tariff may be improper. Pending hearing and decision, the Tariff shall not go into effect. The period of suspension shall not extend more than 120 days beyond the proposed effective date of the Tariff, unless the Commission, by separate decision, extends the period of suspension for an additional 90 days.

2123. Price Lists and Transmittal Letters.

- (a) 723-1-40.2.1 Applicability. This rule shall apply to:
 - (I) Providers that have been granted a form of price regulation other than rate-of-return regulation;
 - (II) Providers that have been granted an alternative form of regulation for emerging competitive services; or

(III) CLECs that provide service pursuant to the default form of regulation established in rule 2203.

(b) Price Lists.

(I) 723-1-40.2.2 Filing. A provider may file, in addition to its Tariff, a Price List for Part II regulated telecommunications service and Part III emerging competitive telecommunications services. A Price List includes only the current rates for services.

(II) 723-New Public inspection. The provider shall have its current Price List available for public inspection at its principal place of business during normal business hours. The provider may also have its Price List available on the provider's website.

(III) 723-1-Form T Contents. In addition to the provider's rates and charges, all of the following shall be included in the Price List:

(A) A title page including:

- (i) The provider's name, address, website address, and telephone number, including a toll free customer service telephone number;
- (ii) The name and title of the provider's employee responsible for regulatory contacts with the Commission; and
- (iii) A statement of the services to which the Price List applies.

(B) A table of contents.

(C) A list explaining Price List change symbols, in the format available from the Commission or from its website. At a minimum, the following symbols shall be used:

Symbol	Signifying
D	Discontinued service or deleted material.
I	Rate increase.
R	Rate reduction.

Symbol	Signifying
M	Material moved from or to another part of the provider's Price List; a footnote indicating where the material was moved from and where the material was moved to shall accompany all "M" classified changes.
N	New product, rate, or material.
T	Change in text, but no change in a rate or charge in the Price List.

- (D) The provider's actual rates and charges for Colorado jurisdictional services.
- (E) Return check charges consistent with § 13-21-109, C.R.S., if applicable.
- (F) The following information shall be included on each Price List page:
- (i) Provider's name;
 - (ii) An identification of the document as a Price List, by labeling it as a "Price List" and identifying the Price List number ("Colorado PUC Price List No. xx");
 - (iii) The Price List page numbers (e.g., "Original Sheet No. 34"); or, if the page cancels another page, a listing of the cancelled page number shall be included (e.g., "First Revised Sheet No. 34", "Cancels Original Sheet No. 34");
 - (iv) Relevant section or heading captions;
 - (v) An identification of the corresponding the Transmittal Letter number implementing the Price List change and an identification of the corresponding Commission decision number, if applicable; and
 - (vi) The Price List's effective date.
- (IV) 723-1-40.2.2 Format. Providers shall file Price Lists using the form available from the Commission or from its website. Filings that do not conform to the Commission's format may not be processed. If the Commission does not

process the filing, the filing party will be notified within three days after the filing that the filing was not processed and that a new filing must be submitted.

- (V) 723-1-40.2.2 Effective date calculation. In calculating the effective date of a Price List, the date filed with the Commission shall not be counted. Additionally, the 30th or 14th day must expire prior to the effective date of the Price List.
- (VI) 723-1-40.2.2 Initial Price List. The initial Price List shall be filed upon 30-days notice to the Commission attached to an Advice Letter.
- (VII) 723-1-40.2.2; 723-1-41.3 Changing existing Price Lists. Changes to a Price List shall be proposed by filing a Transmittal Letter, on not less than 14-days notice. However, any ILEC proposing to change any rate in a Price List that will result in an increase in rates or charges shall give notice in accordance with § 40-3-104, C.R.S.

(c) Transmittal Letters.

- (I) 723-1-40.2.3 Filing with Price List. A Transmittal Letter shall accompany each Price List filed with the Commission.
- (II) 723-1-Form U The Transmittal Letter shall be filed using the form available from the Commission or its website, and shall include:
 - (A) The provider's name and address;
 - (B) The sequentially numbered identification of the Transmittal Letter;
 - (C) An identification of the corresponding Price List number;
 - (D) The purpose and brief description of the proposed Price List;
 - (E) An identification of Price List page numbers included in the filing;
 - (F) The Price List's proposed effective date;
 - (G) The name, telephone number, facsimile number, and e-mail address, of the person to contact regarding the filing; and
 - (H) The signature of the authorized agent of the provider.

- (III) 723-1-Form U If the provider proposes to revise or to cancel existing Price List pages, the Transmittal Letter shall also include:
- (A) A listing of the revised sheet numbers;
 - (B) A listing of the cancelled sheet numbers;
 - (C) A listing of the titles of the revised sheets;
 - (D) The purpose and brief description of each proposed change;
 - (E) A statement of how customers will be notified of the changes; and
 - (F) The proposed effective date.
- (IV) 723-New If there is a change in any information on the title page of the Price List, the provider shall file a Transmittal Letter with the new information and the new title page. The Transmittal Letter and title page may be filed on not less than one-day notice if the only revision to the Price List is to provide the new information on the title page.
- (V) 723-1-40.2.4 Number of copies.
- (A) Unless otherwise ordered by the Commission, the provider shall file with the Commission:
 - (i) An original and three copies of each Price List page;
 - (ii) An original and ten copies of each Transmittal Letter; and
 - (iii) An original and three copies of any supporting documentation, if applicable.
 - (B) If the provider desires a file-stamped copy of a Price List or Transmittal Letter, such provider shall file one additional copy of the filing, and shall include a self-addressed envelope with adequate postage affixed thereto.
- (VI) 723-1-43 Rejection. The Commission may reject any proposed Price List that is not in the prescribed format or does not include the information required by statutes, rules, regulations, orders, or decisions of the Commission. Any Price List rejected by the Commission shall be void and shall not be used. However, the Commission may, in lieu of

rejection, suspend the effective date of the Price List and set the matter for hearing.

- (VII) 723-1-41.6 Suspension and hearing. When a telecommunications provider files a Price List, the Commission may, upon reasonable notice, suspend the effective date of the Price List and hold a hearing concerning the propriety of the Price List, if the Commission believes that a hearing is required and that the Price List may be improper. Pending hearing and decision, the Price List shall not go into effect. The period of suspension shall not extend more than 120 days beyond the proposed effective date of the Price List, unless the Commission, by separate decision, extends the period of suspension for an additional 90 days.

2124. Promotional and/or Discount Offerings, and Promotional Letters.

- (a) 723-1-40.2.3.1 A provider shall give the Commission at least 14-days notice of promotional and/or discount offerings by filing an original and ten copies of its sequentially numbered Promotional Letter. Each promotional offering shall be filed on a separate sequentially numbered Promotional Letter.
- (b) 723-New A Promotional Letter shall include:
- (I) The provider's name and address;
 - (II) The sequentially numbered identification of the Promotional Letter;
 - (III) A complete description, including rates, charges, terms, conditions, and applicability of the promotional or discounted offering;
 - (IV) A specific start date and an end date for the promotional or discounted offering, the duration of which shall be no longer than 90 days;
 - (V) A reference citation to the section in the provider's Tariff permitting promotional and discount offerings;
 - (VI) The name, telephone number, facsimile number, and e-mail address of the person to contact regarding the filing; and
 - (VII) The signature of the authorized agent of the telecommunications provider.
- (c) 723-New Format. Providers shall file Promotional Letters using the form available from the Commission or from its website.
- (d) 723-New The promotional or discounted offering shall not have an effective period greater than 90 days. A CLEC may file an

amended Promotional Letter, on not less than 14-days notice, prior to the end date of the existing offering that extends an offering for up to an additional 90 days.

- (e) 723-New The provider may file, on not less than 14-days notice, an amended Promotional Letter to cancel any existing promotional or discounted offering.

2125. - 2129. [Reserved].

EMERGENCY 9-1-1 SERVICES FOR EMERGENCY TELECOMMUNICATIONS SERVICE PROVIDERS AND BASIC LOCAL EXCHANGE CARRIERS

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) recognize Enhanced 9-1-1 (E9-1-1) as a service regulated by § 40-15-201; (2) prescribe multi-line telephone system (MLTS) operator requirements regarding disclosure to end users of the proper method for accessing 9-1-1 service, and regarding the capability of the MLTS to transmit end users' telephone numbers and location information; (3) prescribe the interconnection environment and relationships between basic emergency service providers (BESPs) and wireless carriers, BESPs and LECs, and BESPs and other telecommunications providers; (4) permit use of 9-1-1 databases for outbound wide area notifications in times of emergency; (5) prescribe reporting times of 9-1-1 outages and interruptions; and (6) explicitly recognize the potential for multiple BESPs in Colorado.

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

2130. 723-29-1 Applicability.

- (a) Rules 2130 through 2159 apply to all basic local exchange carriers and BESPs.
- (b) To the extent these rules specifically refer to wireless carriers as a condition of interconnection with any BESP, such rules apply to wireless carriers who agree to comply with them.
- (c) Some of the provisions in these rules apply to MLTS operators whose systems do not have automatic number and automatic location identification capability, or whose systems require the dialing of an additional digit(s) to access the public switched network.

2131. Definitions.

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

- (a) 723-29-2.1.1 "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) 723-29-2.1.13 "9-1-1 facilities" means the facilities (e.g., trunks or transmission paths) that connect from the central office serving the individual telephone that originates a 9-1-1 call to the 9-1-1 tandem and subsequently connect the tandem to a Public Safety Answering Point (PSAP). These may include, but are not limited to, point-to-point private line facilities and E9-1-1 facilities owned, leased or otherwise acquired by a BESP. Common or shared facilities also may be used. These facilities may

include private network facilities and governmental facilities (if available) obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions.

- (c) 723-29-2.1.2 "9-1-1 failure" or "9-1-1 outage" means a situation in which 9-1-1 calls cannot be transported from the end users to the PSAP responsible for answering the 9-1-1 emergency calls. 9-1-1 failures also include the inability to deliver location information to the PSAP from the 9-1-1 Automatic Location Identification (ALI) database or a loss of the 9-1-1 ALI functionality.
- (d) 723-New "9-1-1 tandem" or "9-1-1 tandem switch" means the telecommunications switch dedicated to aggregation of 9-1-1 call traffic from public networks and proper routing of 9-1-1 call traffic to PSAPs.
- (e) 723-29-2.1.4 "ALI database provider" means any person or entity that, on a for-profit or not-for-profit basis, provides ALI to basic emergency service providers and the governing body for a specific geographic area.
- (f) 723-29-2.1.3 "Automatic Location Identification" (ALI) means the automatic display, on equipment at the PSAP, of the telephone number and other information concerning the location of the caller. The ALI database includes non-listed and non-published numbers and addresses, and other information about the caller's location.
- (g) 723-29-2.1.5 "Automatic Number Identification" (ANI) means the process used on customer-dialed calls to automatically identify the calling station, and the automatic display of the caller's telephone number on telephone answering equipment used by operators at the PSAP.
- (h) 723-29-2.1.6 "Basic emergency service" means the Part II telecommunications service (§ 40-15-201(2)(b), C.R.S.) permitting the use of the basic local exchange network and the 9-1-1 abbreviated dialing code for reporting police, fire, medical, or other emergency situations to a PSAP and referral to a public agency.
- (i) 723-29-2.1.7 "Basic Emergency Service Provider" (BESP) means any person certificated by the Commission to aggregate and transport 9-1-1 calls from the basic LEC, wireless carrier, or other telecommunications provider to a PSAP.
- (j) 723.29.2.1.11 "E9-1-1 facilities" means the facilities provided by a BESP that interconnects to basic local exchange carriers, wireless carriers, and other telecommunications providers that are used to transport 9-1-1 calls to the PSAP. The facilities may include the use of 9-1-1 tandem switches or direct trunks connecting 9-1-1 calls to the PSAPs and E9-1-1 facilities owned,

leased, or otherwise acquired by a BESP. These facilities may include private network facilities and governmental facilities (if available) obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions.

- (k) 723-29-2.1.10 "E9-1-1 features" means the ANI, ALI database and selective routing capabilities and all other components of an E9-1-1 system, not including the transport and switching facilities.
- (l) 723-29-2.1.12 "E9-1-1 tandem" means the switch that receives E9-1-1 calls from the originating local exchange central offices, wireless switch, or any other telecommunications provider's switch, employs the ANI information associated with such calls, determines the correct destination of the call, and forwards the call and the ANI information to that destination.
- (m) 723-29-2.1.14 "Emergency notification service" (ENS) means a service in which, upon activation by a public safety agency:
 - (I) The 9-1-1 database or database derived from the 9-1-1 database is searched to identify all stations located within a geographic area;
 - (II) A call is placed to all such stations or all of a certain class of stations within the geographic area (e.g., to exclude calls to facsimile machines, Internet/data access lines, etc.); and
 - (III) A recorded message is played upon answer to alert the public to a hazardous condition or emergency event in the area (e.g., flood, fire, hazardous material incident, etc.).
- (n) 723-29-NEW "Emergency telephone charge" means a charge to pay for the equipment costs, the installation costs, and the directly-related costs of the continued operation of an emergency telephone service according to the rates and schedules filed with the Colorado Public Utilities Commission.
- (o) 723-29-2.1.15 "Emergency telephone service" (ETS) means a telephone system using the abbreviated dialing code 9-1-1 to report police, fire, medical, or other emergency situations.
- (p) 723-29-2.1.16 "Enhanced 9-1-1" (E9-1-1) means a basic emergency telephone service that includes the association of information such as ANI and ALI (including non-listed and non-published numbers and addresses), and (optionally) selective routing, to facilitate public safety response.
- (q) 723-29-2.1.17 "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.

- (r) 723-29-2.2.3 "Governing body" means a representative organization responsible for the oversight of 9-1-1 response activities in a specific geographic area. A governing body may be comprised of a board of county commissioners, a board of directors of a special district, a city council or other governing body of a city and/or county, or a separate legal entity established under § 29-1-201 *et seq.*, C.R.S.
- (s) 723-29-2.1.21 "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.
- (t) 723-29-2.1.19 "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.
- (u) 723-29-2.1.22 "National Emergency Number Association" (NENA) means the international not-for-profit organization whose purpose is to lead, assist, and provide for the development, availability, implementation and enhancement of a universal emergency telephone number or system common to all jurisdictions through research, planning, publications, training and education.
- (v) 723-New "Other telecommunications providers" means any provider of exchange service, regardless of the types of technology used.
- (w) 723-29-2.1.27 "Public Safety Answering Point" (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP on a 24-hour basis. PSAPs are responsible to direct the disposition of 9-1-1 calls.
- (x) 723-29-2.1.29 "Routing" means the central office programming required to transport a 9-1-1 call to the correct 9-1-1 tandem.
- (y) 723-29-2.1.30 "Selective routing" means the capability of routing a 9-1-1 call to a designated PSAP based upon the seven-digit or ten-digit telephone number of the subscriber dialing 9-1-1.

- (z) 723-29-2.1.31 "Telecommunications device for the deaf" (TDD) or "text phone" means an instrument defined by the Communications Act of 1934 as a device that employs graphic communication in the transmission of coded signals through a wire or radio communication system.
- (aa) 723-29-2.1.32 "Telecommunications device for the deaf emergency access" or "text phone access" mean the provision of 9-1-1 access to individuals that use TDDs and computer modems.

2132. 723-29-17 Incorporation by Reference.

References in rules 2130 through 2159 to the Recommended Formats & Protocols For Data Exchange (NENA-02-010), NENA Recommended Data Standards for Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdictions (NENA-02-011), NENA Network Quality Assurance (NENA-03-001), NENA Recommendation for the implementation of Enhanced MF Signaling, E9-1-1 tandem to PSAP ((NENA-03-002) and NENA Recommended Standards for Local Service Provider Interconnection Information Sharing (NENA-06-001) are standards issued by the National Emergency Number Association and have been incorporated by reference herein. These standards are found at NENA-02-010, revised as of May 1999, NENA-02-011, original as of March 2000, NENA-03-001, original as of June 12, 1995, NENA-03-002, recommended June 21, 1998, and NENA-06-001, original as of March 1997. References to these NENA standards do not include later amendments to or editions of these standards. A certified copy of these standards is maintained at the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards may be obtained or examined. These incorporated standards may be examined at any state publications depository library.

2133. Service Components and Requirements.

- (a) 723-29-2.2.1 Basic emergency service is the telecommunications service that aggregates and transports 9-1-1 calls to a PSAP. The aggregation of calls is the process of collecting 9-1-1 calls from one or more local exchange, wireless carrier, or other telecommunications provider switches that serve a geographic area for the purpose of determining and transporting 9-1-1 calls to the PSAP designated to receive such calls. Basic emergency service may be provided using connections between the PSAP and a local exchange central office switch, using connections to a 9-1-1 tandem, using connections between a wireless carrier switch and the 9-1-1 tandem, or by using other technology. Basic emergency service includes, but is not limited to, the provision of a 9-1-1 tandem switch, connections to each local exchange carrier, wireless carrier, or other telecommunications provider switch (excluding the trunk units on the switches to the 9-1-1 tandem switch), transport between the 9-1-1 tandem switch and the PSAP, and connections to the PSAP (excluding trunk units at the PSAP). E9-1-1 also includes the provision of transport facilities from the ALI database to the

PSAP. In many instances an ALI database also may be interconnected with the other components of the service.

- (b) 723-29-2.2.2 ALI database service is integral to the provision of E9-1-1 services. On a timely basis, all basic local exchange carriers shall provide the ALI database provider with access to all telephone numbers, including non-published and non-listed numbers, that are maintained by the services of the basic local exchange carrier, wireless carrier, reseller of a basic local exchange, or other telecommunications provider. E9-1-1 service is distinguished from 9-1-1 service in the ability of the BESP to provide greater routing flexibility for 9-1-1 calls based on information that is placed in a computer database. The ALI database also provides the means for the PSAP to display the address as well as the telephone number for incoming 9-1-1 calls and additional customer-provided information about the 9-1-1 caller's location.
- (c) 723-29-2.2.3 The PSAP(s) is responsible for receiving the 9-1-1 calls from a BESP and, if applicable, ALI database information. The PSAP(s) forwards the 9-1-1 call, and where applicable, the ALI database information to the proper public agency such as the fire department, emergency medical services, sheriff, or police.

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

- (a) 723-29-3.1 The Commission finds and declares that the public convenience and necessity require the availability, and, when requested, the provision of basic emergency service within each local exchange area in 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) 723-29-3.2 The Commission may certify additional or different BESPs to offer basic emergency service if such certification is in the public interest. Each application for certification shall be considered on a case-by-case basis.
- (c) 723-29-3.3 An application for authority to provide basic emergency service shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required by paragraph 2103(a);
 - (II) 723-29-3.3.1 The geographic area the BESP intends to serve;
 - (III) 723-29-3.3.2 The name, address, and telephone number of each provider offering local exchange services in the geographic area that is the subject of the application;

- (IV) 723-29-3.3.3 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
- (V) 723-29-3.4 A detailed statement describing the means by which it will provide basic emergency service. This statement shall include, but is not be limited to:
 - (A) 723-29-3.4.1 The technical specifications for the system that will be used to provide the basic emergency services, including information on emergency restoration of the system;
 - (B) 723-29-3.4.2 All inter-company agreements used to implement and operate the service;
 - (C) 723-29-3.4.3 All agreements with ALI database providers;
 - (D) 723-29-3.4.4 All inter-governmental agreements regarding governing bodies or PSAPs;
 - (E) 723-29-3.4.5 All interconnection agreements between the BESP and: basic local exchange carriers, wireless carriers, other BESPs, and other telecommunications providers; and
 - (F) 723-29-3.4.6 Proposed Tariffs.
- (d) 723-29-3.5 A current, audited financial statement showing that the applicant's assets, liabilities, and net worth are sufficient to provide emergency services.
- (e) 723-29-3.7 An acknowledgment that the applicant will provide basic emergency service in accordance with these rules and all applicable quality of service rules.

2135. 723-29-4 Uniform System of Accounts, Cost Segregation and Collection.

All BESP's 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) 723-29-5.1 A BESP certificated by the Commission, shall obtain facilities from or interconnect with all basic local exchange carriers, rule-compliant wireless carriers, and other telecommunications providers who have customers in areas

designated by governing bodies for the aggregation and transmission of 9-1-1 calls or E9-1-1 calls in the area served by the BESP. BESP's shall interconnect with all other BESP's with facilities in the serving area. A BESP shall create, or amend as necessary, provisions in its interconnection agreements with all basic local exchange carriers, wireless carriers, other BESP's, and other telecommunications providers to require compliance with rule 2130 through 2159.

- (b) 723-29-5.2 At the request of a basic local exchange carrier, wireless carrier, other BESP, or other telecommunications provider within the area specified by a governing body, a BESP shall provide and/or arrange for the necessary facilities to interconnect, switch and transport 9-1-1 calls from the basic local exchange carriers, wireless carriers, other BESP's, or other telecommunications providers to the PSAP that is responsible for answering the 9-1-1 calls. 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) 723-29-5.2.1 Dedicated facilities for connecting each basic local exchange, wireless carrier, or other telecommunications provider switch to a BESP shall be based on the requirements established by the BESP to serve the customers within that local exchange; or
 - (II) 723-29-5.2.2 If shared or common facility groups are used to transport calls from the basic local exchange carrier, wireless, or other telecommunications provider switch 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) 723-29-5.3 A BESP shall develop and file with the Commission Tariffs that establish cost-based rates for basic emergency services. These rates shall be averaged over the entire geographic area it serves. The costs shall include an aggregation of all costs to the BESP of E9-1-1 related facilities provided to it by all basic local exchange carriers, wireless carriers, resellers, or other telecommunications providers in the geographic area as well as the costs of the E9-1-1 related facilities provided by the BESP itself.
- (d) 723-29-5.4 A BESP shall render a single monthly bill for its tariffed services provided to the appropriate governing body. The monthly bill shall identify the total number of lines billed to the governing body and shall also separately identify the wireless communications access and wireline access quantities used to compute the monthly bill.

- (e) 723-29-NEW On a quarterly basis, 30 days after the end of each quarter, each LEC shall report to the BESP the local exchange access line quantities and each wireless provider shall report to the BESP the wireless communications quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to the each governing body for the tariffed services provided by the BESP. On a quarterly basis, 60-days after the end of each quarter, the BESP shall re-compute the monthly billing to the governing body and shall furnish to the governing body the detailed quantities, by LEC and wireless provider, that will be used in the computation of the subsequent monthly billing by the BESP to the governing body. A BESP shall not be required to interconnect with a LEC or wireless provider for the provision of E9-1-1 related facilities that will not identify to the BESP on a quarterly basis, 30 days after the end of each quarter, the quantities of exchange access lines for the LEC and the wireless communications quantities by geographical area in the manner specified by the BESP.
- (f) 723-29-5.5 BESP's shall ensure, to the extent possible and in the most efficient manner, that telecommunication services are available for transmitting 9-1-1 calls from hearing and speech impaired persons to the appropriate PSAP.
- (g) 723-29-5.6 A BESP shall ensure that all E9-1-1 facilities, including interconnections between it and the basic local exchange carriers, wireless carriers, and other telecommunications providers are engineered, installed, maintained and monitored in order to provide a minimum of two circuits and a minimum grade of service that has 1 percent (P.01) or less blocking during the busy hour.
- (h) 723-29-5.7 To expedite the restoration of service following 9-1-1 failures or outages, each BESP shall designate a telephone number for PSAPs, wireless carriers, LECs, or other telecommunications providers 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) 723-29-5.7 A BESP shall keep on file with the Commission its contingency plan and include in its contingency plan designated phone numbers of the LECs, CLECs, resellers, wireless carriers, other telecommunications providers, PSAPs, and governing bodies to expedite the restoration of service as described in rule 2143. These telephones shall be staffed seven days a week, 24 hours a day, by personnel capable of processing calls to initiate immediate corrective action. It shall be the responsibility of the individual LECs, resellers, wireless carriers, other telecommunications providers, PSAPs, and governing bodies to convey this information, and any updates or changes, to the Commission and to the BESP for inclusion in the contingency plan.

- (j) 723-29-5.9 BESP and ALI database providers may request access to line counts and wireless customer counts by geographic area from the LECs, resellers, wireless carriers, and other telecommunications providers who are, pursuant to the request of a governing body, providing 9-1-1 service. Such information allows a BESP and/or ALI database provider to properly bill its appropriate 9-1-1 services to the governing bodies; however, line counts shall be treated as confidential and not improperly disclosed by the BESP or ALI database provider to any person or entity other than the PSAPs for exclusive use in billing purposes. The BESP or ALI Database Provider shall gain agreement from the PSAPs that, as a condition of receiving this information, the PSAPs shall not disclose confidential access line and wireless customer counts, nor use this information for any purpose other than to verify BESP or ALI database provider billing to the PSAP or to verify the accuracy of the emergency telephone charge billing by the carriers to their end users.

2137. Obligations of ALI Database Providers.

- (a) 723-29-6.1 The ALI database provider shall provide sufficient facilities to interconnect its database to the PSAPs to meet the requirements of the PSAPs or the governing body.
- (b) 723-29-6.2 If the ALI database provider is not the BESP, it shall provide to BESP, for the geographic areas served, all information required by the BESP to ensure that calls are routed from the end users to the correct PSAP.
- (c) 723-29-6.3 No BESP, LEC, wireless carrier, or other telecommunications provider shall interconnect with an ALI database provider unless the ALI database provider provides sufficient facilities to interconnect its database to the PSAPs so that it can meet the requirements of the governing body or PSAP and comply with paragraphs 2137(a) and (b) and the relevant provisions of rule 2141 of these rules.
- (d) 723-29-6.4 If the ALI database provider is also a BESP, basic local exchange carrier, wireless carrier, or other telecommunications provider, the ALI database provider shall interconnect in the manner prescribed for BESP in paragraph 2136(b).

2138. Obligations of Basic Local Exchange Carriers.

- (a) 723-29-7.1 All basic local exchange carriers in a geographic area for which a governing body has requested the provision of 9-1-1 service shall deliver 9-1-1 calls, at an agreed point of interconnection within that geographic area, to a certificated BESP at rates in an approved Tariff applicable to BESP. If the BESP and the basic local exchange carrier or reseller agree, direct trunks, tandem switched trunks, common or joint circuits

may be used to transport calls from the basic local exchange carrier or reseller to the PSAP.

- (b) 723-29-7.2 All basic local exchange carriers shall furnish name, address and telephone number information for all customers of the basic local exchange carrier, including non-published or non-listed customers, to the ALI database providers for the provision of 9-1-1 services and emergency notification services. All basic local exchange carriers shall furnish such information within 24 hours and in accordance with rule 2144 only after each recipient has stated formally in writing that the recipient has complied with rule 2142 of these rules. All costs for providing this customer information and updates to this information shall be considered as part of basic local exchange service and shall be recovered through the non-recurring basic local exchange rates, unless provided for in a separate Tariff approved by the Commission.
- (c) 723-29-NEW All local exchange carriers and resellers of local exchange services shall collect and remit the emergency telephone charge as required by § 29-11-100.5, *et seq.*, C.R.S., to the appropriate governing body.
- (d) 723-29-7.3 The basic local exchange carrier shall ensure that all E9-1-1 facilities and interconnections between it and a BESP 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.
- (e) 723-29-7.4 To expedite the restoration of service following 9-1-1 failures or outages, each basic local exchange carrier shall designate a telephone number that PSAPs or BESP can use to report trouble. Such telephone number shall be staffed seven days a week, 24 hours a day by personnel capable of processing the call to initiate immediate corrective action.
- (f) 723-29-7.5 On a quarterly basis and no later than 30 days after the end of each quarter, each LEC shall report, to the BESP, the local exchange access line quantities by geographical area, in the manner specified by the BESP, so that the BESP may compute the monthly billing to each governing body for the tariffed services provided by the BESP.
- (g) 723-29-7.6. All basic local exchange carriers shall give formal written notice of intent to provide dial tone within an exchange to the governing body responsible for the PSAP within that exchange prior to activating service. This notice is for purposes of the governing body arranging the appropriate connections to a BESP, exchange of seven days per week, 24 hours per day telephone contact information, and arrangements for the collection and remittance of the 9-1-1 emergency telephone charge.

- (h) 723-29-9 Interconnections with payphone providers.
 - (I) A basic local exchange carrier shall not interconnect with a payphone provider unless that provider:
 - (A) 723-29-9.1 Allows customers to place a 9-1-1 call without requiring a coin deposit or other charges; and
 - (B) 723-29-9.2 Furnishes the ALI database provider(s), the LEC that provides the dial tone connection, the PSAP, the governing body, and the BESP, the Commission-required name and location information.
 - (II) 723-29-9.3 The prohibition in this paragraph (g) shall not apply to payphones provided to inmates in penal institutions where access to 9-1-1 is not required.

2139. Obligations of Resellers Of Basic Local Exchange Service.

- (a) 723-29-8.1 All resellers of basic local exchange service shall ensure that the underlying basic local exchange carrier has sufficient facilities to transport the 9-1-1 calls from the reseller's customers to a BESP.
- (b) 723-29-8.2 If the reseller is using a switch, for example a PBX, to aggregate or switch calls before the calls are in the facilities of a basic local exchange carrier, the reseller shall ensure that its switch is capable of delivering ANI for each telephone extension connected to the switch.
- (c) 723-29-NEW On a quarterly basis, and no later than 30 days after the end of each quarter, each reseller shall report to the BESP the local exchange access line quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to the each governing body for the tariffed services provided by the BESP.

2140. 723-29-NEW Obligations of Wireless Providers.

All Wireless providers interconnecting to the facilities of the BESP for the provision of Enhanced 9-1-1 services shall on a quarterly basis, 30 days after the end of each quarter, provide a report to the BESP the wireless communications quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to the each governing body for the tariffed services provided by the BESP.

2141. Obligations of Multi-line Telephone Systems (MLTS).

- (a) 723-29-10.3 For purposes of this rule:
 - (I) 723-29-10.3.1 "End user" means the person making telephone calls, including 9-1-1 calls, from the MLTS that

provides telephone service to the person's place of employment, school, or to the person's permanent or temporary residence.

- (II) 723-29-10.3.3 "Residence" or "residence facility" shall be interpreted broadly to mean single family and multi-family facilities including apartments, townhouses, condominiums, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures.
 - (III) 723-29-10.3.4 "Written information" means information provided by electronic mail, facsimile, letter, memorandum, postcard, or other forms of printed communication.
- (b) 723-29-10.1 When the method of dialing a local call from an MLTS telephone requires the end user to dial an additional number to access the public switched network, MLTS operators shall provide written information to each of their end users describing the proper method of accessing emergency telephone service (ETS), or 9-1-1, in an emergency.
- (I) 723-29-10.1.1 Such written information shall be provided to each end user by placing stickers or cards including the appropriate method to access ETS on each MLTS telephone. Additionally, such written information shall be provided to each individual end user annually and at the time of hiring in the case of an employer, at the time of registration in the case of a school, and at the time of occupancy in the case of a residence facility.
 - (II) 723-29-10.1.2 At a minimum, such written information that is attached to the telephone and provided annually, shall include the following words: "To dial 9-1-1 in an emergency, you must dial #-9-1-1." [# = Insert proper dialing sequence].
- (c) 723-29-10.2 When calls to access ETS from an MLTS do not give one distinctive ANI and one distinctive ALI, or both, for each end user, the MLTS operator shall instruct, in writing, that the end user must stay on the telephone and tell the ETS operator the telephone number and exact location.
- (I) 723-29-10.2.1 Such written information shall be provided to each individual end user annually and at the time of hiring in the case of an employer, at the time of registration in the case of a school, and at the time of occupancy in the case of a residence facility. Whenever possible, such information also shall be placed on cards or stickers on or next to the MLTS telephone.
 - (II) 723-29-10.2.2 At a minimum, such written information shall include the following words: "When calling 9-1-1

from this telephone in an emergency, you must stay on the telephone and tell the 9-1-1 operator your phone number and exact location. This telephone does not automatically give the 9-1-1 operator your phone number and exact location. This information is critical for a quick response by police, fire, or ambulance."

(III) 723-29-10.2.3 If an MLTS operator provides telephones that are not assigned to a particular end user, but that may be used by members of the public, the MLTS operator shall place a sticker or card on or next to the pertinent telephone either identifying the method for dialing 9-1-1 from that telephone or stating there is no 9-1-1 access from that telephone.

(d) 723-29-10.4 Exemption from rules. The disclosure requirements of this rule shall not apply to MLTS provided to inmates in penal institutions, jails, or correctional facilities, to residents of mental health facilities, or to residents of privately contracted community correctional facilities, including substance abuse and mental health treatment facilities, or other such facilities where access to ETS is not required.

2142. Nondisclosure of Name/Number/Address Information.

(a) 723-29-2.2.2 ALI database providers, governing bodies and PSAPs shall sign non-disclosure agreements consistent with this rule. If an ALI database provider, governing body or PSAP does not execute a non-disclosure agreement, LECs, wireless carriers, other telecommunications providers, and BESP's shall not be required to provide telephone numbers, including non-published and non-listed telephone numbers.

(b) 723-29-11.1 Pursuant to rules 1103, 1104, and 2360 through 2399, no basic local exchange carrier shall disclose personal information of any person to any BESP, ALI database provider, governing body, or PSAP unless each potential recipient of personal information has stated formally in writing to the basic local exchange carrier or reseller of basic local exchange service that it has agreed to non-disclosure of personal information consistent with this rule.

(c) 723-29-11.2 ALI database information shall not be used for purposes other than for responding to requests for 9-1-1 emergency assistance, initiating delivery of emergency warnings using an emergency notification service, or periodic testing of these services. For example, the ALI database includes listed as well as non-listed and non-published telephone numbers. Use of the ALI database to obtain non-listed or non-published numbers for purposes other than responding to requests for 9-1-1 emergency assistance or emergency notification service is prohibited. However, a query, or reverse search of the ALI database, initiated at the PSAP to electronically obtain the ALI

data associated with a known telephone for purposes of handling an 9-1-1 emergency call is permitted.

- (d) 723-29-11.3 If personal information is improperly disclosed by the BESP, the provider responsible for disclosing it shall pay the applicable Tariff rates of the basic local exchange carrier, wireless carrier, reseller, or other telecommunications provider for changing a customer's telephone number, unless the customer declines such number change.

2143. Diverse Routing and Priority Service Restoration.

- (a) 723-29-12.1 Facilities for 9-1-1 service shall be diversely routed, using different circuit routes wherever feasible. When the governing body requests diverse routing, the BESP shall develop cost-based Tariff rates for diverse routing of 9-1-1 circuits. Basic local exchange carriers shall ensure that current 9-1-1 circuit routing profiles are maintained and that circuits are individually tagged where possible to prevent inadvertent disruption. Upon request by the governing body for priority service restoration, basic local exchange carriers and BESP shall develop and implement cost-based Tariff rates for priority service restoration of 9-1-1 services.
- (b) 723-29-12.2 BESP, wireless carriers, basic local exchange carriers, and other telecommunications providers shall work cooperatively with the PSAPs to ensure an effective way of tracking the report of a 9-1-1 failure or outage (e.g., issuance of a trouble ticket number in order to track such a failure or outage).
- (c) 723-29-12.3 A BESP shall notify a person, agency, or responsible party designated by the governing body regarding a present or potential 9-1-1 failure or outage. A BESP shall notify the designee of the governing body immediately of the nature, extent, and actions being taken to correct the present or potential 9-1-1 failure or outage to the extent known by the BESP. In the event the PSAP detects a failure in the 9-1-1 system, the PSAP shall immediately notify the BESP in that geographic area of the failure.
- (d) 723-29-12.4 9-1-1 Contingency Plans.
 - (I) Basic local exchange carriers, wireless carriers, other telecommunications providers, and BESP, in cooperation with the governing bodies, shall develop 9-1-1 contingency plans. The plan shall detail the actions to be taken in the event of a 9-1-1 failure or outage. A BESP shall maintain a copy of each of these plans. BESP are required to provide a copy of the plan to the Commission by April 30 each year. The basic local exchange carriers and BESP shall notify the PSAPs of any changes in the network which may require a change to the previously agreed upon 9-1-1

contingency plan. Nothing in this rule shall preclude the BESP or the basic local exchange carrier from developing and seeking rate recovery for permanent equipment or alternate route solutions to mitigate 9-1-1 failures or outages.

(II) A 9-1-1 contingency plan shall:

- (A) 723-29-5.7 Include the designated telephone number of the LEC, CLEC, reseller, wireless carrier, other telecommunications provider, PSAP, or governing body, as required in rule 2136(h);
- (B) 723-29-12.4.1 Arrange to temporarily re-route 9-1-1 calls to another PSAP;
- (C) 723-29-12.4.2 Arrange, with the cooperation of the basic local exchange carrier, wireless carrier, or other telecommunications provider to route 9-1-1 calls to a local telephone number; or
- (D) 723-29-12.4.3 Provide another mutually agreed upon temporary solution so that 9-1-1 calls can be answered until 9-1-1 service is restored.

(e) 723-29-12.5 If a 9-1-1 failure or outage exceeds or is anticipated to exceed 15 minutes from the time a BESP becomes aware of the outage and after notification to the PSAP, the BESP shall implement the contingency plan of rule 2143(d) and shall perform the following actions, if applicable:

- (I) 723-29-12.5.1 Arrange to temporarily re-route 9-1-1 calls to another PSAP;
- (II) 723-29-12.5.2 Arrange, with the cooperation of the basic local exchange carrier, to route 9-1-1 calls to a local telephone number;
- (III) 723-29-12.5.3 Use facilities obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions, such as private network facilities and governmental facilities; or
- (IV) 723-29-12.5.4 Provide other mutually agreed upon temporary solutions so that 9-1-1 calls can be answered until 9-1-1 service is restored.

(f) 723-29-12.6 In the event that the anticipated failure in the provision of 9-1-1 service is in the facilities of the basic local exchange carrier, wireless carrier, or other telecommunications provider, such provider shall notify the BESP that is responsible for delivering 9-1-1 calls to the PSAP for its customers. In the event that the anticipated failure in the

provision of 9-1-1 Service is in the facilities of the BESP, it shall be responsible for notification of all basic local exchange carriers, wireless carriers, other telecommunications providers, and PSAPs that will be affected by the failure.

- (g) 723-29-12.7 A BESP and the basic local exchange carrier shall have qualified service technicians on site, when necessary, within two hours or their best effort, after being notified by the PSAP of a failure of the 9-1-1 system.
- (h) 723-29-12.8 If a 9-1-1 failure or outage exceeds 30 minutes, the responsible BESP or the responsible basic local exchange carrier shall verbally inform the Commission, in compliance with the policies adopted by the Commission to implement this paragraph, within two hours outlining the nature and extent of the outage, and shall file a written report with the Commission following Commission reporting format and guidelines within 30 days of such outage. As an alternative to the 30-day written report, the Director, or the Director's designee, may request, on a case-by-case basis, a separate written report within five days from the time of the request, outlining the nature, cause, extent, and corrective action taken.

2144. Reports.

- (a) 723-29-13.1 Each BESP and basic local exchange carrier shall furnish to the Commission at such time and in such form as the Commission may require, a report in which the provider shall specifically answer all questions propounded regarding the implementation, usage, availability, 9-1-1 failures or outages, cost of providing, and such other information relevant to the provision of this service. These reports shall be provided at regular intervals, to be determined by the Commission, and on a form approved by the Commission.
- (b) 723-29-13.2 Periodic or special reports concerning any matter about which the Commission is concerned relative to the provision of 9-1-1 services, such as the failure or outages of 9-1-1 services, shall be provided in a manner determined by the Commission, and on a form approved by the Commission.
- (c) 723-29-13.3 Each basic local exchange service carrier and BESP shall report to the Commission its progress in the implementation of basic emergency service in each local exchange area of the state. Such report shall be filed with its Annual Report.

2145. 723-29-14 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 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 Commission Staff shall provide periodic reports to the Commission on the implementation of 9-1-1 services statewide.

(b) The Advisory Task Force shall:

- (I) Make future recommendations and report to the Commission concerning, but not limited to the development of database formatting standards, processes to facilitate the transfer of ALI data, and the implementation of 9-1-1 services in Colorado;
- (II) 723-29-14.1 Consider 9-1-1 service quality and the cost of 9-1-1 service to the PSAPs, both urban and rural, and to end-use customers of 9-1-1 service in developing its report and recommendations;
- (III) 723-29-14.2 Investigate and report to the Commission the impact of wireless carriers on PSAPs;
- (IV) 723-29-14.3 Investigate and report to the Commission the development of new 9-1-1 technologies;
- (V) 723-29-14.4 Study and report to the Commission on the overall costing, funding and billing issues of providing 9-1-1 service, including the 9-1-1 surcharge, Tariffs, and PSAP equipment costs; and
- (VI) 723-29-14.5 Monitor and report to the Commission on FCC proceedings that may affect 9-1-1 services in Colorado.

2146. 723-29-15 National Emergency Number Association (NENA) Data Standards.

The NENA standards incorporated by reference shall be used for the purpose of defining standard formats for ALI data exchange between basic local exchange carriers, ALI database providers, governing bodies, and BESPs.

2147. - 2159. [Reserved].

OPERATOR SERVICES

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify and describe operator services that are subject to Commission regulation; to distinguish operator services subject to the Commission's jurisdiction from those not subject to the Commission's jurisdiction; to prescribe the regulatory treatment of jurisdictional services; and to identify alternative forms of regulatory treatment for such services and providers when appropriate.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101; 40-15-201; 40-15-301(1) and (2)(g); 40-15-302(1)(a) and (5); and 40-2-108, C.R.S.

2160. 723-18-1 Applicability.

Rules 2160 through 2179 apply to all providers of telecommunications service that are regulated under Title 40, Article 15, Parts 2 and 3, C.R.S. Any provider of local exchange services that also provides non-optional operator services by contracting with a regulated interexchange carrier, that concurs in the Tariff rates, charges, terms, and conditions of that carrier, and that notifies the Commission of that concurrence, shall be exempt from these rules.

2161. Definitions.

In addition to the statutory definitions, the following definitions apply only in the context of rules 2160 through 2179:

- (a) 723-18-2.1 "Access code" means a sequence of numbers that, when dialed, connects the caller to the provider of operator services associated with that sequence.
- (b) 723-18-2.2 "Aggregator" means any person that, in the ordinary course of operations, makes telephones available to the public or to transient users of its premises for telephone calls using a provider of operator services.
- (c) 723-New "Billed party" means the person who is billed or charged by a provider for a call, regardless of whether such person is the calling party or the called party.
- (d) 723-18-2.3 "Call splashing" means the transfer of a telephone call from one provider of operator services to another provider of operator services in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.
- (e) 723-New "Called party" means the person receiving a call.

- (f) 723-New "Calling card" means a card issued by an operator service provider that allows a customer to place calls using that card. A calling card may be used on either the card-issuer's network or billing system or on the network or billing system of another operator service provider.
- (g) 723-New "Calling-card call" means a non-optional operator service where a call is placed using a calling card. The call accesses the public switched network by dialing an 800/888, 950, 10XXX, 1010XXX, or another form of access dialing arrangement.
- (h) 723-New "Calling party" means the person initiating a call.
- (i) 723-New "Collect call" means a non-optional operator service call in which:
 - (I) The called party may accept the charges for the call;
 - (II) The called party is permitted to inquire as to the rates, charges, terms, and conditions prior to accepting the charges for the call;
 - (III) No charge is levied against either the calling or called party if the called party refuses the charges;
 - (IV) The provider need not complete the call if the called party refuses to accept the charges; and
 - (V) The called party is responsible for payment of the charges if the called party affirmatively accepts the charges for the call.
- (j) 723-New "Credit-card call" means any call that is billed to a credit card and that accesses the public switched network by dialing an 800/888, 950, 10XXX, 1010XXX, or another form of access dialing arrangement.
- (k) 723-18-2.5 "Customer" means a person paying for, initiating, or receiving any intrastate telephone call.
- (l) 723-New; 723-18-2.6 "Debit-card call" means a call paid for by the use of a debit card issued to a customer after the customer establishes an account and places a deposit in that account or purchases a card with a predetermined balance. A debit card call is usually completed when the customer dials an access number or code, a personal account identification number (PIN), and the desired destination telephone number. The charge for the call is deducted in real time. A positive account balance may be maintained through additional payments to the account or may be exhausted after the prearranged balance has been fully consumed.

- (m) 723-New "Direct dialing" means placing a telephone call using station equipment without the assistance or intervention of an operator, live or otherwise. Direct-dialed calls are often termed "dial station-to-station calls".
- (n) 723-New; 723-18-4.1.1 "Foreign language translation" means an optional operator service used for the translation of one language to another, whether provided by a live operator, or otherwise.
- (o) 723-New; 723-18-4.2; 723-18-3.1.12 "Operator service provider" means a person that sells operator services without regard to the means of service provision. An operator service provider may sell all operator services as defined herein.
- (p) 723-New "Payphone" means a telephone installed for public or semipublic use that may accept coins, credit cards, or similar methods of payment. "Payphone" includes, without limitation, both coin-operated and coinless telephones.
- (q) 723-New; 723-18-3.1.11 "Person-to-person call" means a call, completed with the use of an operator, live or otherwise, where the calling party requests to speak with a specific individual at a specified number. If the called party is unable or unwilling to accept the call, no charges are incurred.
- (r) 723-18-2.12 "Presubscribed provider of operator services" means the provider of operator services to which the call is automatically connected when a customer places a call requiring the service of an operator, live or otherwise, without dialing an access code.
- (s) 723-18-2.14 "Travel card service" means a method of placing a call using a interexchange service provider that issues the account rather than using the operator service provider at the originating location. The call is usually completed when the customer dials an access number or code, a PIN, and the desired destination telephone number. The customer must have a prearranged account with the service provider. Standard telephone calling cards and commercial credit cards that may be accepted and billed by providers other than the desired interexchange service provider do not qualify as travel cards. Travel cards are also referred to as proprietary calling cards, as they can be used only with the presubscribed provider of the operator service.

2162. Non-optional Operator Services.

- (a) 723-18-3.1 Non-optional operator services include, but are not limited to:
 - (I) 723-18-3.1.1 Calls placed from payphones that require operator intervention, live or otherwise;

- (II) 723-18-3.1.2 Calls placed from a telephone that does not allow for direct dialing and that requires operator intervention, live or otherwise, to complete what would otherwise have been a direct-dialed call;
 - (III) 723-18-3.1.4 Calls placed by individuals who identify themselves as disabled to the extent that they are functionally unable to complete a call (for example, unable to use rotary dial or touch-tone pad) without operator assistance. These calls include those made with telecommunications devices for the deaf;
 - (IV) 723-18-3.1.5 Operator-assisted call reconnection for disconnection or poor transmission, and operator-handled credit requests.
 - (V) 723-18-3.1.6 [REPEALED - RESERVED FOR FUTURE USE.]
 - (VI) 723-18-3.1.7 Emergency services, including calls made to operators by customers seeking emergency assistance from authorized emergency agencies;
 - (VII) 723-18-3.1.8 Credit-card calls;
 - (VIII) 723-18-3.1.9 Collect local or long distance calls;
 - (IX) 723-18-3.1.10 Local or long distance third-party billed calls;
 - (X) 723-18-3.1.11 Person-to-person calls; and
 - (XI) 723-18-3.1.12 Operator services provided to customers where the use of an operator is required in order to obtain a particular service or in order to complete a call.
- (b) 723-18-3.3 The Commission regulates non-optional operator services provided by or through:
- (I) Hotels, motels, or other lodging-type entities that resell intrastate toll and wide area telephone services (WATS) to their lodging patrons;
 - (II) Any entities that resell long distance telephone services to the general public by using the Tariff services and facilities of regulated providers; and
 - (III) Any customer-owned or leased payphone terminal equipment providers that resell local exchange and toll service by using the tariffed services and facilities of regulated providers.

2163. Optional Operator Services.

- (a) 723-18-4.1 Optional operator services, which are not regulated by the Commission, include, but are not limited to:
 - (I) 723-18-4.1.1 Services provided by an operator, live or otherwise, for foreign language translation;
 - (II) 723-18-4.1.2 Services provided by an operator, live or otherwise, to connect customers for the purpose of an audio conference or videoconference;
 - (III) 723-18-4.1.3 Services provided by an operator, live or otherwise, for voice messaging;
 - (IV) 723-18-4.1.4 Services provided by an operator, live or otherwise, for electronic mail placement or retrieval;
 - (V) 723-18-4.1.5; 723-18-2.6 Debit card calls;
 - (VI) 723-18-2.14 Travel-card services; and
 - (VII) 723-18-4.1.6 Directory assistance.
 - (VIII) 723-18-4.1.7 Calls made by inmates at penal institutions or other correctional facilities who are not permitted to use coins when placing calls at coin operated or coinless telephones or who are required to use an operator's services to complete a call because of the rules or regulations of said institutions or facilities.
 - (A) Providers who have tariffs for inmate services on file with the Colorado Public Utilities Commission as of June 18, 2003, shall file an advice letter and/or transmittal letter, as appropriate, which removes from existing tariff and/or pricelist any and all rates, terms and conditions related to inmate service. These filings may be allowed to become effective on not less than 1 days notice to the Commission.
- (b) 723-18-4.2 Persons or entities that provide non-optional operator services, which are incidental to the primary business of providing optional operator services and are provided at no additional cost to the customer, shall not be subject to the Commission's jurisdiction.

2164. Regulation of Non-optional Operator Services.

- (a) 723-18-5.1 The Commission regulates non-optional operator services, the associated rates, and providers of non-optional operator services.

- (b) 723-18-5.2 Prior to providing service in Colorado, non-optional operator service providers shall file an application for a LOR, shall receive authorization to provide service, and shall have an effective Tariff on file with the Commission.
- (c) 723-18-5.3 The default form of regulation for non-optional operator service providers shall be as follows:
 - (I) 723-18-5.3.1 No specific customer notice of proposed rate changes is required, provided that the rates, charges, terms and conditions are in compliance with the applicable Commission-approved benchmark rates.
 - (II) 723-18-5.3.2 Providers may maintain their books of accounts according to generally accepted accounting principles rather than in accordance with USOA.
 - (III) 723-18-5.3.4 The Commission's Cost Allocation Rules shall be waived for operator service providers whose primary telecommunications business is the provision of operator services and/or long distance services. However, the Commission retains authority to order providers of non-optional operator services to submit accounting and cost allocation information as deemed appropriate by the Commission.
 - (IV) 723-18-5.3.7 Rules 2463 and 2464 shall be waived if the provider's rate proposal complies with the Commission-approved benchmark rates. However, the Commission retains authority to order providers to submit cost studies complying with these requirements.
 - (V) 723-18-5.4.1 All maximum rates, charges, terms, and conditions for non-optional operator services shall be identified in Tariffs on file with the Commission. Current rates for non-optional operator services shall be identified in Tariffs or Price Lists on file with the Commission unless the Commission has deregulated a specific non-optional operator service. Rates, charges, terms, and conditions for deregulated or optional operator services shall not be included in Tariffs or Price Lists.
- (d) 723-18-5.3.6 A provider of non-optional operator services may seek an alternative form of regulation or deregulation in accordance with rules 2205 and 2209.
- (e) 723-18-5.4 Providers of non-optional operator services shall charge just, reasonable, and non-discriminatory rates.

- (f) 723-18-5.4.3 In the absence of a specific order by the Commission, rates for non-optional operator services shall not exceed the benchmark maximum rates in the table below:

BENCHMARK MAXIMUM RATES FOR NON-OPTIONAL OPERATOR SERVICES		
<u>No.</u>	<u>Operator Service</u>	<u>Rate</u>
1	Message rate per call	\$.11
	Measured rate per minute:	
2	Day	\$.20
3	Evening/Night/Weekend	\$.11
	Calling Card Station Rates – Customer Dialed:	
4	Automated (Mechanized)	\$.30
5	Operator-assisted	\$.58
6	Calling Card Station Rates – Operator Dialed	\$1.13
7	Operator Assistance	\$.75
	Operator Assisted:	
8	Station-to-Station	\$1.25
9	Collect	\$1.85
10	Billed to Third-party	\$1.51
11	Person-to-Person	\$3.00
	Busy Line:	
12	Verification	\$1.25
13	Interrupt	\$2.00
14	[RESERVED FOR FUTURE USE]	
15	Payphone Charge (facilities based providers only)	\$.26

- (g) 723-18-5.4.4 A provider proposing rates above the benchmark rates established in this rule shall be required to prove that such rates are just, reasonable, and non-discriminatory, and shall provide cost studies as required by rules 2463 and 2464. The Commission may suspend and investigate the proposed rates.
- (h) 723-18-5.4.5 If the Commission approves a rate for a non-optional operator service that is above the applicable benchmark rate, the Commission may, at its discretion, require the provider to:
- (I) Disclose to the customer the total charges for the call;
 - (II) Disclose to the customer that such charges exceed the Commission-approved benchmark rate;

- (III) Make such disclosures at no charge to the customer prior to connection; and
- (IV) Allow the customer to decline the charges and to disconnect before incurring any charges.
- (i) 723-18-5.4.6 If the Commission finds, after notice and opportunity for hearing, that a non-optional operator service provider has violated an order adopted pursuant to paragraph (h) of this rule, the Commission, in addition to such other enforcement powers as may be authorized by statute, may order regulated providers to block access to the non-optional operator services provider for all intrastate operator-handled calls or order a local exchange provider to disconnect the non-optional operator services provider's service. A regulated telecommunications provider that blocks the access of or disconnects the service of a non-optional operator services provider in compliance with an order of the Commission and incurs attorney fees or costs to defend such action shall be entitled to recover its costs and attorney fees in each such proceeding. At the end of such proceeding the regulated provider shall provide an itemized list of these costs and attorney fees to the Commission. The Commission shall enter an order requiring the non-optional operator services provider whose services were blocked or disconnected to pay to the regulated provider such reasonable amounts as the Commission may determine.
- (j) 723-18-5.4.7 In the event the Commission changes benchmark rates, charges, terms, or conditions, any provider whose current Tariff and Price List comply with paragraph 2164(f) on the effective date of the revised benchmark rates will be allowed to have its Tariff and Price List remain in effect without further filings or proceedings.
- (k) 723-18-5.4.8 In the event the Commission changes a benchmark rate, term, or condition, and a provider seeks to maintain a rate above the benchmark rate, unless otherwise directed by the Commission, the provider shall file the rate it seeks as a revised Tariff and revised optional Price List within ten days of the Commission order modifying the benchmark rate. The provider shall submit cost studies complying with paragraph 2164(g) and shall include sufficient information for the Commission to determine if the provider's proposed rate is just, reasonable, and non-discriminatory. If the provider fails to meet this filing requirement, all of the provider's rates in excess of the new Commission-approved benchmark rate shall be deemed invalid without further action by the Commission, and any revenues collected pursuant to such excess rates shall be deemed illegally collected revenue. Upon filing of proposed rates under this rule, if filed within ten days of the effective date of the Commission order modifying the benchmark rate, term, or condition or as otherwise directed by the Commission, the provider's current rates will be allowed to remain in effect, subject to refund pursuant to order of the Commission, until the Commission

determines if the provider's proposed rate is just, reasonable, and non-discriminatory. All rates in excess of the benchmark rates that have not been approved by the Commission are subject to refund pursuant to rule 2305.

- (l) 723-18-5.7 Each non-optional operator service provider shall include in its Tariff the requirements of rule 2165.

2165. Requirements for Non-Optional Operator Service Providers.

- (a) 723-18-6.4 For purposes of subparagraphs (b)(I) through (IX), the customer is the person who will be billed for the call.
- (b) 723-18-6.1 Each provider of non-optional operator services shall:
 - (I) 723-18-6.1.1 Clearly identify itself to the customer at the beginning of each telephone call and before the customer incurs any charges for the call.
 - (II) 723-18-6.1.2 Permit the customer to terminate the call at no charge before the call is connected.
 - (III) 723-18-6.1.3 Immediately upon a customer's request and without charge to the customer, disclose:
 - (A) The rate(s) for the customer's intended call;
 - (B) The method by which such rate(s) will be billed; and
 - (C) The process by which informal complaints concerning rates, charges, or billing practices will be resolved.
 - (IV) 723-18-6.1.4 Not bill for unanswered telephone calls. If such billing occurs, the charges shall be subject to refund.
 - (V) 723-18-6.1.6 Not engage in call splashing unless the customer requests to be transferred to another provider. If a customer requests to be transferred, the provider shall, prior to transferring the customer:
 - (A) Inform the customer of any lawful charges;
 - (B) Disclose that the charge to the customer from the subsequent provider may not reflect the customer's actual originating location; and
 - (C) Receive the customer's consent to transfer the call.
 - (VI) 723-18-6.1.7 Not bill for a call that does not reflect the location of the call origination except as provided in

subparagraph (V) of this paragraph. If the provider charges for a call that does not reflect the location of the call origin, the charge shall be subject to refund.

(VII) 723-18-6.1.8 Require, by contract or Tariff, that each aggregator for which the provider is the presubscribed provider of non-optional operator services is in compliance with the requirements of rules 2166 and 2167.

(VIII) 723-18-6.1.9 Withhold payment of any compensation the provider pays to an aggregator if the provider reasonably believes that the aggregator is not in compliance with rule 2167.

(IX) 723-18-6.3 Not charge location or premises surcharges on behalf of a call aggregator.

(c) 723-18-6.2 Upon receipt of an emergency telephone call, a non-optional operator service provider shall immediately connect the call to the appropriate emergency service provider and report the location of the emergency, if known. If the location of the emergency is not known, the non-optional operator service provider shall report the originating location of the call to the emergency service provider.

(d) 723-18-6.4.2 Non-optional operator service providers, including those using automated equipment (e.g., store-and-forward equipment), shall provide the capability for the billed party to accept charges on collect and third-number billed calls. The provider shall not bill a customer for collect or third-number billed charges unless the customer has agreed to accept such charges. If the provider bills for these services without acceptance of charges by the customer, the charges to the customer shall be refunded.

(e) 723-18-6.4.1 In cases where the non-optional operator service is provided using automated equipment (e.g., store-and-forward equipment) and the provider is technologically incapable of complying with subparagraphs (b)(I) through (III) concerning acceptance of collect or third-party billed calls, the provider shall seek a variance until such compliance may be accomplished.

2166. Arrangements with Call Aggregators.

(a) 723-18-7.1 Operator service providers shall require each call aggregator to display printed documentation plainly on, or in close proximity to, all telephones available for customer use. Failure to provide such documentation shall mean all charges collected by that aggregator may be refunded. The documentation shall include, at a minimum:

(I) 723-18-7.1.1 The name, address, and toll free telephone number of the operator service provider(s);

- (II) 723-18-7.1.2 A statement that the rates of the operator service provider shall be quoted upon request;
 - (III) 723-18-7.1.3 A written disclosure that informs customers that they have a right to obtain access to the carrier of their choice, and that they may contact their preferred carrier for information on accessing that carrier's service using that telephone; and
 - (IV) 723-18-7.1.4 Specific instructions to obtain rates or charges for operator-assisted local calls, including any charges per minute and operator surcharges, if applicable.
- (b) 723-18-7.2 Operator service providers shall require that aggregators ensure that no charge by the aggregator to the customer for using an 800/888, 950, 10XXX, or 1010XXX access code is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services. Charges in excess of the presubscribed rate shall be refunded to the customer.

2167. Call Blocking Prohibited.

- (a) 723-18-8.1 Call blocking occurs when an end user is prevented from accessing the preferred operator service provider through the access codes 800/888, 950, 10XXX, or 1010XXX.
- (b) 723-18-8.2.1 Non-optional operator service providers, call aggregators, and owners of payphones shall not require or participate in the call blocking of any customer's access to the customer's non-optional operator service provider of choice. Violation of this requirement:
- (I) May result in a refund of all charges collected;
 - (II) Is sufficient grounds for revocation of any authority that was granted by the Commission; and
 - (III) May subject the persons engaging in such activity to penalty under § 40-7-105, C.R.S.
- (c) 723-18-8.2.4 Applicable contracts or Tariffs shall be modified so as to effectuate the provisions of subparagraph (b)(I).

2168. Access Codes of Non-Optional Operator Service Providers.

- (a) 723-18-9.1 All providers of non-optional operator services, as defined above, shall establish an 800/888, 950, 10XXX, or 1010XXX access code.

2169. Access from Registered Equipment - Access to Common Carriers.

- (a) 723-18-10.1 Aggregators who provide payphones shall unblock 10XXX and 1010XXX access.

2170. - 2179. [Reserved].

DESIGNATION OF PROVIDERS OF LAST RESORT AND ELIGIBLE TELECOMMUNICATIONS CARRIERS

The basis and purpose of these rules is to: establish regulations concerning the designation of providers of last resort (POLRs); establish the obligations that attach to such designation; establish procedures for changing or terminating such designation; establish regulations concerning the designation or termination of eligible telecommunications carriers (ETCs); and establish regulations concerning the termination of 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. 723-42-1 Applicability.

Rules 2180 through 2199 are applicable to all providers:

- (a) Designated as a POLR or as an ETC;
- (b) Seeking to be designated as a POLR or ETC; or
- (c) Seeking to remove 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) 723-42-2.4 "Geographic area" means a Commission-defined geographic unit usually the same as or smaller than an existing provider's serving area.
- (b) 723-42-2.7 "Service area" means a geographic area established by the Commission for the purpose of determining federal universal service obligations and support mechanisms.
 - (I) 723-42-2.7.1 A service area defines the overall area for which the carrier shall 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) 723-42-2.7.2 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. 723-42-13 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 herein by reference. The incorporated material may be found at 47 C.F.R., Parts 36 and 54, revised as of October 1, 2002. References to Parts 36 and 54 do not include later amendments to or editions of these parts. A certified copy of these parts which have been incorporated by reference are maintained at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and are available for inspection during normal business hours. Certified copies of the incorporated rules shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated rules may be obtained or examined. These incorporated rules may be examined at any state publications depository library.

2183. Designation of Providers of Last Resort.

- (a) 723-42-3.1 A provider who held a CPCN to offer basic local exchange service in a geographic area on or before July 1, 1996, shall be considered a POLR in those geographic areas.
- (b) 723-42-3.2 Upon application by a provider, 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) 723-42-3.3 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 seeking designation as an additional POLR shall file an application with the Commission requesting designation as such for a specific geographic area.
- (b) 723-25-4.1 Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required by paragraph 2002(b).
 - (II) 723-42-4.1.2 The decision number(s) of the Commission authorizing the applicant to provide basic local exchange service.

- (III) 723-42-4.1.3 A description of the geographic area for which applicant seeks designation as a POLR. If a designation for a specific geographic area, rather than a statewide designation, is sought, the application shall include a description of such geographic area by metes and bounds and a map displaying the service area.
- (IV) 23-42-4.1.4 An affirmative statement that the applicant will accept the responsibilities identified in rule 2185.
- (V) 723-42-4.1.5 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 in that area.
- (VI) 723-42-4.1.6 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.
- (VII) 723-42-4.1.9 A statement that the applicant understands that the filing of the application does not constitute, by itself, designation as a POLR.
- (VIII) 723-42-4.1.10 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) 723-42-5.1.1 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) 723-42-5.1.2 A POLR shall be subject to the evolving definition of basic service developed by the Commission pursuant to § 40-15-502(2); and
- (c) 723-42-5.1.3 A POLR shall advertise the availability of such service and charges using media of general distribution. At a minimum, a POLR shall have customer guide pages in the "White Pages" directory within the POLR's geographic area. Such customer guide pages shall indicate that the provider will offer basic local exchange service to all who request such service within that area.

2186. Removal of Designation as a Provider of Last Resort.

- (a) 723-42-6.1 Application to be filed with the Commission. When there are multiple POLRs in a geographic area, providers seeking to relinquish designation as a POLR shall file an application with the Commission, at least 45 days before the effective date of the proposed relinquishment.
- (b) 723-42-6.1 Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The requirements of paragraph 2002(b).
 - (II) A complete explanation of the proposed relinquishment.
 - (III) An explanation as to how the customers currently served by the applicant will continue to be served.
 - (IV) 723-42-6.2; 6.2.1 A plan for transition of customers to another provider, if the POLR 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 or other provider.
- (c) 723-42-6.2.2 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 or other provider shall be completed.
- (d) 723-42-6.2.3 During the transition period, the POLR shall ensure that customers do not experience a break in service as a result of the POLR discontinuing service.
- (e) 723-42-6.3 Notice to customers. In addition to filing an application with the Commission, the POLR shall prepare a written notice stating the proposed discontinuance, and its proposed effective date, and shall mail or deliver the notice at least 30 days before the effective date to all currently served customers or subscribers, including all interconnecting telecommunications providers. The POLR 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) 723-42-6.3.1 The notice shall:
 - (A) Be titled, as applicable, either:

- (i) "Notice of [provider's name] Intent to Discontinue Basic Local Telephone Service"; or
 - (ii) "Notice of [provider's name] Intent to Eliminate Designation as a Telecommunications Provider of Last Resort".
- (B) State: "[Provider's name] has applied to the Colorado Public Utilities Commission for approval to [discontinue basic local telephone service or eliminate its designation as a telecommunications provider of last resort]."
- (C) State that the application affects all persons receiving the notice.
- (D) List the application's proposed effective date.
- (E) Give details of the proposal, including a statement explaining the possible impact upon persons receiving the notice.
- (F) State that any affected person may obtain lists of alternative telecommunications providers from the Commission.
- (G) State that any affected person may obtain additional information from the Commission.
- (H) State the Commission's address and local and toll free phone numbers.
- (I) State that any person may object to the application by sending a letter to or calling the Commission.
- (J) Explain that a mere objection, by itself, does not allow participation as a party in any proceedings the Commission may hold regarding the application.
- (K) Explain that if a person desires to participate as a party to any such proceeding, said person must move to permissively intervene at least ten days prior to the application's proposed effective date.
- (L) Explain that a motion to permissively intervene must be in compliance with relevant Commission rules and regulations, which are available from the Commission.
- (M) State that the Commission may hold hearings on the application and state that members of the public may attend and make statements under oath even if they did not object or intervene.

- (N) State that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission at least ten days prior to the application's proposed effective date.
 - (O) Explain that basic local telephone service will continue to be available regardless of the outcome of the Commission's determination on the application; and that if the Commission grants the application, another telephone company will be available to offer service.
 - (P) Be signed by an authorized officer of the provider or its representative.
 - (Q) Include said officer or representative's title and address.
- (II) 723-42-6.3.2 Proof of public notice. Within 15 days before the date of the proposed discontinuance, the POLR 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.
- (f) 723-42-6.4 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.
- (g) 723-42-6.5 No proposed discontinuance shall be effective until the Commission issues an order approving it.

2187. 723-42-7 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) 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). 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) 723-42-7.1.1 Pursuant to Subpart E of 47 C.F.R., Part 54, as of January 1, 1998 all ETCs shall make available Lifeline service, as defined in § 54.401, to qualifying low-income customers.
- (d) 723-42-7.2 Contents. 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 attached exhibits:
 - (I) The information required by paragraph 2002(b).
 - (II) 723-42-7.2.1 A statement identifying the decision(s) of the Commission and/or the FCC authorizing the applicant to provide telecommunications service.
 - (III) 723-42-7.2.2 A description of the service area for which the applicant seeks designation as an ETC. If designation for a specific service area, rather than a statewide designation, is sought, the application shall include both a description of such service area by metes and bounds and a map displaying the service area.
 - (IV) 723-42-7.2.3 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).
 - (V) 723-42-7.2.4 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).
 - (VI) 723-42-7.2.5 An affirmative statement that the applicant is a common carrier.
 - (VII) 723-42-7.2.6 An affirmative statement that the applicant will advertise the availability of such service and charges using media of general distribution pursuant to § 214(e)(1)(B) of the Act. To meet the requirements of § 214(e)(1)(B), the Commission establishes as guidelines that an ETC shall advertise in publications targeted to the general residential market and shall place customer guide pages in the "White Pages" directory within the ETC's service area. Such customer guide pages shall indicate that the provider will offer basic local exchange service to all who request such service within that area.
 - (VIII) 723-42-7.2.7 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.
- (e) 723-42-7.4; 723-42-7.4.1 State certification for federal support. As required by the FCC's universal service regulations

found at 47 C.F.R. 54.313 and 54.314, 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 jurisdictional 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 may 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 on a form supplied by the Commission as part of the carrier's annual report.

2188. Relinquishment of EP or ETC Designation.

- (a) 723-42-8.1 Application to be filed with the Commission. When there are multiple EPs or ETCs in a service area, providers seeking to relinquish designation as an EP or ETC shall file an application with the Commission, at least 45 days before the effective date of the proposed relinquishment.
- (b) 723-42-8.1 Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The requirements of paragraph 2002(b).
 - (II) A complete explanation of the proposed relinquishment.
 - (III) An explanation as to how the customers currently served by the applicant will continue to be served.
 - (IV) 723-42-8.1.2; 8.1.2.1 A plan for transition of customers to another provider, if the EP or ETC 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 EP or ETC or other provider.
- (c) 723-42-8.1.2.2 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 EP or ETC or other provider shall be completed.
- (d) 723-42-8.1.2.3 During the transition period, the EP or ETC shall ensure that customers do not experience a break in service as a result of the EP or ETC discontinuing service.
- (e) 723-42-8.2 Notice to customers. In addition to filing an application with the Commission, the EP or ETC shall prepare a written notice stating the proposed discontinuance, and its proposed effective date, and shall mail or deliver the notice at

least 30 days before the effective date to all currently served customers or subscribers, including all interconnecting telecommunications providers. The EP or ETC shall separately provide notice to all potentially affected customers through publication once each week for four consecutive weeks in a publication or publications of general circulation 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) 723-42-8.2.1 The notice shall:
- (A) Be titled "Notice of [provider's name] Intent to Relinquish Designation as an [Eligible Telecommunications Carrier or Eligible Provider]."
 - (B) State: "[Provider's name] has applied to the Colorado Public Utilities Commission for approval to relinquish its designation as an [Eligible Telecommunications Carrier or Eligible Provider]."
 - (C) State that the application affects all persons receiving the notice.
 - (D) List the application's proposed effective date.
 - (E) Give details of the proposal, including an explanation of the possible impact upon persons receiving the notice.
 - (F) State that any affected person may obtain additional information from the Commission.
 - (G) State the Commission's address and local and toll free phone numbers.
 - (H) State that any person may object to the application by sending a letter to or calling the Commission.
 - (I) Explain that a mere objection, by itself, does not allow participation as a party in any proceedings the Commission may hold regarding the application.
 - (J) Explain that if a person desires to participate as a party to any such proceeding, said person must move to intervene at least ten days prior to the application's proposed effective date.
 - (K) Explain that a motion to intervene must be in compliance with relevant Commission rules and regulations, which are available from the Commission.

- (L) State that the Commission may hold hearings on the application and state that members of the public may attend and make statements under oath even if they did not object or intervene.
 - (M) State that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission at least ten days prior to the application's proposed effective date.
 - (N) Explain that basic local telephone service will continue to be available regardless of the outcome of the Commission's determination on the application.
 - (O) Be signed by an authorized officer of the provider.
 - (P) Include said officer's title and address.
- (II) 723-42-8.2.2 Proof of public notice. Within 15 days before the date of the proposed discontinuance, the EP or ETC 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.
- (f) 723-42-8.3 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.
 - (g) 723-42-8.4 No proposed discontinuance shall be effective until the Commission issues an order approving it.
 - (h) 723-42-8.6 The Commission shall permit an EP or ETC to relinquish its designation as an EP or ETC in any area served by more than one EP or ETC when the Commission concludes that the requirements of paragraphs (a) and (b) have been met.

2189. 723-42-9 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 (pursuant to rule 2847) 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 pursuant to rule 2188. 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.

2190. 723-42-10 Disaggregation and Targeting of Support by Rural ILECs.

A rural ILEC that selects a disaggregation path pursuant to FCC regulations found at 47 C.F.R. § 54.315 shall file its disaggregation path selection with the Commission as required by paragraphs (a), (b), or (c). In study areas in which a CLEC has been designated as a competitive ETC prior to the effective date of the FCC's Rule found at 47 C.F.R. § 54.315, the rural ILEC may only disaggregate support pursuant to paragraph (a) or (b), or subparagraph (c)(I)(C).

- (a) 723-42-10.1 Path 1: Rural ILECs not disaggregating and targeting federal High-Cost support:
 - (I) 723-42-10.1.1 A rural ILEC's election of this path becomes effective upon filing by the rural ILEC with the Commission.
 - (II) 723-42-10.1.2 This path shall remain in place for such rural ILEC for at least four years from the date of filing with the Commission except as provided in subparagraph (III) of this paragraph.
 - (III) 723-42-10.1.3 The Commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural ILEC, the disaggregation and targeting of support under paragraph (b) or (c).
- (b) 723-42-10.2 Path 2: Rural ILECs seeking prior regulatory approval for the disaggregation and targeting of support.
 - (I) 723-42-10.2.1 A rural ILEC electing to disaggregate and target support under this subsection must file a disaggregation and targeting plan with the Commission.
 - (II) 723-42-10.2.2 Under this subsection a rural ILEC may propose any method of disaggregation and targeting of support consistent with the general requirements detailed in 47 C.F.R. § 54.315(e).
 - (III) 723-42-10.2.3 A disaggregation and targeting plan under this paragraph becomes effective upon approval by the Commission.
 - (IV) 723-42-10.2.4 A rural ILEC shall disaggregate and target support under this path for at least four years from the date of approval by the Commission except as provided in subparagraph (V) of this paragraph.
 - (V) 723-42-10.2.5 The Commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural ILEC, the disaggregation and targeting of support in a different manner.

- (VI) 723-42-10.2.6 Requests for disaggregation under Path 2 shall be filed as an application. Such applications shall be served by the applicant upon all providers that have obtained either ETC or EP status in the rural ILEC's study area at the same time they are filed with the Commission.
- (c) 723-42-10.3 Path 3: Self-certification of the disaggregation and targeting of support.
 - (I) 723-42-10.3.1 A rural ILEC may file a disaggregation and targeting plan with the Commission along with a statement certifying each of the following:
 - (A) 723-42-10.3.1.1 It has disaggregated support to the wire center level;
 - (B) 723-42-10.3.1.2 It has disaggregated support into no more than two cost zones per wire center; or
 - (C) 723-42-10.3.1.3 That the rural ILEC's disaggregation plan complies with a prior regulatory determination made by the Commission.
 - (II) 723-42-10.3.2 Any disaggregation plan submitted pursuant to this paragraph must meet the following requirements:
 - (A) 723-42-10.3.2.1 The plan must be supported by a description of the rationale used, including the methods and data relied upon to develop the disaggregation zones, and a discussion of how the plan complies with the requirements of this paragraph. Such filing must provide information sufficient for interested parties to make a meaningful analysis of how the rural ILEC derived its disaggregation plan.
 - (B) 723-42-10.3.2.2 The plan must be reasonably related to the cost of providing service for each disaggregation zone within each disaggregated category of support.
 - (C) 723-42-10.3.2.3 The plan must clearly specify the per-line level of support for each category of high-cost universal service support in each disaggregation zone provided pursuant to 47 C.F.R. §§ 54.301, 54.303, 54.305, and/or Subpart F of Part 36 of 47 C.F.R.
 - (D) 723-42-10.3.2.4 If the plan uses a benchmark, the rural ILEC must provide detailed information explaining what the benchmark is and how it was determined. The benchmark must be generally

consistent with how the total study area level of support for each category of costs is derived to enable a competitive ETC to compare the disaggregated costs used to determine support for each cost zone.

- (III) 723-42-10.3.3 A rural ILEC's election of this path becomes effective upon filing by the rural ILEC to the Commission.
- (IV) 723-42-10.3.4 A rural ILEC shall disaggregate and target support under this path for at least four years from the date of filing with Commission except as provided in subparagraph (V) of this paragraph.
- (V) 723-42-10.3.5 On its own motion, upon petition by an interested party, or upon petition by the rural ILEC, the Commission may modify the disaggregation and targeting of support selected under this path.
- (d) 723-42-10.4 Carriers failing to select a disaggregation path, as described in paragraphs (a), (b), or (c) of this rule, by the deadline specified in 47 C.F.R. § 54.315, will not be permitted to disaggregate and target federal high-cost support unless ordered to do so by the Commission.

2191. 723-42-11 Uses of Disaggregation Paths.

- (a) The Commission shall use the disaggregation plans of each incumbent ETC established pursuant to rule 2190 not only for disaggregation of Colorado HCSM support, but also for the disaggregation of the study area of the rural ILEC pursuant to 47 C.F.R. 54.207 into smaller discrete service areas.
- (b) 723-42-11.1 Filing of petition. Where necessary, the Commission shall submit a petition to the FCC seeking the agreement of the FCC in redefining the service area of each rural incumbent ETC as follows:
 - (I) 723-42-11.1.1 Path 1: For rural incumbent ETCs not disaggregating and targeting support, no FCC filing is required;
 - (II) 723-42-11.1.2 Path 2: For rural incumbent ETCs seeking prior regulatory approval for the disaggregation and targeting of support, the Commission shall submit a petition to the FCC within 60 days following the issuance of the Commission's final order in the provider's Path 2 disaggregation proceeding; or
 - (III) 723-42-11.1.3 Path 3: For rural incumbent ETCs self-certifying disaggregation and targeting of support, the Commission shall submit a petition to the FCC within 60

days following the rural incumbent ETC's filing of election
of this Path with the Commission.

2192. - 2199. [Reserved].

DEFAULT, ALTERNATIVE, AND SIMPLIFIED FORMS OF REGULATION; REFRAINING FROM REGULATION; AND
RECLASSIFICATION OF PARTS II AND III SERVICES

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify default forms of regulation for services subject to the jurisdiction of the Commission and to establish procedures and standards concerning: alternative forms of regulation; simplified regulatory treatment for rural telecommunications providers; refraining from regulation for competitive purposes; reclassifying a regulated telecommunication service as an emerging competitive service; and deregulation of emerging competitive services.

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. 723-38-1; 723-38-3.2.2.6 Applicability.

Rules 2200 through 2299 are applicable to all providers of services pursuant to § 40-15-201, C.R.S., (Part II) or pursuant to § 40-15-301, C.R.S., (Part III or emerging competitive services); except that rule 2202 is only applicable to ILECs, rule 2203 is only applicable to CLECs and Part III providers, and rule 2206 is only applicable to rural ILECs. Nothing in rules 2200 through 2299 shall limit the Commission's authority to investigate the rates and charges assessed by providers.

2201. Definitions.

The following definitions apply only in the context of rules 2200 through 2299.

- (a) 723-38-2.18; 723-New "Alternative forms of regulation" means those forms of regulation other than the default form of regulation, which may include any combination of the following elements: rate-of-return regulation, modified Tariff requirements, alternative reporting requirements, price bands, benchmark rates, detariffing, or any other such elements of alternative regulation as provided in § 40-15-302(1), C.R.S., that are consistent with the General Assembly's expression of intent stated in § 40-15-101, C.R.S.
- (b) 723-38-2.2 "Applicant" means any provider who files an application with the Commission pursuant to rule 2205.
- (c) 723-New "Benchmark-rate" means an element of alternative regulation, as established by the Commission, with an established price ceiling for a service.
- (d) 723-38-2.8 "Cost support" means data, information, methods, and analyses conducted in accordance with the rules 2400 through 2499, as applicable.

- (e) 723-New "Detariffing" means offering a service to the public without using a Tariff to administer rates, charges, terms, and conditions. Detariffing is available as an element of alternative regulation.
- (f) 723-38-2.4 "Price band" means a range of rates defined by a Commission-established price floor (the lower boundary) a Commission-established price ceiling (the upper boundary) and within which a provider of basic local exchange or emerging competitive telecommunications service may set a specific price for a service. Price bands are available as an element of alternative regulation.
- (g) 723-New "Private telecommunications network" means "private telecommunications network", as that term is defined by § 40-15-102(23), C.R.S.
- (h) 723-52-2.8 "Reference provider" means any ILEC that has secured Commission approval for an alternative form of regulation under §§ 40-15-201(2) and 40-15-503, C.R.S.
- (i) 723-New "Rural ILEC" means "rural telecommunications provider", as that term is used in § 40-15-203.5, C.R.S.

2202. Default Form of Regulation for ILECs.

- (a) This rule applies to all ILECs.
- (b) 723-38-3.2.1; 3.2.2.1 Part II services. Each ILEC shall be regulated using a rate-of-return form of regulation for its Part II services, except call delivery to a Basic Emergency Service Provider (BESP), in the absence of another Commission-approved alternative form of regulation.
- (c) 723-New Part III services. Each ILEC shall be regulated using rate-of-return regulation for its emerging competitive services, except non-optional operator services, in the absence of a Commission-approved alternative form of regulation.
- (d) 723-New The Commission shall regulate the terms and conditions, including rates and charges, under which Part III services are 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, 40-15-302, 40-15-303, 40-15-306, and 40-15-307.
- (e) 723-38-3.1.5 Prices for residential basic local exchange service. Consistent with § 40-15-502(3)(b)(I) and except as otherwise provided by law, prices for residential basic local exchange service, including zone charges, if any, shall not rise above the levels in effect on May 24, 1995, for comparable services regardless of the form of regulation of the ILEC.

- (f) 723-New Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, ILECs' access charges:
 - (I) Shall be cost-based, as determined by the Commission; and
 - (II) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987.
- (g) 723-38-3.1.2.2 Customer-specific contracts and notice.
 - (I) The Commission may permit an ILEC to provide a customer with regulated services, under contract, irrespective of any Tariff or Price List requirements.
 - (II) 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 contract is a non-discriminatory offering; confirm that the charges exceed the company's cost; and confirm that the contract contains a provision acknowledging that it is subject to regulatory review.
 - (III) The contract shall be subject to Commission review to determine if:
 - (A) The negotiated contract is nondiscriminatory;
 - (B) The contract terms are not inconsistent with the public interest; and
 - (C) The contract terms are not inconsistent with applicable Commission rules.
 - (IV) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the applicant 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.

2203. Default Form of Regulation for CLECs and Part III Providers.

- (a) This rule applies only to CLECs and Part III providers.
- (b) 723-38-3.2.2.1; 723-New Part II services. A provider's Part II services, except call delivery to a BESP, shall be regulated by the default form of regulation under this rule, unless the Commission determines that these Part II services are not subject to effective competition from an ILEC.

- (c) 723-38-3.2.2; 723-New Part III services. A provider's Part III services, except non-optional operator services, shall be regulated by the default form of regulation under this rule, unless the provider has been granted an alternative form of regulation for these Part III services.
- (d) 723-New The Commission shall regulate the terms and conditions, including rates and charges, under which Part III services are 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, 40-15-302, 40-15-303, 40-15-306, and 40-15-307.
- (e) 723-38-3.1.5 Prices for residential basic local exchange service. Consistent with § 40-15-502(3)(b)(I) and except as otherwise provided by law, prices for residential basic local exchange service, including zone charges, if any, shall not rise above the levels in effect on May 24, 1995, for comparable services regardless of the form of regulation of the provider.
- (f) 723-New Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, providers' access charges:
 - (I) Shall be cost-based, as determined by the Commission; and
 - (II) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987.
- (g) 723-38-3.2.2.2 Tariff changes. For products and services subject to this default form of regulation, changes to the Tariff may be made upon 14-days notice to the Commission. Additional notice to customers shall not be required unless ordered by the Commission. If the Commission does not suspend the effective date of the proposed Tariff change, the Tariff change shall become effective according to its terms.
- (h) 723-38-3.1.2.2 Customer-specific contracts and notice.
 - (I) The Commission may permit a provider to provide a customer with regulated services, under contract, irrespective of any Tariff or Price List requirements.
 - (II) 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 contract is a non-discriminatory offering; confirm that the charges exceed the company's cost; and confirm that the contract contains a provision acknowledging that it is subject to regulatory review.
 - (III) The contract shall be subject to Commission review to determine if:

- (A) The negotiated contract is nondiscriminatory;
 - (B) The contract terms are not inconsistent with the public interest; and
 - (C) The contract terms are not inconsistent with applicable Commission rules.
- (IV) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the applicant 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.

2204. General Requirements.

- (a) This rule is applicable to any provider subject to an alternative form of regulation, including the simplified regulatory treatment of rural ILECs.
- (b) 723-New If a provider is granted Commission approval for an alternative form of regulation for its Part III emerging competitive services, the Commission shall not consider the provider's overall rate-of-return or overall revenue requirements when determining the just and reasonable rate for a particular product or service.
- (c) 723-38-5.1; 5.2 Accounting plan. The Commission may require a provider subject to an alternative form of regulation to file an accounting plan that segregates assets, liabilities, revenues, and expenses between services. In the event the Commission orders an applicant to file an accounting plan, the applicant shall not offer the service prior to Commission's approval of the accounting plan and shall modify its cost separation manual to conform to such an accounting plan.
- (d) 723-38-5.3 If the provider is required by the Commission to file an accounting plan, the provider shall bear the burden of proving that the accounting plan submitted is sufficient to segregate assets, liabilities, revenues, and expenses, which permits the Commission to define the regulated rate base and to implement the alternatives to rate-of-return regulation.
- (e) 723-38-5.4 Providers exempted from filing a cost separation manual pursuant to rules 2400 through 2459 shall not be required to file accounting plans or updates, but shall be required to follow the cost segregation rules.
- (f) 723-38-3.2.2.7 In any proceeding before the Commission to investigate any Tariff, Tariff rate, price, or Price List, the provider shall have both the burden of going forward and of proving that any price, term, or condition included in a Tariff,

Price List, or contract, or sold under any alternative form of regulation is fair, just, reasonable, and non-discriminatory.

- (g) 723-38-6 Revisions of Terms. The Commission, on its own motion or upon the application of the provider which has been granted an alternative form of regulation, and after notice and opportunity to be heard, may revise a form of regulation granted pursuant to rule 2205 if it finds that continued use of the approved form of regulation is contrary to, or inconsistent with, statements of public policy in §§ 40-15-101, 40-15-501, 40-15-502, and 40-15-503(2)(c), C.R.S.

2205. Application for Alternative Form of Regulation.

- (a) A provider seeking to obtain a form of regulation other than the applicable default form of regulation shall file an application with the Commission.
- (b) 723-38-4.1 Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) The information required by paragraph 2002(b);
 - (II) 723-38-4.1.2 The services for which the alternative form of regulation is requested;
 - (III) 723-38-4.1.9 A list of all currently effective Tariff and Price List pages, as applicable, for each relevant service;
 - (IV) 723-38-4.1.3 A description of the form of regulation requested on a service basis and on a geographic area basis;
 - (V) 723-New The proposed price bands, if applicable, including ceilings and floors for each relevant service;
 - (VI) 723-New The proposed benchmark rates, if applicable, for each relevant service;
 - (VII) 723-New The proposed detariffing, if applicable, for each relevant service;
 - (VIII) 723-New Any other proposed element of alternative regulation requested by the applicant;
 - (IX) 723-New The conditions that the applicant believes exist to permit the Commission to ensure that telecommunication services continue to be available to all customers at fair, just, and reasonable rates, if an alternative form of regulation is granted;

- (X) 723-38-4.1.7 The estimated market share information, demand data, and cost support data, as applicable, for each relevant service;
 - (XI) 723-38-4.1.6 A list of other known providers of similar or substitutable services in the affected geographic area(s) identified in subparagraph (IV), and any significant, functional differences between the applicant's service and other known available services;
 - (XII) 723-38-4.1.12; 4.1.13 An identification of the accounting method that will be used to account for services subject to the alternative form of regulation and an explanation of how the accounting method meets the requirements of rules 2405 through 2407; and
 - (XIII) 723-38-4.1.14 The facts relied upon by the applicant to show that a grant of an alternative form of regulation is consistent with, and not contrary to, the statements of public policy contained in §§ 40-15-101, 40-15-501, 40-15-502, and 40-15-503(2)(c), C.R.S., as applicable.
- (c) 723-38-8.2 and 723-38-4.2 and 723-38-9.2.1 Applicant Notice of application. Concurrent with the filing of an application, the applicant will provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves a different notice procedure. Not more than seven days after such notice is given, the applicant shall provide the Commission with written verification of its compliance with this rule.
 - (d) Commission notice of application. The Commission shall provide notice of the application in accordance with rule 1206. Additionally, if the Commission institutes a proceeding upon its own motion, it shall provide notice to the public pursuant to § 40-6-108(2), C.R.S.
 - (e) 723-38-4.3 Criteria for Commission consideration. In determining whether to grant an application, the Commission will consider whether granting the requested regulation:
 - (I) Is suitable and appropriate under the circumstances;
 - (II) Is consistent with, and advances, the public policies contained in §§ 40-15-101, C.R.S., for an application for an alternative form of regulation;
 - (III) Is consistent with, and advances, the public policies contained in §§ 40-15-101, 40-15-501, 40-15-502, and 40-15-503(2)(c), C.R.S., for applications for a form of price regulation other than rate-of-return regulation for providers of local exchange service;

- (IV) Ensures that telecommunication services continue to be provided to all consumers in the state at fair, just, and reasonable rates consistent with § 40-15-503(2)(c) (I); and
- (V) Is not contrary to law or to Commission policy.
- (f) If the Commission approves the application, the applicant shall file an Advice Letter and initial Tariff on not less than 30-days notice, to implement the terms of the alternative form of regulation approved by the Commission.

2206. Simplified Regulatory Treatment for Rural ILECs.

- (a) 723-52-3.1, 3.4 Simplified regulatory treatment. The simplified pricing procedures provided for in these rules are applicable to rural ILECs electing simplified regulatory treatment and only to Part III products and services. Each rural ILEC that takes no action under these rules shall remain, on a default basis, subject to continuing rate-of-return regulation.
- (b) 723-52-3.2 Notice of election for simplified regulatory treatment. A rural ILEC that elects to be subject to simplified regulatory treatment for its Part III regulated retail services and products shall file a Notice with the Commission advising of its election to be so regulated and shall also provide 30 days' notice to its customers by direct mailing, bill stuffer, or billing statement notification. The provider's election is effective 30 days from the date of filing, and shall remain effective until revoked.
- (c) 723-52-3.3 Election of simplified regulatory treatment. Election by a rural ILEC of simplified regulatory treatment has no effect upon the existing prices of any of its Part III services unless and until the provider elects to seek a change in the price of one or more of its products or services under the procedure specified in these rules. If at the time of electing simplified regulatory treatment, a rural ILEC's prices for one or more Part III products or services exceeds the price ceiling that would be established as provided in paragraph (d), its then current pricing shall remain in effect as the price ceiling until the provider seeks a change. Additionally, any price change secured by a rural ILEC for a Part III product or service shall remain in force and effect even if the benchmark rate for the product or service is lowered either voluntarily by the reference provider or by Commission action.
- (d) 723-52-3.5 Price ceilings. Price ceilings for products and services under this regulatory treatment shall be established by reference to the prices for such products and services that are in effect under an alternative form of regulation for any one reference provider that has been approved by the Commission.

- (e) 723-52-3.6 Procedure for price change up to price ceiling. On or before 14 days prior to the desired effective date for a change in one or more of the prices contained in its associated Price List, a rural ILEC subject to simplified regulatory treatment shall file a Transmittal Letter with the Commission describing the proposed change(s) and containing its revised Price List. The rural ILEC may, but need not, provide notice to its customers of any proposed price change provided that the price as changed is at or below the price ceiling. In its Transmittal Letter, the rural ILEC shall include a statement to the effect that the change does not exceed the price ceiling for the affected product(s) or service(s) that the Commission has approved in a reference provider's alternative form of regulation plan and shall set forth the name of the provider and the provider's approved product or service price ceiling for each product or service addressed by the Transmittal Letter. Unless suspended by the Commission, the revised Price List will become effective according to its terms.
- (f) 723-52-3.7 Procedure for price change above price ceiling. On or before 30 days prior to the desired effective date for a change in one or more of the prices contained in its Tariffs, a rural ILEC seeking to increase the price of a product or service above the price ceiling rate of any reference provider or seeking to establish a rate for a product or service not provided by any reference provider shall file an Advice Letter with the Commission describing the proposed price changes or initial price setting and containing its revised Tariff rate. The rural ILEC shall additionally file together with its Advice Letter a service-specific or product-specific cost analysis supporting the proposed rates and demonstrating that the proposed rate or rates are cost-based and otherwise just and reasonable.
- (g) 723-52-3.9; 723-38-3.1.2.2 Customer-specific contracts and notice.
 - (I) The Commission may permit a rural ILEC to provide a customer with regulated services, under contract, irrespective of any Tariff or Price List requirements.
 - (II) If permitted, 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; whether the contract is a non-discriminatory offering; whether the charges exceed the company's cost; and a statement confirming that the contract contains a provision acknowledging that it is subject to regulatory review.
 - (III) The contract shall be subject to Commission review to determine if:
 - (A) The rate negotiated is nondiscriminatory and the customer did not receive an inappropriate rate;

- (B) The contract terms are consistent with the public interest; and
 - (C) The contract terms are consistent with applicable Commission rules.
- (IV) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the applicant 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.
- (h) 723-52-3.11 Revoking election of simplified regulatory treatment on existing rates.
- (I) 723-52-3.10 A rural ILEC may elect to revoke its election to be subject to simplified regulatory treatment by providing notice of such revocation to the Commission. No customer notice of revocation is required. A notice of revocation is effective as of its date of filing and returns the rural local exchange provider to default regulation.
 - (II) 723-52-3.10 If a rural ILEC revokes its election under this paragraph (h), the rates for the products and services of the rural ILEC in effect at the time that notice of revocation is filed with the Commission shall continue in effect until the effective date of a Commission order establishing new rates.
 - (III) 723-52-3.12 If a rural ILEC revokes such election under this paragraph (h), that provider may not elect to become subject to simplified regulatory treatment for a period of at least three years from the date its notice of revocation is filed with the Commission.
- (i) 723-52-3.13 Supplemental information for application to increase rates for Part II services. In any proceeding in which a rural ILEC subject to simplified regulatory treatment makes a filing with the Commission putting an increase of its rates for Part II services at issue, the provider agrees that it will file together with its application, relevant cost allocation information pertaining both to its Part II services and products, and to its Part III services and products subject to simplified regulatory treatment under these rules. The filing of such information shall be subject to any applicable Commission rules and orders concerning confidentiality and shall not constitute a waiver of the provider's rights under §§ 40-15-201 and 40-15-302, C.R.S.

2207. Refraining from Regulation of a Part II Service.

- (a) 723-New The Commission, upon its own motion or upon application by a provider of Part II services, and in compliance with the requirements of § 40-15-203, C.R.S., may refrain from regulation for competitive purposes and authorize a provider to provide all or a portion of a private telecommunications network service under stated or negotiated terms to any person or entity that has acquired, is contemplating the acquisition of, or is operating a private telecommunications network.
- (b) 723-New Any application under this rule shall comply with the requirements of paragraph 2002(b) and § 40-15-203, C.R.S.
- (c) 723-New Commission notice of application. The Commission shall notice the application by inclusion of an appropriately identified item for discussion on its next weekly meeting agenda. No applicant notice is required.

2208. 723-New Reclassification of a Part II Service to a Part III Service.

- (a) 723-New 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) 723-New Any application under this rule shall comply with the requirements of paragraph 2002(b) and § 40-15-207, C.R.S.
- (c) 723-New Filing of testimony by applicant. At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing.
- (d) 723-New Applicant notice. 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 an alternative notice procedure. The applicant shall also provide notice by first-class mail to all providers of telecommunications services that are regulated by the Commission under Title 40, Article 15, Part II or Part III, C.R.S. Not more than seven days after such notice is given, the applicant shall provide the Commission with an affidavit stating its compliance with this paragraph.
- (e) 723-New If the Commission reclassifies a service under § 40-15-207, C.R.S., all providers of the reclassified service shall file with the Commission an accounting plan, account-by-account, to segregate the assets, liabilities, revenues, and expenses

(including common and joint assets, liabilities, expenses, and revenues) assigned and allocated to the reclassified service to ensure compliance with § 40-15-108, C.R.S. The accounting plans shall be filed with the Commission within 30 days from the effective date of the final order granting reclassification of the service.

2209. Deregulation of Part III Emerging Competitive Services.

- (a) 723-New 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. Such deregulation shall be in compliance with the requirements of § 40-15-305, C.R.S.
- (b) 723-New Any application under this rule shall comply with the requirements of paragraph 2002(b) and § 40-15-305, C.R.S.
- (c) 723-38-10.1.2 Filing of testimony by applicant. At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing.
- (d) 723-38-10.2; 10.2.1 Applicant notice. 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 an alternative notice procedure. The applicant shall also provide notice by first-class mail to all providers of telecommunications services that are regulated by the Commission under Title 40, Article 15, Part II or Part III, C.R.S. Not more than seven days after such notice is given, the applicant shall provide the Commission with an affidavit stating its compliance with this paragraph.
- (e) 723-38-10.3.2 If the Commission deregulates a service under § 40-15-305, C.R.S., all providers of the deregulated service shall submit to the Commission an accounting plan, account-by-account, to segregate the assets, liabilities, revenues, and expenses (including common and joint assets, liabilities, expenses, and revenues) assigned and allocated to the deregulated service to ensure compliance with § 40-15-108, C.R.S. The accounting plans shall be filed with the Commission within 30 days from the effective date of the final order granting the deregulation.

2210. 723-38-12 Combined Applications.

An applicant may file an application for an alternative form of regulation, an application for reclassification, and/or an application for deregulation, in combination with any other application, e.g., an application for a CPCN.

In a combined application, the applicant shall provide all information required for each component of the combined application.

2211. - 2299. [Reserved].

RELATIONSHIPS BETWEEN CUSTOMERS AND TELECOMMUNICATIONS SERVICE PROVIDERS

SERVICES PROVIDED TO THE PUBLIC

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify services subject to the Commission's regulation and to reflect continuing evolution of standards and technology. The Commission is charged with establishing standards for the adequate provisioning and performance of: Part II regulated telecommunications service, Part III emerging competitive telecommunications services, and other regulated telecommunications products and services.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-102, 40-3-103, 40-3.4-106, 40-4-101(1), 40-4-101(2), 40-15-201(1), 40-15-302(1)(a), 40-15-503(2), and 40-2-108, C.R.S.

2300. 723-2-1.2 Applicability.

Rules 2300 through 2329 regulate the provision of intrastate telecommunications services and facilities to the public and apply to all providers of telecommunications services subject to the jurisdiction of the Commission.

2301. Definitions [Reserved].

2302. Customer Deposits.

(a) 723-2-8.1 General intent and guidelines.

- (I) 723-2-8.1.1 Each LEC shall process an application for service made either orally or in writing and in a non-discriminatory manner.
- (II) 723-2-8.1.4 The LEC shall establish and maintain a written procedure for determining an applicant's credit status in its tariff.

(b) 723-2-8.2 Criteria for establishment and amount of deposits.

- (I) 723-2-8.2.1 Each LEC's deposit and credit policy shall determine credit worthiness in an equitable and non-discriminatory manner. The LEC shall advise its customers that:
 - (A) 723-New The LEC shall not require a deposit from a customer for new basic local exchange service, or for a transfer to a new location, if the customer meets one of the following criteria:
 - (i) 723-New If the LEC uses credit scoring and the customer has received an acceptable score

on a credit check. The LEC's tariff shall include the specific credit evaluation criterion that triggers the need for a deposit.

- (ii) 723-2-8.2.1(e) The customer has been a customer of the LEC for a similar type of service within the past months and the customer's payment history with the LEC was satisfactory.
 - (iii) 723-2-8.2.1(e) The customer provides written documentation of 12 consecutive months of good credit history from another LEC from which the customer received similar services within the past 30 days.
 - (iv) 723-2-8.2.1(d) The customer provides a written guarantee of payment for basic local exchange service from a third-party. The amount of the guarantee shall not exceed the maximum amount of the deposit that would otherwise have been required. The guarantee shall remain in effect either until terminated in writing by the guarantor or until the customer has achieved a satisfactory payment record for 12 consecutive months of basic local exchange service and any associated taxes and surcharges.
 - (v) 723-New The customer agrees to accept restricted local exchange service. Restricted local exchange service requires that a toll block be placed on the line and the customer is responsible for payment of any charges associated with the toll block. The toll block remains on the line until the customer either pays the required deposit(s) or maintains a satisfactory payment record for 12 consecutive months.
 - (vi) 723-2-8.2.1(f) The Commission may authorize the LEC to waive deposit requirements for certain groups of customers eligible for Tariff discount programs.
- (B) 723-2-8.2.1(a); 723-2-8.2.1(c) The LEC shall require a new or existing customer to pay a deposit if detailed billing records are available and records indicate recent or substantial delinquencies. All customers shall be treated equally within a classification with respect to these deposit requirements, and the LEC's deposit policy pursuant to this rule shall be detailed in its tariff. The LEC shall give the customer written notice of the

amount of the deposit that is required. The written notice shall inform the customer that the deposit payment must be received in 15 days. The LEC shall require existing customers to pay a deposit in full without the notice requirements of this subparagraph (I)(B) before service is restored whenever the denied service has been disconnected for non-payment of outstanding charges in accordance with the provisions of rule 2303.

- (II) 723-2-8.2.2 The amount of the deposit that may be required for new basic local exchange service shall not exceed an amount equal to an estimated 90 days bill for such service provided to the customer, except in the case of a customer whose bills are payable in advance of service, in which case the deposit shall not exceed an amount equal to 60 days billed for such service provided to the customer.
 - (III) 723-2-8.2.4 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 LEC's Tariffs on file with the Commission.
- (c) 723-2-8.3 Limitation on the use of deposits.
- (I) 723-2-8.3.1 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 for basic local exchange service and any associated taxes and surcharges.
 - (II) 723-2-8.3.2 No provider shall require any security other than a monetary deposit to secure payment for basic local exchange service and any associated taxes and surcharges or third party guarantee as described in Rule 2302(b)(I)(A)(iv). In no event shall the providing of basic local exchange services, or extension of facilities, or any connected indebtedness result in a lien, mortgage, or other security interest in any real or personal property of the customer, unless the indebtedness has been reduced to a judgment.
- (d) 723-2-8.4 Payment arrangements on deposits. A customer who is required by a LEC acting under the requirements of this rule to pay a deposit may elect to pay the deposit in full, prior to receiving service, or enter into a written installment arrangement for payment of the deposit. The LEC shall advise the customer of this option. The terms of the installment arrangement shall comply with the following conditions:

- (I) 723-2-8.4(a) When the combined deposits subject to this rule exceed \$50 per access line, the customer shall not be required to pay more than one-half of the deposit prior to the provision of service. The remainder of the deposit shall be due 30 days after the date of the first payment is due or after service is provided, whichever is later.
 - (II) 723-2-8.4(b) When a customer enters into an installment arrangement to pay a deposit, the LEC shall provide the customer with a written notice describing the payment arrangement within ten days of entering into the payment arrangement. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type that the service will be discontinued if payment is not received when due.
 - (III) 723-2-8.4(c) If a customer's service is discontinued for non-payment of a deposit, the customer shall be required to pay the full amount of the deposit, as well as any additional amounts owed the LEC, before service is restored.
 - (IV) 723-2-8.4(d) A LEC shall not be required to afford a customer the option to enter into an installment arrangement for payment of a deposit when a deposit is required because service has been denied or discontinued in accordance with the provisions of rule 2303.
- (e) 723-2-8.5 Interest and deposits.
- (I) 723-2-8.5.1 Simple interest shall be paid by the LEC upon a deposit at the percentage rate per annum as calculated by Commission Staff and in the manner provided in this paragraph, payable upon the return of the deposit, or annually at the request of the customer. Interest on a deposit shall be earned for the time the deposit is held by the LEC, and shall be calculated from the date the deposit is received by the LEC to the date of payment to the customer or to the date the deposit is credited to the customer's account. Interest payments, at the option of the LEC, may be paid directly to the customer or by a credit to the customer's account.
 - (II) 723-2-8.5.2 Simple interest to be paid on a deposit by the LEC during any calendar year shall be at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 12 monthly average rates of interest expressed in percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the *Federal Reserve Bulletin*, by the Board of Governors of the Federal Reserve System. Each year, Commission Staff shall compute the interest rate to be paid. If the difference between the existing

customer deposit interest rate and the newly calculated customer deposit interest rate is less than 25 basis points, the existing customer deposit interest rate shall continue for the next calendar year. If the difference between the existing customer deposit interest rate and the newly calculated customer deposit interest rate is 25 basis points or more, the newly calculated customer deposit interest rate shall be used. The Commission shall send a letter to each LEC within the state stating the rate of interest to be paid on deposits during the following calendar year. Following receipt of Staff's letter, each utility shall, no later than December 15 of each year, or an alternative date set by the Commission, file an Advice Letter and revised tariff citing this rule as authority on not less than one day's notice, or file an appropriate application, to revise the Tariff, all effective the first day of January of the following year, or on an alternative date set by the Commission, containing the new interest rate to be paid upon customers deposits.

- (III) 723-2-8.6.2 Concurrently with receiving a deposit, the LEC shall provide the customer a receipt showing the deposit date, the name and billing address of the customer, and the amount of the deposit. However, no provider shall refuse to return a deposit, or any balance to which a customer may be entitled, solely upon the basis that the customer is unable to surrender the receipt.

(f) 723-2-8.7 Refund of deposits.

- (I) 723-2-8.7.1 Upon discontinuance of service, or when a customer establishes satisfactory credit, the LEC shall promptly refund any deposit, plus accrued simple interest, or the balance, if any, in excess of the unpaid bills for basic local exchange service and any associated taxes and surcharges. A transfer of service from one location to another within the area served by a LEC shall not be deemed a discontinuance of service with the LEC if the character of the service remains unchanged.
- (II) 723-2-8.7.2 When a deposit, with any associated interest, is applied to the liquidation of unpaid bills, the LEC shall mail, or otherwise deliver to the customer, a statement showing the amount of the original deposit, plus any accrued interest, the amount of unpaid bills liquidated by the deposit plus any interest, and the balance remaining due either to the customer or the LEC.
- (III) 723-2-8.7.3 The LEC shall annually review accounts of customers with deposits. Unless the LEC has obtained sufficient factual information to determine that a customer is an unsatisfactory credit risk based upon the criteria described in paragraph (b) of this rule, the LEC shall promptly refund a customer's deposit plus interest upon

satisfactory payment of all proper charges for 12 consecutive months.

- (IV) 723-2-8.7.5 At the option of the LEC, a deposit plus accrued interest may be refunded in whole or in part at any time earlier than the times prescribed in subparagraph (f)(III) of this rule.
- (V) 723-2-8.7.6 In any event, if there is a balance due the customer after service is discontinued and a final bill is rendered by the provider, that balance shall be payable within ten days to the customer without demand or notice from the customer.
- (VI) 723-2-8.7.7 When a refund of the deposit cannot be made on the first attempt, the provider shall make a reasonable effort to make the refund.
- (VII) 723-2-8.7.8 When a deposit is refunded, the LEC shall render to the depositor a statement showing the amount of the deposit, the period the deposit was held, and the amount of interest refunded.
- (VIII) The LEC shall advise customers of the option to receive the deposit refund plus interest, either by check or credit to their accounts.
- (g) 723-2-8.8 Deposit policy included in the tariff. Each LEC shall file as part of its tariffs, 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) 723-2-9.1 Disconnection without notice. No LEC shall deny or discontinue service to a customer 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; or
 - (III) If the LEC determines service was obtained fraudulently or without the authorization of the provider or is being used for, or suspected of being used for, fraudulent purposes.
 - (IV) 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.

- (b) 723-2-9.2 Disconnection with notice. A LEC may temporarily suspend or permanently discontinue service and may sever the connection and remove any of its equipment from the customer's premises after 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 specified in subparagraph 2304(a)(I).
 - (II) 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 local exchange service including outstanding charges for any associated taxes and surcharges; and
 - (ii) where such person continues to reside.
 - (III) Violation of any Commission rule or effective Tariff that may adversely affect the safety of any person or the integrity of the provider's service.
 - (IV) Failure to comply with municipal ordinances or other laws pertaining to telecommunications service that may adversely affect the safety of any person or the integrity of the provider's service.
 - (V) Failure of the customer to permit the LEC reasonable access to its facilities or equipment.
- (c) 723-2-9.3 Restrictions on denial or discontinuation of service – Disposition of payments.
- (I) 723-2-9.3.1 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) 723-2-9.3.2 A LEC 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) 723-2-9.3.3 A LEC may not use its purchase of a customer's indebtedness, *i.e.*, the accounts receivable, from another provider as a basis for requiring monetary interest from or a deposit by that customer or to deny or discontinue providing its jurisdictional services to that customer.
- (IV) 723-2-9.3.4 If a customer pays or is willing to pay all current charges, which are defined for the purpose of this subparagraph as that portion of the amount owed by the customer for basic local exchange service and any associated taxes and surcharges that are not more than 30 days past due, a LEC 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 LEC. The LEC shall advise customers of this option. A written notice confirming the terms of the arrangement shall be mailed to the customer within ten days from the date that the arrangement was made. Past due amounts collected under the payment arrangement shall first be applied to eliminating any past-due charges for basic local exchange service and any associated taxes and surcharges. A reasonable period for amortization of past due amounts shall be six months. Amortization is not appropriate unless the past due amount is greater than twice the customer's average monthly bill for basic local exchange service and any associated taxes and surcharges. Customers may elect to include optional and unregulated charges in the payment arrangement. If the payment arrangement is not satisfied, the service may be disconnected for non-payment without further notice.
- (V) 723-2-9.3.5; 723-2-9.3.6 Unless requested by the customer, a LEC shall disconnect dial tone only during the normal business hours of the LEC's business or customer service offices. There shall be no disconnection of dial tone when when the business or customer service offices of the LEC is not open or after noon the day before the business or customer service offices will not be open.
- (VI) 723-New When a provider has been granted the authority by the Commission to discontinue offering basic local exchange service, the Commission's designated default provider may refuse service to a customer who has an outstanding balance for local services owing to the default provider and has not entered into an arrangement with the default provider to pay the outstanding balance.
- (VII) 723-2-9.3.7 Medical emergencies.
 - (A) A LEC shall postpone discontinuance of basic local exchange service to a residential customer for sixty

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 thirty-day extension by providing a second medical certification prior to the expiration of the original sixty-day period. A customer may invoke this rule 2303(c)(VII)(A) only once in any twelve consecutive months. A customer that has already entered into a payment arrangement, but has broken the arrangement prior to seeking a medical certification, must pay all amounts that were due up to the date of the certificate, and resume the payment arrangement. A customer shall be limited to one 90-day postponement of discontinuance of service within a continuous 12-month period.

- (B) The certificate of medical emergency shall be in writing, sent to the LEC from the office of a licensed physician, and show clearly the name of the customer or individual whose illness is at issue, the name, Colorado medical identification number, phone number, 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 LEC may use reasonable means to verify the authenticity of such certification.

(d) 723-2-9.4 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 rule 2303.
- (II) Service must be restored within 24 hours, unless prevented by safety concerns, if the customer:
 - (A) Remits the full amount shown on the notice for jurisdictional services, plus any deposit as may be specifically required by the LEC's tariff by:
 - (i) Paying the LEC directly; or
 - (ii) Paying an authorized payment agent of the LEC, contacting the LEC by telephone and providing the LEC with the date paid, the amount paid and the valid receipt information;

- (B) Enters into an installment payment arrangement and makes the first installment payment, unless the cause for discontinuance of service was due to the customer's breach of a previous arrangement;
 - (C) Presents a medical certificate, as provided in rules 2302(c)(VII), within 24 hours of a disconnection for non-payment; or
 - (D) Demonstrates to the LEC that the cause for the discontinuance, if other than non-payment, has been cured
- (e) Notice requirements.
 - (I) 723-2-9.4.1 The customer shall be notified in writing of the intention of a LEC 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 as allowable in rule 2304(a)(I), the notice of disconnection may be provided electronically.
 - (II) 723-2-9.4.2 Except as provided by rule 2303(a), notice of discontinuance of service in accordance with rule 2303(b) shall advise the customer how to contact the provider to resolve any dispute, the amount and date due of any non-payment, information concerning the violation of any rule, and the customer's rights under this rule as follows:
 - (A) The customer has the right to file an informal complaint with the Staff of the External Affairs section of the Commission by letter, telephone, e-mail, or in person; and
 - (B) That the customer has the right to file a formal complaint in writing, requesting a hearing before the Commission.
 - (III) 723-2-9.4.3 A notice for discontinuance of basic local exchange service shall also include the following information:

- (A) The address, e-mail address and toll free telephone number of the External Affairs section of the Commission
- (B) That any hearing will be conducted in accordance with the Commission's Rules Regulating Practice and Procedure;
- (C) That the Commission may order the LEC not to disconnect service pending a hearing and may order the applicant for a hearing to post an additional deposit or bond in certified funds with the LEC in an amount the Commission deems reasonable.

2304. Customer-Billing Requirements.

(a) 723-2-10.1 Billing information.

- (I) 723-2-10.1.1 Unless service is provided under a contractual arrangement as permitted by law, tariff, Commission rule or order, all bills to customers for jurisdictional telecommunications services shall be issued at least monthly and shall be typed or machine printed. Bills shall clearly specify the payment due date, which must be at least 15 days after the billing date. Unless otherwise specified by the customer, the LEC shall send bills to the customer's service address. Upon a request from a customer, and where it is technically feasible, electronic billing (e-billing) may be provided in lieu of a typed or machine printed billing. A provider shall not require payment for any services if the charges have not appeared on the customer's bill.

(II) 723-2-10.1.2 Itemization.

- (A) All monthly bills shall include an itemization of charges for the following services and shall, when applicable, include but not be limited to:
 - (i) Basic local exchange service as requested by the customer, even if such service is billed under a bundled package;
 - (ii) 723-New Applicable zone increment or distance charges;
 - (iii) All charges for jurisdictional services, taxes, and surcharges shall be segregated from all non-jurisdictional service(s) or equipment or identified separately. All charges for non-jurisdictional services or equipment shall be labeled or identified as unregulated by the Commission;

- (iv) A calculation of the cost of basic local exchange service under the flat rate applicable to the customer, as if the customer were a flat rate subscriber, when the customer is being billed under an optional message or measured service rate;
 - (v) Other jurisdictional services or charges separately stated, which shall include a listing of any deposit and the interest returned to a customer under the provisions of rule 2302;
 - (vi) An itemization of all toll calls charged to the account, including, but not limited to, the date and time of the call, the length of the call in minutes, the destination of the call, or point of origin for collect and third-party calls, and the rate period applicable (e.g., day, evening, peak, economy), if the provider has assumed responsibility for the collection of toll charges; if the customer has chosen a flat rate, unlimited, usage-calling plan from the toll provider, the provider shall itemize only the monthly rate for the specific plan;
 - (vii) Local, state, and federal taxes and surcharges;
 - (viii) 723-2-10.1.8 Identification of the FCC end-user access line charge per line;
 - (ix) The toll-free telephone number of the appropriate LEC's business office; and
 - (x) Notification of the date when the bill was issued and is due.
- (B) Concurrent with the preceding itemization requirements, all optional services shall be identified as optional. Solely for the purpose of subparagraph a(II), an optional service is one that is not necessary to obtain basic local exchange service. Charges levied by other governmental bodies, such as the FCC, on basic local exchange service are not to be classified as optional charges within the intent of subparagraph a(II).
- (III) 723-2-10.1.3 723-2-10.1.5 If the LEC is able to provide an itemized billing for local message or measured charges, the customer using that service may request call unit detail in advance for one billing period free of charge once every 12 months, or if a dispute exists as to the accuracy of the bill that has been brought to the

Commission as an informal or formal complaint. This waiver of charges shall not apply to customers who contract with the LEC for monthly call detail.

- (IV) 723-2-10.1.6 The LEC or toll provider shall provide an explanation of the rates, charges, and provisions applicable to the service provided or available under its local or general Exchange Tariffs when requested by customers or others desiring information. A LEC shall provide any information and assistance necessary to enable customers to choose from the lowest cost jurisdictional telecommunications service or other alternatives it provides which conform to the customer's or applicant's stated needs. This information may include printed explanations of alternate services and rates. Correspondingly, the LEC shall notify customers of any non-recurring charges, deposits or service connection charge to be applied to their bills prior to undertaking any action and shall provide an estimate of the initial billing for basic monthly service plus any other applicable charges separately stated for each additional service.
 - (V) 723-2-10.1.7 The customer shall be provided with an estimate of the charges when special charges not specifically stated in the LEC's Tariff are levied on the basis of actual costs, such as extraordinary construction, maintenance or replacement expenses, overtime work at the customer's request and special installations, equipment, and assemblies used in conjunction with any jurisdictional service. Any estimate provided by a LEC shall not bind either the LEC or the customer to pay that amount, but rather the amount ultimately paid shall be based upon the charges as stated in a final contract or other binding agreement between the customer and the LEC.
- (b) 723-2-10.2 Payment of bills, billing disputes, and bill credits or refunds.
- (I) 723-2-9.3.4 Whenever a customer makes a partial payment, the LEC 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) 723-2-10.2.1 In the event of a billing dispute between the customer and the provider, the provider may require the customer to pay the undisputed portion of the bill to avoid discontinuance of service for non-payment. The provider 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) 723-2-10.2.2 Whenever billing for basic local exchange service and any associated taxes and surcharges has not been determined accurately because of a LEC's omission or negligence, the LEC shall offer the following:

(A) Whenever a LEC over-bills a customer for the service, the LEC shall offer the customer an immediate credit. 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 LEC shall mail the refund within thirty days. Such overfilling 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 LEC 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. 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.

(IV) 723-2-10.2.3 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 LEC (whichever occurs first), appropriate adjustments shall be automatically made by the LEC to the customer's bill.

(A) 723-2-10.2.3.1 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) 723-2-10.2.3.2 The LEC 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 LEC;
 - (iii) Natural disasters or other events affecting large numbers of customers such as described in paragraph 2336(c); or
 - (iv) The inability of the LEC to gain access to the customer's premises when required.
- (V) 723-2-10.2.4 In the event the LEC misses a service call, *i.e.*, an appointment for a premises visit associated with installation of new service by more than four hours, the LEC shall make a credit to the monthly bill of the customer in the amount of one-third the Tariff rate for installation that was to be charged. This credit shall also apply when the LEC misses scheduled installation work to be done in the central office.
- (VI) 723-2-10.2.6 The bill credit policies set forth in paragraph (b) are minimum requirements. LECs that merely adopt paragraph (b) as their bill credit policy are not required to file Tariffs that incorporate this rule. LECs that wish to have additional bill credit policies shall file a Tariff that fully describes such additional policies. All bill credit policies shall be non-discriminatory and non-preferential.

2305. 723-2-10.2.5 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. For a LEC, the application shall analyze the feasibility and costs of customer-specific refunds in lieu of a general refund.

- (a) 723-1-58(c) Contents. 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 attached exhibits:
 - (I) The information required by paragraph 2002(b).
 - (II) A copy of 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, *et seq.*, C.R.S.

- (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 docket 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.
 - (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) 723-1-58(d) Notice. The Commission shall give notice of the filing of an application to make a refund, as provided in its Rules Regulating Practice and Procedure. The Commission may require the applicant to give individual notice to affected customers. Within 3 days after an application to make a refund is filed, the applicant shall publish notice of the application in a newspaper of general circulation. Notice by the applicant shall include all of the following:
- (I) The date of notice.
 - (II) The name and address of the applicant.
 - (III) The following statement: "You are notified that the telecommunications service provider named above has filed with the Colorado Public Utilities Commission an application for the approval of a refund plan."

- (IV) A statement indicating the dollar amount of the refund to be made, the date for making the refund, the date proposed to complete making the refund, and the way the refund is proposed to be made. If this information is too lengthy to include in the notice completely, include a summary and state that the application is available for examination and explanation at each of the applicant's business offices or on the applicant's website and at the Public Utilities Commission, stating the addresses of such business offices and the Commission's office.
- (V) The following statement: "The Public Utilities Commission may hold a hearing on the proposed refund plan, and if hearings are held, it will determine whether and the manner in which the refund will be made. Members of the public may attend any hearing and may make a statement under oath about the proposed refund, whether or not they have filed an objection or attempted to intervene."
- (VI) The following statement: "Anyone who desires may either file written objection or may seek to intervene as a party. If you only wish to object to the proposed refund, the objection by itself will not allow you to participate as a party in any proceeding. If you wish to participate as a party, you must file a timely intervention as provided in the Commission's Rules Regulating Practice and Procedure and the Commission's notice of this application."

2306. Public Information.

- (a) 723-2-11.1 Business offices and customer service centers. Each LEC 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 LEC. Toll free calling to the business office and customer service centers shall be provided to customers.
- (b) 723-2-11.2 Information available from the business office. Each provider 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 Tariffs and Price Lists as filed with the Commission;
 - (II) For each exchange served by the business office, 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;
- (IV) Publicly announced information concerning plans for major service changes in the area served by the business office; and
- (V) Information pertaining to services and rates as proposed in pending Tariff, Price List, or rate change filings.

2307. Directories for Basic Local Exchange Service.

(a) 723-2-12.1 Publication and distribution of directories.

- (I) 723-2-12.1.1 A LEC shall cause telephone directories to be published annually to include each exchange served by that LEC, listing the name, address, and telephone number of all basic local exchange customers served by that exchange except for those requesting omission of their listing from the directory. Each directory shall include a list of all exchanges in the local calling area. The directory shall also include a listing by trade or type of service offered of all businesses within the exchange.
- (II) 723-2-12.1.2 All telephone directories shall be revised annually. However, a LEC may petition the Commission for an extension of time for good cause shown.
- (III) 723-2-12.1.3 Upon issuance, the LEC shall cause a copy of each published directory to be distributed free of charge to all customers served by that directory. Upon request from a customer with more than one access line, a directory for each access line shall be provided at no charge. A LEC shall provide additional free directories in response to a reasonable request from any customer. Also, upon request from a customer, directories for the other exchanges in the customer's local calling area shall be provided at no charge. A copy of each directory published for each LEC shall be provided annually to the Commission. Upon written request, public libraries within the state shall be provided free copies of the directories for all exchanges served by the LEC within the state.

(b) 723-2-12.2 Directory information and instructions.

- (I) 723-2-12.2.1 An indication of the area included in the directory and the month and year of issue or alternatively, the month and year through which the directory is effective

shall appear on the front cover. The phone service pages must include information on every ILEC and CLEC with listings included in the directory. Information pertaining to emergency calls, such as for the police and fire departments, shall appear conspicuously in the front part of the directory.

- (II) 723-2-12.2.2 The directory shall include: instructions for placing local and long distance calls; instructions for placing calls to repair and directory assistance services; the business office website, if applicable; and the telephone number of the LEC's business offices appropriate to the area served by the directory.
 - (III) 723-2-12.2.3 Each directory shall include, in a prominent manner in the instructional section, notice of the Commission's current toll free telephone number and the customer's right to make inquiries regarding telecommunications services to the Commission.
- (c) 723-2-12.3 Directory assistance and intercept.
- (I) 723-2-12.3.1 The LEC shall list its basic local exchange customers (except for those customers requesting otherwise) with the directory assistance operators within 72 hours of service connection.
 - (II) 723-2-12.3.2 In the event of an error in the listed number or name of any customer by the LEC and until a new directory is published, the LEC shall make whatever special arrangements are necessary and reasonable at no charge to ensure that calling parties are able to reach the customer whose listed number or name is in error.
 - (III) 723-2-12.3.3 In the event of an error in the number, name, or address listing of any customer, the customer's correct name, address, and telephone number shall be included in the databases of directory assistance and intercept operators within 72 hours of confirmation of the error by the LEC or sent to the providers of these services within 24 hours if the LEC does not provide its own services. The LEC shall take the necessary steps to ensure that the error is corrected in the next issue of the directory.
 - (IV) 723-2-12.3.4 In the event a customer's telephone number is changed, the correct number shall be in the databases of directory assistance and intercept operators within 72 hours of the number change or sent to the providers of these services within 24 hours if the LEC does not provide its own services.

- (A) Whenever a customer's telephone number is changed at the request of the customer after a directory is published, the LEC shall provide intercept service for all calls to the former number for a reasonable period but not fewer than 60 days. The customer may pay to have the intercept recording include the customer's new number.
- (B) If the change is due to the initiative of the LEC, the LEC shall provide intercept service for all calls to the former number for 60 days or the remaining life of the directory, whichever is greater. The intercept recording shall include the customer's new number at no charge.

2308. Local Exchange Service Standards.

- (a) 723-2-17.1 Basic service standard. As part of its obligation to provide adequate basic local exchange service, each LEC 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) 723-2-17.1.1 Individual line service or its functional equivalent constructed and maintained to meet the general parameters and characteristics of rule 2337;
 - (II) 723-2-17.1.2 Voicegrade access to the public switched network;
 - (III) 723-2-17.1.3 Dual tone multifrequency signaling capability (Touchtone) or its functional equivalent on the local access line;
 - (IV) 723-2-17.1.4 Facsimile and data transmission capability with the public switched network when the customer uses modulation/demodulation devices rated for such capability, in particular, the capability to transmit two-way communications between a person using a telecommunications device or other nonvoice terminal device and a person using other customer premises equipment within the bandwidth of voicegrade access;
 - (V) 723-2-17.1.5 The local exchange usage necessary to place calls to or receive calls from all local exchange access lines within a Commission approved local calling;
 - (VI) 723-2-17.1.6 Access to emergency services;
 - (VII) 723-2-17.1.7 Equal access to toll services;

- (VIII) 723-2-17.1.8 Customer billing to the extent described in rule 2304;
- (IX) 723-2-17.1.9 Public information assistance to the extent described in rule 2306;
- (X) 723-2-17.1.10 Access to operator services;
- (XI) 723-2-17.1.11 White page directory listing as described in paragraphs 2307(a) and (b);
- (XII) 723-2-17.1.12 Access to directory assistance and intercept to the extent described in paragraph 2307(c);
- (XIII) 723-2-17.1.13 Provisioning of service during maintenance or emergencies to the extent described in rule 2335;
- (XIV) 723-New Capability to place calls using abbreviated dialing codes (N-1-1);
- (XV) 723-New Capability to place calls to and to receive calls from the Colorado provider of TRS;
- (XVI) 723-New Protection of personal information pursuant to rules 2360 through 2399;
- (XVII) 723-New The capability to initiate caller identification blocking per call using *67 or to equip their service with caller identification blocking per line when services are offered that might use the customer's name and/or number; and
- (XVIII) 723-2-17.1.14; 723-New Basic local exchange service by itself as a separate Tariff offering, however:
 - (A) This subparagraph (XVII) does not preclude the LEC from also offering basic local exchange service packaged with other services; and
 - (B) If basic local exchange service is packaged with other services, the rate for the bundled package service must be at or below the rate that would be charged if the basic local exchange service and the optional features were charged individually.
- (b) 723-2-17.2 Universal service availability standard. 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 pursuant to its CPCN, each LEC 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 its serving area:

- (I) 723-2-17.2.1 The basic service standard defined in paragraph 2308(a);
- (II) 723-2-17.2.2 E9-1-1 service, either by providing the necessary facilities and identification (name/number, etc.) information to a BSP or as provided by the LEC under rules 2130 through 2159; and
- (III) 723-2-17.2.3 Services to which the customer may voluntarily subscribe:
 - (A) 723-2-17.2.3.1 Services that deny or limit access to toll providers; and
 - (B) 723-2-17.2.3.2 Services that deny access to other information service providers.
- (c) 723-2-17.3; 723-2-17.3.1 Local calling area standards. Local calling areas as established by the Commission shall meet either the community of interest or incremental extended service criteria. Any provider that is granted authority to offer basic local exchange service in an exchange, or for any part of the exchange, for which the Commission has previously established a local calling area, 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) 723-2-17.3.1.1 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) 723-2-17.3.1.2 Be provided in both directions between the two exchange areas; and
 - (III) 723-2-17.3.1.3 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).

2309. 723-2-17.3.2 Expanding a Local Calling Area.

The Commission shall consider requests for an expanded local calling area through the following processes: the Commission's own motion; a biennial review of calling volumes between exchanges conducted by Commission Staff; an application filed under the alternative criteria standard; or a petition filed under the incremental extended area service standard.

- (a) 723-2-17.3.3 Biennial reviews. Staff shall conduct a statewide review of calling volumes biennially to analyze whether a community of interest exists between exchange areas. All LECs and toll providers shall comply with Staff's data requests and shall provide data and information on monthly calling volumes for exchanges in their respective serving territories.
- (I) 723-2-17.3.3.1 Criteria. If the following criteria are met, a community of interest is determined to exist, and the Commission shall open an investigative docket to examine further the expansion of the local calling area. When the exchange area under consideration for an expansion of a local calling area:
- (A) Includes the Denver Metro exchange, a calling rate of at least 24 calls per customer per month to the Denver exchange, with at least eight calls per customer per month made by at least 50 percent of the customers from the smaller exchange will demonstrate a community of interest;
- (B) Includes the Colorado Springs exchange, a calling rate of at least eight calls per customer per month to the Colorado Springs exchange, with at least three calls per month made by at least 50 percent of the customers from the smaller exchange will demonstrate a community of interest;
- (C) Includes the Fort Collins, Grand Junction, Greeley, or Pueblo exchange, a calling rate of at least six calls per customer per month to the Fort Collins, Grand Junction, Greeley, or Pueblo exchange, with at least two calls per month made by at least 50 percent of the customers from the smaller exchange will demonstrate a community of interest; or
- (D) Does not include any of the exchanges named in subparagraphs (I)(A) through (I)(C), a calling rate from the smaller exchange area under consideration of at least four calls per customer per month to the larger exchange with at least two calls per month made by at least 50 percent of customers will demonstrate a community of interest.
- (II) Rate increment. If a local calling area is expanded as a result of meeting the calling criteria of the biennial review, any rate increment shall be determined by apportioning the cost among all customers in the entire serving territory of the affected LEC(s).
- (III) Data between biennial reviews. During the period between biennial reviews, a LEC, a majority of the elected representatives of the city or town from either of the

exchange areas impacted by the proposed expansion, or a majority of the county commissioners from either of the exchange areas impacted by the proposed expansion may submit an application requesting that the Commission review the local calling volumes for a particular set of exchanges. Commission Staff will request the call data from the affected local exchange and toll providers. If the resulting data meets the appropriate criteria, the Commission will open an investigative docket to examine further the expansion of the local calling area.

- (IV) An application under subparagraph (III) shall identify, in addition to the requirements of paragraph 2002(b), the circumstances that have changed sufficiently to justify a review outside the biennial review process.
- (b) 723-2-17.3.3.2 Alternate criteria standard. The Commission shall also consider requests for the expansion of a local calling area based upon evidence other than calling volumes to demonstrate that a community of interest exists between exchanges.
 - (I) 723-2-17.3.3.2.1 To have a request processed under the alternate criteria standard, an application shall be filed by either the affected LEC or by a majority of elected representatives of the city or town or a majority of the county commissioners from the applying local exchange area. If the application for expansion of a local calling area will result in a local calling area that crosses county boundaries, then a majority of the county commissioners from the non-applying local exchange area shall also be signatories to the request.
 - (II) 723-2-17.3.3.2 Criteria. In evaluating such a request, the Commission shall consider community of interest issues dictated by urban growth patterns and the present and future availability of essential services in rural areas. Specific criteria to be used by the Commission in making its determination shall include the:
 - (A) Local calling area standards of paragraph 2308(c);
 - (B) Customers' calling patterns;
 - (C) Location of serving transportation centers;
 - (D) Demographic profile of the residents of the exchange(s);
 - (E) Location of primary centers of business activity and employment centers;
 - (F) Location of employee residences;

- (G) Availability and feasibility of optional calling plans and the level of local and long distance competition; and
 - (H) Other pertinent factors such as the results of the most recent biennial review. However, the calling standards related to the biennial review do not need to be met if the other data is persuasive.
- (III) 723-2-17.3.3.3 Rate increment. If a local calling area is expanded as a result of meeting the alternative criteria standard, any rate increment shall be determined by apportioning the cost among all the customers in the entire serving territory of the affected LEC(s).
- (IV) Application contents. The application for an expanded local calling area under the alternate criteria standard shall include the following:
- (A) The information required by paragraph 2002(b);
 - (B) A description of the existing local calling area;
 - (C) A description of the proposed local calling area; and
 - (D) Information and documentation relied upon by the applicant to support a conclusion that a community of interest exists based on the criteria identified in subparagraph (II).
- (c) 723-2-17.3.4 Incremental extended area service standard.
- (I) If the community of interest standard is not met through either the biennial review calling volume criteria or through the alternative criteria, the option of establishing a two-way incremental extended area service may be pursued by any one, or more, of the following submitting a petition to the Commission:
 - (A) A LEC serving at least one of the exchanges seeking the expansion;
 - (B) A majority of elected representatives of the city or town or a majority of the county commissioners from the applying local exchange area. If the application for expansion of a local calling area will result in a local calling area that crosses county boundaries, then a majority of the county commissioners from the non-applying local exchange area shall also be signatories to the request; or

- (C) A petition signed by 15 percent or 500 customers, whichever is less, of the customers in the affected local exchange.
- (II) A joint petition on behalf of both exchanges shall be filed if the petitioners seek recovery of the costs from customers of both exchanges.
- (III) Criteria. Neither the calling volume criteria nor the alternative criteria standards need be met for the Commission to evaluate a petition for expanded local calling. Once a petition is filed, the Commission will open an investigative docket to further examine the local calling area expansion. The Commission will not open an investigative docket for a particular exchange more than once every twelve months.
- (IV) Rate increment. 723-2-17.3.4.1 and 723-2-17.3.4.2 If such a petition is filed on behalf of customers in only one exchange, only the customers in the petitioning exchange shall pay the rate increment for the two-way incremental extended area service. If such a petition is submitted jointly on behalf of customers in all affected exchanges, customers in all the affected exchanges shall pay the rate increment.
- (V) Petition contents. The petition for an expanded local calling area under the incremental extended area service standard shall include:
 - (A) The information required by paragraph 2003(b);
 - (B) A description of the existing local calling area; and
 - (C) A description of the proposed local calling area.
- (d) 723-2-17.3.5 Cost study requirements. If the Commission determines that the criteria of either 2309(a)(I) or (b)(II) are met, or upon the receipt of a valid petition to pursue an incremental extended area service option under paragraph 2309(c), any LEC providing service in and between the exchange areas being considered for inclusion in the local calling area shall perform all revenue and cost analyses necessary to calculate the rate element increment per affected customer (cost study). The cost study shall be completed by the LEC(s) and submitted to the Commission within 30 days of notification by the Commission. Staff shall report to the Commission of the filing of the cost study and any modifications necessary within 15 days of receipt. When the cost study is accepted without modification, the Commission shall direct that a letter be sent to the LEC(s), notifying them of the calculated rate impact and directing the LEC(s) to proceed with the customer survey. Any issue arising regarding the cost study shall be resolved by Commission order.

(e) 723-2-17.3.6 Customer survey requirements.

(I) 723-2-17.3.6.1 When a local calling area expansion is proposed and the rate increment is known, a statistically valid survey of all residential customers in the exchange areas being considered for calling area expansion shall be performed by the affected local exchange provider(s). The statistical sample of residential customers shall be sized to produce not more than plus or minus five percent margin of error. The survey shall explain the proposed expansion of the local calling area and the resultant increase in local rates. The survey results must demonstrate at least a 50 percent positive acceptance of the local calling area at the stated rate levels. The customer survey shall be completed within 30 days of Commission notification unless otherwise ordered by the Commission.

(II) 723-2-17.3.6.1.1 Notwithstanding subparagraph (I), if the cost study results show that the increase in the monthly rate for basic local exchange service in the non-petitioning local exchange area represents less than a 0.5 percent increase, a residential customer survey need not be conducted in the non-petitioning local exchange area.

(III) 723-2-17.3.6.2 In the case of the incremental extended area service option, a statistically valid survey only of residential customers in the petitioning exchange area(s) shall be performed by the LEC(s) at the expense of the petitioners. The statistical sample of residential customers shall be sized to produce not more than plus or minus five percent margin of error. The survey shall explain the proposed expansion of the local calling area and the resultant increase in local rates. The survey results must demonstrate at least a 66 percent positive acceptance of the local calling area at the stated rate levels. The customer survey shall be completed within 30 days of Commission notification unless otherwise ordered by the Commission.

(f) 723-2-17.3.7 When the cost study and customer survey requirements have been met, the Commission will issue an order indicating the complying exchanges and setting the procedural schedule for conducting any required public hearings. The applicant or petitioner shall have the burden of going forward and the burden of proof.

(g) 723-2-17.3.8 LECs may offer a lower priced alternative to full flat-rate local service, such as measured rate service and/or a message rate service. They may also offer a combination local service comprised of a smaller local calling area for a lower priced flat rate with local measured and/or message rate service to the rest of the local calling area, or they may offer a larger local calling area for a higher flat rate, as long as the LEC continues to offer the Commission-ordered local calling

at the original rate. This rule does not in any way negate a carrier's responsibility to pay applicable access charges.

- (h) 723-2-17.3.9 If community of interest standards are not met, the Commission will generally rely on long distance competition, local competition, and optional calling plans that assess additional charges only to participating customers to meet customer demand for alternate or expanded calling.
- (i) 723-2-17.4 While nothing in rules 2308 or 2309 shall impose on any LEC an obligation to construct facilities or relieve any LEC of any obligation to construct facilities otherwise provided for by applicable law or Commission directive, to the extent facilities are constructed, they shall comply with all statutory and Commission requirements.

2310. Availability of Service - Adequacy of Facilities.

Each LEC 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 certificated to the LEC in conformance with the LEC's line extension policy.

- (a) 723-2-5.4 Line extension policies. Each LEC shall maintain, as part of its Tariffs, the rules, regulations, circumstances, terms, and conditions under which line extensions or extensions of service by the LEC will be made in order to render service to a prospective end user within the exchange area. A LEC's line extension Tariffs:
 - (I) Shall not discriminate among the LEC's prospective customers 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 CHCSM, and all other price support mechanisms established by the federal and state governments if the LEC receives support from such price support mechanisms (*i.e.*, its supported costs); and
 - (IV) Shall be on file at a business location in Colorado or may be on the provider's website, and shall be available for inspection by the public during normal business hours.
- (b) 723-2-24.1 Date of application for service.
 - (I) When a customer orders service and the LEC 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 LEC to request service.

- (II) When a customer orders service and the LEC 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, regardless of whether the customer's project is an individual construction project or is included as part of a group construction project. If the LEC has to recalculate the construction charges for a group construction project as the result of adding customers to the group or removing customers from the group, the date of application for service remains as the date the customer first made payment or partial payment of the 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.
 - (III) When a customer orders service in a development where facilities have been placed either by the LEC or by the developer or builder, the date of application for service shall be the date of the first oral or written customer contact with the LEC to request service.
 - (IV) When a developer or builder notifies the LEC that facilities are ready for conformance testing, the LEC shall complete the testing and notify the developer of the results within 30 days of the request.
- (c) 723-2-24.2 Information to be provided to customers at the time of application for service.
- (I) At the time of the first customer contact to apply for service, the LEC 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 and that a construction charge estimate is necessary before the LEC quotes the estimated construction charge. The LEC must subsequently inform the customer within five days of the customer's first contact that construction will be required. If the Tariffs of the LEC 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 first customer contact.
 - (II) The LEC shall specifically ask customers who contact the LEC to inquire about service availability if the customer desires to initiate, at that time, a request for service.

The LEC shall not discourage the customer from placing an order at the time of such inquiry and shall use the customer's requested date for service as the due date for installation.

- (III) The LEC shall inform customers of the potential of future facility unavailability when the LEC is experiencing or forecasting facility unavailability in specific areas. The LEC shall allow customers to reserve basic local exchange service at the appropriate Tariff rate (*i.e.*, vacation service) and shall inform customers of this option.

(d) 723-2-24.3 Construction charge estimate.

- (I) When a customer orders service and the Tariff of the LEC requires the provision of a construction charge estimate, the LEC 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 Tariff of the LEC 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 LEC that the customer desires a construction charge estimate to be performed within 30 days, regardless of whether the customer is an individual construction project or part of a group construction project. 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. Failure to provide a construction charge estimate within 30 days of the payment of an engineering fee, if applicable, or within 30 days of the customer's request that a construction charge estimate be performed, shall constitute a violation of this paragraph (d) and shall be subject to penalties under §40-7-105, C.R.S.
- (II) When a developer or builder requests a construction charge estimate, the LEC shall provide to the developer or builder, within 30 days from the date of the developer's or builder's request for an estimate, a good faith written cost estimate of the amount of the required payment. The developer or builder shall provide final plats to scale and a trench detail from the power company, as required by the LEC, at the time of the request for a construction charge estimate. If the Tariff of the LEC requires the payment of an engineering fee prior to the provision of a construction charge estimate, the payment of the engineering fee and provision of any and all final plats to scale and trench details shall be notice to the LEC that the developer or builder desires a construction charge estimate to be performed within 30 days. The good faith written cost estimate shall inform the developer or builder that receipt of a signed contract and any necessary payments or partial

payments, if required in the Tariff, is required before the developer's or builder's request will be considered a request for construction. Failure to provide a construction charge estimate within 30 days of the payment of an engineering fee, if applicable, or within 30 days of the developer's or builder's request that a construction charge estimate be performed, shall constitute a violation of this paragraph (d) and shall be subject to penalties under §40-7-105, C.R.S.

(e) 723-2-24.4 Notices to customers.

- (I) All customers who are not provided service within five days of the date of application for service or by the customer's requested date for service, whichever is later, shall be provided a Commission-approved written notice by the LEC, stating the order number assigned by the LEC to the application for service, the date of application for service, the expected service date, the reason for the delay, the date the request for service becomes a held service order (for the purposes of this rule, the 31st day after the date of application), and a listing of all credits available to the customer pursuant to subparagraphs (f)(III) and (IV) if service has not been provided within 30 days of the date of application. This notice shall be postmarked on or before the sixth day after the date of application.
- (II) Customers shall be provided a Commission-approved written re-notification by mail each time the expected date of service is delayed by more than ten days. Re-notification may also be provided by phone, facsimile, or e-mail.

(f) 723-2-24.4 Provision of basic local exchange service.

- (I) 723-2-24.4.1 Applicability. 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, whether the application is for a single line or multiple lines.
- (II) 723-2-24.4.2 Time frames for provision of service. Each LEC shall provide a customer with basic local exchange service no later than five 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. If construction of new facilities is required, the LEC shall provide that customer with basic local exchange service no later than 90 days from the date of the customer's application for service. Failure to provide basic local exchange service within the time set forth in this subparagraph shall constitute a violation of this rule.

Each day for which basic local exchange service is not provided to a customer as set forth in this subparagraph shall constitute a separate violation of this rule for each line in the customer's initial order.

(III) 723-2-24.4.3 Remedies to customers not receiving basic local exchange service within 30 days.

(A) If a LEC fails to provide basic local exchange service within 30 days, the customer shall receive a waiver of any installation charges for all lines included in the initial order.

(B) This subparagraph (III)(B) shall apply to applications for the first residential and the first business line at a residential premises and to the first two lines at a business premises. For the first residential line and the first business line at a residential premises and the first two lines at a business premises, customers shall receive a credit to the customer's account in an amount at least equal to the *pro rata* monthly local exchange service charge for each day thereafter that service is not provided and a voucher of \$150 per month to offset the cost of temporary alternatives to basic local exchange service. These vouchers shall be provided by the LEC to all customers until the LEC provides basic local exchange service.

(IV) 723-2-24.7 Other remedies. The vouchers, 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) 723-2-24.7.1 An order by the Commission that the LEC provide basic local exchange service by a date certain;

(B) 723-2-24.7.2 Decertification of the LEC by the Commission, either in whole or in part; or

(C) 723-2-24.7.3 Penalties under § 40-7-105, C.R.S.

(g) 723-2-24.8 Procedure for variance of this rule. LECs may seek a variance of any part of this rule, subject to all the following limitations:

(I) 723-2-24.8.1 A request by a LEC for a blanket variance shall not be granted. Requested variances for individual customers, or individual developments or areas, shall be considered.

- (II) 723-2-24.8.2 A variance may be granted only in those instances where the LEC 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) 723-2-24.8.3 All LECs may request a variance from the Commission by application that sets forth in detail the grounds upon which the variance is sought.
- (h) For reports required for services held more than 90 days, see paragraph 2006(c).

2311. Changing Provider/Carrier Presubscription.

- (a) Definitions. The following definitions apply only in the context of this rule.
 - (I) 723-2-New "Authorized carrier" means any telecommunications carrier chosen by the subscriber in accordance with the procedures specified in this rule. Authorized carrier can refer to a LEC, intraLATA long distance carrier or interLATA long distance carrier.
 - (II) 723-2-New "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) 723-2-New "Executing carrier" means any telecommunications carrier that implements a request that a subscriber's telecommunications carrier be changed.
 - (IV) 723-2-25.1.2 "Slamming" means any change in an end-use customer's presubscription to a telecommunications service subject to the jurisdiction of the Commission that is made without appropriate consent of the customer.
 - (V) 723-2-New "Submitting carrier" means any telecommunications carrier that requests that the subscriber's telecommunications carrier be changed.
 - (VI) 723-2-New "Subscriber" means any one of the following:
 - (A) The party identified in the account records of a carrier as responsible for payment of the telephone bill;
 - (B) Any adult person authorized by such party to change 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) 723-2-New "Unauthorized carrier" means any telecommunications carrier that is providing telecommunications service to a subscriber without the subscriber's authorization.
- (VIII) 723-2-New "Unauthorized change" means a change to a subscriber's carrier of telecommunications service that is made without the subscriber's authorization in accordance with the procedures specified in this rule.
- (b) 723-2-25.2 Verification of orders for service.
 - (I) 723-2-25.2.1 No telecommunications carrier shall submit or execute a change in a subscriber's authorized carrier except in accordance with the procedures in this rule.
 - (II) 723-2-25.2.1 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) 723-2-25.2.2 A written or electronically signed (Internet or e-mail) letter of agency.
 - (i) 723-2-25.2.3; 25.3.1 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) 723-2-25.3.2 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) 723-2-25.3.4 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) 723-2-25.3.5; 25.3.5.3; 25.3.5.4 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) 723-2-25.3.6 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) 723-2-25.3.7 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) 723-2-New 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) 723-2-25.2.3 Telephone call initiated by a subscriber. The subscriber must place a telephone call. The authorization 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) 723-2-25.2.4; 723-New 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) 723-2-New Automated third-party verification systems and three-way conference calls may be used for verification purposes as long as the requirements of subparagraphs (II)(C)(iii) and (iv) are satisfied.
- (iii) 723-2-New A carrier or carrier's sales representative initiating a three-way conference call or a call through an automated verification system shall drop off the call once the three-way connection has been established.
- (iv) 723-2-25.2.5.1 through 2.5.9; 723-New 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 names of the carriers affected by the 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) 723-2-New 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) 723-New A telecommunications carrier shall submit an authorized carrier change on behalf of a subscriber within three days of obtaining the subscriber's authorization.
- (d) 723-2-25.4 Authorized carrier freeze.
 - (I) 723-2-New An authorized carrier freeze prevents a change in a subscriber's authorized carrier unless the subscriber gives consent to make a change.
 - (II) 723-2-25.4.1 All LECs shall offer carrier freezes for local exchange, intraLATA toll, and interLATA toll services at no charge to the subscriber. Freezes shall be offered on a non-discriminatory basis to all subscribers, regardless of the subscriber's carrier selections.
 - (III) 723-2-25.4.2 LECs shall conduct an education program upon initiation of service to a subscriber, which informs the subscriber of the option to freeze his choice of carrier(s) and the effects of freezing the selection of a telecommunications carrier.
 - (IV) 723-2-New Authorized carrier freeze procedures, including any solicitation, shall clearly distinguish among telecommunications services (e.g., local exchange, intraLATA toll, and interLATA toll) subject to an authorized carrier freeze. The carrier offering the freeze shall obtain separate authorization for each service for which an authorized carrier freeze is requested.
 - (V) 723-2-New All carrier-provided solicitation and other material regarding an authorized carrier freeze shall include the following:
 - (A) 723-2-New An explanation, in clear and neutral language, describing an authorized carrier freeze and which services may be subject to a freeze; and
 - (B) 723-2-New A description of the specific procedures necessary to lift an authorized carrier freeze, an explanation that these steps are in addition to the Commission's verification provisions in paragraph (b), and an explanation that the subscriber will be unable to make a change in carrier unless the subscriber cancels the freeze.

- (VI) 723-2-25.4.1; 723-New No LEC shall implement or cancel an authorized carrier freeze unless the subscriber's request to impose or cancel a freeze has first been confirmed in accordance with one of the following procedures:
 - (A) The LEC has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements as a letter of agency; or
 - (B) The LEC has obtained the subscriber's electronic authorization in a form that meets the requirements of paragraph (b).
- (e) 723-2-25.4.3 Tariff filing requirements. Each provider shall file a Tariff subject to the Commission's review, describing the subscribers' options regarding freezing their authorized carriers except that toll resellers shall not be subject to this requirement to file a Tariff.
- (f) 723-2-25.5 Enforcement
 - (I) 723-2-25.5.1 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) 723-2-25.5.2 Upon notification from a subscriber of a change to another 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) 723-2-25.5.3 A telecommunications carrier that initiates an unauthorized change in a subscriber's authorized telecommunications carrier, i.e., an unauthorized carrier, in violation of this section is liable:
 - (A) 723-2-25.5.3.1 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) 723-2-25.5.3.2 To the executing carrier for the change fees associated with the unauthorized change.
- (g) 723-2-New Waiver for the sale or transfer of subscribers.

- (I) A telecommunications carrier 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 include:
 - (i) The proposed date on which the acquiring carrier will become the subscriber's new carrier of telecommunications;
 - (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 temporarily lifted to execute the transfer; and
 - (vii) The toll free customer service number of the acquiring carrier.

2312. IntraLATA Equal Access.

- (a) 723-2-27.11 Incorporation by reference. References in this rule to Part 32, Part 36, and Part 64 Subparts I and K, are references to rules issued by the FCC, and are incorporated by reference herein. The incorporated material may be found at 47 C.F.R., Parts 32, 36, and 64 Subparts I and K, revised as of October 1, 2002. References to Parts 32, 36, and 64 Subparts I and K do not include later amendments to or editions of these parts. A certified copy of the incorporated material is maintained at the offices of the Commission, 1580 Logan Street, OL-2, and Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated material shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated material may be obtained or examined. The incorporated material may be examined at any state publications depository library.
- (b) 723-2-27.1 Requirement. All companies offering basic local exchange service shall provide intraLATA equal access to all intraLATA IXC's.
- (c) 723-2-27.4 Customer notification for carrier selection. Customers commencing service shall be informed by the LEC of their intraLATA and interLATA toll carrier options at the time that service is requested, and shall be allowed to select both their primary interLATA and intraLATA carrier(s) at that time. Such customers shall be advised that if they do not select their intraLATA carrier at that time, they will be required to use carrier access codes for intraLATA calling. New customers who fail to select an intraLATA toll carrier shall be required to use carrier access codes to route toll calls until a presubscribed toll carrier is selected.
- (d) 723-2-27.6 Scope of intraLATA equal access.
 - (I) 723-2-27.6.1 Zero-plus (0+) calls, in which the caller dials 0 plus a local number; zero-minus (0-) calls, in which the caller dials 0 and no further digits; abbreviated dialing arrangements included in rules 2740 through 2799; cellular 1+ calling-party-pay calls; 976; 676; and 1+ area code (+555+1212 calls) shall be processed by the customer's local exchange carrier.
 - (II) 723-2-27.6.2 In-WATS calls (1+ 800/888), "follow me" or "go anywhere" service (1+ 500), interactive information service calls (1+ 700), and information service calls (1+ 900) are not subject to these intraLATA equal access rules.
 - (III) 723-2-27.6.3 1+ interLATA calls; 0+ interLATA calls; 00- calls, in which the caller dials "00" and no further digits; and 1+NPA+555+1212 interLATA calls shall be

processed by the caller's presubscribed interLATA toll carrier.

- (IV) 723-2-27.6.4 1+ intraLATA calls and 0+ intraLATA calls shall be routed to the customer's primary intraLATA toll carrier.
 - (V) 723-2-27.7.2 No charge shall be imposed for a customer's initial selection of a primary intraLATA or interLATA interstate carrier.
 - (VI) 723-2-27.7.3 No change order for a primary intraLATA or interLATA interstate toll carrier shall be submitted to a LEC until the order has been confirmed pursuant to the procedures set forth in rule 2311 and 47 C.F.R., Part 64, Subpart K.
- (e) 723-2-27.8 Use of customer information for marketing purposes. Customer information in the possession of the LEC provided in conjunction with a white pages telephone directory listing shall be made available to all requesting IXC's. In making customer information available, the LEC shall safeguard and refuse access to any and all customer information entitled to protection and confidentiality as required by applicable federal and state laws. The LEC may charge for the information based on the total service long-run incremental cost of providing the information. Information relating to customers subscribing to non-published or non-listed telephone number service shall not be made available to the LEC itself or any other carriers for the purpose of marketing intraLATA toll services.

2313. - 2329. [Reserved].

QUALITY OF SERVICES PROVIDED TO THE PUBLIC

2330. 723-2-1.2 Applicability.

Rules 2330 through 2359 regulate the provision of intrastate telecommunications services and facilities to the public and apply to all providers of telecommunications services subject to the jurisdiction of the Commission.

2331. Definitions [Reserved].

2332. 723-2-14.1.5 Incorporation by Reference.

References in these Rules to Part 68 are references to rules issued by the FCC and have been incorporated by reference. These rules may be found at 47 C.F.R., revised as of October 1, 2002. References to Part 68 do not include later amendments to or editions of this Part 68. A certified copy of this Part that has been incorporated by reference is maintained at the office of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during regular business hours. Certified copies of the Part 68 shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated rules may be obtained or examined. The incorporated rules may be examined at any state publications depository library.

**2333. 723-2-13 Construction and Maintenance of Plant and
Equipment - Generally.**

The telecommunications plant of the provider 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) 723-2-14.1.1 Minimum standard; incorporation by reference. The provider shall use, as a minimum standard of accepted good engineering practice, the 2002 National Electric Safety Code, dated February 5, 2001, published by the Institute of Electrical and Electronics Engineers, Inc. (IEEE), and endorsed by the American National Standards Institute (ANSI), which is incorporated by reference for all new construction or major rebuild of telecommunications plant begun on or after February 5, 2001. The incorporated material does not include later amendments to or editions of the National Electric Safety Code. A copy of this code is maintained at the office of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. A certified copy of this code shall be provided at cost upon request. The Director or the Director's designee shall provide information regarding how the incorporated material may be

obtained or examined. These incorporated standards may be examined at any state publications depository library.

- (b) 723-2-14.1.2 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) 723-2-14.1.3 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. However, all direct buried cables connecting the network interface at the customer's premises to the network facilities of the provider shall be permanently buried, as practical, at least 12 inches below the final surface grade as known at time of installation. All other direct buried communication cable shall, at minimum, be buried at depths required for supply cable of similar voltage as specified in the National Electric Safety Code.
- (d) 723-2-14.1.5 The provider shall use as a minimum standard of safe practice 47 C.F.R., Part 68, dated October 1, 2002, for the interconnection of new or existing telecommunications plant of the provider with terminal equipment of a customer.
- (e) 723-2-14.1.6 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 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) 723-2-14.1.7 Each provider 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. The provider shall maintain its system to meet the applicable service adequacy standards defined in rules 2336 through 2341.
- (g) 723-2-14.1.8 The provider 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) 723-2-15.1.1 Each LEC 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 LEC 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) 723-2-17.1.3 In the event of a commercial power failure, the provider 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. A mobile power source shall be available that can be delivered and connected within four hours. Additional battery reserve capacity beyond the four hour minimum shall be provided based on the consideration of the following local conditions:
 - (I) Reasonable travel time (the time from personnel call-out through arrival at the facility);

- (II) Time for procuring and transporting the portable engine to the site, placing it in position, and connecting it to the load;
 - (III) Number of sites serviced by one engine (commercial power failures may simultaneously affect more than one facility); and
 - (IV) Frequency and duration of past commercial power failures.
- (c) 723-2-15.1.2 All local central offices, toll switching or tandem switching offices, repeater huts, microwave radio sites, and other interoffice facilities requiring LEC-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. Travel time is the time from personnel call-out through arrival at the facility.
- (I) 723-2-15.1.2.1 In central offices with capacity for more than 10,000 access lines, or in toll or tandem switching offices, a permanent auxiliary power unit shall be installed. If the auxiliary power unit requires manual-start and transfer, one hour additional battery reserve shall be installed.
 - (II) 723-2-15.1.2.2 For central offices serving fewer than 10,000 lines, repeater huts, microwave radio sites, and other interoffice facilities requiring power, a mobile power source shall be available which can be delivered and connected. Additional battery reserve capacity beyond the four-hour minimum shall be installed by the LEC at these locations based on the consideration of the following local conditions:
 - (A) Reasonable travel time (the time from personnel call-out through arrival at the facility);
 - (B) Time for procuring and transporting the portable engine to the site, placing it in position, and connecting it to the load;
 - (C) Number of sites serviced by one engine (commercial power failures may simultaneously affect more than one facility); and
 - (D) Frequency and duration of past commercial power failures.
- (d) 723-2-15.1.3 Service interruptions for an extended time due to maintenance requirements shall be performed at a time that

causes minimal inconvenience to impacted customers. The LEC shall take reasonable steps to notify the customer in advance of extended maintenance requirements. The LEC shall also make emergency service available 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 LEC, that the interruption may last more than four hours during the hours of 8 a.m. to 10 p.m. If the LEC cannot provide emergency service, it shall file a report of the occurrence as required by paragraph 2143(h).

- (e) 723-2-15.1.4 Each LEC 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) 723-2-16.1.1 Each LEC and toll service provider 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 LEC and toll service 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) 723-2-16.1.2 The criteria for quality of service defines a minimum acceptable standard for the most basic elements of telecommunications 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, the provider 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) 723-2-16.1.4 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, 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 may

not have been expected to accommodate. 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.

LECs shall construct and maintain all 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 unbundled network elements may also be appropriate for establishing such standards. At a minimum, each LEC shall construct and maintain all local access lines used for individual line service so that the following parameters and performance characteristics are met:

- (a) 723-2-18.1 Performance classifications as used in this rule describe the operating performance range:
 - (I) 723-2-18.1.1 Recommended range: ensures the most desirable performance.
 - (II) 723-2-18.1.2 Acceptable range: is outside the recommended region, but that provides satisfactory performance.
 - (III) 723-2-18.1.3 Substandard range: provides unacceptable performance. Performance within this range requires that the LEC shall initiate appropriate repair work.
- (b) 723-2-18.2 Bandwidth. Bandwidth for voicegrade access shall be, at a minimum, 300 to 3,000 Hertz.
- (c) 723-2-18.3 Loop loss. The performance of an access line is considered acceptable when the transmission insertion loss, as measured at the interface with the LEC network at the customer's location and including any losses in central office equipment, does not exceed 8.5 dB at 1004 ± 20 Hertz (Hz).
- (d) 723-2-18.4 Frequency Response Characteristics:

- (I) 723-2-18.4.1 Three-tone slope deviation. Three-tone slope deviation is the loss deviation at 404 Hz and 2804 Hz relative to the actual measured loss (AML) -16 dBm0 at 1004 Hz. Three-tone slope deviation from AML shall be within the following performance ranges:

Three-Tone Slope Deviation from Actual Measured Loss		
Frequency	Deviation	Performance Category
404 Hz & 2804 Hz	Less than -1.5 dB	Substandard
404 Hz & 2804 Hz	-1.5/+9.5 dB	Acceptable
404 Hz & 2804 Hz	Greater than +9.5 dB	Substandard

- (II) 723-2-18.4.2 Attenuation distortion. Attenuation distortion is the loss variation measured over the indicated frequency ranges relative to the AML -16 dBm0 signal at 1004 Hz. Attenuation deviation from AML shall be within the following performance ranges:

Attenuation Distortion from Actual Measured Loss		
Frequency	Deviation	Performance Category
504 Hz & 2504 Hz	-1.5 to +7.5 dB	Acceptable
404 Hz & 2804 Hz	-1.5 to +9.5 dB	Acceptable
304 Hz & 3004 Hz	-2.5 to +11.5 dB	Acceptable

- (e) 723-2-18.5 Loop current. Local access line current is the metallic direct current flowing in the circuit at the customer interface during the talk and signaling states or during the idle line state. Local access line current shall be equal to or greater than 20 milliamps (ma).
- (f) 723-2-18.6 Loop noise. Noise is defined as unwanted disturbances superimposed on a useful signal that tends to obscures its information content.
- (I) 723-2-18.6.1 C-message noise.

- (A) Customer access lines used for individual line service that are less than 30,000 feet in length shall be constructed and maintained so that a measure of the C-message circuit noise from the network interface at the customer's premises to and including the central office termination shall meet the following performance thresholds:

C-Message Weighted Noise	
Noise Level (dBrnC)	Performance Category
≤20	Recommended
> 20 and ≤30	Acceptable
>30	Substandard

- (B) All other local access lines shall be maintained so that the measured C-message circuit noise does not exceed 30 dBrnC.

- (II) 72-2-18.6.2 3 kHz FLAT noise. Circuit noise, as measured using the "3 kHz FLAT" weighting, shall meet the following performance thresholds:

3 kHz FLAT Weighted Noise	
Noise Level (dBrn 3 kHz FLAT)	Performance Category
≤40	Recommended
>40 and ≤60	Acceptable
>60	Substandard

- (III) 723-2-18.6.3 Power influence. Power influence, as measured as C-message weighted longitudinal noise, shall meet the following performance thresholds:

C-Message Weighted Longitudinal Noise	
Noise Level (dBrnC)	Performance Category
≤80	Recommended
>80 and ≤90	Acceptable
>90	Substandard

- (g) 723-2-18.7 Longitudinal balances. Longitudinal balance (circuit balance), as measured as the difference between power influence

(dBrnC) and circuit noise (dBrnC), shall meet the following performance thresholds:

Circuit Balance	
Balance (dB)(C-Message)	Performance Category
≤ 50	Substandard
> 50 and ≤ 60	Acceptable
> 60	Recommended

- (h) 723-2-18.8 Testing. Each LEC 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).
 - (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 LEC's network, the LEC shall test the local access line. The records of these test results shall be maintained pursuant to subparagraph 2005(c)(VIII). The test results shall be made available to the customer, upon request. This information shall be provided to the Commission upon request.

2338. 723-2-19. Interexchange Trunk Connections.

- (a) LECs and toll providers shall construct and maintain sufficient trunking facilities to ensure that 95 percent of the sampled toll calls have from a minimum of 3db to a maximum of 12dB of transmission loss at $1000 \pm 20\text{HZ}$. Providers shall construct and maintain trunk facilities used solely for providing extended area service to ensure that 95 percent of the sampled calls, excluding calls between central offices in the same building, have from a minimum of 2dB to a maximum of 9dB of transmission loss at $1000 \pm 20\text{HZ}$ with the measured loss for any trunk directly connecting two central offices not exceeding 6.0dB. These measurements are for trunk side access connections and include losses associated with the originating and terminating central offices.
- (b) The allowable message circuit noise measure, as measured between the line side of the originating central office and the line side of the terminating central office, for sampled calls on interexchange trunk connections shall be:

- (I) no more than 31 dBrnC for offices located less than 50 miles apart;
- (II) no more than 35 dBrnC for offices located 50 to 100 miles apart; and
- (III) no more than 38 dBrnC for offices located greater than 100 miles apart.

2339. 723-2-20. PBX and Multiline Channels.

The provisions of rule 2337 for individual service local access lines shall apply to facilities connecting the network interface for switching and intercommunication among stations at the customer's premises to the line side of the serving central office. However, for access line lengths of less than 18,000 feet, if transmission insertion loss exceeds 8.5dB at the station set of the customer, the responsibility of the LEC shall be limited to providing a channel with no more than 6.5dB loss as measured from the customer's interface with the LEC network to and including the central office.

2340. Network Call Completion Requirements.

(a) 723-2-21.1 Direct dialed calls.

- (I) 723-2-21.1.1 The LEC 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 LEC.
- (II) 723-2-21.1.2 Unless otherwise authorized by the Commission, a provider of intrastate toll services shall maintain sufficient switching and network channel capacities and other necessary facilities so that 98 percent of properly dialed toll calls are correctly terminated.
- (III) 723-2-21.1.3 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 LEC.

(IV) 723-2-21.1.3 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.

(V) 723-2-21.1.4 All toll providers that use connections provided from the line side of the central office of the LEC or connections that require use of a special access code to reach the provider, in addition to using trunk side connections without this requirement provided by the LEC at this or any other central office, shall order sufficient quantities of switched access service from the LEC to maintain the same blocking probability on those connections as the provider normally establishes for trunk side connections without the access code requirement using similar assumptions of customer toll calling demand. Normally, the Commission shall consider a .01 blocking probability to be a desirable parameter for ordering switched access service from a LEC.

(b) 723-2-21.2 Operator-assisted calls.

(I) 723-2-21.2.1 All communications between customers shall be considered as confidential in nature. The provider shall take reasonable action to minimize the potential access of other entities to those communications. Operators or employees of the provider shall not listen to any conversation between customers unless there is an operating necessity. Operators shall not repeat or divulge the nature of any local or long distance conversation, nor divulge any information inadvertently overheard. The provider is responsible for compliance with this paragraph by both its employees and the employees of other entities that perform this service on behalf of the provider.

(II) 723-2-21.2.2 Suitable rules and instructions shall be adopted by each provider and followed by employees or other entities employed by the provider governing the language and operating methods to be used by operators during assistance to customers. Specifically, operators shall be instructed to be courteous, considerate, and efficient in

the handling of all customer calls. Any required call timing for jurisdictional operator-assisted calls shall accurately record when the customer requested connection is established and when it is terminated.

- (III) 723-2-21.2.3 Each provider offering operator assistance to the public shall provide a service that can answer 85 percent of intercept, toll, and local assistance calls within ten seconds.
- (IV) 723-2-21.2.4 Other calls directed to the published telephone numbers for service repair or the business offices of the LEC or toll providers shall be acknowledged within 20 seconds and shall be answered by either a company representative or a voice-response or mechanized unit menu within 60 seconds (as measured from the same starting point in time as for the 20-second acknowledgement standard) for 85 percent of all such calls during any monthly period. Each business day during any month for which the standard was not obtained for the published telephone number associated with the respective service center or business office shall be deemed a separate violation of this paragraph. When fewer than 85 percent of such calls are answered in any month for any service center or business office, a written report listing each offending service center or business office shall be submitted to the Commission within 21 days from the end of the month in which the standard was not met. For each violation listed, the report shall identify the percent of calls answered, the reason for failure to meet the 85 percent standard, the remedial action the LEC has taken, and any known results of that remedial action.
- (V) 723-2-21.2.5 The measurement records for determining the minimum acceptable call completion criteria described under subparagraphs (III) and (IV) may be adjusted, as allowed under paragraph 2336(c), for the circumstances specifically described within subparagraph 2304(b)(IV)(B) and paragraph 2336(c).
- (VI) 723-2-21.2.6 An answer shall mean that either a company representative or a voice-response or mechanized unit menu is ready to assist the customer or accept information necessary to process the call. An acknowledgement that the customer is waiting on the line shall not constitute an answer. A dropped call shall not be considered an answer. An answer shall not mean either directing the call to a company representative or mechanized system incapable of providing assistance to the customer or directing the call to a system that will only take a message from the customer.

2341. Trouble Report Response.

- (a) 723-2-22.1 Maximum acceptable numbers of reports. Each LEC shall maintain its network so as to minimize customer trouble reports for jurisdictional services economically; however, trouble reports shall not exceed eight reports per 100 access lines per month per wire center, averaged over a three-month period. An occurrence of a violation of this paragraph shall be considered as each month for which the three-month average of trouble reports for that month and the preceding two months exceed this criteria for the wire center in question.
- (b) 723-2-22.2 Allowable response time.
 - (I) The response of a LEC to customer trouble reports shall be such that 85 percent of all out-of-service reports, for each wire center are cleared within 24 hours for each month. A separate occurrence of a violation of this subparagraph shall be considered as each month for which the criterion was not met in each wire center served by the LEC.
 - (II) When fewer than 85 percent of trouble reports for any month for any wire center are not cleared within 24 hours, a written report listing each offending wire center shall be submitted to the Commission within 21 days from the end of the month in which the standard is not met. For each violation listed, the report shall identify the percent of trouble reports cleared within 24 hours, the reason for falling below the standard, the remedial action the LEC has and will take in the future to meet the standard, and the date the wire center is expected to meet or exceed the standard.
 - (III) This criterion excludes the following occurrences to the extent the LEC can separately document the number of such occurrences:
 - (A) 723-2-22.2.1 Reports for non-jurisdictional services or services of another provider; and
 - (B) 723-2-22.2.2 Situations where LEC access to the customer's premises is required, but is not available for reasons outside the control of the LEC.
- (c) 723-2-22.3 The measurement records for determining the maximum acceptable number of reports and the allowable response time may be adjusted, as allowed under paragraph 2336(c), for circumstances specifically identified in subparagraph 2304(b)(IV)(B) and paragraph 2336(c).

- (d) 723-2-22.4 Response priorities. The LEC shall give priority to and initiate repairs, regardless of the hour, for customer trouble reports that may affect the public's health and safety.
- (e) 723-2-22.5 Customer notification. If the LEC cannot clear the reported trouble within 24-hours for out of service reports and within 48-hours of other trouble reports the LEC shall inform the customer of an estimate of when the service or trouble report will be cleared.
- (f) 723-2-22.6 Appropriate adjustments to the customer's bill shall be automatically made by the LEC for jurisdictional service interruptions pursuant to subparagraph 2304(b)(IV).

2342. - 2359. [Reserved].

COLLECTION AND DISCLOSURE OF PERSONAL INFORMATION

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to regulate the collection and disclosure of personal information obtained by providers and to identify procedures for protecting the personal information of the providers' customers.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-4-101, and 40-2-108, C.R.S.

2360. 723-7-1 Applicability.

Rules 2360 through 2399 apply to all providers regulated under Title 40, Article 15, Parts 2 and 3, C.R.S. Rules 2360 through 2399 apply in addition to, not in lieu of, rules 1103 and 1104 of the Commission's Rules Regulating Practice and Procedure.

2361. Definitions.

The following definitions apply only in the context of rules 2360 through 2399.

- (a) 723-7-2.6 "Third-party" means a person who is not a customer, a provider, or a provider's affiliate.

2362. 723-7-4.1 Notice of Right to Request Personal Information.

Providers shall notify customers of the right to request personal information, as required by rule 1103(b). Notwithstanding anything in rule 1103(b) to the contrary, interexchange telecommunications service providers are required to provide the notice required by rule 1103(b) only to their presubscribed one-plus customers.

2363. Disclosure to Third Parties.

- (a) Providers shall comply with rule 1104 regarding the disclosure of information to third parties. Additionally:
 - (I) 723-7-5.1.3 Disclosure forms shall specifically include:
 - (A) 723-7-5.1.3.1 The personal information being requested;
 - (B) 723-7-5.1.3.2 The purpose for which the personal information may be disclosed;
 - (C) 723-7-5.1.3.3 The identity of the third-party to whom the personal information may be disclosed; and

- (D) 723-7-5.1.3.4 A statement of the customer's right to review and amend records containing personal information.
 - (II) 723-7-5.1.1 A request for information that is not on a disclosure form shall include, at a minimum, the information required by subparagraphs (I)(A) through (C).
 - (III) 723-7-5.1.5 A provider may also disclose personal information, where, on its own initiative, it has secured authorization to do so by obtaining from the customer a signed disclosure form as described in subparagraph (I).
- (b) 723-7-5.3 Blocking.
- (I) 723-7-5.3.1 Per call blocking and per call unblocking enable a customer to control the disclosure of his or her name and telephone number to a subscriber of caller identification service by temporarily changing the public or private status indicator of the telephone number. A customer must dial a code before each call to change the indicator from public to private or, in the case of per call unblocking of blocked lines, from private to public. Per line blocking provides a permanent private indicator on a customer's line. Once per line blocking is established the customer can only change the private status by using per call unblocking on each individual call.
 - (II) 723-7-5.3.2 Any provider, offering a caller identification service or any comparable service that identifies to the called party the name or telephone number, or both, of the calling party, shall also offer customers per call blocking using the activation code *67, per call unblocking using the activation code *82 for blocked lines, and per line blocking services.
 - (III) 723-7-5.3.3 Per call blocking and per call unblocking shall be offered at no charge to the calling party. Per line blocking shall be offered at no charge for the first request of each subscriber. Domestic violence programs and law enforcement agencies shall always be offered per line blocking at no charge.
- (c) 723-7-5.4 Last Call Return.
- (I) 723-7-5.4.1 Last call return, upon dialing the activation code *69, automatically redials the number of the last incoming call to that line, whether the call was answered or not. The end user does not have to know the number of the calling party. If the calling party's number is blocked, last call return will not redial the number. If the called number is busy, last call return will redial the

called number for a limited period of time. A tone alerts the customer when the called line is available.

- (II) 723-7-5.4.2 Any provider, offering a last call return service or any comparable service which allows a customer to dial a code that will cause the feature to automatically redial the number of the last incoming call to that line, including a feature which automatically redials the number of the last incoming call to that line whether the call was answered or not, shall offer per call blocking and per line blocking as services available to customers and shall prevent last call return-type features from returning blocked calls.

(d) 723-7-5.5 Call Trace.

- (I) 723-7-5.5.1 Call trace allows a called party to initiate an automatic trace of the last call received. After receiving the call that is to be traced, the customer dials the *57 activation code and the traced telephone number is automatically sent to the provider for further action. The customer originating the trace will not receive the traced telephone number. The provider shall furnish the results of a trace only to law enforcement agencies or authorities upon proper request by such agencies or authorities.
- (II) 723-7-5.5.2 Any provider, offering a caller identification service or any comparable service that identifies to the called party the name or telephone number, or both, of the calling party, shall also offer call trace.

(e) 723-7-5.6 Automatic Number Identification (ANI).

- (I) 723-7-5.6.1 ANI allows a calling party's telephone number to be delivered as part of the telephone call completion and to be revealed to some called parties.
- (II) 723-7-5.6.2 Any provider that provides ANI to any person shall provide such service under a contract or Tariff that prohibits such person from reusing or selling the telephone number or billing information without first notifying the originating telephone subscriber and obtaining the subscriber's affirmative consent for such reuse and sale.
- (III) 723-7-5.6.3 Each provider shall notify its customers, on at least an annual basis, that their telephone numbers may be identified to a called party. Each provider shall also inform its subscribers of services that deliver and reveal ANI that they are restricted from reusing or reselling another customer's ANI information. The notice to customers shall include:

- (A) 723-7-5.6.3.2 An explanation of which types of called parties (e.g., a non-exclusive, generic list of examples, specifically including reference to toll free 1-800 type numbers and subscribers of the Integrated Services Digital Network (ISDN)) to whom the calling party's number may be revealed; and
 - (B) 723-7-5.6.3.1 An explanation that calling party telephone numbers, including non-listed or non-published numbers, may be revealed to called parties, and that called parties are restricted from reusing or selling calling parties' telephone numbers.
- (f) 723-7-5.8 Tariff filing requirements. Any provider offering the services described in paragraph (b) through (e) shall file Tariffs or Price Lists, as required by the Commission, specifying the rates, charges, terms, and conditions associated with the offering of such services in compliance with this rule. Such filings shall also describe the effects of blocking, last call return, call trace, and ANI as they relate to disclosure of identifying information to third parties.
- (g) 723-7-5.9 Exceptions. Rules 1104 and 2363 shall not apply if:
- (I) 723-7-5.9.3 Personal information is provided to the Colorado Department of Human Services;
 - (II) 723-7-5.9.5 Personal information is provided to credit reporting agencies, collection agencies, or attorneys in furtherance of the collection of amounts owed to a provider; or
 - (III) 723-7-5.9.7 When a provider offers a caller identification service or any comparable service that identifies to the called party the name or telephone number, or both, of the calling party, and such provider is in compliance with paragraphs (b) through (f).

2364. Telecommunications Relay Services.

- (a) 723-7-6.1 Information obtained by a provider which is obtained through the relay of messages for a dual party relay system as defined in § 40-17-102(3), C.R.S., shall be protected in accordance with § 40-17-105(1), C.R.S. No written or electronic script shall be retained beyond the duration of the relayed call unless the destination telephone number is busy when the disabled person makes his or her initial call through the relay operator, in which case the relay operator will store the call until the destination telephone number is no longer busy.
- (b) 723-7-6.2 Relay operators are prohibited from intentionally altering a relayed conversation.

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2365. - 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) 723-27-1.1 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) 723-27-1.1 and 723-27-15 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) 723-27-1.4 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) 723-27-2.3 "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.

2402. 723-27-22 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. These rules may be found at 47 C.F.R., revised as of October 1, 2002. References in these rules to the provision of FCC Docket 86-111 are also incorporated by reference. Reference to incorporated material does not include later amendments to or editions such material. A certified copy of these rules and provisions that have been incorporated by reference is maintained at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how copies may be obtained or examined. Copies may be examined at any state publications depository library.

2403. Applicability to Specific Types of Services.

- (a) 723-27-3.1 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) 723-27-3.2 Providers are permitted to continue accounting for non-tariffed services as regulated services when they are offered incidental to Tariff services provided that all of the following conditions are met:
 - (I) 723-27-3.2.1 The non-tariffed services are outgrowths of regulated operations.
 - (II) 723-27-3.2.2 The total revenue from all non-tariffed services does not exceed:
 - (A) 723-27-3.2.2.1 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) 723-27-3.2.2.2 The provider-specific revenue levels as ordered by the Commission.
 - (III) 723-27-3.2.3 The service is a non-line-of-business service.

- (IV) 723-27-3.2.4 The service has traditionally been treated as an incidental service.
- (c) 723-27-3.3 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) 723-27-3.3.1 The sum of the revenues from the incidental services of paragraph (b) and these *de minimis* deregulated services does not exceed:
 - (A) 723-27-3.3.1.1 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) 723-27-3.3.1.2 The provider-specific revenue levels as ordered by the Commission.
 - (II) 723-27-3.3.2 The service has traditionally been treated as a *de minimis* service.
- (d) 723-27-3.4 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) 723-27-3.5 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) 723-27-4.1 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) 723-27-4.2 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) 723-27-4.3 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) 723-27-4.4 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) 723-27-5.1 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) 723-27-5.2 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) 723-27-5.3 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) 723-27-6.1 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) 723-27-6.2 When performing a FDC study the following cost-segregation principles shall be used by all providers (listed in descending order of preferred application):
 - (I) 723-27-6.2.1 Cost causation: Costs are assigned to all services that cause those costs to be incurred.
 - (II) 723-27-6.2.2 Traceability: Costs that are identified in their entirety with a specific service are directly assigned to that service.

- (III) 723-27-6.2.3 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) 723-27-6.2.4 Capacity Required: Costs of capacity are assigned according to whether they are necessary for the performance of the service.
- (V) 723-27-6.2.5 Beneficiality: A service benefits from a cost if that cost is necessary to render that service.
- (c) 723-27-6.3 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) 723-27-6.4 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) 723-27-6.5 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) 723-27-7.1 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) 723-27-7.2 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) 723-27-7.3 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) 723-27-7.3.1 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) 723-27-7.3.2 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) 723-27-7.3.2.1 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) 723-27-7.3.2.2 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) 723-27-7.3.3 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) 723-27-7.3.4 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, operator services, services (USOA Account Number 6610), local business office, and planning costs shall employ actual time-reporting methods for the allocation, if not directly assigned.
 - (A) 723-27-7.3.4.1 An allocation method that uses statistically valid samples based on time reporting is permissible.
 - (B) 723-27-7.3.4.2 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) 723-27-7.3.5 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) 723-27-7.3.6 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) 723-27-7.4 General allocators shall be used only in exceptional cases and, then, only when the justification for their use is fully explained.
- (e) 723-27-7.5 Providers shall provide the Commission with all the data necessary to verify the cost segregation.
- (f) 723-27-7.6 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) 723-27-8.1 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) 723-27-8.2 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) 723-27-9.1 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) 723-27-9.2 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) 723-27-9.3 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) 723-27-9.4 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) 723-27-9.5 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 - Appendix B to Annual Reports.

- (a) 723-27-10.1 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) 723-27-10.2 Each provider, except rural telecommunications providers, shall file with the Commission its segregated financial statements as an Appendix B to its annual report.
- (c) 723-27-10.3 Unless an Appendix B is used to support a general rate case as defined in paragraph 2408(a), the Appendix B need only be certified by a certified public accountant. If the provider also uses Appendix B as evidence to support a general rate case filing by the provider, then the Appendix B shall be certified in accordance with paragraph 2411(a).

2411. Auditing.

- (a) 723-27-11.1 Certified auditor's reports required under paragraph 2408(a) shall include the following information:
 - (I) 723-27-11.1.1 The scope of work conducted, specifying the items examined and the extent of examination;
 - (II) 723-27-11.1.2 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) 723-27-11.1.3 Any material exceptions or qualifications that the auditor may have identifying the adequacy of the procedures;
 - (IV) 723-27-11.1.4 Any limitations in the scope of review imposed upon the auditor by the provider; and
 - (V) 723-27-11.1.5 A statement that the attestation standards have been fully met during the examination.
- (b) 723-27-11.2 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. 723-27-12 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) 723-27-13.1 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) 723-27-13.2 Transfer of assets:
 - (I) 723-27-13.2.1 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) 723-27-13.2.2 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) 723-27-13.3 Valuation of services provided to or by an affiliate:
 - (I) 723-27-13.3.1 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-tariffed 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-tariffed 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) 723-27-13.3.2 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) 723-27-13.4 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) 723-27-13.5 Income taxes shall be allocated among the regulated activities of the provider, its nonregulated 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) 723-27-13.6 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) 723-27-13.6.1 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) 723-27-13.6.2 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) 723-27-13.6.3 Frequency of affiliate transactions. The provider shall state the frequency with which the service is rendered.

2414. 723-27-14 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) 723-27-18.1 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) 723-27-18.2 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) 723-27-18.2.1 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) 723-27-18.2.1.1 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) 723-27-18.2.1.1.1 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) 723-27-18.2.1.1.2 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) 723-27-18.2.1.2 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) 723-27-18.2.2 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) 723-27-20.1 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) 723-27-20.2 The intrastate access charge elements in the Tariffs 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. 723-30-1 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) 723-30-2.1 "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) 723-30-2.2 "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) 723-30-2.3 "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) 723-30-2.4 "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) 723-30-2.5 "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) 723-30-2.6 "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) 723-30-2.8 "Cost accounting standards" means the assignment of costs to products, services, or customer classes using the following five criteria:
 - (I) 723-30-2.8(a) Cost causation. Costs are assigned to the revenue-producing products or services that cause those costs to be incurred;
 - (II) 723-30-2.8(b) 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) 723-30-2.8(c) 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) 723-30-2.8(d) Capacity required. Costs of capacity are assigned according to whether they are necessary for the performance of the service; and
 - (V) 723-30-2.8(e) Beneficiality. Costs are assigned to various services based upon the degree of benefit derived by each service.
- (h) 723-30-2.9 "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) 723-30-2.10 "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) 723-30-2.11 "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) 723-30-2.12 "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) 723-30-2.13 "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) 723-30-2.14 "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) 723-30-2.15 "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) 723-30-2.16 "Functional component" means a cost element or group of cost elements representing the smallest feasible level of unbundling capable of being Tariff and offered as a service.
- (p) 723-30-2.17 "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) 723-30-2.18 "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) 723-30-2.19 "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) 723-30-2.20 "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) 723-30-2.21 "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.
- (u) 723-30-2.22 "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) 723-30-2.23 "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) 723-30-2.24 "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) 723-30-2.24(a) The relevant market, as determined by service and geographic substitutability on both the demand and supply sides of the market.
 - (II) 723-30-2.24(b) The market share of the particular service held by the regulated provider in the relevant market.
 - (III) 723-30-2.24(c) The supply responsiveness (or elasticity) of competitors in the relevant market, as determined by an assessment of entry and expansion conditions of competitors.
 - (IV) 723-30-2.24(d) 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) 723-30-2.25 "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) 723-30-2.26 "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) 723-30-2.27 "Overhead costs" means shared costs related to the production of all services offered by a firm.
- (aa) 723-30-2.28 "Perfect competition":
 - (I) A market structure is perfectly competitive when the following conditions prevail:
 - (A) 723-30-2.28(a) There are a large number of firms each with an insubstantial share of the market;
 - (B) 723-30-2.28(b) The firms possess perfect information and produce a homogeneous service using identical production processes; and

- (C) 723-30-2.28(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) 723-30-2.29 "Price ceiling" means the maximum level at which a provider may price a service.
- (cc) 723-30-2.30 "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) 723-30-2.31 "Price floor" means the minimum level at which a provider may price a service.
- (ee) 723-30-2.33 "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) 723-30-2.34 "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) 723-30-2.35 "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) 723-30-2.36 "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) 723-30-2.38 "Shared cost" means a cost incurred for facilities and resources used in common for the production of two or more services.
- (jj) 723-30-2.39 "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) 723-30-2.40 "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) 723-30-2.41 "Sunk cost" means a cost that has already been incurred, is irretrievable, and cannot be avoided, even by discontinuing production entirely.
- (mm) 723-30-2.42 "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) 723-30-2.43 "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) 723-30-2.44 "Total service incremental revenue" means the change in the firm's total revenues resulting from adding or deleting a service.
- (pp) 723-30-2.45 "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) 723-30-2.45(a) 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) 723-30-2.45(b) 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) 723-30-2.45(c) TSLRIC includes both fixed and variable costs specific to the service (or group of services) in question.
- (IV) 723-30-2.45(d) 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) 723-30.2.46 "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) 723-30-2.47 "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, *et seq.*, C.R.S.) 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) 723-30-3.3 Rule 2463 shall cover Part II telecommunications services.

- (b) 723-30-3.2 Part III telecommunications services shall be treated differently depending upon the amount of actual demonstrated competition for each service.
 - (I) 723-30-3.2(b) 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) 723-30-3.2(a) 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) 723-30-3.1 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) 723-30-4.1 Costing.
 - (I) 723-30-4.1(a) 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) 723-30-4.1(b) 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) 723-30-4.1(c) 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) 723-30-4.1(d) 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) 723-30-4.1(e) 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) 723-30-4.1(f) 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) 723-30-4.1(g) Cost studies must be approved by the Commission.
 - (VIII) 723-30-4.1(h) Individual cost studies for each service or functional component must have been performed within three years of being filed.
- (b) 723-30-4.2 Pricing.
- (I) 723-30-4.2(a) 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) 723-30-4.2(a)(i) Total revenue from the given service is equal to or greater than its total service long run incremental cost.

- (B) 723-30-4.2(a)(ii) 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) 723-30-4.2(a)(iii) 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) 723-30-4.2(a)(iv) 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) 723-30-4.2(b) 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) 723-30-4.2(c) 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) 723-30-4.2(d) 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) 723-30-4.2(e) 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) 723-30-4.2(f) Residual pricing may not be used for any services.
- (VII) 723-30-4.2(g) 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) 723-30-5.1 Costing. The cost studies referred to in this rule must conform to the specifications outlined in paragraph 2463(a).
- (b) 723-30-5.2 Pricing.
 - (I) 723-30-5.2(a) 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) 723-30-5.2(b) 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) 723-30-5.2(c) 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) 723-30-5.2(d) 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) 723-30-6.1 Contents.
 - (I) 723-30-6.1(a) 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) 723-30-6.1(b) Cost studies must be produced in accordance with the definition of the type of costs being estimated.
 - (III) 723-30-6.1(c) 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) 723-30-6.1(d) 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) 723-30-6.1(e) The provider shall identify any included sunk costs and shall calculate the cost reduction that results from the exclusion of such sunk costs.
 - (VI) 723-30-6.1(f) 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) 723-30-6.1(g) Nothing in this paragraph shall be construed to limit the Commission's authority to accomplish its statutory duties.

(b) 723-30-6.2 Cost estimate requirements.

(I) 723-30-6.2(a) In any incremental cost estimate submitted, the increment of output analyzed must be relevant to the issues under consideration.

(II) 723-30-6.2(b) 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) 723-30-6.2(c) 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) 723-30-6.3 Required work papers.

(I) 723-30-6.3(a) A cost estimate submitted to the Commission shall be accompanied by a complete set of supporting work papers and source documents.

(II) 723-30-6.3(b) 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) 723-30-6.3(c) Work papers shall clearly set forth all significant assumptions and identify all source documents used in preparing the cost estimate.

(IV) 723-30-6.3(d) 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) 723-30-6.3(e) 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) 723-30-6.3(f) 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) 723-30-6.3(g) 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) 723-30-7.1 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. 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) 723-30-7.2 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

INTERCONNECTION AND UNBUNDLING

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules 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.

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

2500. 723-39-1 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) 723-39-2.2 "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) 723-39-2.4 "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) 723-39-2.5 "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) 723-39-2.8 "Essential facilities" or "essential functions" mean those network elements that a telecommunications provider is required to offer on an unbundled basis.
- (e) 723-39-2.9 "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) 723-39-2.11 "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) 723-39-2.12 "Loop" means the facilities that connect a customer network interface to a main distribution frame, or its equivalent.
- (h) 723-39-2.15 "Operator systems" means systems that provide for live or mechanized operator functions that assist end users with call completion and directory assistance.
- (i) 723-39-2.16 "Originating provider" means the telecommunications provider that serves the end user who originates a local call.
- (j) 723-39-2.18 "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) 723-39-2.19 "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) 723-39-2.20 "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) 723-39-2.21 "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) 723-39-2.22 "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, IXCs, 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) 723-39-2.27 "Terminating provider" means the telecommunications provider that serves the end user who receives a local call.

2502. Interconnection.

- (a) 723-39-3.1 All telecommunications carriers shall interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.
- (b) 723-39-3.2 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, to the extent technically feasible;
 - (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) 723-39-3.3 In addition to the above obligations, all ILECs shall provide for the interconnection with the facilities and equipment of any requesting telecommunications carrier:
 - (I) 723-39-3.3.1 For the transmission and routing of telephone exchange service and exchange access;
 - (II) 723-39-3.3.2 At any technically feasible point within the ILEC's network;
 - (III) 723-39-3.3.3 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) 723-39-3.3.4 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, arbitration, or Tariff or Price List, as applicable; and
 - (VI) Consistent with the Commission's rules regarding the Costing and Pricing of Regulated Telecommunications Services.
- (d) 723-39-3.4 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.
- (e) 723-39-3.5 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.
- (f) 723-39-3.6 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.
- (g) 723-39-3.7 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.
- (h) 723-39-3.8 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) 723-39-4.1 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) 723-39-4.2 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) 723-39-4.3 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) 723-39-4.4 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) 723-39-4.4.1 The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and
 - (II) 723-39-4.4.2 The provider of the unbundled elements shall charge the originating provider for the use of the unbundled elements.
- (e) 723-39-4.5 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) 723-39-4.5.1 The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and
 - (II) 723-39-4.5.2 The provider of the unbundled elements shall charge the terminating provider for the use of the unbundled elements.
- (f) 723-39-4.6 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) 723-39-4.8.1 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) 723-39-4.8.2 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) 723-39-5.1 Telecommunications carriers shall deal with other telecommunications carriers in a good faith and cooperative manner.
- (b) 723-39-5.2 All telecommunications carriers are obligated to serve their customers in accordance with the Commission's rules.
- (c) 723-39-5.3 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) 723-39-5.4 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) 723-39-5.5 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) 723-39-5.6 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) 723-39-5.7 Telecommunications carriers shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

- (h) 723-39-5.8 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) 723-39-5.9 All LECs shall offer, in a non-discriminatory manner pursuant to contract or Tariff, 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 or Tariffs shall be approved by the Commission, and available for review pursuant to Commission order.
- (j) 723-39-5.10 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) 723-39-5.11 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).
- (l) 723-39-5.12 Regarding directories for basic local exchange service.
 - (I) 723-39-5.12.1 Each ILEC (White Pages provider), shall cause the customer information (i.e., name, address, and telephone number) of all customers within the local calling area served by the LEC to be published in a White Pages telephone directory, regardless of whether the customer subscribes to the telecommunications services of that particular LEC. Upon Commission approval, a different LEC may assume the responsibilities identified in this rule.
 - (II) 723-39-5.12.2 Each White Pages provider shall cause each LEC to receive one directory for each access line the LEC serves in the directory provider's operating area.
 - (III) 723-39-5.12.3 Each LEC shall, in turn, cause a White Pages telephone directory to be delivered to each of its customers (one directory per access line purchased).
 - (IV) 723-39-5.12.4 Each LEC shall provide to all White Pages providers the information required to adequately list all subscribers' information (i.e., name, address, and telephone

number) in the telephone directory(ies). This information shall be provided in a mutually agreeable format.

- (V) 723-39-5.12.5 Each directory provider shall offer premium listings in its directory to other LECs' subscribers.
- (VI) 723-39-5.12.6 Each White Pages provider shall provide space in the customer guide pages of the "White Pages" telephone directory for the purpose of notifying customers how to reach LECs to:
 - (A) Request service;
 - (B) Contact repair service;
 - (C) Dial directory assistance;
 - (D) Reach an account representative;
 - (E) Request buried cable local service; and
 - (F) Contact the special needs center for customers with disabilities.
- (VII) 723-39-5.12.7 All parties involved shall abide by the Commission's rules on privacy and the handling of customer proprietary network information.

2505. Unbundling.

- (a) 723-39-6.1 Each ILEC shall provide, to any requesting telecommunications provider for the provision of a telecommunications service, non-discriminatory access to essential facilities or functions. An ILEC shall provide such unbundled essential facilities or essential functions in a manner that allows requesting providers to combine such facilities or functions in order to provide such telecommunications services.
- (b) 723-39-6.2 The following network elements are essential facilities or functions:
 - (I) 723-39-6.2.1 Loop, including digital capable loops and analog loops;
 - (II) 723-New Subloop, including intra-building cable and multitenant environment (MTE) terminal subloop access;
 - (III) 723-New Line sharing;
 - (IV) 723-New Unbundled dark fiber;
 - (V) 723-39-6.2.2 Local switching;

- (VI) 723-39-6.2.3 Common transport links;
 - (VII) 723-39-6.2.4 Dedicated transport links;
 - (VIII) 723-39-6.2.5 Local and toll tandem switching;
 - (IX) 723-39-6.2.6 Operator systems;
 - (X) 723-39-6.2.7 Signaling links;
 - (XI) 723-39-6.2.8 Signal transfer points; and
 - (XII) 723-39-6.2.9 Access to each service control point through signal transfer points.
- (c) 723-39-6.3 ILECs are not required to unbundle an element that the provider:
- (I) Does not offer customers as part of a bundled service; or
 - (II) Exclusively offers the element as part of a bundled service through buying the element from another provider and reselling it.
- (d) 723-39-6.4 A facilities-based LEC that provides the sole loop to a customer's premises shall offer that loop as an unbundled network element. For unbundling purposes, an alternate provider's loop need not be in actual use to be considered a second loop to a customer premises.
- (e) 723-39-6.5 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.

2506. Process and Imputation.

- (a) 723-39-7.1 Interconnection. Except as provided in rule 2508, each ILEC shall maintain effective Tariffs with the Commission that establish rates, charges, terms, and conditions for interconnection.
- (b) 723-39-7.2 Termination of local traffic. Except as provided in rule 2508, each ILEC shall maintain effective Tariffs with the Commission that establish rates, charges, terms, and conditions for the termination of local traffic.
- (c) 723-39-7.3.2 Unbundling. Within 30 days after designation as an incumbent carrier, a certified carrier shall file with the Commission Tariffs effective on 30-days notice or, if applicable,

Price Lists, that establish rates, charges, terms, and conditions for the sale of unbundled network elements.

- (d) 723-39-7.4 White Pages for basic local exchange service.
 - (I) 723-39-7.4.1 Each directory provider shall file with the Commission directory Tariffs within 30 days of that provider's certification as a LEC within the provider's operating area. Such Tariffs shall establish the rates, charges, terms, and conditions for the transfer of customer information, the publication of White Pages telephone directories for the LEC, the publication of customer guide information for the competing provider, and the publication of premium directory listings for the LEC's customers.
 - (II) 723-39-7.4.2 When determining the just and reasonable rate the White Pages provider may charge a LEC, the Commission may consider, where applicable, the compensation arrangement that the directory provider has with its publisher.
- (e) 723-39-7.5 Tariffs. The Commission will review each Tariff filed. The LEC filing the Tariff shall have the burden of proving that any proposed rates, charges, terms, or conditions are consistent with the following:
 - (I) 723-39-7.5.1 Rates shall be cost-based, just, and reasonable, and may include a reasonable profit;
 - (II) 723-39-7.5.2 Rates, charges, terms, and conditions shall be non-discriminatory and competitively neutral;
 - (III) 723-39-7.5.3 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) 723-39-7.5.4 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.
- (f) 723-39-7.6 Imputation.
 - (I) 723-39-7.6.1 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) 723-39-7.6.2 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. [Reserved].

2508. Exemption for Rural Telephone Companies.

- (a) 723-39-9.1 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) 723-39-9.2 A telecommunications carrier making such a *bona fide* request shall submit a notice of its request to the Commission.
 - (I) 723-39-9.2.1 The Commission shall conduct a hearing for the purpose of determining whether to terminate the rural telecommunications carrier's exemption under paragraph (a).
 - (II) 723-39-9.2.2 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) 723-39-9.2.3 Upon termination of an exemption, the Commission shall establish an implementation schedule for compliance with the request.
- (c) 723-39-9.3 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 may grant the application to the extent it is necessary and for such duration as it determines.
- (d) 723-39-9.4 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.

2509. - 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; generally establish criteria for Commission approval or rejection of such agreements; and establish 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; 40-15-503(2)(b)(I) and (III); 40-15-503(2)(g)(I); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 252(a)(1) and (e).

2530. 723-44-1 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 2549.

- (a) 723-44-2.2 "Arbitrated interconnection agreement" means an interconnection agreement or portion thereof, reached through compulsory arbitration.
- (b) 723-44-2.5 "Interconnection agreement" 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) 723-44-2.7 "Motion for approval of amendment" means a motion filed with the Commission pursuant to rule 2535 made by a party seeking approval of an executed amendment to an agreement previously approved by the Commission.
- (d) 723-44-2.8 "Negotiated interconnection agreement" means an interconnection agreement, or portion thereof, reached through negotiation.

- (e) 723-44-2.10 "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.
- (f) 723-44-2.11 "Report of adoption" (report) means a filing with the Commission pursuant to rule 2536 made by a party seeking approval of an interconnection agreement or an amendment to an agreement previously approved by the Commission.
- (g) 723-44-2.12 "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.
- (h) 723-44-2.15 "Telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, including software integral to such equipment (including upgrades).

2532. 723-44-12 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. The incorporated material may be found at 47 C.F.R., revised as of October 1, 2002. References to Parts 51 and 69 do not include later amendments to or editions of these Parts. A certified copy of these Parts is maintained at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated material shall be provided at cost upon request. The Director or the Director's designee shall provide information regarding how the incorporated material may be obtained or examined. These incorporated materials may be examined at any state publications depository library.

2533. 723-44-3 Notices to the Commission of Requests to Negotiate.

An ILEC shall notify the Commission that it has received a request to negotiate an interconnection agreement, as defined in this rule, pursuant to 47 U.S.C. 252(a)(1). The notice shall be given to the Director within five days after the ILEC receives the request. The notice shall include the names of the parties to the negotiation, the date on which the ILEC received the request for negotiation, and a copy of the request.

2534. Submission of Agreement and Amendments for Approval.

- (a) 723-44-4.1 Pursuant to 47 U.S.C. 252(a)(1) and 47 U.S.C. 252(e)(1), any interconnection agreement adopted by negotiation or arbitration between an ILEC and a telecommunications carrier(s) shall be submitted for approval to the Commission.
- (b) 723-44-4.2 Any interconnection agreement not falling within the purview of paragraph (c) shall be submitted as an application

pursuant to rule 2535. Any subsequent amendment to an interconnection agreement not falling within the purview of paragraph (c) shall be submitted for approval to the Commission as a Motion for Approval of Amendment pursuant to rule 2535.

- (c) 723-44-4.3 The following types of interconnection agreements and amendments may be submitted to the Commission as a report of adoption pursuant to rule 2536:
 - (I) 723-44-4.3.1 An interconnection agreement accepting in its entirety, without modification, a previously approved and effective agreement;
 - (II) 723-44-4.3.2 An interconnection agreement accepting in its entirety a Commission approved and effective SGAT;
 - (III) 723-44-4.3.3 An amendment to an interconnection agreement accepting, in its entirety, without modification, previously approved and effective amendments to an interconnection agreement; or
 - (IV) 723-44-4.3.4 An amendment to an interconnection agreement including mutually agreed upon combinations of contract provisions, rates, charges, terms, and conditions that have all been previously approved by the Commission.
- (d) 723-44-4.4 Filing entity. The Commission prefers that the parties jointly submit the application, any subsequent motion, or any reports. However, a single party may make the filing with the express concurrence of the other party or parties.
- (e) 723-44-4.5 Number of copies. An original and ten paper copies of all of the following shall be submitted to the Commission: the application, motion, or report; the agreement and attachments; and any amendment and attachments. One additional copy shall be submitted in an electronic format compatible with PC DOS text, rich text format (RTF), WordPerfect, or Microsoft Word.
- (f) 723-44-4.6 Upon initial receipt of an interconnection agreement the Commission will assign a docket number to the application or the report of adoption. Any subsequent amendment to the agreement submitted for approval to the Commission either as a motion for approval of amendment, or as a report of adoption shall use the original docket number.

2535. Application or Motion for Approval of Amendment.

- (a) Contents. The Application or Motion for Approval of Amendment shall include, in the following order and specifically identified, the following information, either in the Application or Motion for Approval of Amendment or in appropriately identified, attached exhibits. However, a Motion for Approval of

Amendment need only supply the identifying information required under subparagraph (I) of this paragraph to the extent any change has occurred.

- (I) 723-44-5.1 Identifying information.
 - (A) 723-44-5.1.1 The name, address, telephone number, facsimile number, and e-mail address, if applicable, of the parties to the interconnection agreement or amendment;
 - (B) 723-44-5.1.2 The name under which the parties will provide their services if different from that provided in the carriers' current Tariffs on file with the Commission; and
 - (C) 723-44-5.1.3 The names, addresses, facsimile numbers, and e-mail addresses, if applicable, of the parties' representatives to whom all inquiries should be made.
 - (D) 723-25-4.1.4 A copy of the applicant's applicable organizational documents, *e.g.*, Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
 - (E) 723-25-4.1.5 If the applicant is not organized in Colorado, a copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;
 - (F) 723-25-4.1.6 Name and address of applicant's Colorado agent for service of process;
 - (G) 723-44-5.1.5 If a party is a partnership, the name, title, business address, telephone number, facsimile number, and e-mail address, if applicable, of each partner, both general and limited, and a copy of the partnership agreement establishing the partnership and later amendments, if any, unless a current copy is already on file with the Commission.
- (II) 723-44-5.2 A copy of the entire interconnection agreement or amendment, including all attachments, which, pursuant to 47 U.S.C. 252(a)(1), include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement or amendment.
- (III) 723-44-5.3.1 Applications seeking approval of a negotiated interconnection agreement or motions seeking approval of an amendment to an existing agreement shall include, in the following order and specifically identified, the following

information, either in the application or in appropriately identified attached exhibits:

- (A) The requirements of subparagraph (a)(I);
- (B) 723-44-5.3.1.1 A description of the services provided pursuant to the agreement or amendment;
- (C) 723-44-5.3.1.2 A description of the means by which the services are provided pursuant to the agreement or amendment;
- (D) 723-44-5.3.1.3 The facts upon which the parties rely to demonstrate that the agreement or amendment does not discriminate against other telecommunications carriers who are interconnected with any of the parties; and
- (E) 723-44-5.3.1.4 The facts upon which the parties rely to demonstrate that the agreement or amendment is in the public interest. To demonstrate that the agreement or amendment is consistent with the public interest, the application or motion for approval of an amendment shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (i) 723-44-5.3.1.4.1 The facts upon which the parties rely to demonstrate that the interconnection agreement or amendment will encourage and not inhibit competition;
 - (ii) 723-44-5.3.1.4.2 The agreed-upon price of the interconnection services, and the facts upon which the parties rely to demonstrate that the price is, pursuant to 47 U.S.C. 252(d)(1), just and reasonable for the interconnection of facilities and equipment for purposes of 47 U.S.C. 251(c)(2); just and reasonable for network elements for purposes of 47 U.S.C. 251(c)(3); based on the cost of providing the interconnection or network element; and non-discriminatory; and
 - (iii) 723-44-5.3.1.4.3 The facts upon which the parties rely to demonstrate that the interconnection agreement or amendment is in compliance with intrastate telecommunications service quality standards or requirements.
- (IV) 723-44-5.3.2 Applications seeking approval of an arbitrated interconnection agreement shall include, in the following

order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

- (A) The requirements of subparagraph (a)(I).
 - (B) 723-44-5.3.2.1 A description of the services provided pursuant to the agreement.
 - (C) 723-44-5.3.2.2 A statement of the means by which the services are provided pursuant to the agreement.
 - (D) 723-44-5.3.2.3 The agreed-upon price of the interconnection services, and the facts upon which the parties rely to demonstrate that, pursuant to 47 U.S.C. 252(d)(1), the price is: just and reasonable for the interconnection of facilities and equipment for purposes of 47 U.S.C. 251(c)(2); just and reasonable for network elements for purposes of 47 U.S.C. 251(c)(3); based on the cost of providing the interconnection or network element; and non-discriminatory. Prices may include a reasonable profit. The service provider shall, as part of the application, provide its cost studies conducted in accordance with the Commission's rules regarding the Costing and Pricing of Regulated Telecommunications Services.
 - (E) 723-44-5.3.2.4 The facts upon which the parties rely to demonstrate that the arbitrated interconnection agreement is in compliance with intrastate telecommunications service quality standards or requirements.
 - (F) 723-44-5.4 An affidavit signed by an officer, a partner, an owner, or an employee, as appropriate, who is authorized to act on behalf of the submitter, stating that the contents of the submittal and all attachments are true, accurate, complete, and correct.
- (b) 723-44-5.5 Completeness. In the event an application or motion for approval of amendment is submitted to the Commission pursuant to this rule that the Commission determines does not include the above required submittal information, the Commission shall, by an order, reject the application or motion for approval of an amendment within 15 days from the date of the submittal, with written findings as to the deficiencies in the information submitted. The Parties may then correct and resubmit the agreement or amendment for approval.
- (c) 723-44-5.6 Notice and opportunity for public comment.

- (I) 723-44-5.6.1 Notice. The Parties shall prepare a written notice of the application or motion for approval of an amendment. A copy of the written notice shall be included in the Application, or Motion for Approval of Amendment to the Commission. A copy of the written notice shall be submitted in an electronic format acceptable to the Commission. The Commission shall give notice of the filing of an Application, or Motion for Approval of Amendment by posting the notice on its website.
- (II) 723-44-5.6.2 Additional notice requirements. On the day the Application or Motion for Approval of Amendment is filed with the Commission the parties to the agreement or amendment shall, by first-class mail, furnish a written notice of the Application or Motion. Such notice shall be mailed to the Office of Consumer Counsel and to any entity that has made it known to the parties that it desires to receive notices of such filings. The Application or Motion for Approval of Amendment shall include a certificate of service. The written notice shall, at a minimum, include the following information:
 - (A) A statement that an Application or Motion for Approval of Amendment has been filed with the Commission, and the date of such filing;
 - (B) A general description of the filing;
 - (C) A statement that the filing may be examined more fully at the Commission, and the address of the Commission;
 - (D) A statement that public comment on an application seeking approval of a negotiated interconnection agreement or on a motion for approval of amendment shall be accepted by the Commission within 30 days of the filing date, or a statement that public comment on an application seeking approval of an arbitrated interconnection agreement shall be accepted by the Commission within ten days of the filing date of the Application; and
 - (E) A statement that interested persons may intervene within ten days of the date of the filing of an application seeking approval of a negotiated interconnection agreement or motion for approval of an amendment, or within five days of the date of the filing of an application seeking approval of a arbitrated interconnection agreement, by the filing of an appropriate pleading with the Commission.
- (III) 723-44-5.6.3 Public comment.

- (A) 723-44-5.6.3.1 Public comment on an application seeking approval of a negotiated interconnection agreement or a motion for approval of an amendment filed pursuant to this rule shall be provided within 30 days of the posting of the required notice.
 - (B) 723-44-5.6.3.2 Public comment on an application seeking approval of an arbitrated interconnection agreement shall be provided within ten days of the posting of the required notice.
- (IV) 723-44-5.6.4 Intervention.
 - (A) 723-44-5.6.4.1 Interventions to an application seeking approval of a negotiated interconnection agreement, or a motion for approval of an amendment shall be filed within ten days from the filing of the application or motion.
 - (B) 723-44-5.6.4.2 Interventions to an application seeking approval of an arbitrated interconnection agreement shall be filed within five days from the filing of the application.
- (d) 723-44-5.7 Review process.
 - (I) 723-44-5.7.1 After an application or motion for approval of an amendment has been made, the intervention and public comment periods have expired, and any necessary hearing has been held, the Commission shall either approve or reject the application or the motion for approval of amendment with written findings as to any deficiencies.
 - (II) 723-44-5.7.2 Grounds for rejection.
 - (A) 723-44-5.7.2.1 The Commission may reject a negotiated interconnection agreement or a motion for approval of an amendment, or any portion thereof, only if it finds that:
 - (i) 723-44-5.7.2.1.1 The agreement or amendment, or portion thereof, discriminates against a telecommunications carrier not a party to the agreement;
 - (ii) 723-44-5.7.2.1.2 The implementation of such agreement or amendment, or portion thereof, is not consistent with the public interest, convenience, and necessity; or
 - (iii) 723-44-5.7.2.1.3 The agreement or amendment is not in compliance with intrastate

telecommunications service quality standards or requirements.

- (B) 723-44-5.7.2.2 The Commission may reject an arbitrated interconnection agreement, or arbitrated amendment, or any portion thereof, only if it finds that:
 - (i) 723-44-5.7.2.2.1 The agreement or amendment, or portion thereof, does not meet the requirements of 47 U.S.C. 251 including the regulations prescribed by the FCC pursuant to Section 251;
 - (ii) 723-44-5.7.2.2.2 The agreement or amendment, or portion thereof, does not meet the requirements of 47 U.S.C. 252(d); or
 - (iii) 723-44-5.7.2.2.3 The agreement or amendment is not in compliance with intrastate telecommunications service quality standards or requirements.
- (III) 723-44-5.7.3 Schedule for decision. If the Commission does not act to approve or reject the negotiated interconnection agreement or motion for approval of an amendment within 90 days after a submission by the parties, or the arbitrated interconnection agreement within 30 days after a submission by the parties, the agreement or amendment shall be deemed approved.
- (IV) 723-44-5.7.4 Schedule when provisions are reached through both negotiation and arbitration. The Commission will review a submitted interconnection agreement that includes provisions reached partially through negotiation and partially through compulsory arbitration, pursuant to 47 U.S.C. 252(b), by following the procedures specified above for the review of an agreement reached solely through negotiation.

2536. Report of Adoption.

Upon execution of an agreement or amendment falling within the purview of paragraph 2534(c), the parties shall file a Report of Adoption with the Commission.

- (a) 723-44-6.1; 723-44-6.1.2 Contents. The report of adoption shall include, in addition to the information required by subparagraph 2535(a)(I), in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits, except if the Report of Adoption is not the initial interconnection agreement filing by the parties with the Commission, the identifying

information of rule subparagraph 2535(a)(I) need only be supplied to the extent any change has occurred:

- (I) 723-44-6.2; 6.2.1; 6.2.2 Copy of Agreement, SGAT, or Amendment. A complete copy, including any attachments, of the entire agreement, SGAT, or amendment shall be provided. The copy shall include a detailed schedule of itemized charges for interconnection, each service, or each network element included in the agreement or amendment. If the Commission has not previously and expressly approved one or more of the charges for interconnection, each service, or each network element included in the agreement or amendment, the Commission shall reject the report pursuant to subparagraph (f). If the parties are adopting a previously Commission approved interconnection documents by use of a cover memorandum referencing an underlying document already on file with the Commission, only the copies of the memorandum agreement need be provided.
 - (II) 723-44-6.3 An affidavit, signed by an officer, a partner, an owner, or an employee, as appropriate, who is authorized to act on behalf of the submitter, stating that the contents of the submittal and all attachments, are true, accurate, complete, and correct.
- (b) 723-44-6.4 Effective date of previously approved agreement, SGAT, or amendment.
- (I) 723-44-6.4.1 The interconnection agreement resulting from the parties' election to opt into the entire Commission approved, effective SGAT or into a previously approved, effective interconnection agreement or amendment shall be effective immediately upon the filing of a complete Report of Adoption.
 - (II) 723-44-6.4.2 When the parties to a Commission-approved interconnection agreement mutually agree to amend that agreement by incorporating one or more sections of the Commission approved, effective SGAT, or sections of previously approved, effective interconnection agreements, the resulting agreement, as amended shall be effective immediately upon the filing of a complete Report of Adoption.
- (c) 723-44-6.5 Notice.
- (I) 723-44-6.5.1 Public notice. The parties shall prepare a written notice of the Report of Adoption. A copy of the written notice shall be included in the report. A copy of the written notice shall be submitted in electronic format compatible with PC DOS text, rich text format (RTF), WordPerfect, or Microsoft Word. The Commission shall give

notice of the filing of the report by posting the notice on its website.

(II) 723-44-6.5.2 Additional notice requirements.

(A) 723-44-6.5.2.1 On the day the Report of Adoption is filed with the Commission, the parties to the agreement or amendment shall, by first-class mail, furnish a written notice that a Report of Adoption has been made to any provider or entity that has made it known to the parties that it desires to receive notices of such filings and to the OCC. If agreed to by the recipient, service of the said notice may be accomplished by electronic mail. The Report of Adoption shall include a certificate of service.

(B) 723-44-6.5.2.2 The written notice shall, at a minimum, include the following information: a statement that a report has been filed with the Commission, and the date of such filing; a general description of the filing; a statement that the filing may be examined more fully at the offices of the Commission; and the address of the Commission.

(d) 723-44-6.5.3 Public comment. Absent extraordinary circumstances, and with good cause being shown, public comment on a report seeking approval of an interconnection agreement or an amendment filed pursuant to this rule is not permitted.

(e) 723-44-6.6 Interventions. Absent extraordinary circumstances, and with good cause being shown, intervention to a report seeking approval of an interconnection agreement or an amendment filed pursuant to this rule is not permitted.

(f) 723-44-6.7 Review process. After a Report of Adoption has been filed, the Commission shall, at its earliest convenience, by order, either approve or reject the report with written findings as to any deficiencies.

(I) 723-44-6.7.1 Grounds for rejection. The Commission may reject a Report of Adoption only if it finds that:

(A) 723-44-6.7.1.1 The report as filed does not include the above required submittal information; or

(B) 723-44-6.7.1.2 the Report of Adoption as filed includes matters that the Commission determines should not have been filed as a report.

(II) 723-44-6.7.2 If the Commission rejects a Report of Adoption, the parties may then correct and resubmit an appropriate filing.

- (g) 723-44-6.8 Schedule for decision. If the Commission does not act to approve or reject the Report within 90 days after the submission of the Report of Adoption by the parties, the agreement or amendment shall be deemed approved.

2537. Expedited Procedures for Adoption of Previously Approved SGATs, Agreements, and Amendments.

Pursuant to 47 U.S.C. 252(i), an ILEC shall make available any interconnection, service, or network element provided under an agreement or amendment previously approved by the Commission to which the LEC is a party to any other requesting LEC upon the same terms and conditions as those provided in the agreement. Pursuant to 47 C.F.R., §51.809(c) of the FCC's rules, individual interconnection, services, and network element arrangements shall remain available for use by telecommunications carriers for a reasonable period of time after the Commission has approved the agreement, SGAT, or amendment.

- (a) 723-44-7.1 A telecommunications carrier seeking to adopt, without modification, in its entirety, a previously approved effective interconnection agreement, or Commission approved effective SGAT, shall submit to the ILEC a letter requesting such adoption specifying in detail which interconnection agreement, or SGAT, is to be adopted. A copy of the letter shall be provided to the Director. The ILEC shall within seven days after receipt of the letter requesting adoption, provide to the requesting carrier an interconnection agreement, executed by the ILEC, that includes the same rates, charges, terms, and conditions as the prior approved interconnection agreement, with the name of requesting carrier and the date of execution inserted. Except for the substitution of the names of the parties and date of execution, no modifications to the underlying prior approved effective agreement shall be made. Upon execution of the opt-in interconnection agreement by the requesting carrier, the parties shall file a report pursuant to rule 2536 with the Commission.
- (b) 723-44-7.2 A telecommunications carrier seeking to adopt less than an entire approved effective agreement, or selected provisions of an approved effective SGAT, shall submit to the ILEC a letter requesting such adoption. The requesting carrier shall provide as an attachment to the letter to the ILEC a proposed amendment or agreement specifying in detail the provisions or sections thereof to be adopted. A copy of the letter without attachments shall be provided to the Director.
 - (I) 723-44-7.2.1 When receiving a request to opt into only selected provisions or sections of previously approved and effective agreements or SGAT, the ILEC may require the requesting carrier to accept legitimately related provisions to ensure that the selected provisions or sections retain the context set forth in the agreement or SGAT. The ILEC shall at all times bear the burden of establishing that the additional provisions are

legitimately related to those selected by the requesting carrier.

- (II) 723-44-7.2.2 The ILEC shall have 15 days to submit a formal written response either accepting the interconnection agreement or amendment, and signing the agreement or amendment or identifying those additional provisions that the ILEC believes are legitimately related and must also be included as part of the agreement or amendment. In extraordinary circumstances, when the request is complex, the ILEC shall have an additional five days to perform its review. When such extraordinary circumstances exist, the ILEC shall notify the requesting carrier in writing within 15 days from the date of the requesting letter and advise the requesting carrier that additional time is necessary. In no event shall the ILEC take more than 20 days to submit a formal written response.
- (III) 723-44-7.2.3 If the requesting carrier disputes the ILEC's written response that additional provisions are legitimately related, the requesting carrier may immediately request that the dispute be submitted to private dispute resolution (e.g., before a representative from the American Arbitration Association). If the requesting carrier desires that the dispute be submitted to private dispute resolution, it must make its request known within 15 days from receipt of the response of the ILEC. Alternatively, the requesting carrier may elect to use the accelerated complaint process of the Commission as found in paragraph 1302(d).
 - (A) 723-44-7.2.3.1 Each party to the dispute shall pay its own attorney's fees and costs in prosecuting/defending the action. However, if either party is found to have brought or defended the action in bad faith, that party shall be responsible for reimbursing the other party for its reasonable attorney's fees and costs in prosecuting or defending the action.

2538. Confidentiality.

- (a) 723-44-8.1 Information submitted to the Commission is subject to the provisions of §§ 24-72-201, *et seq.*, C.R.S., and rules 1100 through 1102. Under those provisions it is generally presumed that information in Commission files is public information.
- (b) 723-44-8.2 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.

2539. 723-44-9 Consolidations of State Proceedings.

Pursuant to 47 U.S.C. 252(g), where not inconsistent with the requirements of the Telecommunications Act of 1996 (the Act), the Commission may, to the extent practical, consolidate proceedings under §§ 214(e), 251(f), 252, and 253 of the Act in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the Commission in carrying out its responsibilities under the Act.

2540. 723-44-10 Required Public Filing.

Pursuant to 47 U.S.C. 252(h) and 47 U.S.C. 252(i), the Commission shall make a copy of each agreement, or amendment thereto, approved under 47 U.S.C. 252(e) available for public inspection and copying within ten days after the agreement, or amendment thereto, is approved.

2541. - 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 the Commission to participate in the negotiation and to 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; 40-15-503(2)(b)(I) and (III); 40-15-503(2)(g)(I); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252(a)(1), (a)(2), and (e).

2550. 723-45-1 Applicability.

Rules 2550 through 2559 apply to any negotiation of an interconnection agreement as defined in paragraph 2531(b) 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) 723-45-2.4 "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 and to mediate any differences.
- (b) 723-45-2.3 "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) 723-45-2.6 "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) 723-45-3.1 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) 723-45-3.2 A party shall file a letter with the Director to request negotiation/mediation.

- (c) 723-45-3.3.1 The negotiation/mediation request shall include the following information, either in the request or in appropriately identified, attached exhibits:
 - (I) 723-45-3.3.1.1 The name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party to the negotiation making the request;
 - (II) 723-45-3.3.1.2 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) 723-45-3.3.1.3 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) 723-45-3.3.1.4 The negotiation history, meeting times, and locations;
 - (V) 723-New Available schedule dates of party representatives; and
 - (VI) 723-45-3.3.1.5 The issues on which the requestor seeks Commission participation and mediation.

2553. Negotiation/Mediation Process.

- (a) 723-45-4.1 Pursuant to 47 U.S.C. 252(a)(2), the Commission shall participate in the interconnection agreement negotiations and mediate any differences arising in the course of the negotiation.
 - (I) 723-45-4.1.1 Upon receipt of a request for Commission negotiation/mediation, the Commission shall assign a tracking number to the matter.
 - (II) 723-45-4.1.2 The Commission will respond to the request within ten days after receipt. The response shall identify the assigned mediator.
- (b) 723-45-4.2. The mediator shall promptly schedule negotiations/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. 723-45-5 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; 40-15-503(2)(b)(I) and (III); 40-15-503(2)(g)(I); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and at 252(a)(1) and (e).

2560. 723-46-1 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 as defined in paragraph 2531(b) requesting the Commission to 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) 723-46-2.2 "Agreement being negotiated" means an interconnection agreement being negotiated between or among telecommunications carriers, following a request for negotiation made by a telecommunications carrier to an ILEC.
- (b) 723-46-2.5 "Petition for arbitration" means the petition requesting arbitration of any unresolved issues in the interconnection agreement being negotiated.
- (c) 723-46-2.6 "Petitioner" means the party to the interconnection agreement being negotiated that files the petition for arbitration.
- (d) 723-46-2.7 "Respondent" means a non-petitioning party to the agreement being negotiated.

2562. Petition Process.

- (a) 723-46-3.1 Pursuant to 47 U.S.C. § 252(b), any party to an interconnection agreement 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) 723-46-3.2 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, attached exhibits:

(I) 723-46-3.2.1 Identifying information:

- (A) 723-46-3.2.1.1 The name, address, telephone number, facsimile number, and e-mail address, if applicable of the party to the negotiation making the request;
- (B) 723-46-3.2.1.2 The names, addresses, telephone number(s), facsimile number(s), and e-mail addresses, if applicable, of the other parties to the negotiation;
- (C) 723-46-3.2.1.3 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) 723-46-3.2.1.4 The negotiation history, meeting times, and locations; and
- (E) 723-New Available schedule dates of party representatives.
- (F) 723-46-3.2.2 All other relevant documentation and arguments concerning:
 - (i) 723-46-3.2.2.1 The unresolved issues;
 - (ii) 723-46-3.2.2.2 The position of each of the parties with respect to those issues;
 - (iii) 723-46-3.2.2.3 The specific relief requested by the petitioner with respect to each issue; and
 - (iv) 723-46-3.2.2.3 Any other issues discussed and resolved by the parties.

2563. Notice.

- (a) 723-46-4.1 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) 723-46-4.2 The petitioner shall also furnish written notice to:
 - (I) The Office of Consumer Counsel;
 - (II) Any telecommunications carrier known to be negotiating an interconnection agreement, as included on a list maintained by the Commission; and
 - (III) Any telecommunications carrier certified by the Commission to provide telecommunications service as included on a list maintained by the Commission.
- (c) 723-46-4.3 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) 723-46-4.4 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) 723-46-5.1 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) 723-46-5.2 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) 723-46-6.1 The Commission shall:
 - (I) Review all submitted documentation and written arguments; and
 - (II) Hold a hearing on the petition.

- (b) 723-46-6.2 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) 723-46-6.3 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) 723-46-6.4 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) 723-46-6.5 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) 723-46-7.1 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) 723-46-7.2 Establish any rates for interconnection, services, or network elements according to 47 U.S.C. § 252(d); and
- (c) 723-46-7.3 Provide a schedule for implementation of the rates, charges, terms, and conditions of the agreement by the parties.

2567. 723-46-8 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. 723-46-9 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. 723-46-10 Requirements to Submit Agreement for Approval.

Pursuant to 47 U.S.C. §§ 252(a)(1) and 252(e)(1), any interconnection agreement reached by negotiation or arbitration shall be submitted for approval to the Commission following the process established in rules 2530 through 2549. Pursuant to 47 U.S.C. § 252(e)(4), if the Commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under 47 U.S.C. § 252(a), or within 30 days after submission by the parties of an agreement adopted by arbitration under 47 U.S.C. § 252(b), the agreement shall be deemed approved.

2570. - 2579. [Reserved].

RULES FOR THE RESALE OF TELECOMMUNICATIONS EXCHANGE SERVICES

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish regulations: for the resale of retail telecommunications exchange services; to ensure the non-discriminatory availability of services for resale; and to ensure that retail telecommunications services are available for resale in a manner that enhances competition.

The statutory authority for promulgation of these rules is found at §§ 40-15-108(2); 40-15-502(1), (3)(b)(V), and (5)(b); 40-15-503(2)(a), (2)(b)(IV), and (2)(g)(I); and 40-2-108, C.R.S.

2580. 723-40-1. Applicability.

Rules 2580 through 2599 are applicable to all telecommunications providers that provide telecommunications exchange service in Colorado.

2581. Definitions.

The following definitions apply only in the context of rules 2580 through 2599:

- (a) 723-40-2.1 "Facilities-based telecommunications provider" means a provider of telecommunications exchange service that owns telecommunications facilities.
- (b) 723-40-2.7 "Telecommunications exchange service" means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area, operated to furnish subscribers with intercommunicating service of the character ordinarily provided by a single exchange, and which is covered by the exchange service charge.
- (c) 723-40-2.9 "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.

2582. Regulation of Facilities-Based Telecommunications Providers.

- (a) 723-40-3.1 Facilities-based telecommunications providers shall neither prohibit nor impose unreasonable or discriminatory conditions or limitations on the resale of their retail telecommunications services.
- (b) 723-40-3.2 Facilities-based telecommunications providers shall not be required to modify their Commission-established local calling areas for the purpose of accommodating a reseller.
- (c) 723-40-3.3 Operational Support:

- (I) 723-40-3.3.1 Each facilities-based telecommunications provider shall offer, in a non-discriminatory manner, pursuant to contract or Tariff, the operational support necessary to enable each reseller, certified within the facilities-based telecommunications provider's service territory, the opportunity to provide the reseller's end users the same quality of service, consistent with rules 2330 through 2359 that is available to the facilities-based telecommunications provider's end users.
 - (II) 723-40-3.3.2 Such contracts shall be approved by the Commission and available for review pursuant to Commission order.
- (d) 723-40-3.4 A facilities-based telecommunications provider may require a deposit from a reseller, pursuant to an effective Tariff on file with the Commission. The Tariff shall specify, at a minimum, the amount of the deposit, the circumstances under which the deposit shall be required, when the deposit shall be returned, and the terms and conditions of the forfeiture of the deposit. Such deposit shall be in an amount sufficient to recover the reasonable costs borne by the facilities-based telecommunications provider in the event the reseller:
 - (I) Discontinues telecommunications exchange service without Commission approval; or
 - (II) Fails to pay the facilities-based telecommunications provider for services rendered.
- (e) 723-40-3.5 In the event a reseller discontinues telecommunications exchange service without Commission approval, the facilities-based telecommunications provider shall:
 - (I) Notify the Commission and each customer of the reseller's discontinuance of service and of the customer's option to receive services directly from the facilities-based telecommunications provider or switch to another provider; and
 - (II) Provide, at a minimum, exchange telecommunications service to each of the reseller's former customers pursuant to the facilities-based telecommunications provider's rates, charges, terms, and conditions, unless the customer requests service from another provider.
- (f) 723-40-3.6 Subject to Commission approval, an ILEC shall charge resellers a price equal to the retail price the ILEC charges end users adjusted for any marketing, billing, collection, and other costs that will be avoided by the ILEC. For purposes of this rule, the price charged to resellers shall also reflect any package discounts the ILEC offers to its end users for a package

of retail telecommunication services if the resold combination of products purchased is identical.

2583. Service Quality.

- (a) 723-40-4.1 For purposes of compliance with rules 2330 through 2359, the reseller is a customer of the facilities-based telecommunications provider.
- (b) 723-40-4.2 All local exchange service providers, including resellers, shall comply with all Commission rules applicable to LECs.
- (c) 723-40-4.3 The provider of local exchange services that directly interfaces with the end user is obligated to serve that end user according to the Commission's rules.
- (d) 723-40-4.4 Services offered for resale by the facilities-based telecommunications provider must be provisioned at the same standard of quality as the services offered to its end users.

2584. Confidentiality.

- (a) 723-40-5.1 Each facilities-based telecommunications provider shall establish procedures to ensure that its personnel, including, but not limited to, those personnel who are involved in the provision of resold service and operational support to resellers, hold as confidential all information about the reseller and its end users obtained solely from providing services to a reseller, and do not use that information to compete against the reseller.
- (b) 723-40-5.2 Each facilities-based telecommunications provider shall establish procedures to ensure that specific or summarized information about a provider or a reseller or their end users obtained solely from providing services is not used to develop any marketing strategy to compete, or develop, market, or sell services.
- (c) 723-40-5.3 Each facilities-based telecommunications provider and each reseller of its services shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

2585. Tariff Filings.

- (a) 723-40-6.1 Except for those providers addressed in paragraph (b), each facilities-based telecommunications provider shall file Tariffs with the Commission implementing the resale of services according to these rules within 30 days of the date the facilities-based telecommunications provider receives operating authority.

- (b) 723-40-6.2 Rural facilities-based telecommunications providers shall file Tariffs with the Commission implementing the resale of requested services according to these rules within 30 days after such company has received a *bona fide* request by a reseller that has been granted operating authority within the facilities-based telecommunications provider's service territory, and the Commission has determined that such request is not unduly economically burdensome and is technically feasible.

2586. Negotiation, Mediation, and Arbitration.

- (a) 723-40-7.1 Nothing in rule 2585 shall be construed to limit a telecommunications provider's ability to reach a negotiated, mediated, or arbitrated agreement with respect to the rates, charges, terms, and conditions associated with the resale of retail telecommunications services.
- (b) 723-40-7.2 All agreements for resale of retail telecommunications services shall be submitted to the Commission for approval.

2587. Regulation of Resellers.

- (a) 723-40-8.1 All providers of residential basic local exchange services shall price such services to comply with statutory provisions of § 40-15-502(3), C.R.S.
- (b) 723-40-8.3 A reseller that obtains a telecommunications service at wholesale, which at retail is available only to a category of subscribers, is prohibited from offering such service to a different category of subscribers.
- (c) 723-40-8.4 If the reseller is reselling basic local exchange service to a particular end user, the end user's bill must separately identify the reseller's Commission-authorized price for basic local exchange service.

2588. 723-40-9 Dispute Resolutions.

The Commission shall resolve disputes arising out of any provision of resold retail telecommunications services pursuant to these rules.

2589. - 2599. [Reserved].

OPEN NETWORK ARCHITECTURE

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to prescribe the provision of regulated intrastate telecommunications products and services falling within the Open Network Architecture (ONA) environment created by the FCC's rules. The FCC's rules create an environment that promotes the introduction of new and innovative enhanced services and technologies through the local network and that promotes the fair and non-discriminatory provision of basic products and services to all Enhanced Service Providers (ESPs).

The statutory authority for the promulgation of these rules is found at §§ 40-2-108, 40-3-102, 40-15-101, and 40-15-503(2)(b)(III), C.R.S. The federal authority for the promulgation of these rules is found in the Rules Relating to the Creation of Access Charge Sub-elements for Open Network Architecture, CC Docket No. 89-79, Report and Order, *et seq.*

2600. 723-12-1 Applicability.

Rules 2600 through 2619 are applicable to all RBOCs that provide products and services within the ONA environment.

2601. 723-12-3 Definitions.

The following definitions apply only in the context of rules 2600 through 2619:

- (a) 723-12-3.8.2 "Aggregate CPNI" means aggregated or summarized customer-specific CPNI from which information identifying specific customers has been deleted.
- (b) 723-12-3.1 "Basic Service Element" (BSE) means optional unbundled products or services provided by a local exchange telecommunications provider that an ESP may require or find useful in configuring an enhanced service on a basic serving arrangement.
- (c) 723-12-3.2 "Basic Serving Arrangement" (BSA) means those switching and transport services that allow an ESP to communicate with its customers through the local exchange provider's network. Examples include basic local exchange service, private line service, and switched access. Special access is a form of BSA, but is currently deregulated.
- (d) 723-12-3.4 "Common Channel Signaling System #7" (SS7) means a technology that is compatible with, but not dependent upon, Integrated Services Digital Network (ISDN) for conveying call set-up and related information through data channels that are separate from the channels that customarily carry voice signals or comparable information content.

- (e) 723-12-3.5 "Common ONA Model" means the model devised by the Regional Bell Operating Companies (RBOCs) and Bellcore that represents the functional means through which an ESP can interconnect with the RBOC's network.
- (f) 723-12-3.6 "Comparably Efficient Interconnection" (CEI) means the plan established through Computer Inquiry III (CI-3) at the FCC for the RBOCs to provide enhanced deregulated services as long as they offered similar interconnections to other providers. This plan was instituted as a forerunner of ONA.
- (g) 723-12-3.7 "Complementary Network Services" (CNS) means those optional unbundled basic products and services that an end user or an ESP may obtain from a LEC for provision on an end user's line in order to access or receive an enhanced service.
- (h) 723-12-3.8 "Customer Proprietary Network Information" (CPNI) means customer information accumulated by the local exchange provider as a result of providing basic network services.
- (i) 723-12-3.8.1 "Customer-specific CPNI" means information that is customer specific and includes billing name and address, quantities of services subscribed to by the customer, access arrangements, calling patterns, usage data, and customer-billing records. Listed name, address, and telephone number are not subject to this definition.
- (j) 723-12-3.9 "Enhanced Service" means a service offered over common carrier transmission facilities that employs computer processing applications that act on the format, content, code, protocol, or similar aspects of the customer's transmitted information; provide the customer with additional, different, or restructured information; or involve customer interaction with stored information.
- (k) 723-12-3.10 "Enhanced Service Provider" (ESP) means a provider of enhanced services that uses ONA products or services of regulated telecommunications providers, including IXCs and resellers acting as ESPs.
- (l) 723-12-3.12 "Joint Marketing" means the offering, in the ordinary course of business, of enhanced services and basic products or services to the same customer during the same telephone sales contact when the customer initiates the telephone contact. It does not include sales activities where face-to-face contacts are made with customers or their representatives, or to sales activities where the telephone contact is initiated by the ILEC.
- (m) 723-12-3.11 "Network Interconnection Interoperability Forum" (NIIF) means the forum designated by the FCC for future input and further development of ONA at the federal level.

- (n) 723-12-3.13 "ONA Products and Services" means BSAs, BSEs, or CNSs.

2602. 723-New Incorporation by Reference.

Rules 2600 through 2619 incorporate by reference Title 47 U.S.C. § 222 parts (c) through (d) inclusive, amended as of Oct. 26, 1999, regarding the use, disclosure, and access to Customer Proprietary Network Information (CPNI). References to these codes do not include later amendments to or editions of these codes. A certified copy of these codes that have been incorporated by reference is maintained at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated codes shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated codes may be obtained or examined. These codes may be examined at any state publications depository library.

2603. 723-12-2.4 Generally.

The Commission shall review each individual product or service on a case-by-case basis. The RBOC shall have the burden of proving that any prices of present or proposed BSEs or CNSs are consistent with the following pricing guidelines:

- (a) 2.4.1 All prices for regulated ONA products and services are just and reasonable in accordance with § 40-3-101, C.R.S.;
- (b) 2.4.2 All prices for ONA products and services are set to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality telecommunications service in accordance with § 40-15-101, C.R.S.;
- (c) 2.4.3 ONA products and services that have been specifically deregulated by statute or by the Commission shall not be subsidized by products or services that are subject to the jurisdiction of the Commission, in accordance with § 40-15-106, C.R.S.;
- (d) 2.4.4 The relationship between prices and costs shall be determined on a case-by-case basis using all relevant information, including all available cost, market demand, competitive factors, and consideration of existing cross-elastic products or services; and
- (e) 2.4.5 To ensure that rates for ONA products and services are just and reasonable, the rate must be:
 - (I) Set above an appropriate price floor, which is established based on cost, so as not to be subsidized by other products or services; and

- (II) Not be priced so high above such a price floor so as to discourage or eliminate competition.

2604. 723-12-4.1 Availability of Services.

All existing and future ONA product or service offerings shall be made available for use with whatever access arrangements are lawfully available to the customer and technically compatible with the services.

- (a) 723-12-4.1.1 All BSEs and CNSs filed in the RBOC's exchange and network services Tariff also shall be made available for purchase and resale by all ESPs, including IXC and resellers acting as ESPs. If a BSE or CNS is technically compatible with an access BSA, then that element shall also be filed in the appropriate section of the Access Tariff. Equivalent rates, charges, terms, and conditions shall prevail in those situations where the same BSE or CNS is filed in both the Exchange and Access Tariffs.
- (b) 723-12-4.1.2 RBOCs who offer deregulated enhanced services shall purchase BSAs, BSEs, and CNSs (and other basic products or services) at Tariff rates where such products or services are offered under Tariff. Where a BSE or CNS has been detariffed in Colorado, the RBOC may offer this product or service to the public through a Price List; however, deregulated products and services are not subject to the jurisdiction of the Commission (§ 40-15-102 (6)) and are not subject to these rules.
- (c) 723-12-4.1.3 RBOCs who also offer deregulated enhanced services shall maintain a separate section of their Tariff including a listing of all ONA products and services offered by that RBOC. This separate ONA section shall reference the appropriate Tariff and Tariff section for each product and service in question if a complete set of rates, charges, terms, and conditions is not included in this separate ONA section. This ONA Tariff section shall also include a compatibility matrix indicating which BSEs and CNSs are available with each BSA category.
- (d) 723-12-4.1.4 RBOCs shall make available to all ESPs, including IXC and resellers acting as ESPs, a three-year deployment projection, by market area and wire center, of ONA product or service availability.
- (e) 723-12-4.1.5 RBOCs shall make available to all ESPs, including IXC and resellers acting as ESPs, technical references to documents that provide the technical specifications of RBOCs' interfaces that could affect customer premises equipment, or the functionalities provided to ESPs for the purpose of providing enhanced services.
- (f) 723-12-4.1.6 All requests for ONA products or services by the ESPs shall be evaluated by the RBOC for viability. The ONA

product or service shall be offered by the RBOC if sufficient market demand is demonstrated for that particular ONA product or service. If market demand is not sufficient to produce a global offering, the RBOC shall offer the product or service priced on an individual case basis (ICB) if the ESP still desires the product or service and is willing to pay a price that is compensatory to the RBOC. These ICB rates will be subject to review by the Commission, and are subject to rules 2606 and 2610. In the event that the RBOC satisfies an ESP request for an ONA product or service under an ICB arrangement, the RBOC shall negotiate appropriate methods of handling development costs if additional market demand develops for the product or service. Adjustments or credits to the ICB customer will be based on the new demand data.

2605. Customer Proprietary Network Information (CPNI).

- (a) 723-12-4.2.1 ESPs access to CPNI is allowed only as provided in this rule, and consistent with rules 1103, 1104, and 2360 through 2399.
- (b) 723-12-4.2.2 RBOC access to customer-specific CPNI by those RBOC personnel involved in marketing or provisioning enhanced services is limited in the following manner:
 - (I) For customers with 20 or fewer lines, CPNI access is allowed except in instances where the customer has requested CPNI access restriction.
 - (II) For customers with more than 20 lines, CPNI access is not allowed except in instances where prior written authorization from the customer has been obtained.
 - (III) In instances where a customer has requested restriction of CPNI, access to customer-specific CPNI shall be prohibited.
- (c) 723-12-4.2.3 RBOCs shall provide a simple and convenient way for all customers to request CPNI restriction. RBOCs shall mail a notification to each customer with more than 20 lines describing the customer's option to restrict CPNI access. Such notification shall be mailed annually. Oral notification shall be provided to customers with more than 20 lines at the time of initiating service. Further written notification shall be provided to customers with more than 20 lines within 60 days of initiation of service. RBOCs shall also prominently display a comparable notification to all customers in the RBOCs' local telephone directories.
- (d) 723-12-4.2.4 Customer-specific CPNI shall not be disclosed by a RBOC to non-RBOC ESPs, RBOC affiliates, or other third parties without written authorization of the customer or the customer's agent. Customers may designate an ESP, RBOC affiliate, or other third-party as their agent. Nothing in these

rules shall be construed to preclude or prohibit an ESP from ordering ONA services for its customer without presenting written authorization from the customer to the RBOC.

- (e) 723-12-4.2.5 The use of customer-specific CPNI by the RBOC for billing and for provisioning of Part II and Part III services of Title 40, Article 15, C.R.S., including the publishing of directories, shall not be subject to these restrictions, but such use shall be consistent with rules 1103, 1104, and 2360 through 2399.
- (f) 723-12-4.2.6 All aggregate CPNI available to the ESP affiliated with the RBOC shall be made available to other ESPs under the same rates, charges, terms, and conditions as the ESP affiliated with the RBOC.
- (g) 723-12-4.2.7 Each RBOC shall specifically state in its Tariffs the rates, charges, terms, and conditions for providing CPNI and the specific types of customer-specific and aggregate CPNI that it offers.

2606. Unbundling of Local Exchange Provider Services.

- (a) 723-12-4.3.1 RBOCs shall provide ESPs with the necessary services of the RBOC to serve as building blocks to bring new enhanced services to customers. The RBOCs shall be responsive to ESP requests in unbundling their services to the extent technically and economically feasible.
- (b) 723-12-4.3.2 A detailed record of all requests made by ESPs for the unbundling of specific RBOC services shall be maintained and made available to the Commission. This information shall include the name of the requesting ESP, the date of the request, the specific unbundling requested, the RBOC's planned and actual response date, and the response of the RBOC to the request.
- (c) 723-12-4.3.3 Any ESP that has been denied a specific service unbundling by a RBOC may file a formal complaint in accordance with § 40-6-108, C.R.S.

2607. Collocation of ESP Equipment in Local Exchange Provider Premises.

- (a) 723-12-4.4.1 The collocation of ESP facilities or equipment within RBOC's facilities is optional to the RBOC.
- (b) 723-12-4.4.2 If a RBOC allows collocation of ESP facilities or equipment that are not those of its own ESP, it must allow collocation by other ESPs under the same terms and conditions. This rule is subject to the provisions of paragraph (c) following.
- (c) 723-12-4.4.3 If security or safety issues arise, the RBOC may, at its option, disallow collocation of an ESP's facilities

or equipment. The facts surrounding the disallowance of collocation for security or safety issues must be made available to the Commission and to the ESP denied collocation.

- (d) 723-12-4.4.4 If the RBOC's ESP is physically collocated within the facilities of the RBOC and at least one ESP is not allowed collocation in that same facility, then the RBOC must price its ONA products and services to its own ESP as if the ESP were physically located two miles from that local exchange provider facility.
- (e) 723-12-4.4.5 RBOCs must ensure that the basic services used by their enhanced service operations are available to other ESPs in an equally efficient manner. Factors for evaluating this standard shall include the absence of systematic differences between the basic service access given to the RBOC and to others, end-user perception of quality, and provider to other EPSS.

2608. Regulatory Treatment of ONA Products and Services.

- (a) 723-12-4.5.1 Unless specifically defined as deregulated products and services by § 40-15-401, C.R.S., all products or services that are defined as ONA products or services by a RBOC shall be treated as regulated products and services under either § 40-15-201 or § 40-15-301, C.R.S.
- (b) 723-12-4.5.2 If a product or service offered by a RBOC is subsequently deregulated, that product or service shall not be treated under these ONA rules, except in regulatory oversight to prevent improper cross subsidization between regulated and unregulated products and services, in accordance with § 40-15-106, C.R.S.

2609. Joint Marketing Contracts.

- (a) 723-12-4.6 Before a RBOC and its own ESP jointly offer an enhanced service to a customer, the RBOC shall advise the customer in an unbiased manner that other providers offer alternative services to the enhanced service being offered by the RBOC.
- (b) 723-12-4.7 Joint marketing between the RBOC and its own ESP shall be undertaken by contract. At the time a RBOC and its ESP jointly offer an enhanced service to a customer, the RBOC shall inform the customer of the right to cancel the enhanced service request within seven days without cost to the customer.

2610. Complaint Process.

- (a) 723-12-5.1 At any time when a disagreement arises between an ESP and a RBOC regarding the provision of local exchange services under these rules, either party may file a formal complaint with the Commission in accordance with § 40-6-108, C.R.S.

- (b) 723-12-5.2 RBOCs and ESPs may establish and are encouraged to enter into arbitration agreements on ONA issues in accordance with Colorado Uniform Arbitration Act found at §§ 13-22-201 to 223, C.R.S.

2611. - 2619. [Reserved].

QUALITY OF SERVICES AND FACILITIES OFFERED BY INCUMBENT LOCAL EXCHANGE CARRIERS TO COMPETITIVE TELECOMMUNICATION PROVIDERS.

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) require monitoring and statistical testing of service quality measurements for performance parity; (2) establish minimum standards that all ILECs must meet when providing products or services to competing telecommunications providers; (3) require reporting of statistical testing results and demonstration of actual performance results as compared to minimum regulatory standards; (4) establish a compensation system based upon the ILEC's failure to meet performance standards, so that the adequate and timely provisioning of services by competing providers is unhindered; (5) implement competitive mandates of the federal Telecommunications Act of 1996 (the Act) and §§ 40-15-501, *et seq.*, C.R.S.; and (6) reflect the present and continuing evolution of a competitive telecommunications market.

The Act requires ILECs to provide certain products and services to competing providers that are at least equal in quality to those provided by the incumbent provider to itself or to any other competing carrier. The Act acknowledges and anticipates that state commissions will promulgate intrastate service quality standards and measurements.¹ Similarly, the FCC encourages state commissions to adopt rules regulating the timing of and conditions surrounding the provision of unbundled network elements (UNEs).²

The statutory authority for the promulgation of these rules is found at §§ 40-3-101(2); 40-3-102; 40-3-103; 40-3-107; 40-3-110; 40-4-101(1) and (2); 40-15-201(1); 40-15-302(1)(a); 40-15-501; 40-15-502(1); 40-15-503(2)(a), (b), and (g); and 40-2-108, C.R.S. The federal authority for the promulgation of these rules is found at 47 U.S.C. § 252(c)(2). *See also*, 47 U.S.C. § 151.³

¹ Section 252(e)(3) the Act specifically states: "[N]othing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements." Additionally, reporting mechanisms are necessary to establish, track, and enforce an ILEC's provision of non-discriminatory service. *See* FCC Order in CC Docket 96-98 at ¶ 311 and FCC Order in CC Docket 96-149 at ¶¶ 242, 243; *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended*, First Report and Order, CC Docket No. 96-149 (December 24, 1996).

² Order, ¶¶ 135, 310-311. First Report and Order, CC Docket No. 96-98.

³ The FCC amplified the responsibilities of incumbent providers to provide such service and of the states to oversee such requirements under the Act. *See* FCC Order in CC Docket 96-98 at ¶¶ 25, 101, 133-137, 224, 225, 310, 523, 970. *See also In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98 & 95-185, First Report and Order (released August 8, 1996)

2620. 723-43-1 Applicability.

- (a) The standards within rules 2620 through 2699 apply to the offering of interconnection, resale, and unbundled network elements by ILECs.
- (b) The standards within rules 2620 through 2699 do not apply to rural telecommunications carriers, unless the exemption for providing interconnection and network elements has been terminated through the issuance of a final order by the Commission.

2621. Definitions.

The following definitions apply only in the context of rules 2620 through 2699.

- (a) 723-43-3.1 "Basic Rate Interface" (BRI) refers to the Basic Rate Interface of the Integrated Services Digital Network (ISDN) and provides two bearer (B) channels each having a nominal capacity of 64 kbit/sec and one data (D) channel with a nominal transmission rate of 16 kbit/sec.
- (b) 723-43-3.2 "Bit Error Rate" (BER) states the probability that any given transmitted bit will be erroneously received. BER is the ratio of bits received in error to total number of bits transmitted in a measurement interval.
- (c) 723-43-3.3 "Business DS0" refers to trunk links to digital private branch exchanges (PBXs) normally used by end-use customers engaged in commercial activities.
- (d) 723-43-3.4 "Committed due date" means the date shown on the firm order confirmation or, for orders that do not have a firm order confirmation, the date entered on the service order, or the service interval date established by the ILEC if no specific commitment due date is normally provided.
- (e) 723-43-3.5 "Critical value" (α) means one minus the confidence interval to be used to judge equality between the actual data of the competing telecommunications provider and the ILEC.
- (f) 723-43-3.6 "Customer service record" (CSR) means the record of services for an end-use customer.
- (g) 723-43-3.7 "Dedicated services" means private line and switched access services as defined in §§ 40-15-102(22) and (28), C.R.S., respectively.

- (h) 723-43-3.8 "Delayed order" means an order that did not meet the committed due date.
- (i) 723-43-3.9 "Digital Signaling Levels 0, 1, and 3" (DS0, DS1, and DS3, respectively):
 - (I) DS0 is the digital equivalent of the information transfer rate of the typical analog loop, nominally 64 kbits/second.
 - (II) DS1 is nominally equivalent to 24 DS0 channels.
 - (III) DS3 is equivalent to 28 DS1s, or 672 DS0s.
- (j) 723-43-3.10 "Failed Query Notice" means a notification from the electronic pre-ordering system that the data request failed to be completed (*i.e.*, could not be processed by that system).
- (k) 723-43-3.11 "Modified standard error of the difference of the sample means" (σ_D) is the product of two factors. The first factor depends on the number of observations in the ILEC and competing telecommunications provider samples, and is the square root of the sum of the reciprocals of these sample sizes. The second factor depends on the specified test parameter. If the parameter is:
 - (I) A measured variable, the factor is the square root of the variance of the ILEC sample. Algebraically,

$$\sigma_D = \sqrt{\sigma_I^2 * \left(\frac{1}{n_C} + \frac{1}{n_I} \right)}$$

where:

- (A) σ_I^2 = the variance of the ILEC observations for the month;
- (B) n_C = the number of competing telecommunications provider observations for the month;
- (C) n_I = the number of ILEC observations for the month;
- (II) A proportion, the second factor is $\rho_I * (1 - \rho_I)$. Thus:

$$\sigma_D = \sqrt{\rho_I * (1 - \rho_I) * \left(\frac{1}{n_C} + \frac{1}{n_I} \right)}$$

where ρ_I = the proportion for the ILEC sample data.

- (III) A rate, the second factor is $r_I * (1 - r_I)$. Thus:

$$\sigma_D = \sqrt{r_I * (1 - r_I) * \left(\frac{1}{n_C} + \frac{1}{n_I} \right)}$$

where r_I = the rate for the ILEC sample data.

- (l) 723-43-3.12 "Optical Carrier-Level 1 Signal" (OC1) is the designation for transmission over fiber optic facilities of the synchronous transport signal-level 1 which is a 51.84 Mbps rate of data transmission and is equivalent to 810 64-kbits/second channels. Higher levels of optical data transmission speeds are integer multiples of this OC1 transmission rate.
- (m) 723-43-3.13 "Permutation test" means a statistical test procedure that does not rely on assumptions regarding the distribution of the observations. Given data from both the ILEC and the competing telecommunications provider, and the definition of the test statistic (*i.e.*, the modified Z statistic), the observations are pooled into one set and redistributed between the ILEC and the competing telecommunications provider in all possible ways using data set sizes of the same size as the actual data sets. For each way, the test statistic is calculated. The actual observed value of Z is judged to be significant (at some chosen level, for example 5 percent) if it falls within the chosen level (*i.e.*, the upper 5 percent) of this set of calculated values. The method can be applied either to measured variables, where it is possible to economize on computation by using only a (large) random sample of redistributions, or can be applied to counted variables, (proportions), when it can be performed without actually enumerating all the possible redistributions.
- (n) 723-43-3.15 "Pre-ordering Functions" means the process of retrieving information about the current status of the products and services used by an end-use customer, the existing account(s) of that customer, and the set of products and services or network elements available to serve that customer in a given location.
- (o) 723-43-3.16 "Primary Rate Interface" (PRI) refers to the Primary Rate Interface of the ISDN, *i.e.*, ISDN PRI, and provides 23 bearer (B) channels each having a nominal capacity of 64 kbits/second and one data (D) channel with a nominal transmission rate of 64 kbits/second.
- (p) 723-43-3.17 "Query Notice" means a request for individual data from the pre-ordering system.
- (q) 723-43-3.18 "Z Statistic" is the ratio of the difference between the mean values for two designated samples to the modified standard error of that difference. Thus:

$$Z = \frac{\bar{X}_C - \bar{X}_I}{\sigma_D} \quad \text{or} \quad Z = \frac{\rho_C - \rho_I}{\sigma_D}$$

where:

- (I) $\bar{X}_C$ is the mean of the monthly measurements for the competing telecommunications provider;
- (II) $\bar{X}_I$ is the mean of the monthly measurements for the ILEC's customers;
- (III) ρ_C is the proportion for the competing telecommunications provider's customers;
- (IV) ρ_I is the proportion for the ILEC's customers; and
- (V) σ_D is the modified standard error of the difference in the sample means, proportion, or rate.

2622. General Requirements.

The criteria for quality of service in rules 2620 through 2699 establish a minimally acceptable standard for the basic elements of telecommunications service and facilities. Rules 2620 through 2699 do not attempt to establish all criteria for all service applications, nor do the rules establish the most desirable service level for any basic element. In the event a specific service element is not addressed by the rules, the provider shall meet generally accepted industry standards for that element and the total service. Organizations which are recognized for establishing standards that may be appropriate for telecommunications services provided in this state include the Institute of Electrical and Electronics Engineers (IEEE), the American National Standards Institute (ANSI), Bellcore, the Rural Telephone Services division of the Department of Agriculture (RUS), and the FCC.

- (a) 723-43-4.1 In its Tariffs on file with the Commission, each ILEC shall maintain a list of the industry technical standards that it uses in the design, operation and maintenance of its services, facilities, and associated support systems that are available for use by competing telecommunications providers. Such list shall be referenced to each applicable service or network element. It shall also include the reference number and title of the standard as well as its date of issue. As industry technical standards change, the ILECs shall revise their Tariffs to reflect the new standards in a timely manner. As equipment is installed or replaced, the ILEC shall insure the equipment conforms to the industry technical standards that are in effect at the time the equipment is installed or replaced.
- (b) 723-43-4.2 Each ILEC shall make regular periodic measurements to determine the quality of service for each item specified within these rules. These records shall be available for review by the Commission upon request.
- (c) 723-43-4.3 The standards within these rules establish the minimum acceptable quality of service under normal operating

conditions. They do not establish a level of performance to be achieved during periods of emergency, catastrophe, natural disaster, severe storm, or other events affecting large numbers of end users, nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events which an ILEC may not have been expected to accommodate. The ILEC shall separately document the duration and magnitude or effect of such occurrences in its records, if such conditions affect the service quality measurements required under these rules, or the ability of the provider to meet any other standards within these rules.

2623. Service Quality Measurements.

The ILEC shall track and report performance for these measurements:

- (a) 723-43-5.1 Pre-order / order measurements:
 - (I) 723-43-5.8.3 PO-1 Pre-Order/Order Response Times as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (II) 723-43-5.1.1 PO-5 Firm Order Confirmations (FOCs) on time as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (III) 723-43-5.2.1 PO-2 Electronic flow-through as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (IV) 723-43-5.1.2 PO-3 LSR rejection notice interval as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (V) 723-43-5.1.3 PO-8 Jeopardy notice interval as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (VI) 723-43-5.2.2 PO-4 LSRs rejected as defined in Colorado SGAT Exhibit B, April 29, 2002.
 - (VII) 723-43-5.1.3 PO-8 Jeopardy notice interval as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (b) 723-43-5.3 Ordering and provisioning measurements:
 - (I) 723-43-5.3.1 Order completion interval is the elapsed time between the ILEC's acceptance of an order from the competing telecommunications provider to the providing of a completion notice by the ILEC to the competing telecommunications provider. Specific requirements for order completion intervals are included in paragraph 2624(a).
 - (II) 723-43- 5.3.3 OP-3 Installation commitments met as defined in Colorado SGAT Exhibit B, March 4, 2003.

- (III) 723-43-5.3.2 OP-4 Installation interval as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (IV) 723-43-5.2.3 OP-5 New service installation quality as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (V) 723-43-5.5.1 OP-6 Delayed days as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (VI) 723-43-5.4.1 OP-7 Coordinated Hot-cut interval - unbundled loops as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (VII) 723-43-5.5.2 Percentage of orders held for 15 or more days equals $(a/b) * 100$.

(A) Where:

- (i) a = Total orders uncompleted for which the committed due date has been missed by 15 or more days at the end of the reporting period; and
- (ii) b = Total orders uncompleted at the end of the reporting period.

(B) Canceled orders and internal administrative orders by the ILEC shall be excluded.

(C) As a minimum, the following categories of orders shall be included in this measurement:

**Table 1: Percentage of Orders Held 15 Days or More
Categories of Orders**

Order Categories for Competing Telecommunications Provider(s)	Order Categories for ILEC
Resale POTS/BRI disaggregated by classification into business and residential customers	POTS/BRI disaggregated by classification into business and residential customers
UNEs to be connected together (i.e., normally the loop and switch but may include common transport or number portability) to serve a specific customer in a POTS/BRI access line application	
Combination of the two preceding categories	POTS/BRI

Order Categories for Competing Telecommunications Provider(s)	Order Categories for ILEC
UNE loops without switch port	POTS/BRI installation orders with dispatch required within the ILEC's central office
UNE loops with number portability	Customer service transfer orders for POTS/BRI with number portability from one premise to another in which the customer telephone number (i.e., switch port) changes
Number portability	Customer service transfer orders for POTS/BRI with number portability from one premises to another in which the customer telephone number (i.e., switch port) changes
Interconnection trunks (i.e., those trunk groups connecting the ILEC's end offices, access or local tandems to the competing telecommunication provider's network which are not part of a collocation request)	Final common trunk groups used to serve the ILEC's own customers, either resale or wholesale (e.g., IXCs, but excluding competing telecommunications providers)
All trunking applications terminated on the line side of the switch (i.e., business DS0 or Voicegrade equivalent)	Line-side trunking applications
Resold Centrex-like station lines	Centrex-like station lines
Dedicated services disaggregated by DS0, DS1, DS3/OC1 and the aggregate of higher transmission rates	Dedicated services disaggregated by DS0, DS1, DS3/OC1 and the aggregate of higher transmission rates*
UNE dedicated transport disaggregated by DS0, DS1, DS3/OC1, and the aggregate of higher transmission rates	Dedicated transport disaggregated by DS0, DS1, DS3/OC1, and higher transmission rates*
Common transport	Common transport*
Line-side switch port orders without a corresponding loop order	POTS/BRI plus line-side switch port orders without a corresponding loop order*
Trunk-side switch port orders without a corresponding transport order	DS1/ISDN (PRI) plus trunk-side switch port orders without a corresponding transport order*

Order Categories for Competing Telecommunications Provider(s)	Order Categories for ILEC
Separate orders, exclusive of the previous categories, for switch provided features and functions independent of facilities, e.g., number portability	Separate orders, exclusive of previous categories, for switch provided features and functions independent of facilities*
* These categories shall include wholesale orders, except for competing telecommunications providers orders, as well as retail orders.	

(VIII) 723-43-5.5.3 Percentage of orders held for 90 or more days equals $(a/b) \times 100$.

(A) Where:

(i) a = Total orders uncompleted for which the committed due date has been missed by 90 or more days at the end of the reporting period; and

(ii) b = Total orders uncompleted at the end of the reporting period.

(B) Canceled orders and internal administrative orders by the ILEC shall be excluded.

(C) The reporting categories for this measurement shall be the same as the reporting categories for the percentage of orders held for 15 or more days.

(IX) 723-43-5.8.5 OP-2 Calls Answered within 20 seconds - interconnect provisioning center as defined in Colorado SGAT Exhibit B, March 4, 2003.

(c) 723-43-5.6 Maintenance and repair measurements:

(I) 723-43-5.6.1 Trouble report repair interval is the elapsed time between receipt of a trouble report by the ILEC from the competing telecommunications provider to providing of a notice that service is restored by the ILEC to the competing telecommunications provider. Specific requirements for trouble report repair intervals are identified in paragraph 2624(b).

(II) 723-43-5.6.5 MR-4 All troubles cleared within 48 hours and MR-5 All troubles cleared within four hours as defined in Colorado SGAT Exhibit B, March 4, 2003.

- (III) 723-43-5.6.4 MR-6 Mean time to restore as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (IV) 723-43-5.6.3 MR-7 Repair repeat report rate as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (V) 723-43-5.6.2 MR-8 Trouble rate as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (d) 723-43-5.7 Billing measurements:
 - (I) 723-43-5.7.1 BI-1 Time to provide recorded usage records as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (II) 723-43-5.7.3 BI-2 Invoices delivered within ten days as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (III) 723-43-5.7.4 BI-3 Billing accuracy - adjustments for errors as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (IV) 723-43-5.7.2 BI-4 Billing completeness as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (e) 723-43-5.8 Electronic gateway availability measurements:
 - (I) 723-43-5.8.1 GA-1 Gateway Availability - IMA-GUI; Gateway Availability - IMA-EDI; Gateway Availability - EB-TA; and System Availability - EXACT as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (f) Database update measurements:
 - (I) 723-43-5.8.6 DB-1 Time to Update Databases as defined in Colorado SGAT Exhibit B, March 4, 2003.
 - (II) 723-43-5.8.7 DB-2 Accurate Database Updates as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (g) 723-43-5.9 Operator services and directory assistance measurements:
 - (I) 723-43-5.9.1 DA-1 Speed of Answer - Directory Assistance and OS-1 Speed of Answer - Operator Services as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (h) 723-43-5.10 Network performance measurements:
 - (I) 723-43-5.10.1 NI-1 Trunk blocking as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (i) 723-43-5.11 Collocation measurements:

- (I) 723-43-5.11.2 CP-1 Collocation completion interval as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (II) 723-43-5.11.3 CP-2 Collocations completed within scheduled interval as defined in Colorado SGAT Exhibit B, March 4, 2003.
- (III) 723-43-5.11.1 CP-3 Collocation feasibility study interval as defined in Colorado SGAT Exhibit B, March 4, 2003.

2624. Minimum Performance Standards.

- (a) 723-43-6.1 Specific requirements for order completion intervals:

- (I) Where facilities are available, network elements, products, and services shall be provided in a time equal to or less than the standard interval no less than 95 percent of the time during any month when a total of 20 or more orders are received by the ILEC from the competing telecommunications provider. Otherwise, the ILEC shall not complete more than one order per month from the competing telecommunications provider outside of the intervals established in this rule. For purposes of meeting the 95 percent requirement, All orders with customer requested original due dates greater than the current standard interval shall be excluded. That requirement excludes instances in which the competing telecommunications provider or its end-use customer is not prepared to receive service on the commitment date. In the context of this rule, facility availability means that required cables, cabinets, structures, or other infrastructure, including software, are already installed and any incremental necessary electronics, such as cards, are available in the ILEC's inventory or can normally be procured by the ILEC within the required installation intervals. For purposes of this rule, the commencement of the interval begins at the point in time that the ILEC accepts the order. The application date of the order, once Qwest receives a complete and accurate request, shall constitute acceptance unless other means of notification are provided for in a service agreement between the ILEC and the competing telecommunications provider.

(II) The standard intervals for typical network elements, products and services include:

Table 2: Standard Intervals for Products and Services

Product or Service	Interval (Business Days)
Resale POTS or BRI: 1-20 lines per order when no premises dispatch or only software activation of the service is required	1
Resale POTS: 1-40 lines per order	2
Resale POTS: 1-40 lines per order when line hunting is requested on multiple line order or resale BRI: 1-3 lines	4
Business DS0 or Voicegrade Equivalent: 1-8 lines per order when no premises dispatch is required	3
Business DS0 or Voicegrade Equivalent: 9-24 lines per order when no premises dispatch is required	7
Business DS0 or Voicegrade Equivalent: 25-72 lines per order when no premises dispatch is required	12
Business DS0 or Voicegrade Equivalent: 1-8 lines per order dispatch is required	5
Business DS0 or Voicegrade Equivalent: 9-24 lines per order dispatch is required	10
Business DS0 or Voicegrade Equivalent: 25-72 lines per order dispatch is required	14
Centrex Station Lines: 1-20 lines per order without additional engineering design or dispatch	5
Centrex Station Lines: 1-20 lines per order without a request to establish a common block	10
Centrex Station Lines: 1-20 lines per order	20
Dedicated Services at a transmission rate of DS0, DS1, or DS3	Same interval as corresponding transport network elements

Product or Service	Interval (Business Days)
Channelized DS1 Dedicated Services: 1-6 facilities per order	Ten days added to interval for dedicated services
Channelized DS1 Dedicated Services: 7-13 facilities per order	14 days added to interval for dedicated services

Table 3: Standard Intervals for UNES

Unbundled Network Elements	Interval (Business Days)
Quick Loop: 1-8 lines per order	3
Quick Loop: 9-24 lines per order	3
2/4 Wire Analog (Voicegrade): 1-8 lines per order	4
2/4 Wire Analog (Voicegrade): 9-24 lines per order	5
2/4 Wire non-loaded loop: 1-8 lines per order	5
2/4 Wire non-loaded loop: 9-16 lines per order	6
2/4 Wire non-loaded loop: 17-24 lines per order	7

Unbundled Network Elements	Interval (Business Days)
Package including operator systems, Service Control Point (SCP) databases (e.g., LNP, Line Identification Database (LIBD), toll free, ALI/Data Management System (DMS), local switching, tandem switching, and common transport access for the line/trunk orders)	Same as corresponding interval for loop/trunks when ordered in combination with loop/trunk and provider has pre-established any codes, (e.g., originating or routing codes) necessary to assume service responsibility.
Local Switching Port: 1-8 line side ports, 1-8 DS1 trunk side ports, or 1-3 line side ports for standard BRI configuration, without line/trunk order but with established provider routing codes	5
Local Switching Port: 9-24 line side ports or DS1 trunk side ports without line/trunk order but with established provider routing codes	7
Dedicated Transport Trunks: DS0, 1-8 lines or DS1, 1-8 facilities	5
Dedicated Transport Trunks: DS0, 9-24 lines or DS1, 9-24 facilities	7
Dedicated Transport Trunks: DS3, 1-3 facilities	7
Common Transport Trunks: 1-120 trunks with tandem switch termination when NPA exists or non-NPA specific	14
Common Transport Trunks: 121-240 trunks with tandem switch termination when NPA exists or non-NPA specific	18
Common Transport Trunks: 1-240 trunks with tandem switch termination with less than 16 NPA additions	22
Local or Tandem Switching: 1-24 trunk terminations without trunk order	7
Local or Tandem Switching: 25-72 trunk terminations without trunk order	9
Tandem Switching: 73-120 trunk terminations without trunk order	13
Tandem Switching: 121-240 trunk terminations without trunk order	17

Unbundled Network Elements	Interval (Business Days)
Signaling Link Transport at a transmission rate of DS0, DS1 or DS3	Same Interval as Corresponding Dedicated Transport Network Elements
Signaling Transport Port	5
SCP Databases: Including LNP, LIBD, Toll free (e.g., 800/888 numbers), and ALI/DMS for initial activation or changes of the responsible provider (e.g., changing originating codes)	7

- (b) 723-43-6.2 Specific requirements for trouble report repair intervals. The time to restore the ILEC's portion of the following network elements, services and products shall be as shown in this table along with the percentage of repair orders that are required to be completed within these intervals:

Table 4: Trouble Report and Repair Intervals

Elements/Product/Service	Time to Restore Service Interval	Percent Restored Within Interval
POTS/BRI/UNBUNDLED LOOP - Out Of Service - Dispatch Required	24 Hours or Less	85%
POTS/BRI/UNBUNDLED LOOP - Out Of Service - No Dispatch Required	24 Hours or Less	95%
DS0 Dedicated and Transport Service - Out Of Service	4 Hours or Less	60%
DS1 Dedicated and Transport Service - Out Of Service	4 Hours or Less	65%
DS3 Dedicated and Transport Service - Out Of Service	4 Hours or Less	75%
All Other Service Troubles - Not Out of Service - Restores Full Features, Functionality and Performance	48 Hours or Less	95%

- (c) 723-43-6.3 Specific requirements for electronic response to pre-order query interval. To the extent electronic access exists or is required to be made available to competing telecommunications providers for the operational support systems (OSS) to perform pre-ordering functions, the electronic response to the pre-order query interval for no less than 95 percent of such queries in any month shall be ten seconds or less for each of the transaction categories in subparagraph 2623(a)(II) except for the facility availability, service availability, and rejected query notices categories. For these three categories the response time to queries from competing telecommunications providers shall be no greater than the ILEC's retail response time plus ten seconds until such time that the response times to queries from the customer service agents for the ILEC are less than ten seconds for two consecutive months. After the ten-second minimum standard is met by the ILEC in response to its own queries for facility availability, service availability, and rejected query notices, the ten-second minimum standard shall apply to that category. Comparisons under this rule exclude the time necessary for manual interaction with the electronic system and only compare the initial electronic transaction without regard to equivalency in the amount of transmitted information. If the equipment used in this function is not capable of tracking the response time for all pre-ordering queries, statistically significant sample time tests performed by the ILEC(s), with assistance as necessary to conduct such tests from the competing telecommunications provider shall be used to measure the monthly electronic access response time. If the competing telecommunications provider elects to use a means of access other than a direct electronic interface to the ILEC's operational support systems (e.g., facsimile), the response time requirements of this rule shall not apply to queries by such alternative methods.
- (d) 723-43-6.4 A separate violation of each of the requirements in this rule shall be considered as occurring for each day of each month for which any criteria included within each rule are not met.

2625. 723-43-7.1 Statistical Analysis Requirements and Interpretation.

The ILEC shall perform a statistical analysis on the service quality measurements consistent with all of the following requirements:

- (a) A permutation test shall be conducted monthly using standard statistical software commercially available in the public domain.
- (b) 723-43-7.2 The Z Statistic shall be calculated for the monthly actual data samples of the ILEC and competing telecommunications provider, or as otherwise required by these rules.
- (c) 723-43-7.3 The Z Statistic shall be calculated for each data set for either all permutations of the data or a maximum number of

1,000 permutations when the calculated number of permutations would exceed 1,000 permutations.

- (d) 723-43-7.4 The data permutations shall be constructed by selecting a random sample, without replacement, from the pooled data of the actual data sets. The random sample shall be the same size as the sample size of the actual data for the competing telecommunications provider (*i.e.*, n_c). For each permutation, this random sample represents data for the competing telecommunications provider and the remainder of the pooled data represents data for the ILEC or other reporting category as specified in these rules.
- (e) 723-43-7.5 A fraction shall be computed by counting the total number of times the Z Statistic for the data permutations exceeds the Z Statistic computed for the actual data samples and dividing by the total number of permutations.
- (f) 723-43-7.6 If the fraction computed in paragraph (e) is greater than the critical value, α , the results of the permutation test for the actual data samples shall not be recognized as supporting a determination for the reviewed measurement that the competing telecommunications provider is receiving inferior service relative to that which the ILEC provides to itself or other reporting category as specified in these rules.
- (g) 723-43-7.7 For the purposes of these rules, a statistical confidence level of 95 percent is reasonable for determination of α and for balancing the chances for the occurrence of a Type I statistical error (*i.e.*, a false detection by the permutation test of inferior service for the competing telecommunications provider) to that for the occurrence of a Type II statistical error (*i.e.*, that inferior service to the competing telecommunications provider is not detected by the permutation test).

2626. Reporting Requirements.

- (a) 723-43-8.1 Unless otherwise noted, the standard reporting period for these measurements is monthly. The ILEC shall submit reports for the service quality measurements in rule 2623 monthly within 21 days after the end of the month to each of the other telecommunication providers. For those measurements where statistical results imply that inferior service may have been provided to other telecommunications providers, or for those measurements where minimum standards were not met, the ILEC shall perform analysis of the data to determine the cause of the reported performance. This analysis shall be made available to each of the other telecommunications providers within 21 days after the end of the month in which the data was initially reported.

- (I) 723-43-8.1.1 Data for the individual service quality measurements shall be reported for the individual competing telecommunications provider, all competing telecommunications providers, the ILEC excluding competing telecommunications providers, and the ILEC including competing telecommunications providers. To the extent the incumbent provides services to an affiliate(s), these same measurements shall be reported as aggregate data for all affiliates.
- (II) 723-43-8.1.2 The ILEC shall report statistical data and the raw data underlying the statistical data for all of the service quality measurements listed in rule 2623; except that, for the following service quality measurements, only actual performance data shall be reported:
 - (A) Electronic response to pre-order query interval;
 - (B) Order completion interval; and
 - (C) Trouble report repair interval.
- (b) 723-43-8.2 The reports, data, and analysis required in paragraph (a), except for the reports, data, and analysis for individual competing telecommunications providers, shall also be submitted to the Commission at the same time as it is provided to the competing telecommunications providers. The reports and data submitted to the Commission shall be presumed to be information subject to public inspection. An ILEC claiming any of this information is confidential shall file a written justification for such a claim at the time of filing of the document. The data shall be submitted to the Commission in both hard copy and electronic copy in the Commission's current spreadsheet software platform.

- (c) 723-43-8.3 The reporting format for the service quality measurements requiring actual performance data shall be in the format as shown:

Table 5: Reporting Format

Measurement	All Competing Telecommunications Providers	ILEC Only	Z-Score
Electronic Response Interval			
Order Completion Intervals			
Trouble Report Repair Intervals			

- (d) 723-43-8.4 A separate violation of this rule exists for each month for which the service quality measurements report is not provided to the competing telecommunications provider or the Commission.

2627. Notification and Status Reporting Requirements.

- (a) 723-43-9.1 Specific requirements for service restoration status updates. For service outages attributable to the services, products, or network elements provided by the incumbent, the incumbent shall provide a status report to the competing telecommunications provider at the time of initiation of repairs and within 30 minutes of completion of restoration of service. This rule shall not preclude the competing telecommunications provider from making more frequent status queries to which the incumbent can respond as mutually agreed upon between the parties.
- (b) 723-43-9.2 Voice/automatic response unit outage/rest oral notification. For outages of voice or automated response systems (e.g., blockage of access or loss of facilities) used by the ILEC to provide Directory Assistance or Operator Services to a competing telecommunications provider, the ILEC shall provide a status report to the competing telecommunications provider within 15 minutes of the occurrence of the outage and within 15 minutes of completion of restoration of service. Additionally, the ILEC shall notify the competing telecommunications provider in writing, within three days of the outage restoration, of the cause of the outage and the actions the incumbent will take, if necessary, to prevent a similar occurrence in the future. This rule shall not preclude the competing telecommunications provider

from making more frequent status queries to which the incumbent can respond as mutually agreed upon between the parties.

- (c) 723-43-9.3 Notification of late billing. When providing any late billing to a competing telecommunications provider, an ILEC shall provide written documentation informing the billed party of that fact, the reasons for the late submittal and the actions it will take, if necessary, to prevent similar late billings in future billing periods.
- (d) 723-43-9.4 Billing inquiry responsiveness. All billing inquiries of the competing telecommunications provider regarding usage data shall be responded to within 24 hours by the ILEC. For inquiries received after 12:00 noon, the 24-hour response period shall not commence until 8:00 a.m. the following business day. A permissible initial response from the incumbent within this time period may be that further investigation is required, provided an estimated date of completion is included with the response.

2628. Per Occurrence Credits.

Absent agreement of the parties to the contrary, the following provisions relating to bill credits shall be incorporated into each interconnection agreement entered into between an ILEC and a competing telecommunications provider pursuant to the provisions of 47 U.S.C. § 252:

- (a) 723-43-10 Appropriate adjustments to the competing telecommunications provider's bill shall be made by the ILEC in the form of per occurrence credits for violations of selected performance standards as set forth in these rules, except as set forth in rule 2622(c), or in circumstances where the violation of performance standard is due to:
 - (I) The actions of another person other than the ILEC or persons under the control or supervision of the ILEC, including the competing telecommunications provider or that provider's end-use customer; or
 - (II) Events not under the control of the ILEC, including malfunctions of facilities other than those under the control of the ILEC and the inability of the ILEC to gain access to a customer's premises when required.
- (b) 723-43-10 Per occurrence credits provides an administratively efficient means of minimally compensating the competing telecommunications provider for failures of the ILEC under these rules. The competing telecommunications provider may elect to forego the bill credits provided for in this rule and instead pursue other monetary remedies as may be provided for under applicable law.
- (c) 723-43-10.1 Service order provisioning commitment missed.

- (I) 723-43-10.1.1 For each instance of failure to meet a service order commitment date for facilities or service involving end-use customer specific orders within the intervals established within paragraph 2624(a) or, if longer, the date specified by the competing telecommunications provider, the ILEC shall waive the installation non-recurring charge and one-month recurring charge for the applicable service or element. When this credit is applicable, credits under paragraph (e) of this rule shall not apply. In addition, a competing telecommunications provider may request and receive reimbursement from the ILEC for any bill credits given by the competing telecommunications provider to an end-use customer for alternative service provided pursuant to rule 2310.
- (II) 723-43-10.1.2 For each instance of failure to meet a service order commitment date for provisioning network elements not specific to an individual end-use customer (*i.e.*, not ordered to serve a specific customer) within the intervals established in paragraph 2624(b) for Unbundled Network Elements or, if longer, the date specified by the other telecommunications provider:
 - (A) The ILEC shall credit the bill of charges of the other telecommunications provider as follows:
 - (i) \$4,500 for each ordered DS3 transport (dedicated or signaling link) facility, for each SCP database activation order, or for each order of more than 25 common trunks or tandem switching terminations;
 - (ii) \$1,000 for each DS1 transport (dedicated or signaling link) facility and each ordered DS1 port, for each ordered STP port, or for each order of more than five but less than 25 common trunks or tandem switching terminations; and
 - (iii) \$200 for each ordered DS0 transport (dedicated or signaling link) or loop facility or local switching line-side port.
 - (B) When this credit is applicable, credits under paragraph (e) shall not apply.
- (d) 723-43-10.2 Repair time to restore interval missed by more than 24 hours. For each instance of failure to complete restoration of a service or element within 24 hours after the end of the intervals established in paragraph 2624(b) or, if longer, the time specified by the competing telecommunications provider, except for DS1 and DS3 dedicated and transport services, the ILEC shall provide a credit of one-month recurring charge for the

applicable service or element for each additional 24 hours past the first 24 hours after the specified interval (e.g., payment is required for a delay of 72 (24 + 24 + 24) or more hours for a 24-hour service rest oral interval). For DS1 and DS3 transport services, a credit of one-month recurring charge shall be given for each additional 24 hours past the first eight hours after the specified interval (e.g., for a delay of 36 (4 + 8 + 24) hours). When this credit is applicable, credits under paragraph (e) or (i) shall not apply.

- (e) 723-43-10.3 Missed appointments. For each instance of a missed appointment (e.g., a mutually agreed upon time or window for a premises visit) by the incumbent with an end-use customer or representative of the competing telecommunications provider for the installation or repair of the incumbent's facilities or services for use by the competing telecommunications provider or its end-use customers, the ILEC shall provide a credit of two-months recurring charge for repair appointments, or the non-recurring charge for installations, for the applicable service or element to the bill of the competing telecommunications provider. An appointment is considered missed if the ILEC's representative is more than one hour late.
- (f) 723-43-10.4 Recorded usage data. Whenever more than five percent of customer usage data for a specific billing date is provided to the competing telecommunications provider's billing center beyond the sixth day of the date of call recording, as denoted by the Automatic Message Accounting (AMA) system of the ILEC, a credit to the competing telecommunications provider's bill shall be provided by the ILEC. The credit shall be equal to an amount which is the product of the number of messages delayed beyond six days times the average revenue per message times 0.000493 per day (i.e., an annual percentage rate of 18 percent compounded daily for each day). The average revenue per message is determined from the revenue associated only with the delayed messages.
- (g) 723-43-10.5 Signaling System 7 (CCS7) network event. For each instance of an outage due to signaling links, service control points (SCPs), signal transfer points (STPs), or required databases, as more fully defined in rules 2500 through 2529, that are due to the failure of the ILEC's equipment, facility, or software or human-process errors on the part of the ILEC, and that is greater than two seconds on the ILEC's network, and which prohibits call completion and/or database service availability access for the competing telecommunications provider or its customers in this state, the ILEC shall provide a credit to the competing telecommunications provider bill, if the outage generated a trouble report from the competing telecommunications provider. This credit shall be equivalent to two months recurring charges for all CCS7 services affected by the outage (i.e., those that were either out-of-service or unusable because of the outage) up to an amount of \$25,000 per event. A credit does not apply for blockage due to inadequate provisioning of facilities on the ILEC's network by the competing

telecommunications provider to meet the traffic demand. For this credit to be applicable, the competing telecommunications provider must have signaling links routed over diverse (*i.e.*, physically separate) facilities, unless such facilities are unavailable from the ILEC.

- (h) 723-43-10.6 Routing to operator services/directory assistance platform. For each instance of 1,000 or more calls to the competing telecommunications provider's operator or directory assistance services platform blocked due to the failure of the ILEC's equipment, facility, software, or human-process errors on the part of the ILEC, the ILEC shall provide a credit to the competing telecommunications provider of \$1 per blocked call up to \$25,000 per event. A credit does not apply for blockage due to inadequate provisioning of facilities on the incumbent's network by the competing telecommunications provider to meet the traffic demand.
- (i) 723-43-10.7 Customer specific services or unbundled element performance. For each instance in which resale services or network elements do not meet regulatory standards adopted by the Commission for technical performance (*e.g.*, insertion loss, noise, bit error rates, *etc.*) of the applicable element due to the failure of the ILEC's equipment, facility, software, or human-process errors on the part of the ILEC, the ILEC shall provide a credit to the competing telecommunications provider of an amount equal to \$2 per incident per line or per DS0 equivalent circuit, per day from the date of notice or complaint by the competing telecommunications provider until the date the standard is met.

2629. - 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 §§ 40-15-503(2)(b)(II), 40-2-108, C.R.S. Relevant federal law exists at 47 U.S.C. § 251 (e)(1) and 47 C.F.R., Part 52.19 (October 1, 2002).

2700. 723-49-1 Applicability.

Rules 2700 through 2719 are applicable to all providers of telecommunications services, who 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) 723-49-2.1 "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) 723-49-2.2 "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) 723-49-2.3 "Contaminated Block" means any thousand block of telephone numbers where at least one telephone number is not available for assignment to end users.
- (d) 723-49-2.4 "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) 723-49-2.5 "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) 723-49.2.6 "Pooling Administrator" means the entity responsible for the administration and assignment of the thousand blocks in a pooling environment.

- (g) 723-49-2.6 "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) 723-49-3.1 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) 723-49-3.1.1 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) 723-49-3.2 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) 723-49-3.3 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 10 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 LNP capable pursuant to paragraph 2724(c) shall participate in number pooling for a particular geographic area when implemented by the Pooling Administrator.
- (f) 723-49-3.4 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.

2703. 723-49-4 Variance.

Any provider seeking relief from the requirements of rules 2700 through 2719 shall request a variance by petition to the Commission. The petition shall demonstrate (1) a request from a 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 petition within 14 days of the request. If the petitioner disagrees with the Staff's determination, the petitioner may formally request 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 authorized local exchange 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 and 40-15-503(2)(b)(II), C.R.S.

2720. 723-34-1. Applicability.

Rules 2720 through 2739 shall apply to all facilities-based LECs.

2721. Definitions.

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

- (a) 723-34-2.1 "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) 723-34-2.2 "Number Portability Administration Center" (NPAC) means the independent third-party administrator of the Service Management System (SMS) and LNP database.
- (c) 723-34-2.3 "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 serves the billed telephone number, recognizes may involve a provider other than the one to which the NXX is assigned.
- (d) 723-34-2.4 "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. 723-34-6. Incorporation by Reference.

References in these rules to the FCC's *LNP First Report and Order*, Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996, are incorporated by reference and do include later amendments or editions. A certified copy of *LNP First Report and Order* is maintained at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies shall be provided at cost upon request. The Director or the Director's designee shall provide information regarding how this incorporated

information may be obtained or examined and may be examined at any state publications depository library.

2723. 723-34-3. Local 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. Long-Term Service Provider Number Portability.

- (a) 723-34-4.1 Long-term service provider number portability, as described in rule 2723, shall be attained by means of a database network architecture.
- (b) 723-34-4.2 The database network architecture employed shall meet the following performance criteria:
 - (I) 723-34-4.2.1 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) 723-34-4.2.2 Efficiently uses numbering resources;
 - (III) 723-34-4.2.3 Does not require customers to change their telephone numbers;
 - (IV) 723-34-4.2.4 Does not result in unreasonable degradation in service quality or network reliability when implemented;
 - (V) 723-34-4.2.5 Does not result in any degradation in service quality or network reliability when customers switch carriers;
 - (VI) 723-34-4.2.6 Does not result in a carrier having a proprietary interest in the network architecture;
 - (VII) 723-34-4.2.7 Is able to migrate to location and service portability; and
 - (VIII) 723-34-4.2.8 Has no significant adverse impact outside the areas where number portability is deployed.
- (c) 723-34-4.3 Implementation. All facilities-based LECs 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 facilities-based LECs offering service in areas outside the top

100 MSAs must make number portability available six months after a request from a competing carrier.

(d) 723-34-4.4 NPAC.

(I) 723-34-4.4.1 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) 723-34-4.4.2 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 the 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 (October 1, 2002).

2740. Applicability.

Rules 2740 through 2799 are applicable to all telecommunications providers.

2741. 723-24 Abbreviated Dialing Codes.

(a) Definitions.

- (I) "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.
- (II) "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 one. N-1-1 codes "0-1-1" and "1-1-1" are unavailable because "0" and "1" are used for switching and routing purposes.

(b) 723-24.1 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) 723-24.1.1 2-1-1 - Community Information and Referral Services;
- (II) 723-24.1.2 3-1-1 - Non-Emergency Governmental Services;
- (III) 723-24.1.3 5-1-1 - Traffic and Transportation Information;
- (IV) 723-24.1.4 7-1-1 - Telecommunications Relay Service; and
- (V) 723-24.1.5 9-1-1 - Emergency Service.

- (c) 723-24.1.6 The following abbreviated dialing codes are commonly used for the FCC's stated purpose in Colorado, but may be used for other purposes:
 - (I) 723-24.1.7 4-1-1 - Directory Assistance and Directory Assistance Call Completion;
 - (II) 723-24.1.8 6-1-1 - Repair Service; and
 - (III) 723-24.1.9 8-1-1 - Business Office.
- (d) 723-24.2 A provider in Colorado may assign or use N-1-1 dialing codes only as directed by the Commission.
- (e) 723-24.3 The following limitations apply to a provider's use of N-1-1 dialing codes for internal business and testing purposes:
 - (I) 723-24.3.1 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) 723-24.3.2 The provider's use shall be discontinued on 14-days notice if the dialing code is reassigned on a statewide or nationwide basis.
- (f) The provisioning of the 2-1-1 abbreviated dialing code for community information and referral services.
 - (I) 723-24.4 An entity submitting an application for use of the 2-1-1 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 applicant that is granted the authority to offer 2-1-1 access to a referral service for non-commercial community resource information shall comply with this rule and any provisions set out in the Commission decision granting such authority.
 - (A) 723-24.4.1 Assignment of 2-1-1 abbreviated dialing code. The assignment of the 2-1-1 abbreviated dialing code will be considered by the Commission upon:
 - (i) The Commission's own motion; or
 - (ii) The application of an information and referral organization.
 - (II) 723-24.4.2 Application. An entity filing an application to request assignment of the 2-1-1 abbreviated dialing code for access to community information and referral services shall present evidence that a public benefit exists. The

application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

- (A) 723-24.4.2.1(a) Background of the applicant, including composition of any governing board or agency;
 - (B) 723-24.4.2.1(b) Demonstration of public need;
 - (C) 723-24.4.2.1(c) Comprehensive list of participating agencies including proposed process to add to or delete agencies from the list;
 - (D) 723-24.4.2.1(d) Historic volume of calls seeking community service information;
 - (E) 723-24.4.2.1(e) Affected geographic area including list of cities, towns, counties, and central offices, if known, and any plans for expansion of that initial geographic area;
 - (F) 723-24.4.2.1(f) Staffing expectations, including hours and days of operation;
 - (G) 723-24.4.2.1(g) Proposed cost recovery solution, including funding mechanisms;
 - (H) 723-24.4.2.1(h) Letters of support from stakeholders (e.g., community members, government agencies, non-profit organizations);
 - (I) 723-24.4.2.1(i) Proposed plan for community notification and outreach; and
 - (J) 723-24.4.2.1(j) Other information demonstrating a public benefit.
- (III) 723-24.4.3 If two or more entities file an application with the Commission to provide community information and referral services using 2-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (f)(II) to establish one assignee.
- (IV) 723-24.4.4 When an application is granted by the Commission under subparagraph (f)(II), all telecommunications providers that provide service in the geographic area outlined in the application shall complete the following tasks:
- (A) 723-24.4.4.1 If an affected provider is using 2-1-1 for purposes other than access to community

information and referral services, that provider shall discontinue use for that non-compliant purpose.

- (B) 723-24.4.4.2 If the affected provider plans to seek recovery of its costs associated with 2-1-1 implementation, the affected provider shall calculate the cost for the necessary translations and facilities work.
 - (C) 723-24.4.4.3 The affected provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 2-1-1 call completion from its subscribers as requested in the application.
- (V) 723-24.4.5 Within 30 days of the granting of an application the affected provider shall file with the Commission the information requested in subparagraphs (f)(II)(B) and (C).
- (VI) 723-24.4.6 Upon a showing that the public will benefit from the assignment of 2-1-1 to an applicant and factoring in the provider filed information, the Commission will establish a timeline for assignment and use of the 2-1-1 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.
- (g) Rules relating to the provisioning of the 3-1-1 abbreviated dialing code for non-emergency governmental service:
 - (I) 723-24.5 [Reserved].
- (h) Rules relating to the provisioning of the 5-1-1 abbreviated dialing code for traffic and transportation information:
 - (I) 723-24.6 [Reserved].
- (i) Rules relating to the provisioning of the 7-1-1 abbreviated dialing code for telecommunications relay service:
 - (I) 723-24.7 See rules 2820 through 2839.
- (j) Rules relating to the provisioning of the 9-1-1 abbreviated dialing code for emergency services:
 - (I) 723-24.8 See rules 2130 through 2159.
- (k) 723-24.9 Neither an entity granted the use of a N-1-1 abbreviated dialing code nor a provider 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.

- (l) 723-24.10 Sale or transfer of N-1-1 codes through private transactions is not allowed.

2742. - 2799. [Reserved].

PROGRAMS

LOW-INCOME TELEPHONE ASSISTANCE FUND

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to prescribe the procedures for administering the Low-Income Telephone Assistance Fund in order to ensure access to and affordability of basic telephone service.

The statutory authority for the promulgation of these rules is found at §§ 40-3.4-106, 40-15-502(3)(a), and 40-2-108, C.R.S. These rules are consistent with 47 U.S.C. § 254 and 47 C.F.R., Part 54 (October 2002).

2800. 723-13-1 Applicability.

- (a) Rules 2800 through 2805 are applicable to LECs who are not ETCs with more than 500,000 subscribers in Colorado and who are certified to do business in Colorado. Any certified telecommunications provider with fewer subscribers may apply to the Commission for discounted rates for their subscribers who qualify to receive low-income telephone assistance by complying with rule 2803.
- (b) Rules 2800 through 2819 are applicable to LECs who are ETCs and who are certified to do business in Colorado.

2801. Definitions.

The following definitions apply only in the context of rules 2800 through 2819:

- (a) 723-13-2.3 "Eligible subscriber" means an individual who is qualified to receive low-income telephone assistance pursuant to § 40-3.5-105, C.R.S.
- (b) 723-13-2.4 "Lifeline" means a retail local service offering, available to eligible subscribers, that:
 - (I) 723-13-2.4.2 Allows eligible subscribers to pay reduced charges by applying the support amount described in § 40-3.4-104, C.R.S.; and
 - (II) 723-13-2.4.3 Provides basic local exchange service.

2802. 723-13-10 Incorporation by Reference.

References in rules 2800 through 2819 to Part 54 are references to rules issued by the FCC and have been incorporated by reference. These rules may be found at 47 C.F.R., Part 54, revised as of October 1, 2002. References to Part 54 do not include later amendments to or editions of this part. A certified copy of this part is maintained at the office of the Commission,

1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated rule shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated rule may be obtained or examined. This incorporated rule may be examined at any state publications depository library.

2803. Plan Implementation.

Prior to implementing a program plan, each provider to which these rules apply shall file with the Commission the information specified in paragraph 2804(b), along with an Advice Letter and Tariff pages adding the Lifeline service.

- (a) 723-13-3.1 The Lifeline service Tariff shall provide a 25 percent discount for a single basic local exchange line in the principal residence of an eligible subscriber. In addition, eligible subscribers who are billed by the provider and who pay mileage or zone charges associated with the line are eligible for a 25 percent discount for these charges.
- (b) 723-13-3.2 Lifeline service rates shall be further reduced by any amount that the basic local exchange provider receives from any federal program providing for a reduction in such intrastate rate.
- (c) In no event shall the discount for Lifeline service be less than the end user common line charge imposed by the FCC.

2804. Fund Administration.

The Commission shall determine, and by appropriate order, impose a uniform charge on each business and residential access line in a uniform amount for participating telecommunications providers. Such charges can be adjusted on or before July 1 of each year. To assist the Commission in calculating that uniform charge, the following information shall be provided to the Commission:

- (a) 723-13-4.1 The Department of Human Services shall forward to the Commission by April 1 of each calendar year its estimate of its administrative expenses incurred under § 40-3.4-101, *et seq.*, C.R.S., and its estimate of the number of eligible subscribers for the coming fiscal year.
- (b) 723-13-4.2 Each provider of basic local exchange telecommunications services shall, in its annual report to the Commission, state its estimate for the coming year of the number of eligible subscribers who will receive low-income telephone assistance, the number of business and residential subscribers subject to the uniform charge, and its administration cost of the program as well as the historic monthly amounts of collections generated by the uniform charge, the monthly amounts of revenue forgone due to the discount of the program, its monthly

administration expenses, and amounts reimbursed from or remitted to the Low-Income Telephone Assistance Fund as managed by the State Treasurer. However, providers of basic local exchange telecommunications services, having less than 500,000 subscribers, with an approved program, may report using an average cost to administer the program based on an established amount per LEC, and an amount per eligible subscriber access line, as determined by the Commission.

- (c) 723-13-4.3 The State Treasurer shall forward to the Commission by April 1 of each calendar year, an accounting of the transactions occurring in the Low-Income Telephone Assistance Fund.
- (d) 723-13-4.4 The Commission by April 1, of each calendar year shall estimate its administrative expenses incurred under § 40-3.4-101, *et seq.*, C.R.S.
- (e) 723-13-4.5 The Commission, within 30 days of receipt of each report and after examining same, shall calculate the uniform charge based upon the undisputed amounts. Disputes concerning the amounts due for reimbursements from the fund shall be resolved through the Commission's administrative hearing process.
- (f) The Commission, shall by order, set the amount of reimbursement, if the amounts of discount for each LEC exceeds the total discounts and administration fees.

2805. Uniform Charge.

- (a) 723-13-5.1 The uniform charges imposed pursuant to § 40-3.4-108(1), C.R.S., shall be billed to each subscriber of each provider of basic local exchange telecommunications services with an approved low-income telephone assistance program based upon the provider's count of access lines.
- (b) 723-13-5.2 The uniform charge shall not be imposed on any state or local governmental body or on eligible subscribers.
- (c) 723-13-5.3 A provider of basic local exchange telecommunications service may collect the uniform charge by a specific line item on subscribers' bills if provided for by Tariff. Absent an effective Tariff providing for collection of the uniform charge by an alternative method, the uniform charge shall be included in each subscriber's bill as part of the subscriber's base rate. A market informational note shall be added to the bill once a year informing customers that "The base rate includes a (state the current monthly charge) monthly charge for the Low-Income Telephone Assistance Program".
- (d) 723-13-5.4 Upon collecting the uniform charge, each provider may retain, from the total charges collected, an amount sufficient to

reimburse such provider for its provision of low-income telephone assistance.

- (I) If the total collected is in excess of the amount sufficient to reimburse the provider, the provider shall by the 30th day following the end of each quarter (January 30, April 30, July 30, and October 30) remit the excess to the Commission. To assist providers, the Commission may provide net contributors a form at least 30 days prior to the above due dates in order to accurately calculate the amounts to be remitted to the Commission. The Commission shall deposit such amount with the State Treasurer, who shall credit the same to the Low-Income Telephone Assistance Fund.
 - (II) If the total collected is insufficient to reimburse the provider, the provider shall request reimbursement from the fund by providing the required information of paragraph 2804(b) in its annual report to the Commission. The Commission, after examining the information provided, shall calculate the amount due for reimbursements from the fund, and request reimbursement from the fund. By appropriate order, the Commission shall request reimbursement from the State Treasurer, who shall debit the amount reimbursed to the Low-Income Telephone Assistance Fund.
- (e) 723-13-5.5 The Department of Human Services shall file with the Commission a report detailing its costs in administering the low-income telephone assistance program in accordance with § 40-3.4-101, *et seq.*, C.R.S. The Commission shall request reimbursement of the approved expenses of the Department of Human Services from the State Treasurer, who shall remit that amount and shall debit the same from the Low-Income Telephone Assistance Fund.

2806. Offering of Toll Limitation.

- (a) All participating low-income telephone assistance program providers shall offer toll limitation to all qualifying low-income customers at the time such customers subscribe to lifeline service. If the customer elects to receive toll limitation, that service shall become part of the customer's Lifeline service.
- (b) 723-13-6.1 Lifeline support for providing toll limitation shall be provided from the federal lifeline program.

2807. Prohibition of Disconnection.

- (a) Providers shall not disconnect Lifeline Service subscribers for non-payment of toll charges.
- (b) 723-13-7.1 The Commission may grant a variance of paragraph (a) of this rule if the LEC can demonstrate all of the following:

- (I) 723-13-7.1.1 It would incur substantial and unjustifiable costs in complying with this requirement.
- (II) 723-13-7.1.2 It offers toll limitation to its qualifying low-income customers without charge.
- (III) 723-13-7.1.3 Telephone subscriptions among low-income customers in the carrier's service area are greater than or equal to the national subscription rate for low-income customers. For purposes of this subparagraph, a "low-income customer" is one with an income below the poverty level as defined by the Department of Human Services for a family of four residing in the state.

2808. 723-13-8 Service Deposit.

Providers shall not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income customer voluntarily elects toll blocking from the carrier, where available. If toll restriction is unavailable, the carrier may charge a service deposit.

2809. 723-13-9 Federal Reporting Requirements.

Each carrier shall file information with the administrator of the federal Lifeline program demonstrating that the carrier's lifeline plan meets the criteria set forth in 47 C.F.R., Part 54, Subpart E, and stating the number of qualifying low-income customers and the amount of state assistance.

2810. - 2819. [Reserved]

TELECOMMUNICATIONS RELAY SERVICES FOR DISABLED TELEPHONE USERS

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 Disabled Users 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 §§ 40-3.4-106; 40-15-502(3)(a); 40-17-103(2) and (3); and 40-2-108, C.R.S.

2820. 723-28-9 Applicability.

Rules 2820 through 2839 are applicable to all providers of basic local exchange telecommunications services, certificated to do business in the state.

2821. Definitions [Reserved].

2822. 723-28-14 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. These rules may be found at 47 C.F.R., Part 64, revised as of October 1, 2002. References to Part 64 do not include later amendments to or editions of this part. A certified copy of this part is maintained at the office of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated rule shall be provided at cost upon request. The Director or the Director's designee shall provide information regarding how the incorporated rule may be obtained or examined. This incorporated rule may be examined at any state publications depository library.

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

- (a) 723-28-2 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) 723-28-3 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) 723-28-4 Public access to information. All local exchange providers and IXC's, through publication in their directories, periodic billing inserts, placement of telecommunications relay services instructions in telephone directories, through directory assistance services, and incorporation of telecommunications relay service numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and the use of telecommunications relay services.
- (d) The FCC has assigned the abbreviated dialing code 7-1-1 for access to telecommunications relay services. All providers of local exchange services must allow for call completion using this abbreviated dialing code.
- (e) 723-28-5 Jurisdictional separation of costs.
 - (I) 723-28-5.1 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) 723-28-5.2 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. 723-28-6 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. 723-28-7 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 distance from the point of origination to the point of termination.

2826. Commission Powers and Duties.

- (a) 723-28-8.1 The Commission shall administer and contract for telecommunications relay services with a telecommunications provider (Contractor). The Commission, as Administrator, shall direct that the cost of these services shall be paid from the

Colorado Disabled Telephone Users Fund. The contract shall conform to these rules, and shall make available adequate procedures and remedies for enforcing the requirements.

- (b) 723-28-8.2 Each month, the 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 Disabled Telephone Users Fund.

2827. Administration of the Colorado Disabled Telephone Users Fund.

- (a) 723-28-10 Fund Administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each business and residential access line in a uniform amount. In order to adjust the uniform charge the Commission requires certain information. To assist the Commission:
 - (I) 723-28-10.4 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) 723-28-10.6 If the monthly uniform charge, per access line, as determined by the Commission, exceeds 15 cents, the Commission shall within 20 days prepare a report for the Legislative Appropriation Committees which would justify any additional increase in the monthly uniform charge.
- (b) 723-28-11 Uniform charge.
 - (I) 723-28-11.1 The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed to each access line provided by each LEC.
 - (II) 723-28-11.2 The uniform charge shall not be included in each subscriber's bill as part of the subscriber's base rate. The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each local exchange provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Fund."
 - (III) 723-28-11.3 Upon collecting the uniform charge, each local exchange 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. The vendor fee is intended to reimburse local exchange providers for administrative costs in imposing and collecting the uniform charge. Every month, by no later than the last day of the month for the preceding month, each local exchange provider shall remit to the Commission or the State Treasurer the

amount the provider collected for the previous month, less the applicable vendor fee. The funds collected shall be credited to the Colorado Disabled Telephone Users Fund.

- (IV) 723-28-12.4 Every month, each local exchange provider shall submit to the Commission a completed "Colorado Telecommunications Relay Service Surcharge" form. This form is available from the Commission or its website.

(A) The following information is required:

- (i) Company name, as is on-file with the Commission;
- (ii) The name, telephone number, facsimile number, and e-mail address, if available, of the person preparing the form on behalf of the provider;
- (iii) The month for which the charges are being reported;
- (iv) The number of access lines being reported;
- (v) The total surcharge amount collected for the month being reported;
- (vi) Adjustments to customer bills;
- (vii) The vendor fee being withheld; and
- (viii) The total remittance.

- (B) The "Colorado Telecommunications Relay Service Surcharge" form must be signed and dated by a company representative authorized to do so. The name and telephone number of the most appropriate company representative to whom questions may be directed must also be included on the form.

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.⁴

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. 723-41-1. 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) 723-41-2.2 "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) 723-41-2.3 "Average-schedule rural provider" means a rural telecommunications service provider that is an average-schedule company as defined and used in 47 C.F.R. §§ 69.605 through 69.610.
- (c) 723-41-2.4 "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.
- (d) 723-41-2.8 "Geographic area" means a Commission-defined area of land usually smaller than an incumbent provider's wire center serving area included wholly within the incumbent's wire center boundaries.
- (e) 723-41-2.10 "Geographic support area" means a geographic area where the Commission has determined that the furtherance of

⁴ On May 23, 2001 the FCC released its Fourteenth Report and Order, Twenty-Second Order on Reconsideration and Further Notice of Proposed Rulemaking in CC Docket No. 96-45. In this Order the FCC modified its rules for providing high-cost universal service support to rural telephone companies for the following five years based upon the proposals made by the Rural Task Force established by the Federal-State Joint Board on Universal Service.

universal basic service requires that support be provided by the HCSM.

- (f) 723-41-2.9 "High Cost Support Mechanism" (HCSM) means the mechanism created by Colorado statute for the support of universal service within a rural Colorado, high-cost geographic support area.
- (g) 723-41-2.12.1 "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 produced by the Commission approved Proxy Cost Model.
- (h) 723-41-2.12 "Proxy cost" means a per access line estimate of the revenue 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.
- (i) 723-41-2.13 "Proxy Cost Model" means a model which produces a per access line estimate of the reasonable, required level of investment in a particular geographic area for a defined set of telephone services and features assuming efficient engineering and design criteria and technology-neutral deployment of current state-of-the-art technology, and using the current national local exchange network topology and the total number of access lines in the area.
- (j) 723-41-2.14 and 723-41-2.14.1 "Retail revenues" means those revenues collected from the sale of intrastate telecommunications services to end-use customers. Intrastate telecommunications services include, but are not limited to, all types of local exchange service; non-basic, vertical, or discretionary services, also known as advanced features or premium services, such as call waiting, call forwarding, and caller identification; listing services; directory assistance service; 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; telex; telegraph; video and/or teleconferencing services; satellite 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 cable services identified in § 40-15-401(1)(a), C.R.S., shall not be considered a part of retail revenues.

- (k) 723-41-2.15 "Revenue benchmark" means a calculated amount of intrastate revenues per access line. A separate revenue benchmark shall be established for residential service and for business service for each geographic area according to the following formulae:
- (I) 723-41-2.15.1 "Residential revenue benchmark", for each geographic area is calculated as the sum of the following types of revenues received by the provider that serves the relevant geographic area as of January 1 of the previous year:
- (A) The weighted average monthly revenues per residential line for all types of residential basic local exchange service in that geographic area including, but not limited to flat, measured or message services; plus
 - (B) One-half of the average residential revenues per line in that geographic area from non-basic, vertical, or discretionary services including, but not limited to, call waiting, call forwarding, and caller identification; plus
 - (C) Zone or mileage charges; plus
 - (D) The average intrastate residential carrier common line access charges and imputed carrier common line access charges in intrastate toll services; plus
 - (E) Such other revenues as the Commission, by order, deems included.
- (II) 723-41-2.15.2 "Business revenue benchmark", for each geographic area is calculated as the sum of the following types of revenues received by the ILEC that serves the relevant geographic area as of the January 1 of the previous year:
- (A) The weighted average monthly revenues per business line for all types of business basic local exchange service in that geographic area including, but not limited to, flat, measured or message services; plus
 - (B) One-half of the average business revenues per line in that geographic area from non-basic, vertical, or discretionary services including, but not limited to, call waiting, call forwarding, and caller identification; plus
 - (C) Zone or mileage charges; plus

- (D) The average intrastate business carrier common line access charges and imputed carrier common line access charges in intrastate toll services; plus
- (E) Such other revenues as the Commission, by order, deems included.

2842. 723-41-16. 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. These incorporated rules may be found at 47 C.F.R., revised as of October 1, 2002. References to Parts 32, 36, 54, 64, and 69 do not include later amendments to or editions of these parts. A certified copy of these parts that have been incorporated by reference is maintained at the office of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated rules shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated rules may be obtained or examined. These incorporated rules may be examined at any state publications depository library.

2843. General.

The HCSM shall be coordinated with the FCC Universal Service Fund (USF), as described by regulations found at 47 C.F.R. §§ 36.601 to 36.641 and §§ 54.1 to 54.707 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) 723-41-3.1 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) Proposed benchmarks;
 - (II) Proposed contributions to be collected through a rate element assessment by each telecommunications provider; and
 - (III) Proposed total amount of the HCSM from which distributions are to be made for the following calendar year.
- (b) 723-41-3.2 If the budget prepared pursuant to paragraph (a) and submitted to the General Assembly pursuant to paragraph 2849(p) includes a proposal for an increase in any of the amounts listed in paragraph (a), such increase shall be suspended until March 31 of the following year.

2844. Specific Services and Features Supported by the HCSM.

The services and features supported by the HCSM are an evolving level of telecommunications services established by the Commission and periodically updated under § 40-15-502(2), C.R.S., to recognize advances in

telecommunications and information technologies and services. Until revised, the HCSM will support such services as defined in rule 2308. In addition, the HCSM will support 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. 723-41-6. Affordable Price Standard for Basic Service.

For the purpose of rules 2840 through 2869, the prices in effect for basic local exchange service, excluding outside base rate area zone charges, if any, in each geographic area on the effective date of these rules shall be deemed affordable. Pursuant to § 40-15-502(3), C.R.S., a different level may be set by the Commission and designated as a benchmark price.

2846. Contributors; Reporting Requirements; Rate Element Calculation; Application of Rate Element to Customer Billings; and Remittance of Contributions.

- (a) 723-41-7.1 Contributors. Every provider of intrastate telecommunications service to the public, or to such classes of users as to be effectively available to the public, every provider of intrastate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators not falling within the *de minimis* exemption of subparagraph (b)(I)(B) must contribute to the HCSM.
 - (I) 723-41-7.1.1 Revenues associated with the sale of cable services identified in § 40-15-401(1)(a), C.R.S., shall not be considered when determining a provider's assessment.
- (b) 723-41-7.2 Process for determining the HCSM rate element.
 - (I) 723-41-7.2.1 Contributor reporting requirements. Each provider shall provide to the Administrator a verified accounting of its retail revenues, and such other revenues, 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 and 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, including data for the prior calendar year. The HCSM Worksheet shall be due September 1, of each year, including data for the six-month period from January 1 through June 30 for the current calendar year.
 - (A) 723-41-7.2.1.1 Contributors may file confidential information in accordance with the Commission's Rules Regulating Practice and Procedure.

- (B) 723-41-7.2.1.2 *De minimis* exemption. If a provider's contribution to the HCSM in any given year is calculated to be less than \$10,000, that contributor is not required to submit a contribution. Providers falling within this *de minimis* exemption are required to file with the Administrator only that portion of HCSM Worksheet for that period that certifies their *de minimis* status. Such *de minimis* certification shall be accompanied by an affidavit of an officer of the provider attesting to the veracity of its self-certification. However, each provider exempt from contributing because of its *de minimis* revenues shall retain complete documentation (including, but not limited to the information required in the HCSM Worksheet) and shall make such documentation available to the Administrator upon request. Notwithstanding the *de minimis* exemption of this subparagraph (I)(B), all EPs are required to remit contributions and to file the entire HCSM Worksheet.
- (II) 723-41-7.2.2 Reporting requirements.
 - (A) 723-41-7.2.2.1 Each EP receiving support pursuant to paragraph 2848(c) shall provide to the Administrator, a verified accounting of: (1) the actual number of residential and business access lines served by such provider in each geographic area as of the last day of each month; and (2) the actual amount of contributions collected in the month. The form shall be completed and returned to the Administrator by the 15th day of the subsequent month.
 - (B) 723-41-7.2.2.2 For EPs receiving support pursuant to paragraph 2848(d), an appropriate form, available from the Commission on its website, shall be completed and returned to the Administrator:
 - (i) 723-41-7.2.2.2.1 As part of that provider's annual report if no competitive EP has been designated in the incumbent rural EP's study area; or
 - (ii) 723-41-7.2.2.2.2 By the 15th day of the subsequent month if one or more EPs have been designated in the EP's geographic support area.
- (III) 723-41-7.2.3 Revenue benchmark reporting requirements. Each EP receiving support pursuant to paragraph 2848(c), shall provide to the Administrator a verified accounting of such revenues as are determined necessary for establishing the residential and business revenue benchmarks on a form supplied by the Administrator. This worksheet shall be due

March 31, of each year, including data for the prior calendar year.

- (IV) 723-41-7.2.4 Rate element calculation. The Administrator shall estimate the total amount of HCSM support that will be needed for the next quarter (including support needed under rules 2846 through 2855 and administrative expenses) and shall determine the quarterly factor. This estimate shall be based on the information provided to the Administrator by providers, EPs, ILECs, information available from the Cost Proxy Model, and other information that the Administrator may gather from the Commission and providers. The factor shall be equal to the ratio of total statewide HCSM requirement to total statewide retail revenues for the period. The appropriate factor shall be converted to a HCSM rate element that shall be applied to the retail revenues of each telecommunications service provider. The Commission shall issue an order establishing the appropriate HCSM rate element at least 15 days prior to the first day of each quarter and shall post notice of the setting of such rate element on the Commission's website. Such HCSM rate element shall be collected and contributed by each telecommunications provider as specified in these rules.
- (V) 723-41-7.2.5 The Commission may increase the rate element factor by an amount it reasonably estimates to be necessary to compensate for uncollectible assessments. Such increase shall generally not exceed five percent of the total statewide HCSM requirement.
- (VI) 723-41-7.2.6 EP's net contribution. The Administrator shall send a notice to each EP specifying that the Administrator has determined that either the EP is:
 - (A) 723-41-7.2.6.1 An estimated net contributor (estimated contribution is greater than its estimated support) for the quarter; each provider so notified shall remit its actual net contribution as specified in paragraph (d); or
 - (B) 723-41-7.2.6.2 An estimated net recipient (estimated contribution is less than its estimated support) for the quarter; each provider so notified shall receive support as specified in paragraph 2848(e).
- (c) 723-41-7.3 Application of the rate element to customer billings. The HCSM rate element shall be applied to the retail revenues of each provider's end user and shall appear as a line item on the monthly bill of each such end user except that providers falling within the *de minimis* exemption of subparagraph (b)(I)(B) shall not apply the HCSM rate element nor collect such contribution from their end users. 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) 723-41-7.4 Remittance of contributions. All providers not falling within the *de minimis* exemption of subparagraph (b)(I)(B) shall be responsible for collecting and remitting quarterly the HCSM rate element receipts according to the following procedure:
- (I) 723-41-7.4.1 Each quarter, or as necessary, the Commission acting as Administrator shall issue an order designating to which EP(s) each provider is to remit its HCSM rate element receipts. The Commission may direct that certain providers remit their HCSM receipts to the Administrator who will forward the funds thus remitted to the Colorado State Treasurer's Office for deposit to the Fund account.
- (II) 723-41-7.4.2 The HCSM revenues billed by the provider, net of the amount estimated to be owing to the provider from the HCSM, if any, shall be remitted as directed by the Administrator no more than 30 days after the end of each quarter. If the amount or net 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, *et seq.*, C.R.S.
- (III) 723-41-7.4.3 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 verifiably accurate collections and receipts. Adjustments to the standard quarterly transaction amount or any other reconcilable adjustments will be performed in the next quarter.
- (e) 723-41-7.5 Continuing customer education. In the first billing cycle of the third quarter of each year, each rate jurisdictional provider collecting the rate element (also known as the "Colorado Universal Service Charge") 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.

2847. Eligible Provider Designation.

- (a) 723-41-8.1 As a prerequisite for eligibility to receive support from the HCSM, a provider shall be in substantial compliance with the Commission's rules applicable to the provision of basic local exchange service.
- (b) 723-41-8.2 Application. A provider shall file an application with the Commission to be designated an EP within a geographic support area.
 - (I) 723-41-8.2.1 Contents. In addition to complying with the requirements of paragraph 2002(b), the application must provide evidence sufficient to establish that:
 - (A) 723-41-8.2.1.1 The provider is, or is applying to be, qualified as an ETC under rule 2187 for purposes of being eligible to receive federal universal service support;
 - (B) The provider agrees to provide such basic local exchange service as described in Sections 214(e) and 254 of the Communications Act of 1934;
 - (C) 723-41-8.2.1.2 The provider will offer basic local exchange service throughout the entire geographic support area;
 - (D) 723-41-8.2.1.3 The provider has the managerial qualifications, financial resources, and technical competence to provide basic local exchange service throughout the specified support area regardless of the availability of facilities or the presence of other providers in the area;
 - (E) 723-41-8.2.1.4 The provider is not receiving funds from the HCSM or any other source that together with revenues, as defined by the Commission-adopted revenue benchmark, exceed the reasonable cost of providing basic local exchange service to customers of such provider; and
 - (F) 723-41-8.2.1.5 The granting of the application serves the public convenience and necessity, as defined in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.
 - (II) 723-41-8.2.2 Process for determining eligibility.
 - (A) 723-41-8.2.2.1 The Commission processes applications in accordance with the Rules of Practice and Procedure.

- (B) 723-41-8.2.2.2 An application filed pursuant to paragraph (b) may be filed contemporaneously with an application for a CPCN, LOR, or an alternative form of regulation. In addition, an application to be certified as an EP may be filed in a combined application to be designated a POLR or an ETC pursuant to rules 2183 and 2187.
- (c) 723-41-8.3 Reseller ineligibility. A provider which provisions its service to end users solely through purchase of a finished service from a facilities-based provider, and then sells that same service or that service combined with other services is not eligible to receive support from the HCSM. Rather, the facilities-based provider may be eligible to receive any applicable HCSM support.
- (d) 723-41-8.4 Eligibility of a provider through the use of UNEs. An EP that serves a customer using a combination of its facilities and another provider's unbundled facilities or solely through the use of unbundled network elements, shall be eligible to receive HCSM support, not to exceed the cost of the unbundled elements used to provide the supported services. If an EP provides an unbundled element to another EP that is used to provide supported services, the EP of the unbundled element shall be eligible to receive HCSM support for the difference between the amount it is receiving for the unbundled element and the element's Proxy Cost.
- (e) 723-41-8.5 Portability of support. HCSM support shall be portable between any EP chosen by the end user.
- (f) 723-41-8.7 Each EP, prior to the initial receipt of support from the HCSM shall, as appropriate:
 - (I) 723-41-8.7.1 If the provider is not subject to Commission rate regulation, the provider shall file an application with the Commission providing evidence sufficient to establish that the provider is not receiving funds from the HCSM or any other source that together with revenues, as defined by the Commission-adopted revenue benchmark, exceed the reasonable cost of providing basic local exchange service to customers of such provider.
 - (II) 723-41-8.7.2 If the provider is subject to Commission rate regulation and its rates are filed at the Commission in a Tariff, or if the provider has been granted an alternative form of regulation that includes price ceilings, the provider shall simultaneously file two Advice Letters, and, if the provider has been granted an alternative form of regulation, a Transmittal Letter proposing price changes. Each filing shall propose rates or prices that will lower its overall regulated revenues in an amount equal to the sum of: (1) the initial support from the HCSM; plus (2) the amount of support from any

federal program supporting universal service not previously accounted for in setting filed Tariff rates, if any. This sum shall be referred to as the "Initial Support".

- (A) 723-41-8.7.2.1 The first Advice Letter filed by such EP shall include a general rate reduction percentage rider (Rate-Rider) applicable, to the extent possible, to all rates for regulated service, excluding services receiving support in order to reduce jurisdictional revenues in the amount of the Initial Support. The amount and distribution of the rate reduction(s) produced by this Rate-Rider may be adjusted or modified by separate Commission order in other proceedings. Generally, the Tariffs proposed in this Rate-Rider Advice Letter shall become effective without suspension simultaneous with the initial receipt of support from the HCSM, and shall remain in effect until the permanent rate proposal becomes effective.
- (B) 723-41-8.7.2.2 The second Advice Letter filed by the EP shall include proposals for permanent specific service rates that will reduce jurisdictional revenues in the amount of the "Initial Support". Generally, the rates proposed in this Advice Letter shall be suspended and shall not become effective without notice and opportunity for hearing.
- (III) 723-41-8.7.3 If the EP is subject to rate regulation, has been granted an alternative form of regulation by the Commission that does not include price ceilings, and its rates are included in Price Lists, the provider shall file a Transmittal Letter proposing price changes that will reduce jurisdictional revenues in the amount of the Initial Support.
- (g) 723-41-8.8 Each EP, prior to the effective date of a resetting of the HCSM support per access line by the Administrator, shall, as appropriate:
 - (I) 723-41-8.8.1 If the provider is not subject to Commission rate regulation, the provider shall file an application with the Commission providing evidence sufficient to establish that the provider is not receiving funds from the HCSM or any other source that together with revenues, as defined by the Commission-adopted revenue benchmark, exceed the reasonable cost of providing basic local exchange service to customers of such provider.
 - (II) 723-41-8.8.2 If the provider is subject to Commission rate regulation and its rates are filed at the Commission in a Tariff, or if the provider has been granted an alternative form of regulation that includes price ceilings, the EP shall file an Advice Letter.

- (A) The filing shall adjust its overall regulated revenues in an amount equal to the sum of: (1) the current support from the HCSM, less the amount received by the EP from the HCSM for the previous 12 months, if any; plus (2) the current support from any federal program supporting universal service, less the amount received by the EP from these federal programs for the previous twelve months, if any. This sum shall be referred to as the "New Support".
- (B) 723-41-8.8.2.1 The filing by such EP shall include proposals for permanent specific service rate changes that will decrease jurisdictional revenues in the amount of the new support.
- (III) 723-41-8.8.3 If the EP is subject to rate regulation, has been granted an alternative form of regulation by the Commission, and its rates are included in Price Lists, the EP shall file a Transmittal Letter proposing price changes that will reduce jurisdictional revenues in the amount of the "New Support" to be effective upon the implementation of the "New Support". Any adjustments in prices other than reductions shall be done in accordance with the EP's alternative form of regulation.

2848. Support through the HCSM.

- (a) 723-41-9.1 The Commission shall, by order, establish geographic areas throughout the state. Such geographic areas may be revised at the discretion of the Commission.
- (b) 723-41-9.1.1 Disaggregation and targeting of Colorado High-Cost Support by rural ILECs. The disaggregation plan selected by a rural incumbent EP for targeting Colorado high-cost support shall be the same plan as that selected by the provider under rule 2190 and approved by the Commission under those rules.
- (c) 723-41-9.2 Support through the HCSM applicable to non-rural geographic areas shall be calculated as follows:
 - (I) 723-41-9.2.1 By order, the Commission shall: (1) adopt a Proxy Cost Model; and (2) publish the Intrastate Proxy Cost for each non-rural geographic area. The Proxy Cost Model and the resultant Intrastate Proxy Costs shall be updated as necessary. The Commission shall ensure that the HCSM operates such that the supported basic local exchange service bears no more than its reasonable share of the joint and common costs of facilities used to provide those services.
 - (II) 723-41-9.2.2 When the per line Intrastate Proxy Cost exceeds the applicable revenue benchmark in a particular non-rural geographic area, the Commission shall designate

that non-rural geographic area as a geographic support area.

- (III) 723-41-9.2.3 Amount of Support: Each EP shall receive support from the HCSM based on the number of residential and business access lines it serves in the non-rural high cost geographic support areas, as designated by the Commission, multiplied by the difference between the per line Intrastate Proxy Cost in such geographic support area and the applicable per Access Line Revenue Benchmark as determined by the Commission. The amount of support shall be reduced by any other amount of support received by such provider or for which such provider is eligible under support mechanisms established by the federal government and/or this state.
- (IV) 723-41-9.2.4 Revenue benchmarks. Separate revenue benchmarks shall be determined for residential and business supported access lines for each geographic area according to the formulae defined in paragraph 2841(l).
- (d) 723-41-9.3 Support through the HCSM applicable to rural geographic areas (areas served by rural ILECs) shall be calculated as follows:
 - (I) 723-41-9.3.1 By order, the Commission shall: (1) determine the amount of support per access line as determined by the Commission pursuant to rule 2855 (based upon the filing of the incumbent rural EP serving that area and as modified pursuant to paragraph 2855(f)); and (2) publish the support per access line, disaggregated into such geographic support areas as may be designated by the Commission. The Commission shall ensure that the HCSM operates such that the supported basic local exchange service bears no more than its reasonable share of the joint and common costs of facilities used to provide those services.
 - (II) 723-41-9.3.2 Amount of support: Each EP shall receive support from the HCSM in an area served by a rural ILEC based upon the number of access lines the EP serves in those high cost geographic support areas, as designated by the Commission, multiplied by the applicable support per access line.
 - (III) 723-41-9.3.3 Additional Procedures Governing the Operation of Disaggregated Support:
 - (A) 723-41-9.3.3.1 The disaggregation and targeting plan adopted under rule 2190 shall be subject to the following general requirements:

- (i) 723-41-9.3.3.1.1 Support available to the rural ILEC's study area under its disaggregation plan shall equal the total support available to the study area without disaggregation.
 - (ii) 723-41-9.3.3.1.2 The ratio of per line support between disaggregation zones for each disaggregated category of support shall remain fixed over time, except as changes are allowed pursuant to rule 2190.
 - (iii) 723-41-9.3.3.1.3 The ratio of per line support shall be publicly available.
 - (iv) 723-41-9.3.3.1.4 Per-line support amounts for each disaggregation zone shall be recalculated whenever the rural ILEC EP's total annual support amount changes (including when the support amount is phased-down pursuant to subparagraph 2855(f)(I)) using the changed support amount and access line counts at that point in time.
 - (v) 723-41-9.3.3.1.5 Per-line support for each category of support in each disaggregation zone shall be determined such that the ratio of support between disaggregation zones is maintained and that the product of all of the rural ILEC EP's access lines for each disaggregation zone multiplied by the per-line support for those zones when added together equals the sum of the rural ILEC EP's total support.
 - (vi) 723-41-9.3.3.1.6 Until a competitive EP is designated in a study area, the quarterly payments to the rural ILEC EP will be made based on total annual amounts for its study area divided by four.
 - (vii) 723-41-9.3.3.1.7 When a competitive EP is designated anywhere in a rural ILEC EP's study area, the per-line amounts used to determine the competitive EP's disaggregated support shall be based on the rural ILEC EP's then-current total support levels, lines, and disaggregated support relationships.
- (e) 723-41-9.6 Process for payments. The Administrator will arrange payments to be made to EPs, which are net recipients from the HCSM, within 30 days of the last day of each quarter.

- (f) 723-41-9.7 Reconciliation. Following receipt by the Administrator of each EP's report pursuant to subparagraph 2846(b)(II), the Administrator shall reconcile the estimated disbursements previously authorized for each EP for the period for which the report provides information to the actual disbursements to which such provider is entitled, and shall send a statement of such reconciliation to each EP within 60 days after the receipt of the report. The statement shall show if the provider is entitled to additional amounts from the HCSM, or if the EP has received more than the amount of its HCSM entitlement. The Administrator shall use these reconciling amounts when setting the EP's support in subsequent quarters.

2849. 723-41-10.1 Administration.

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

- (a) 723-41-10.1.1 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) 723-41-10.1.1.1 The third-party entity shall meet all of the following criteria:
- (A) 723-41-10.1.1.1.1 Be neutral and impartial.
 - (B) 723-41-10.1.1.1.2 Not be a party in any matter before the Commission, nor advocate specific positions before the Commission in any telecommunications service matter.
 - (C) 723-41-10-1.1.1.3 Not be a member in a trade association that advocates positions before the Commission.
 - (D) 723-41-10.1.1.1.4 Not be an affiliate of any provider of telecommunications services.
 - (E) 723-41-10.1.1.1.5 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.
 - (F) 723-41-10.1.1.1.6 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) 723-41-10.2 The reasonable expenses incurred in the administration of the HCSM shall be a cost of the HCSM and shall be paid from the funds contributed to the HCSM.
- (c) 723-41-10.3 The Administrator shall determine the amount each telecommunications provider must pay into the HCSM and determine the disbursement each EP may receive from the HCSM.
- (d) 723-41-10.4 The Administrator shall net each EP's assessment and support prior to receipt of actual funds.
- (e) 723-41-10.5 To the extent the funding received from providers in any one fiscal year exceeds the cost of administering the HCSM (including such reserve as may be necessary for the proper administration of the HCSM), any unexpended and unencumbered monies shall remain in the Fund and shall be credited against the assessment each provider must pay in the succeeding fiscal year.
- (f) 723-41-10.6 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.
- (g) 723-41-10.7 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.
- (h) 723-41-10.8 The Administrator shall maintain a database that tracks eligible access lines for support based on the method through which service is provisioned and the identity of each carrier providing that service in each geographic area.
- (i) 723-41-10.9 The Administrator will develop appropriate forms to be used by all providers and all EPs for reporting information as required by rule 2846. Copies of the forms will be made available on the Commission's website and at the offices of the Commission.
- (j) 723-41-10.10 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 EP 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.

- (k) 723-41-10.11 The quarterly reconciliations under subparagraph 2846(d)(III) and paragraph 2848(f) shall be the principal source for such annual reviews.
- (l) 723-41-10.12 Supplemental and forecast information that may be requested by the Administrator to assure a complete review shall be provided by all providers to the Administrator, as formally requested, within ten days of the Administrator's written request. If those persons do not provide the data required within ten days of the request, the Commission may initiate a formal complaint proceeding for remedies, including withholding future support from the HCSM and/or penalties as provided in 40-7-101, *et seq.*, C.R.S.
- (m) 723-41-10.13 The Administrator and the Fund shall operate on a fiscal year from July 1 to June 30 of the succeeding year.
- (n) 723-41-10.14 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.
- (o) 723-41-10.15 An annual report of the Fund prepared by the Administrator shall be filed with the Commission by October 1 of each year. A copy of the Administrator's annual report shall be provided to the Legislative Audit Committee and to each provider that contributes to the HCSM. This report shall summarize the preceding fiscal year's activity and include the following:
 - (I) 723-41-10.15.1 A record of the total cost of administration of the HCSM; and
 - (II) 723-41-10.15.2 The most recent audit report.
- (p) 723-41-10.16 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 to each provider that contributes to the HCSM. The Administrator may satisfy the latter requirement by notifying the provider of the availability of the annual report using an e-mail message directing the provider to the report 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) 723-41-10.16.1 The total amount of money that the Commission determined shall constitute the HCSM from which distributions would be made;

- (II) 723-41-10.16.2 The total amount of money ordered to be contributed through a rate element assessment collected by each provider;
- (III) 723-41-10.16.3 The basis on which the contribution of each provider was calculated;
- (IV) 723-41-10.16.4 The benchmarks used and the basis on which the benchmarks were determined;
- (V) 723-41-10.16.5 The total amount of money that the Commission determined shall be distributed from the HCSM;
- (VI) 723-41-10.16.6 The total amount of money distributed to each provider from the HCSM;
- (VII) 723-41-10.16.7 The basis on which the distribution to providers was calculated;
- (VIII) 723-41-10.16.8 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;
- (IX) 723-41-10.16.9 The proposed benchmarks, the proposed 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; and
- (X) 723-41-10.16.10 The total amount of distributions made from the HCSM, directly or indirectly, and how they are balanced by rate reductions by all providers for the same period and a full accounting of and justification for any difference.

2850. Review of the HCSM.

- (a) 723-41-11.1 For the purpose of determining whether the HCSM should be reformed, modified, or adjusted, the HCSM will be evaluated and reviewed at the discretion of the Commission. The time period between reviews shall usually not exceed three years, and at least every three years thereafter, for the purpose of determining whether the HCSM should be adjusted.
- (b) 72-41-11.3 The Commission shall consider opening a docket to consider any changes to these rules that may be necessary as a result of the conclusion of every proceeding, conducted pursuant to § 40-15-502(2), C.R.S., to review the definition of basic service.

2851. 723-41-12. Base Rate Area Subsidies.

If there are areas, as of July 1, 1996, that are receiving subsidies within a provider's base rate area, as determined by the Commission, such areas may continue, at the Commission's discretion, to receive subsidies or be eligible for funding under the HCSM after July 1, 1996.

2852. Enforcement.

- (a) 723-41-13.1 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) 723-41-13.2 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) 723-41-13.3 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.

2853. 723-41-14. Other.

These rules are not intended to limit the programs in rules 2800 through 2819 and 2820 through 2839.

2854. Calculation of Average Loop, Local Switching, and Exchange Trunk Costs for Fund Support for Rural Telecommunications Service Providers.

- (a) 723-41-17.1 The averages used in calculating HCSM support in rules 2854 and 2855 will be computed on the basis of the data

reported per this rule for the preceding calendar year unless updated at the option of the rural provider pursuant to 47 C.F.R. § 36.612(a).

- (b) 723-41-17.2 Each basic local exchange provider shall calculate and report its average unseparated loop cost per study area per working loop as prescribed by 47 C.F.R. §§ 36.621 and 36.622 in its annual report to the Commission as required by paragraph 2006(a).
- (c) 723-41-17.3 The national average unseparated loop cost per working loop shall be calculated as prescribed by the National Exchange Carrier Association (NECA), 47 C.F.R. § 36.622(a)(1).
- (d) 723-41-17.4 Each rural provider shall calculate and report in its annual report to the Commission its unseparated investment per study area for:
 - (I) Local switching equipment (Central Office Equipment, Category 3, 47 C.F.R. § 36.125); and
 - (II) Its average number of working loops.
- (e) 723-41-17.5 Each rural provider shall calculate and report in its annual report to the Commission its unseparated investment per study area for exchange trunk equipment (Cable and Wire Facilities, Category 2, Exchange Trunk, 47 C.F.R. § 36.155, and Category 4.12, Exchange Trunk Circuit Equipment, 47 C.F.R. § 36.126(c)(2)).
- (f) 723-41-17.6 The state average unseparated local switching equipment investment per working loop shall be calculated by dividing the sum of the local switching equipment investments in the state, as reported pursuant to paragraph (d) for all LECs except rural providers, by the sum of the working loops in the state, as reported in paragraph (d) for all LECs except rural providers.
- (g) The state average unseparated exchange trunk equipment investment per working loop shall be calculated by dividing the sum of the exchange trunk equipment investments in the state, as reported pursuant to paragraph (e) for all LECs except rural providers, by the sum of the working loops in the state, as reported in paragraph (d) for all LECs except rural providers.
- (h) 723-41-17.7 Each rural ILEC, in its annual report filed with the Commission, shall include any additional HCSM reporting requirements as requested by the Commission.

2855. Calculation of Support per Access Line for Rural ILECs.

Incumbent rural providers, who are not average schedule rural providers, shall be eligible for support from the HCSM for high costs in three areas:

loops; local switching; and exchange trunks, upon a proper showing. Incumbent average schedule rural providers shall be eligible for support from the HCSM for high costs as determined by subparagraph (f)(I), upon a proper showing.

- (a) 723-41-18.1 Support for high loop costs. The HCSM revenue requirement for high loop costs of rural providers who are not average schedule rural providers shall be determined as follows:

- (I) 723-41-18.1.1.1 For rural providers with an average unseparated loop cost per working loop less than or equal to 115 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) Zero; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange subscriber line usage (SLU) multiplied times the provider's average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

- (II) 723-41-18.1.1.2 For rural providers with an average unseparated loop cost per working loop in excess of 115 percent but not greater than 150 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) The difference between the rural provider's average unseparated loop cost per working loop and 115 percent of the national average unseparated loop cost per working loop, times 0.10; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange SLU times 115 percent of the national average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

- (III) 723-41-18.1.1.3 For rural providers with an average unseparated loop cost per working loop greater than 150 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) The difference between 150 percent of the national average unseparated loop cost per working loop and 115 percent of the national average unseparated loop cost per working loop, times 0.10; and

- (B) The difference between 0.265 and twice the rural provider's intrastate interexchange SLU times 115 percent of the national average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.
- (b) 723-41-18.2 Support for high local switching costs. Rural providers who are not average schedule rural providers shall be eligible for support for high local switching costs. The HCSM revenue requirement for high local switching cost support shall be determined as follows:
 - (I) 723-41-18.2.1.1 For rural providers with an average unseparated local switching equipment investment per working loop less than or equal to the Colorado average unseparated local switching investment per working line as determined by paragraph 2854(f), the HCSM revenue requirement for local switching cost support shall be zero.
 - (II) 723-41-18.2.1.2 For rural providers with an average unseparated local switching equipment investment per working loop in excess of the Colorado average unseparated local switching equipment investment per working loop as determined in paragraph 2854(f), the revenue requirement for high local switching cost support shall be calculated by creating a new service category in the separations study and apportioning the costs of the provider to this service generally following 47 C.F.R., Part 36. The service category for the HCSM high local switching cost support shall be assigned a portion of Category 3 of local switching equipment investment.
 - (A) The percentage of Category 3 allocated to the HCSM service category shall be known as the "Colorado High Local Switching Cost Allocation Factor" and shall be calculated as one minus the sum of:
 - (i) The interstate factor(s);
 - (ii) The intrastate factor(s) of subparagraph 2415(b)(I)(C); and
 - (iii) The local exchange factor.
 - (B) The local exchange factor for each rural provider shall be calculated as the:
 - (i) Colorado average unseparated local switching equipment Category 3 investment per working loop, as determined by paragraph 2854(f);

- (ii) Multiplied by the rural provider's local DEM percentage;
 - (iii) Divided by the rural provider's average investment per working loop.
 - (C) The Colorado High Local Switching Cost Allocation Factor shall not be less than zero. If, by the application of the formula of subparagraph (b)(II), the Colorado High Local Switching Cost Allocation Factor is less than zero, the factors (ii) and (iii) of subparagraph (II)(A) shall be reduced proportionally.
- (c) 723-41-18.3 Support for high exchange trunk costs. Rural providers who are not average schedule rural providers shall be eligible for support for high exchange trunk costs. The HCSM revenue requirement for high exchange trunk cost support shall be determined as follows:
- (I) 723-41-18-3.1.1 For rural providers with an average unseparated exchange trunk investment per working loop less than or equal to the Colorado average unseparated exchange truck investment per working loop, as determined by paragraph 2854(f), the HCSM revenue requirement for exchange trunk cost support shall be zero.
 - (II) 723-41-18.3.1.2 For rural providers with an average unseparated exchange trunk equipment investment per working loop in excess of the Colorado average unseparated exchange truck investment per working loop, as determined in paragraph 2854(f), the revenue requirement for high exchange trunk cost support shall be calculated by apportioning the costs of the rural provider to the HCSM service category as established in paragraph (b) of the rural provider's separations study following 47 C.F.R., Part 36, as modified by the rules found in rule 2415. The HCSM service category shall be assigned a portion of the investments of Cable and Wire Facilities, Category 2 Exchange Trunk, 47 C.F.R. § 36.155 and a portion of Category 4.12, Exchange Trunk Circuit Equipment, 47 C.F.R. § 36.126(c)(2).
 - (A) The percentage allocated to the HCSM service category shall be calculated separately for each of these types of investments as one minus the sum of:
 - (i) The interstate factor(s), for exchange trunk;
 - (ii) The intrastate factor(s) for exchange trunk; and
 - (iii) The local factor for exchange trunk.

- (B) The local factor for Category 2 exchange trunk for Cable and Wire Facilities for each rural provider shall be calculated as the Colorado average unseparated investment per working loop as determined by paragraph (f) of this rule, times the rural provider's local relative number of minutes of use percentage divided by the rural provider's average investment per working loop.
 - (C) The local transport allocation factor for Category 4.12 Exchange Trunk Circuit Equipment, for each rural provider shall be calculated as the Colorado average unseparated investment per working loop, as determined by paragraph 2854(f), times the rural provider's local relative number of minutes of use percentage divided by the rural provider's average investment per working loop.
- (d) 723-41-18.4 Support for high costs of average schedule rural providers.
- (I) 723-41-18.4.1 The HCSM support requirement for high cost support for average schedule rural providers shall be determined as the remainder, if positive, of the following process:
 - (A) 723-41-18.4.1.1 First, the total company revenue requirement for the average schedule rural provider shall be determined;
 - (B) 723-41-18.4.1.2 Next, a value known as the "imputed local network services revenues" shall be calculated by the Administrator as the average of the local network services revenues, 47 C.F.R. §§ 32.5000 through 32.5069 for all rural providers who are not average schedule rural providers, excluding any HCSM revenues;
 - (C) 723-41-18.4.1.3 Then, the following revenues shall be subtracted from the revenue requirement of subparagraph (d)(I)(A):
 - (i) All interstate activities and Universal Service Fund (USF) support;
 - (ii) Intrastate network access services;
 - (iii) Long distance network services;
 - (iv) All miscellaneous revenues; and
 - (v) The "imputed local network services revenues".

- (e) 723-41-18.5 Local network services Tariff cap. In no event shall the local network services revenue requirement, as defined in 47 C.F.R. §§ 32.5000 through 32.5069 (1995) for rural providers exceed 130 percent of the average of such revenue requirement for local exchange providers that are not rural providers. Such excess shall be considered as a part of the rural provider's HCSM support revenue requirement.
- (f) 723-41-18.6 Colorado High Cost Fund Administration.
 - (I) 723-41-18.6.1 The Commission, acting as Administrator, and pursuant to rules 2854 and 2855, shall determine and establish by order, for each rural provider, the HCSM support revenue requirement that will remain effective for a period of up to six years beginning with the date of the order.
 - (A) 723-41-18.6.1.1 At any time, upon the request and proper support as part of a general rate proceeding by a rural provider, the Commission, acting as Administrator, may revise the HCSM support revenue requirement that will be effective for a period of up to six years beginning with the date established by the Commission order. As a result of a formal complaint or other proceeding, the Commission, acting as Administrator, may revise the HCSM support revenue requirement that will be effective for a period of up to six years beginning with the date established by the Commission's order.

- (B) 723-41-18.6.1.2 Once established or revised, no further qualification shall be required during the six-year funding period. During the funding period, the amount of HCSM support per access line shall be phased down. Funding shall be fixed for the first two years (any 12-month period) at 100 percent of the funding level established. Following the first two years, the support amount shall decline and be phased out by year seven. The following is the phase-out schedule:

Year	Percent of Funding
1	100%
2	100%
3	82.5%
4	65%
5	40%
6	20%
7	0%

- (C) 723-41-18.6.1.3 Any HCSM support established through a Commission-granted variance from these rules shall be in the amounts and for the time period(s) expressly approved by the Commission's order.

2856. - 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 specific telecommunications 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. 723-48-1. Applicability.

The discounts included in rules 2870 through 2879 shall apply to the rates for all eligible intrastate services.

2871. Definitions.

The meaning of terms used within rules 2870 through 2879 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) 723-48-2.2 "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) 723-48-2.4 "Rural schools or libraries" means, pursuant to 47 C.F.R. § 54.505(b)(3)(ii), those schools and libraries located in non-metropolitan counties, as measured by the Office of Management and Budget's Metropolitan Statistical Area method. Schools and libraries located in rural areas within metropolitan counties identified by census block or tract in the Goldsmith Modification shall also be designated as rural.
- (c) 723-48-2.3 "Urban schools or libraries" means, pursuant to 47 C.F.R. § 54.505(b)(3)(i), those schools and libraries located in metropolitan counties, as measured by the Federal Office of Management and Budget's Metropolitan Statistical Area method, except for those schools and libraries located within rural areas of metropolitan counties identified by census block or tract in the Goldsmith Modification.

2872. 723-48-7. 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. These rules may be found at 47 C.F.R., Part 54, revised as of October 1, 2002. References to Part 54 do not include later amendments to or editions of this Part. A

certified copy of this Part is maintained at the office of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and available for inspection during normal business hours. Certified copies of the incorporated rule shall be provided at cost upon request. The Director or the Director's designee shall provide information regarding how the incorporated rule may be obtained or examined. This incorporated rule may be examined at any state publications depository library.

2873. 723-48-3. Discount for Eligible Intrastate Services for Eligible Schools and Libraries.

After receiving a *bona fide* request from such schools or libraries, a telecommunications provider 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. 723-48-4. Rate Disputes.

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

2875. 723-48-5. 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. 723-48-6 Response to Request for Services.

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

2877. - 2879. [Reserved].

RURAL TECHNOLOGY ENTERPRISE ZONES, QUALIFYING INFRASTRUCTURE INVESTMENT, AND TAX-CREDITS FOR
IMPROVEMENT OF INTERNET ACCESS IN RURAL COLORADO

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: establish rural technology enterprise zones (RTEZ); define the associated Internet-access infrastructure technology qualifying for RTEZ income-tax credit; and promote investment in transmission infrastructure allowing for improved Internet and/or Internet-type access in rural areas.

The statutory authority for the promulgation of these rules is found at §§ 39-32-104 and 40-2-108, C.R.S.

2880. 723-53-1. Applicability.

Rules 2880 through 2889 are applicable to all persons who provide qualifying infrastructure for Internet and/or Internet-type access in designated rural areas of Colorado. These rules are effective for income tax years beginning on or after January 1, 1999 and ending January 2005.

2881. Definitions.

The following definitions are applicable only in the context of rules 2880 through 2889:

- (a) 723-53-2.5 "Hub" means the site and its attendant equipment used to consolidate or route end user transmissions to a dedicated transport facility.
- (b) 723-53-2.6 "Hub municipality" means the city, town, or village where the hub is located and where the dedicated transport facility(ies) begins or terminates.
- (c) 723-53-2.7 "Internet or Internet-type Access" means a dedicated physical transmission pathway using a digital transmission protocol that allows connection of a hub to a remote computer network(s).
- (d) 723-53-2.8 "Local Facilities" means the physical transmission pathway, wireline or wireless, from the end-use premises to the hub.
- (e) 723-53-2.9 "Provider" means any person providing Internet or Internet-type access to end users or who facilitates such access.
- (f) 723-53-2.10 "Qualifying Access Infrastructure" means the physical components providing Internet or Internet-type access consisting of certain end-user equipment, the local facilities, the hub, and the dedicated transport facilities.
- (g) 723-53-2.12 "Request" or "Request Form" means a submittal to the Commission, made by a requester, which seeks Commission review of

the requester's qualification for RTEZ income tax credit under these rules. Requests for RTEZ income tax credit may occur by use of the Request Form created by the Commission or by submission of information of the type, detail, and amount found on the Commission's Request Form.

- (h) 723-53-2.11 "Requester" means any person seeking qualification for income tax credit under these rules.
- (i) 723-53-2.13 "Rural Technology Enterprise Zone" (RTEZ) means the designated geographic area within which access infrastructure investments qualify for an investor income tax credit.

2882. 723-53-3. Designation of Rural Technology Enterprise Zone.

One RTEZ is designated for Colorado. This RTEZ encompasses all of Colorado with the following listed exceptions:

- (a) Denver County;
- (b) Jefferson County east of Range 71 West and north of Township 6 South;
- (c) Douglas County north of Township 9 South;
- (d) Adams County west of Range 65 West;
- (e) Arapahoe County west of Range 65 West;
- (f) Boulder County east of Range 72 West;
- (g) Broomfield County
- (h) Larimer County east of Range 70 West and south of Township 8 North;
- (i) El Paso County west of Range 64 West;
- (j) Ranges 64 West and 65 West of Townships 19 South and 20 South located in Pueblo County;
- (k) Municipal boundaries of the cities of Greeley and Evans located in Weld County; and
- (l) Ranges 1 East and 1 West of Townships 1 North and 1 South as surveyed from the Ute Principal Meridian located in Mesa County.

2883. Designation of Qualifying Internet Access Infrastructure Technology Investments and Percentage of Investment Towards Credit.

These rules are intended to be technology-neutral. All requesters making investments in qualifying infrastructure that meets the requirements of these

rules and who deploy the infrastructure shall be eligible to receive the applicable income tax credit irrespective of the type of technology used.

- (a) 723-53-4.1 General requirements and conditions. Qualifying infrastructure must provide Internet or Internet-type access over Internet access infrastructure. Only physical plant costs qualify as infrastructure investment; no administrative or other costs, such as franchise costs, qualify. Qualifying infrastructure investment may be either non-recurring or recurring costs.
- (b) 723-53-4.2 Infrastructure Arrangement. Review of an infrastructure arrangement for qualification shall be based on the following model:
 - (I) 723-53-4.2.1 Existence of a local facilities section that connects end-user equipment to the access provider's hub;
 - (II) 723-53-4.2.2 A hub which aggregates the upstream and downstream end-user traffic, disseminates downstream end-user traffic, and/or performs other local routing or switching functions;
 - (III) 723-53-4.2.3 A dedicated transport facility over which the aggregated end-user traffic is routed to and from an Internet backbone or similar facility; or
 - (IV) 723-53-4.2.4 Any combination of technologies that perform analogous functions to those listed above.
- (c) 723-53-4.2.5 In order for investment in local facilities or a hub to qualify, it must be in connection with an investment in a dedicated transport facility.
- (d) 723-53-4.3 Local facilities investment. To the extent an access provider provides or improves the local facilities transmission pathway to an end user, 100 percent of the provider's non-recurring physical and construction costs of these provisions/improvements shall be considered as part of the qualifying investment. This may include any end users' premises equipment necessary for the transmission and reception of Internet or Internet-type service transmissions.
- (e) 723-53-4.4 Hub Investment. One hundred percent of the cost of the non-recurring physical plant investment in the hub that serves an RTEZ is a qualifying investment.
- (f) 723-53-4.5 Dedicated Transport Facility Investment. One hundred percent of the recurring and non-recurring cost of providing the dedicated transport facility(ies) for aggregation of end-user traffic is a qualifying investment. The dedicated transport

facilities must have a minimum transport bandwidth (MTB) of 1.544 Megabits per second (Mbps).

2884. Request Guidelines.

- (a) 723-53-5.1 Guidelines of § 39-32-105, C.R.S. Requesters must follow the guidelines and procedures in § 39-32-105, C.R.S., and any rules promulgated by the Colorado Department of Revenue implementing that statute.
- (b) 723-53-5.2 Commission guidelines.
 - (I) 723-53-5.2.1 The requester shall provide information to establish that: the investment is located within the RTEZ; the investment provides Internet or Internet-type access to end users; and the dates and costs incurred resulting from the infrastructure deployment.
 - (II) 723-53-5.2.2 The Commission will provide a RTEZ request packet to all requesting parties. Requesting parties may file under seal in accordance with rules 1100 through 1102.
 - (III) The Commission will process requests within six weeks of the filing of the request and all necessary information.

2885. Commission Rural Technology Enterprise Zone (RTEZ) Certification Form.

Requesters that substantiate infrastructure investment in RTEZ will receive a certification from the Commission stating the quantity of infrastructure investment and the amount of associated income tax credit. The Colorado Department of Revenue will determine the how a requester may claim such a credit.

2886. - 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, *et seq.*, C.R.S., 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. 723-22-1 Applicability.

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

2891. Definitions.

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

- (a) 723-22-2.1 "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) 723-22-2.2 "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) 723-22-2.3 "Designated agent" means the party with whom the Commission contracts to administer the Colorado No-call List program.
- (d) 723-22-2.5 "Established business relationship":
 - (I) "Established business relationship" means a relationship that:
 - (A) 723-22-2.5.1 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;

- (B) 723-22-2.5.2 Has not been previously terminated by either party; and
- (C) 723-22-2.5.3 Currently exists or has existed within the immediately preceding 18 months.
- (II) 723-22-2.5.4 "Established business relationship," with respect to a financial institution or affiliate, as those terms are defined in § 527 of the federal Gramm-Leach-Bliley Act of 1999, 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) 723-22-2.6 "Internet" means the international computer network consisting of federal and non-federal, interoperable packet-controlled switched data networks.
- (f) 723-22-2.7 "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) 723-22-2.8 "Residential telephone service" includes wireline transmission of voice or facsimile communication to residential telephone customers.
- (h) 723-22-2.9 "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) 723-22-2.9.1 "Telephone solicitation" does not include communications:

- (A) 723-22-2.9.1.1 To any residential subscriber or wireless telephone service subscriber with that subscriber's prior express invitation or permission;
 - (B) 723-22-2.9.1.2 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) 723-22-2.9.1.3 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) 723-22-2.9.1.4 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) 723-22-2.9.1.5 Made for the sole purpose of urging support for or opposition to a political candidate or ballot issue; or
 - (F) 723-22-2.9.1.6 Made for the sole purpose of conducting political polls or soliciting the expression of opinions, ideas, or votes.
- (i) 723-22-2.10 "Telephone solicitor" means any person or entity that makes a telephone solicitation or that causes a telephone solicitation to be made.
 - (j) 723-NEW "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) 723-NEW "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) 723-22-3.1 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) 723-22-3.2 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 creation and 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) 723-22-3.3 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) 723-22-4.1 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) 723-22-4.2 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) 723-22-4.3 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) 723-22-4.3.1 The designated agent shall make the data in the No-call List database available online at the No-call List designated website.
- (II) 723-22-4.3.2 The designated agent shall allow telephone solicitors to select and sort the data for downloading by zip code and telephone area code.
- (III) 723-22-4.3.3 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) 723-22-4.3.3.1 The file created shall be a standard ASCII text file. The file must be operating system and applications program independent.
 - (B) 723-22-4.3.3.2 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) 723-22-4.3.3.3 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) 723-22-4.3.3.4 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.
- (d) 723-22-4.4.2 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) 723-22-4.5 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) 723-22-4.6 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) 723-22-4.7 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) 723-22-4.7.1 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) 723-22-4.7.2 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) 723-22-4.8 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) 723-22-4.8.1 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) 723-22-4.8.2 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) 723-22-4.9 Transaction dates. The designated agent must record and maintain the date of each transaction identified in paragraphs (g) and (h).
- (j) 723-22-4.10 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) 723-22-4.11 Information requirements.

(I) 723-22-4.11.1 The designated agent shall submit quarterly to the Commission the following information in order for the Commission to accurately adjust the registration fees and to file its reports to the Joint Budget Committee. 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) 723-22-4.11.1.1 Revenues from registration fees for the previous quarter;
- (B) 723-22-4.11.1.2 Capital investment purchased for use in No-call List activities during the previous quarter;
- (C) 723-22-4.11.1.3 Operating expenses related to the administration of the No-call List for the previous quarter; and
- (D) 723-22-4.11.1.4 Such other information as the Commission shall request for purposes of determining the annual registration fees or submitting its report to the Joint Budget Committee.

(II) 723-22-4.11.2 The designated agent shall submit semi-annually to the Commission the following information in order for the Commission to file semi-annual reports to the Joint Budget Committee. The designated agent shall submit this information no later than October 31 to cover the period April 1 through September 30 and no later than April 30 to cover the period October 1 through March 31. The Commission will determine the exact format of this report.

- (A) 723-22-4.11.2.1 Projected revenues for the next 12 months;
- (B) 723-22-4.11.2.2 Projected operating expenses for the next 12 months;
- (C) 723-22-4.11.2.3 Projected capital investment expenditures for the next 12 months; and

- (D) 723-22-4.11.2.4 Such other information as the Commission shall request for purposes of submitting its semi-annual report to the Joint Budget Committee.
- (l) 723-22-4.12 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) 723-22-4.13 Complaint system.
 - (I) 723-22-4.13.1 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) 723-22-4.13.1.1 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) 723-22-4.13.1.2 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) 723-22-4.13.2. 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) 723-22-4.14 Federal No-call List Program. If at any point during the term of the Commission's contract with the designated agent a single federal national database of telephone numbers of residential subscribers who object to receiving telephone solicitations is established, the designated agent shall include the Colorado portion of such a database in the Colorado No-call List.
- (o) 723-22-4.15 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. 723-22-5. 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
CHCSM	Colorado High Cost Support Mechanism
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
dBrnC	Decibel above Reference Noise level using C-message weighting
DEM	Dial Equipment Minutes of Use
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
Hz	Hertz
ICB	Individual Case Basis
IEEE	Institute of Electrical and Electronics Engineers
ILEC	Incumbent Local Exchange Carrier
ISDN	Integrated Services Digital Network
IXC	Interexchange Carrier
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
LITAP	Low-Income Telephone Assistance Plan
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
OCC	Office of Consumer Counsel
ONA	Open Network Architecture
OSS	Operational Support Systems
PBX	Private Branch Exchange
PCS	Personal Communications Service
PIN	Personal Account Identification Number
POLR	Provider of Last Resort
POTS	Plain Old Telephone Service
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
UNE	Unbundled Network Element
USF	Universal Service Fund
USOA	Uniform System of Accounts
WATS	Wide Area Telephone Service