

Decision No. C02-533

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02I-251T

IN THE MATTER OF AN INVESTIGATION OF EXPANDING THE DEFINITION OF
BASIC LOCAL EXCHANGE TELEPHONE SERVICE OR BASIC SERVICE.

**ORDER OPENING INVESTIGATION
AND REQUESTING COMMENTS**

Mailed Date: May 8, 2002

Adopted Date: May 3, 2002

I. BY THE COMMISSION

Statement

1. On May 24, 1995, House Bill 95-1335 was signed into law (the "Colorado Act"). The Colorado Act, in part, modified the statutory definition of basic telephone service (§ 40-15-102(3), C.R.S.), amended the section establishing the Colorado High Cost fund (§ 40-15-208, C.R.S.), and added a new Part 5 to Article 15 of Title 40 providing for local exchange service competition. The definition of Basic Service now provides that the term may be modified from time to time to include other features and services that the Commission may add under § 40-15-502(2), C.R.S.

2. The Colorado Legislature as part of the Colorado Act also expressed its desire that the Commission periodically review its definition of Basic Service:

"The Commission shall conduct a proceeding when appropriate, but no later than July 1, 1999, and no less frequently than every three years to consider the revision of the definition of basic service, with the goal that every citizen of this state shall have access to a wider range of services at rates that are reasonably comparable as between urban and rural areas." § 40-15-502(2), C.R.S.

3. Pursuant to statute, it is now time for this Commission to conduct its triennial review to consider any revisions to the definition of basic service. The current rules for the definition of basic service are contained in Appendix A of this order.

4. Therefore, the Commission seeks comments on any changes or modifications that should be made to the definition of Basic Service. In particular, the Commission would like comments on whether the following components should be added to the definition of Basic Service:

~~A.~~A. The ability to place calls to or receive calls from the Colorado provider of Telecommunications Relay Service ("TRS") for the purpose of completing calls to or receiving calls from a text telephone ("TTY") or other similar device by either dialing the appropriate telephone number directly or by dialing 711;

~~B.~~B. The ability to place calls to other N11 codes without additional charges such as:

~~i.~~i. 211 - information and referral services to community service organizations;

- ii. 311 - non-emergency police services;
- iii. 511 - nationwide access to travel information services;
- iv. 611- the local exchange carrier's repair office;
- v. 811 - the local exchange carrier's business office.

~~G~~.C. Local usage within the local calling area as defined by the Commission in Rule 723-2-17.3; |

~~D~~.D. To provide the customer a copy of the White Page Directory covering the customer's local calling area per Rule 723-2-12; |

~~E~~.E. The ability to place calls to Directory Assistance (411); |

~~F~~.F. Access to intercept services to the extent described in Rule 723-2-12.3; |

~~G~~.G. The capability to initiate caller identification blocking per call using *67 at no additional charge; |

~~H~~.H. The capability to initiate caller identification blocking per line at no additional charge; |

~~I~~.I. Whether additional privacy protections should be afforded customers such as the right of the customer to control the release of customer proprietary network information to affiliates of the provider; |

J. Whether zone charges should be eliminated as part of the Commission's review of the definition of Basic Service and, if yes, any implementation issues that need to be addressed.

5. While the goal of § 40-15-502(2), C.R.S., is that every citizen have access to a wider range of services, the Commission's review of the basic service definition is not necessarily a ratchet toward a larger service offering. The

Commission, therefore, also seeks comment on whether the basic service definition should be contracted and, if so, what the definition should be. We are particularly interested in whether § 40-15-502(3)(b)(I), C.R.S., when read in light of § 47 U.S.C. § 253 or other commands of the Telecommunications Act of 1996, counsels any particular outcome for our definition of basic service under § 40-15-502(2), C.R.S.

6. After reviewing the comments of interested parties, the Commission may initiate additional proceedings and establish associated procedural schedules, as necessary.

7. Interested persons should submit their initial written comments on or before June 3, 2002. Reply comments should be submitted on or before June 17, 2002. The Commission will consider all submissions.

II. ORDER

A. The Commission orders that:

1. This investigatory docket is opened for the purposes discussed above.

2. Interested persons may file their initial written comments on or before June 3, 2002. Reply comments shall be submitted on or before June 17, 2002. The Commission will consider all submissions.

3. This Order is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING May 3, 2002.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

POLLY PAGE

ATTEST: A TRUE COPY

Bruce N. Smith
Director

JIM DYER

Commissioners

Appendix 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 to each of its customers within its jurisdictional service area with the following services or capabilities:

723-2-17.1.1 Individual Line Service or its functional equivalent constructed and maintained to meet the general parameters and characteristics of Rule 2-18;

723-2-17.1.2 Voice Grade Access (as that term is defined in Rule 2-2.51) to the public switched network;

723-2-17.1.3 Dual tone multifrequency signaling capability or its functional equivalent on the local access line;

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

premise equipment within the bandwidth of Voice Grade Access (as that term is defined in Rule 2-2.51);

723-2-17.1.5 Local Usage. Each LEC shall construct and maintain sufficient message path capacity to meet the requirements of Rule 2-21.1.1;

723-2-17.1.6 Access to Emergency Services;

723-2-17.1.7 Access to Toll Services: Any telecommunications service provider granted authority to serve in an area in which the incumbent telecommunications service provider has provided the capability for a customer to presubscribe to different MTS providers for the use of 1+ dialing capability shall also provide that capability to all customers served in such area;

723-2-17.1.8 Customer Billing; to the extent described in Rule 10;

723-2-17.1.9 Public Information Assistance to the extent described in Rule 11;

723-2-17.1.10 Access to Operator Services;

723-2-17.1.11 White page directory listing as described in Rules 12.1 and 12.2;

723-2-17.1.12 Access to directory assistance and intercept to the extent described in Rule 12.3;

723-2-17.1.13 In the event of a commercial power failure, the telecommunications service provider shall provide a minimum of four hours of backup power (or battery reserve) rated for peak traffic load requirements from the telecommunications service 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 utilize a traditional ringer. A mobile power source shall be available which 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:

- (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; and

723-2-17.1.14 At a minimum, all telecommunications service providers shall offer Basic Local Exchange Service (as defined in this Rule) by itself as a separate tariff offering.

This provision does not preclude the telecommunications service provider from also offering Basic Local Exchange Service packaged with other services.

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 certificate of public convenience and necessity, 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 jurisdictional serving area:

723-2-17.2.1 The basic service standard defined in Rule 17.1;

723-2-17.2.2 E911 service, either by providing the necessary facilities and identification (name/number, etc.) information to a basic emergency service provider or as provided by the LEC under Rules Prescribing the Provisions of Emergency Reporting Services for Emergency Telecommunications Service Providers and Telephone Utilities, 4 CCR 723-29 shall be available to any governing body upon request; and

723-2-17.2.3 Services to which the customer may voluntarily subscribe:

723-2-17.2.3.1 Services that deny access to MTS;

723-2-17.2.3.2 Services that deny access to other information service providers; and

723-2-17.2.3.3 Services that are defined as "Toll Limitation" services (see Rule 2-2.49.1).

723-2-17.3 Local Calling Area Standards.

Local calling areas as established by the Commission shall meet the community of interest or incremental extended service standards. Any telecommunications service provider that is granted authority to offer basic local exchange service in an exchange, or for any portion thereof, for which the Commission has previously established a Local Calling Area meeting the standards of Rule 17.3 shall provide at least one option to its customers that includes that same local calling area, unless modified by order of the Commission.

723-2-17.3.1 Principles. In general, and to the extent possible, each local calling area or an incremental extended service area should:

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;

723-2-17.3.1.2 be provided in both directions between the two exchange areas; and

723-2-17.3.1.3 not exhibit any discontinuities; (i.e. an exchange area physically located between two exchanges included in a local calling or incremental extended service area which is not included in the local calling or incremental extended service area).

723-2-17.3.2 Process for Expanding a Local Calling Area. The expansion of a local calling area will be considered by the Commission upon: 1) the Commission's own motion; 2) upon satisfaction of the criteria of Rule 17.3.3.1 as a result of the biennial review by the Staff of the Commission; 3) informal petition (i.e. not a formal complaint under § 40-6-108) of at least 15% or 500, whichever is less, of the customers in the petitioning exchange area; 4) the petition of a body politic within the soliciting exchange area; or 5) application of a local exchange provider. A petition addressing the potential expansion of the local calling area from one individual exchange to another

specific exchange shall be considered no more frequently than once per twelve month period.

723-2-17.3.2.1 When a petition is received by the Commission under Rule 17.3.2 any provider furnishing long distance service between the exchange areas and any provider furnishing switched access in the exchange areas being considered for inclusion in the expanded local calling area shall first perform all necessary analyses to quantify the calling volumes per customer set forth in Rule 17.3.3.1. If the criteria are not met, the matter will not be considered further unless either the petitioners elect to pursue an Incremental Extended Area Service option under Rule 17.3.4 or pursue establishing that the Alternate Criteria in Rule 17.3.3.2 are satisfied by formal application.

723-2-17.3.2.2 The provider(s) shall give the authorized representatives of customers seeking to expand their local calling area by petition, or other parties seeking to initiate an investigation to expand a local calling area, access to all relevant call volume data needed to determine whether the criteria required in Rule 17.3.3.1 can be met. The provider(s) shall have the right to require such persons or parties to

execute nondisclosure agreements to govern proprietary information before disclosing any such information.

723-2-17.3.3 Community of Interest Standards for Establishment of New Local Calling Areas.

An indication of a community of interest between exchange areas exists, sufficient to warrant further consideration by the Commission, when either of the following conditions are met:

723-2-17.3.3.1 Calling Volume Standard. The calling rate from the smaller exchange area under consideration for expansion of local calling area service equals or exceeds an average of four calls per customer per month to the larger exchange under consideration for expansion and at least two calls per customer per month are made by at least 50% of the customers. When the calling volumes meet this standard the Commission shall further investigate the expansion of the local calling area by opening a formal docket. When the exchange area under consideration for expansion of local calling area service includes the Denver Metro Exchange, then a calling rate of twenty-four calls per customer per month to the Denver Metro Exchange and at least eight calls per month per customer made by at least 50% of the customers from the smaller exchange area, would provide a showing of interest sufficient to warrant

investigation of the appropriateness of expansion of local calling area service. When the exchange area under consideration for expansion of local calling area service is the Colorado Springs Exchange, a calling rate of eight calls per customer per month to the Colorado Springs Exchange with at least three calls per month per customer made by at least 50% of the customers from the smaller exchange area, would provide a showing of interest sufficient to warrant investigation of the appropriateness of local calling area service expansion for the Colorado Springs Exchange areas. When the exchange area under consideration for expansion of local calling area service is the Pueblo, Ft. Collins, Grand Junction, or Greeley Exchange, a calling rate of six calls per customer per month to the Pueblo, Ft. Collins, Grand Junction, or Greeley Exchange with at least two calls per month per customer made by at least 50% of the customers from the smaller exchange area, would provide a showing of interest sufficient to warrant investigation of the appropriateness of local calling area service expansion for the these exchange areas. or

723-2-17.3.3.2 Alternate Criteria Standard. The Commission may consider requests for consideration of the establishment of a new local calling area based upon clear and

convincing evidence that a community of interest exists among the exchanges that do not currently meet the criteria of Rule 17.3.3.1. 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. Criteria to be used by the Commission in making its determination shall include:

723-2-17.3.3.2(a) the local calling area principles of Rule 17.3.1;

723-2-17.3.3.2(b) customer calling patterns;

723-2-17.3.3.2(c) the location of serving transportation centers;

723-2-17.3.3.2(d) demographic profiles of the residents of the exchange(s); and

723-2-17.3.3.2(e) location of primary centers of business activity and employment centers, and the location of employee residences.

The Commission may consider other pertinent factors such as the availability and feasibility of optional calling plans, and the level of local and long distance competition.

723-2-17.3.3.2.1 If a determination using the Alternative Criteria is sought, the application shall be signed by a majority of elected representatives of the city or town or county commissioners from the petitioning local exchange area.

If the application for establishment of a local calling area would result in a local calling area that crosses county boundaries, then a majority of county commissioners from the non-petitioning local exchange area shall also be signatories to the request.

723-2-17.3.3.3 When a local calling area is expanded, any rate increment shall be determined by apportioning the cost among all the customers of the provider.

723-2-17.3.4 Standards for Establishment of Incremental Extended Area Service. If the calling volume or other community of interest criteria are not met, the option of establishing a two-way incremental extended area service may be pursued by the petitioners as defined in Rule 17.3.2. An indication of the desire to expand a local calling area via an incremental extended area service option exists, sufficient to warrant further consideration by the Commission, when the petitioners provide formal written notice to the Commission of their intent to pursue this option. A joint petition may be filed by two or more exchanges for the establishment of a two-way incremental extended service area.

723-2-17.3.4.1 When such a petition is submitted by only one exchange, only customers in the petitioning exchange

will pay the incremental charge for the two-way incremental extended area service.

723-2-17.3.4.2 In the case of a joint petition of multiple exchanges, customers in all the petitioning exchanges will pay the incremental charge.

723-2-17.3.5 Cost Study. Upon a showing that the criteria of Rule 17.3.3 are met, or upon the election of the petitioners to pursue an Incremental Extended Area Service option under Rule 17.3.4, any provider furnishing service in and between the exchange areas being considered for inclusion in the local calling area shall perform all necessary revenue and cost analyses to quantify the rate increment per customer ("Cost Study"). The Cost Study shall be completed by the provider(s) and submitted to the Staff of 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 necessary modifications within 15 days of receipt. When the Cost Study is accepted without modification, the Commission shall direct that a letter be sent to the local exchange provider(s) notifying them of the calculated rate impact, and to proceed with the Customer Survey. Any issue arising regarding the Cost Study shall be resolved by Commission order.

723-2-17.3.6 Customer Survey.

723-2-17.3.6.1 When a local calling area is proposed to be expanded, 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 must 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% positive acceptance of the local calling area at the stated rate levels. The Customer Survey shall be completed within 30 days of Commission notification or as ordered.

723-2-17.3.6.1.1 Notwithstanding Rule 17.3.6.1, 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.

723-2-17.3.6.2 In the case of the incremental extended area service option, a statistically valid survey of only residential customers in the petitioning exchange area(s)

shall then be performed by the local exchange provider(s) at the expense of the petitioners or applicants. The statistical sample of residential customers shall be sized to produce not more than plus or minus five percent margin of error. The survey must 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% positive acceptance of the local calling area at the stated rate levels. The Customer Survey shall be completed within 30 days of Commission notification or as ordered.

723-2-17.3.7 When the requirements of Rules 17.3.3. and 17.3.6 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 proponent (petitioner or applicant) for modifying the existing local calling area shall have the burden of going forward and the burden of proof.

723-2-17.3.8 Local exchange carriers may offer a lower priced alternative to full flat rate local service, such as measured rate service and/or a message rate service. Local exchange carriers may also offer a combination local service comprised of a smaller calling area for a lower priced flat rate

with local measured and/or message rate service to the rest of the local calling area.

723-2-17.3.9 If the community of interest standards of Rule 17.3.3 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.