

PUBLIC UTILITIES COMMISSION
MAILED

(Decision No. C88-1450)

OCT 28 88

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE RULES OF THE)	
PUBLIC UTILITIES COMMISSION OF THE)	
STATE OF COLORADO REGULATING)	CASE NO. 6722
SERVICES AND PRODUCTS PROVIDED)	
PURSUANT TO TITLE 40, ARTICLE 15,)	COMMISSION ORDER AND NOTICE ON
PART 3, OF THE COLORADO REVISED)	PROPOSED RULES
STATUTES AND CERTIFICATION OF)	
PROVIDERS OF THOSE SERVICES AND)	
PRODUCTS.)	

October 26, 1988

STATEMENT, FINDINGS, AND NOTICE

TO ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

Notice is given by the Public Utilities Commission of the State of Colorado that it proposes to amend the rules regulating emerging competitive telecommunications services and the rules certifying providers of those services as stated in Attachments I & II to this order. The Commission also will give notice of dates for intervention and for the filing of suggestions, comments, or proposed modifications to the rules proposed in Attachments I and II to this order. The Commission also attaches a proposed regulatory analysis of the rules proposed in Attachments I & II as required by § 24-4-103(4.5)(a) and (b), C.R.S. The proposed regulatory analysis is attached as Attachment III to this order and is made available and may be obtained at the Commission's file room, Office Level 2, 1580 Logan Street, Denver, Colorado 80203.

On October 7, 1987, by Decision No. C87-1415, the Commission adopted rules under § 40-15-302(1), C.R.S., emerging telecommunications service. Since that time the Commission has adopted temporary Rule 1.1 to change the word may to shall in the first and second sentences of that rule. On October 5, 1988, the Commission gave advance notice of proposed amendments to the emerging competitive telecommunications service rules, and the rules certifying providers of those services by Decision No. C88-1341. The Commission gave advance notice of public rulemaking hearing for January 24, 1989, and established November 21, 1988, as the date that any person, firm, or corporation may intervene in Case No. 6722 by Decision No. C88-1314. The Commission also established December 9, 1988, as the date for filing objections, suggestions, or modifications to the proposed amended rules, attached as Attachments I and II to Decision No. C88-1341.

The rules in Attachments I and II to Decision No. C88-1341 were delivered to the Office of Regulatory Reform for review as to flexibility compliance under § 24-4-103.5, C.R.S., on October 7, 1988. Ten days from the delivery of the rules proposed in Attachments I and II to Decision No. C88-1341 elapsed on October 17, 1988. Accordingly, the Commission now gives official notice of hearing dates, dates for intervention, and dates for the filing of comments, suggestions, and proposed modifications to the rules proposed in Attachments I and II to this Decision and Order, and as Attachments I and II to Decision No. C88-1341. Modifications to the rules proposed in Attachments I and II to this Decision and Order must be in the legislative drafting format required by the Colorado General Assembly for proposed legislation.

The Commission gives notice of public rulemaking hearing of January 24, 1989, 9:00 a.m. Commission Hearing Room, Office Level 2, 1580 Logan Street, Denver, Colorado 80203 to all interested persons, firms, or corporations who, in the opinion of the Commission, are interested in, or who would be effected by the adoption of the rules proposed in Attachments I and II to this decision and order. The Commission is also required by § 24-4-103(3)(b), C.R.S., to maintain a list of all persons who request notice of proposed rulemaking and to provide advance notice to these persons of proposed rulemaking. The Commission has not received any request for notice of proposed rulemaking by any person, and thus no additional notice will be given of this rulemaking proceeding.

The Commission is also required by § 24-4-103(4)(a), C.R.S., to make copies of any proposed rule or revised proposed rule available to the public and to any person at least five days before public hearing together with a proposed statement of the basis, specific statutory authority, purpose, and the regulatory analysis required by § 24-4-103(4.5)(a), C.R.S. The rules proposed in Attachments I and II to Decision No. C88-1341 and the identical rules proposed in Attachments I and II to this decision and order both contain statements of the specific statutory authority, and of the basis and purpose of the proposed rules. Accordingly, the proposed rules in Attachments I and II to this decision and order and to Decision No. C88-1341, along with statements of the basis and purpose and specific statutory authority and the regulatory analysis, attached as Attachment III to this decision and order, are made available to any person at least five days before scheduled hearing by being included in the rules proposed in Decision No. C88-1341 and in this order, and by now being available in the Commission's file room. If the rules proposed in Appendices I and II to Decision No. C88-1341 and in this order are changed before the scheduled hearing, the revised proposed rules shall be made available at least five days before the public rulemaking hearing by being available in the Commission's file room.

Section 24-4-103(4)(a), C.R.S., requires that the Commission shall hold a public rulemaking hearing where interested persons have an opportunity to submit written data, views, or arguments and to present them orally, unless the Commission deems it unnecessary. The Commission is also required by this section to consider all submissions, and the rules promulgated by the Commission must be based on the record, which shall consist of proposed rules, evidence, exhibits, and other matters

presented or considered, matters officially noticed, rulings on exceptions, any findings of fact and conclusions of law proposed by any party, and any written comments or briefs filed. Accordingly, the Commission, in addition to giving notice of rulemaking hearing of January 24, 1989, will also provide that any person, firm, or corporation desiring to intervene or participate as a party in this proceeding shall file a written entry of appearance and notice of intervention, in duplicate, under Rule 20 of the Commission's Rules of Practice and Procedure, with the Commission by November 21, 1988. Also, any person, firm, or corporation desiring to file objections, suggestions, or modifications to the proposed amended rules in Attachments I and II may do so by December 9, 1988. The Commission will consider all written submissions and evidence presented at the hearing scheduled on January 24, 1989. Also, proposed regulatory analysis as required by § 24-4-103(4), C.R.S., is attached as Attachment III to this order, and is also made available and will be available to any person requesting it by being maintained in the official file of this matter in the Commission's file room at the Commission's office. Attachments I, II, and III to this order will be incorporated by reference verbatim.

The Commission finds that broad notice of the hearings, the opportunity to file comments, to propose modifications or suggestions, and of intervention will be given of these proposed amended rules, but that notice of further matters in this proceeding, after this official notice will only be given to those who enter an appearance and notice of intervention under Rule 20 of the Commission's Rules of Practice and Procedure.

THEREFORE THE COMMISSION ORDERS THAT:

1. Case No. 6722 is set for public rulemaking hearings to consider what changes to the proposed rules in Attachments I and II to this Order if any, should be made. Attachments I and II to this Order are incorporated by reference verbatim. The proposed regulatory analysis in Attachment III to this Order is also incorporated by reference verbatim. Public Rulemaking hearing before the Commission is set as follows:

DATE: January 24, 1989
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Office Level II (OL-2)
Logan Tower
1580 Logan Street
Denver, Colorado 80203

3. Any person, firm, or corporation desiring to intervene or participate as a party in this proceeding shall file a written Entry of Appearance and Notice of Intervention, in duplicate, under Rule 20 of the Commission's Rules of Practice and Procedure, with the Colorado Public Utilities Commission by November 21, 1988.

3. Any person, firm, or corporation desiring to file objections, suggestions, or modifications to the proposed amended rules, attached as Attachments I and II to this Order, shall do so by filing in written form, an original and six copies with the Commission's Secretary on or before December 9, 1988.

4. This Order and Notice is issued under the authority of §§ 24-4-103, 24-4-1-3(6), 40-15-302(1) and (2), C.R.S., and other pertinent provisions of the public utilities law.

This Order is effective forthwith.

DONE IN OPEN MEETING the 26th day of October 1988.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

ANDRA SCHMIDT

RONALD L. LEHR

Commissioners

ATTEST: A TRUE COPY


James P. Spiers
Executive Secretary

MRH:srs:7589J

RULES UNDER SECTION 40-15-302(1) C.R.S.
EMERGING COMPETITIVE TELECOMMUNICATIONS SERVICE

BASIS, PURPOSE, AND STATUTORY AUTHORITY

These rules are issued under the authority of § 40-15-302(1), C.R.S., and § 24-4-103, C.R.S. The basis and purpose for these rules are to establish procedures and standards applicable to decisions regarding the appropriate level and type of regulation for services and products deemed to be emerging competitive telecommunications services as defined in § 40-15-301(2) and § 40-15-305(2), C.R.S. These rules also describe the information that should be provided in applications for relaxed regulatory treatment or for deregulation of services or products, and establish a time schedule for the efficient disposition of those applications.

RULE 1 - GENERAL

Rule 1.1 Relaxed Regulation and Deregulation of Emerging
Competitive Telecommunications Services

The Commission, upon its own motion, or upon application by any person or firm (the applicant) using, providing, or planning to provide telecommunications service, within Colorado, shall regulate pursuant to Part 3 of Article 15, Title 40, C.R.S., any emerging competitive telecommunications service or product provided by any person or firm otherwise subject to its jurisdiction, in whole or in part, upon a finding that there is emerging competition for the service, and that relaxed regulation will foster the competitive telecommunications marketplace and will promote the public interest and the provision of adequate and reliable service at just and reasonable rates. In the same manner, the Commission shall deregulate any emerging competitive telecommunications service or product, upon a finding that there is effective competition for the service, and that deregulation will promote the public interest, and the provision of adequate, reliable service at just and reasonable rates as described in § 40-15-305(1), C.R.S.

Rule 1.2 Notice

Upon the filing of an application for relaxed regulation or for deregulation, pursuant to Rule 2 or Rule 3 of these rules, the applicant must provide notice of the application within 15 days to all existing customers in accordance with one of the methods of notice in § 40-3-104, C.R.S., unless the Commission approves a different means to notify existing customers. The applicant also must provide notice by first

class mail to all providers of telecommunications services who are regulated by the Commission under Title 40, Article 15, Part 2 or Part 3, C.R.S. The Commission will maintain a current list of these providers with their mailing addresses at the Commission's office.

Rule 1.3 Accounting Plan to Segregate Assets

1.3.1 Where a provider of telecommunications services furnishes services that are regulated under Title 40, Article 15, Part 2 or Part 3, C.R.S., and proposes to offer other services that will be subject to relaxed regulation under Title 40, Article 15, Part 3 or be deregulated under Title 40, Article 15, Part 4, C.R.S., the provider shall file with the Commission, at the time a request is made for relaxed regulation or deregulation, an accounting plan that segregates assets, liabilities, revenues and expenses associated with providing regulated services from assets, liabilities, revenues, and expenses associated with providing services subject to relaxed regulation or deregulation. The Commission shall adopt an appropriate accounting plan to segregate assets, liabilities, revenues, and expenses of the services as required by this rule.

1.3.2 If an industry-wide service, product, or market is subject to relaxed regulation, or is deregulated, all providers shall submit to the Commission and all affected parties, within 30 days from the effective date of the order granting relaxed regulation or deregulation, a proposed plan to segregate the assets, liabilities, revenues, and expenses associated with providing the service. The Commission may establish a proceeding to adopt an appropriate method to segregate the assets, liabilities, revenues, and expenses associated with providing the service or product. If neither a provider nor any party to the proceeding requests a hearing, the Commission may approve the plan for the segregation of assets, liabilities, revenues, and expenses without hearing under § 40-6-109(5), C.R.S.

Rule 1.4 Non-Action By The Commission. Effect Of Failure To Comply
With Procedural Requirements.

No application or request filed with the Commission shall be deemed granted by non-action of the Commission or by failure to comply with any procedural requirement in these Rules except as specifically required by statute, except non-action pursuant to Rule 2.3.2(c).

RULE 2 - RULES RELATING TO APPLICATIONS
FOR RELAXED REGULATION

Rule 2.1 Application Information For Relaxed Regulation

2.1.1 Any applicant filing an application for relaxed regulation of an emerging competitive telecommunications service or product must submit the following information:

- (a) The name, address, and telephone number of the applicant submitting the application;
- (b) A specific description of the service or product for which relaxed regulation is sought and the type of flexible regulation requested;
- (c) The geographic areas in which the service is, or will be, offered;
- (d) A list of other known providers of similar or substitutable services or products, and any significant, functional differences between the applicant's service or product and other available services or products, if known;
- (e) The estimated market share of the applicant;
- (f) Any available cost and estimated demand data;
- (g) A listing and copies of all presently effective tariff pages for the service or product;
- (h) A description of all presently effective rate elements for the service or product;
- (i) If the provision of the service or product involves the use of investments and expenses that are jointly used to provide services or products regulated under Title 40, Article 15, Part 2 or not subject to relaxed regulation under Title 40, Article 15, Part 3, then identify the Uniform System of Accounts account number affected, and briefly describe the method by which the jointly used investments and expenses are allocated between the relevant services and products, and

- (j) Specific information upon which the applicant will rely to demonstrate that the service or product is subject to emerging competition, and that relaxed regulation will foster the continuing emergence of a competitive market and will promote the public interest and the provision of adequate, reliable service at just and reasonable rates.

2.1.2 At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. The applicant shall indicate any information which is claimed to be confidential and shall set forth the grounds for the claim of confidentiality. The applicant may file a motion for the protection of information which it claims to be confidential.

Rule 2.2 Processing Applications for relaxed regulation

2.2.1 Upon the filing of an application for relaxed regulation or upon Commission motion, the applicant shall immediately issue notice to the public as required by Rule 1.2 of these rules. If the Commission institutes a proceeding for relaxed regulation upon its own motion, it shall issue notice to the public in accordance with § 40-6-108(2), C.R.S.

2.2.2 The Commission shall issue a procedural order within 20 days of the receipt of the application concerning the processing of the application, which shall include protective provisions for the handling of any alleged confidential information.

2.2.3 The time frame, depending upon the complexity and extent of an application, for processing an application for relaxed regulation shall be indicated below.

- (a) Within 60 days from the date the application is filed, the Staff of the Commission and intervenors shall file their direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. Parties shall indicate any information which is claimed to be confidential and shall give the grounds for the claim of confidentiality.

- (b) All discovery requests shall be completed within 60 days from the date the application is filed. Response time for discovery requests shall be 20 days.
- (c) The hearing shall be set and begin within 90 days from the date the application is filed and may only be continued for a period of 15 days upon a showing of good cause.
- (d) Simultaneous closing statements and briefs may be filed within 10 days after completion of the hearing.
- (e) A decision will be issued within 150 days from the date the application is filed.

2.2.4 Except where precluded by statute, the Commission may modify any of the time requirements in this rule by order, upon its own motion or by request of a party to the proceeding. Nothing in this rule shall preclude the Commission from issuing necessary procedural orders in connection with the application.

Rule 2.3 Relaxed Regulation Options and Guidelines

The Commission may adopt any appropriate relaxed regulatory relief it deems appropriate under the circumstances, and include one or a combination of the following:

2.3.1 Elimination of Rate-of-Return Regulation

The Commission may eliminate traditional rate-base, or rate-of-return regulation and may adopt any surrogate process it deems appropriate to protect the public and promote competition which may include, but is not limited to, the alternatives listed in this rule.

2.3.2 Flexible Pricing Bands

- (a) The Commission may set a band of rates in which the provider will be allowed to price without Commission approval, after providing a new price list to the Commission and affected customers at least 14 days prior to the new prices taking effect, and establishing that the band of rates serves the public interest. The minimum limit on the band of rates will be no less than the cost of providing the service, as defined by the Commission.

- (b) A band of rates may be requested by an application or pursuant to the tariff-advice letter process. If by application, Rule 2 of these rules will apply; if by advice letter, the process applicable to tariff-advice letters found in Commission Rules of Practice and Procedure, Part IV will apply.
- (c) A provider may request that the Commission review the band of flexibility for any flexibly priced service or product. The provider should supply the Commission with available cost and marketing data used to conclude that the existing band is no longer appropriate. The Commission shall have 14 days to approve the change, set a hearing date for comments on the requested change, or deny the request for change. If the Commission takes no action within the 14-day period, the request for a review of the band shall be deemed approved.
- (d) Within 14 days of receiving approval to offer a flexibly priced service or product, the provider shall provide the Commission with a price list that clearly describes the rates to be charged for the service. If rates vary across different customer classes, territories, or levels of service, the price list must reflect each of these distinctions.

2.3.3 Trial Offerings

- (a) The Commission may authorize the provider to offer the service or product on a limited basis for a period of six months, unless extended further by the Commission. The provider will be required to provide all customers with written notice of the trial-nature and duration of the offering. The Commission may limit the trial in terms of the investment level, prices, the territory in which the service may be offered, or the number of customers which can be served during the trial period.
- (b) During the trial period, the provider may be required to maintain separate books and accounts in a manner prescribed by the Commission, and to file the data with the Commission at the end of the trial period.

2.3.4 Shortened Notice Periods

Revised tariffs for emerging competitive telecommunications services that reflect only decreases in rates shall require a minimum of five days' notice to the Commission. Tariffs for emerging competitive telecommunications services which reflect increased rates shall require a minimum of 14 days' notice to the Commission and affected customers. Unless the Commission sets a hearing date for the tariff and suspends its proposed effective date, the tariff will become effective according to its terms.

2.3.5 Detariffing of Services

The Commission may detariff any emerging competitive telecommunications service or product. Detariffing shall mean that providers of the competitive service or product shall provide the Commission with a price list, including the terms and conditions of the provision of the competitive service or product. Except as otherwise provided by Commission decision or order, the price list shall not be subject to Commission review except in establishing that the prices are fully compensatory.

2.3.6 Waiver of Tariff Requirements for Competitive Firm

The Commission may also waive tariff requirements for any provider who offers only emerging competitive telecommunications services or products. Any provider waived from tariff requirements will continue to be subject to the procedures for detariffed services or products.

2.3.7 Segregation of Assets

Where a provider provides services or products regulated under Title 40, Article 15, Part, 2 and services or products that are subject to relaxed regulatory treatment under Title 40, Article 15, Part 3, the Commission may require assets, liabilities, revenues, and expenses for services and products accorded relaxed regulatory treatment to be segregated from the investments and expenses associated with all other regulated services or products for monitoring purposes.

2.3.8 The Commission may adopt other procedures it deems appropriate in furtherance of relaxing regulation of services or products otherwise subject to its jurisdiction, consistent with the expression of intent pursuant to § 40-15-101, C.R.S.

RULE 3 - RULES RELATING TO DEREGULATION

Rule 3.1 Application Information for Deregulation

3.1.1 Any application for deregulation of an emerging competitive telecommunications service or product must include the following information:

- (a) The name, address, and telephone number of the applicant;
- (b) A specific description of the service or product for which deregulation is sought;
- (c) The geographic areas in which the service is, or will be offered;
- (d) A list of other known providers of similar or substitutable services or products, and any significant, functional differences between the applicant's service or product and other available services or products, if known;
- (e) The estimated market share of the applicant;
- (f) Any available cost and estimated demand data;
- (g) A list and copies of all presently effective tariff pages for the service or product;
- (h) A description of all presently effective rate elements for the service or product;
- (i) If the provision of the service or product involves the use of investments and expenses that are jointly used to provide services or products regulated under Title 40, Article 15, Part 2 or not subject to relaxed regulation under Title 40, Article 15, Part 3, then identify the accounts affected under an accounting plan designed to segregate assets, liabilities, revenues, and expenses as required in Rule 1.3 of these rules, and briefly describe the method by which the jointly used investments and expenses are

allocated between the relevant services and products, and

- (j) Specific information upon which the applicant will rely to demonstrate that the service or product is subject to effective competition in the relevant market for such service, and that such deregulation will promote the public interest, and the provision of adequate and reliable service at just and reasonable rates.

3.1.2 At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. Any information which is claimed to be confidential shall set forth the grounds for the claim of confidentiality, including information in Rule 3.1.1 above.

Rule 3.2 Processing Applications For Deregulation

3.2.1 Upon the filing of an application for deregulation, the applicant shall issue notice of the application to the public as required by Rule 1.2 of these rules. If the Commission institutes a proceeding for deregulation upon its own motion, it shall issue notice to the public in accordance with § 40-6-108(2), C.R.S.

3.2.2 The Commission shall issue a procedural order within 20 days from the date the application is filed concerning the processing of the application, including protective provisions for the handling of any alleged confidential information.

3.2.3 Should an application be filed which the Commission determines is not complete, the Commission shall notify the applicant within 10 days from the date the application is filed of the need for additional information. The applicant may then supplement the application so that it is complete. Once complete, the application will then be processed. A substantially amended application shall be treated as a new application.

3.2.4 The schedule for processing and the application for deregulation shall be as follows:

- (a) Within 90 days from the date the Commission issues its procedural order, Staff of the Commission and intervenors shall file their direct testimony and copies of exhibits to be offered at the hearing. If an exhibit is too large or cumbersome to prefile, the location of the exhibit shall be disclosed where parties may inspect it, and the applicant shall file a title of each exhibit and a summary of the information contained in the exhibit. Parties shall indicate any information which is claimed to be confidential and give the grounds for the claim of confidentiality.
- (b) All discovery requests shall be completed within 90 days after the issuance of the procedural order. Response time for discovery requests shall be 20 days.
- (c) The hearing shall be set and begin within 110 days of the date of the procedural order and may only be continued for a period of 15 days upon a showing of good cause.
- (d) Simultaneous closing statements and briefs may be filed within 10 days after completion of the hearing.
- (e) A decision will be issued within 180 days from the date the application is filed unless the proceeding cannot be completed within 180 days; then the Commission may defer the decision for an additional 90 days as permitted by § 40-15-305(1)(c), C.R.S.

3.2.5 Except where precluded by statute, the Commission may modify any of the time requirements in this rule by order, upon its own motion or by request of a party to the proceeding. Nothing in this rule shall preclude the Commission from issuing necessary procedural orders in connection with the application. The Commission may permit variance from these rules, if not contrary to law, for good cause shown or if it finds compliance to be impossible, impracticable, or unreasonable.

RULES UNDER SECTION 40-15-302(2) C.R.S.
EMERGING COMPETITIVE TELECOMMUNICATIONS SERVICES
PROVIDER CERTIFICATION

BASIS, PURPOSE, AND STATUTORY AUTHORITY

These rules are issued under the authority of § 40-15-302(2), C.R.S., and § 24-4-103, C.R.S. The basis and purpose for these rules are to establish procedures to identify providers of emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S. These rules also describe the information that should be provided to the Commission by these providers and their reporting obligations to the Commission. These rules require certification of these providers (except for resellers) but establish no substantive entry requirements to provide emerging competitive telecommunications services. Identification of these providers will enable the Commission to provide adequate notice of any proceedings which may be established to investigate and process complaints by the Commission as authorized in § 40-15-301(1), C.R.S.

Rule 1 Registration and Identification of Providers of Emerging
Competitive Telecommunications Services

All persons, firms, or corporations which provide emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S., except resellers of these services, shall register with the Commission and provide the following information unless the Commission grants a waiver to omit any specific piece of information:

- (a) The name, address, and telephone number of the provider;
- (b) The name under which the provider will provide these services if different than in subparagraph (a);
- (c) If the provider is a corporation:
 - (1) A statement of that fact, the state in which it is incorporated, and, if an out-of-state corporation, a copy of the authority qualifying it to do business in Colorado;
 - (2) Location of its principal office, if any, in this state; and
 - (3) A copy of its Articles of Incorporation.

- (d) If the provider is a partnership, the name, title, and business address of each partner, both general and limited.
- (e) A specific description of the services provided by the provider;
- (f) A detailed statement of the means by which the provider will provide the services;
- (g) The geographic areas in which the services are, or will be, offered;
- (h) A current financial statement showing the provider's assets, liabilities, and net worth;
- (i) The name and address of the provider's representative, if any, to whom all inquiries should be made.

Rule 2 Certification By Registration

The information sought in Rule 1 is for the Commission to determine the level of regulation which will be imposed upon the provider and for identification purposes. Each provider which has registered itself with the Commission pursuant to Rule 1 shall be granted a certificate of public convenience and necessity for the provision of emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S., and the providers may provide any of these services when registration pursuant to Rule 1 has been completed.

Rule 3 Commission Regulation of Providers

The Commission shall regulate providers of emerging competitive telecommunications services as provided in § 40-15-301(1), C.R.S., and in accordance with the Rules Regulating Providers of Emerging Competitive Telecommunications Services, both the existing emergency rules and any permanent rules which subsequently may be adopted in accordance with § 40-15-302(1), C.R.S. The Commission may permit variance from these rules if not contrary to law, for good cause shown, or if it finds compliance to be impossible, impracticable, or unreasonable.

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PROPOSED REGULATORY ANALYSIS

Emerging Competitive Telecommunications Services Provider
Certification Rule 1 - Registration and Identification of Emerging
Competitive Telecommunications Services.

1. Classes of Persons Affected.
New providers of emerging competitive telecommunications services.
2. Quantitative and Qualitative Impact on Class.
Allow provider registration to be acted upon when certain information is not available.
3. Cost to agency.
None.
4. Cost and Benefits of Action or Inaction.
Allow the Commission greater flexibility in the registration of emerging telecommunications providers. Without change, registration can be denied for insignificant technical reasons.
5. Less Costly or Intrusive Measures.
None.
6. Alternative Methods, if any.
None.

Emerging Competitive Telecommunications Service Rule 1.1 -
Relaxed Regulation and Deregulation of Emerging Competitive
Telecommunications Services.

1. Classes of Persons Affected.
None.
2. Quantitative and Qualitative Impact on Class.
None.
3. Cost of Agency.
None.

4. Cost and Benefits of Action or Inaction.
Benefit of action is to conform rule to language in statute. Cost of Inaction is potential litigation due to lack of conformance to statutory language.
5. Less Costly or Less Intrusive Measures.
None.
6. Alternative Methods, if any.
None.

Emerging Competitive Telecommunications Service Rule 1.2 - Notice.

1. Class of Persons Affected.
Regulated telecommunications providers of Part III services which request relaxed regulation or deregulation of a Part III service(s).

Customers of regulated telecommunications providers that provide Part III services which relaxed regulation or deregulation has been requested.
2. Quantitative and Qualitative Impact Upon Class.
Telecommunications providers will absorb the cost of first class mailing to affected customers.
3. Cost to Agency.
None.
4. Cost or Benefit of Action or Inaction.
Assurance that customers affected by relaxed regulatory treatment or deregulation are informed about the potential change in their service.
Inaction would in some cases result in customers not receiving notice.
5. Less Costly or Less Intrusive Measures.
Second, Third, or Fourth Class Mailing.
6. Alternative Methods, if any.
Notice through newspapers, radio, television.

Emerging Competitive Telecommunications Service Rule 2.3.1 -
Elimination of Rate of Return.

1. Classes of Persons Affected.
Regulated telecommunications providers requesting relaxed regulation of emerging competitive services. Consumers of the services offered by a regulated telecommunication provider requested relaxed regulation of emerging competitive services.
2. Quantitative and Qualitative Impact on Class.
Insurance of greater flexibility in regulatory treatment.
Prices and revenues may be affected but the amounts will depend upon the specific case.
3. Cost to Agency.
None.
4. Cost and Benefit of Action or Inaction.
The cost is a lack of regulatory flexibility.
The benefit is greater regulatory flexibility for the PUC and providers of emerging telecommunications services.
5. Less Costly or Less Intrusive Measures.
None.
6. Alternative Methods, if any.
List all possible combinations and permutations of alternatives to rate base regulation, rate of return regulation, and flexible regulation.

Emerging Competitive Telecommunications Service Rule 2.3.8.

1. Classes of Persons Affected.
None.
2. Quantitative and Qualitative Impact on Class.
None.
3. Cost to Agency.
None.

4. Cost and Benefits of Inaction.
Clarify rule with respect to statute.
5. Less costly or Less Intrusive Measures.
None.
6. Alternative Methods, if any.
None.

Specific Rules Relaxing to Deregulation Rule 3.2 and 3.2.3 -
Processing Applications for Deregulation.

1. Classes of Persons Affected.
Providers of emerging telecommunications services who have requested deregulation of an emerging competitive service.
2. Quantitative and Qualitative Impact on Class.
Extend the time period within which an applicant may receive a decision.
3. Cost to Agency.
None.
4. Cost and Benefits of Action or Inaction.
Provide incentive for an application to file a complete application.

Prevent the agency and intervenors from examining faulty applications and then work over time examining amended applications.
5. Less Costly or Intrusive Measures.
None.
6. Alternative Methods, if any.
None.