

Decision No. C02-1373

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02R-631T

IN THE MATTER OF EMERGENCY AMENDMENTS TO THE RULES REGULATING
TELECOMMUNICATIONS SERVICE PROVIDERS AND TELEPHONE UTILITIES, 4 CCR
723-2.

DECISION ADOPTING EMERGENCY RULES

Mailed Date: December 10, 2002

Adopted Date: December 4, 2002

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of an emergency rule amending the Commission's Rules Regulating Telecommunications Service Providers and Telephone Utilities (Telecom Rules), 4 *Code of Colorado Regulations* (CCR) 723-2. The emergency rule amends Rule 8.5.2 of the Telecom Rules to require that the interest rate for customer deposits that local exchange carriers (LECs) must pay remain at the current rate of 4.32 percent. For the reasons set forth in this decision, we now adopt, on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth in § 24-4-103, C.R.S.) the rule appended to this order as Attachment A. We take this emergency action in accordance with the provisions of § 24-4-103(6), C.R.S.

2. We find that adoption of the rule is necessary for the preservation of public health, safety, and welfare, and compliance with the rulemaking requirements associated with permanent rules, as set forth in § 24-4-103, C.R.S., would be contrary to the public interest.

3. As grounds for these findings, we state: It is necessary to adopt this emergency rule due to the termination of the publication by the Federal Reserve System that served as the benchmark for setting the interest rates that telephone utilities were required to pay on customer deposits.

4. Pursuant to 4 CCR 723-8.5, a LEC may require customers to maintain a cash deposit with it to ensure payment for services. The LEC is required to pay simple interest on the deposit held.

5. Staff of the Commission calculates the interest rate to be paid on customer deposits pursuant to guidelines in Rule 4 CCR 723-2-8.5.2. Specifically, the interest to be paid on deposits for the forthcoming year is to be the average monthly rate in the secondary market for one-year U.S. Treasury Bills for the 12-month period beginning October 1 and ending the following September 30, as posted in the Federal Reserve Bulletin, Board of Governors of the Federal Reserve System, Washington D.C., from the page entitled, *Interest Rate, Money and Capital Markets*.

6. The Board of Governors of the Federal Reserve Bank no longer publishes the information on one-year U.S. Treasury Bills necessary to establish the interest rate for customer deposits held by LECs.

7. Further, the Proposed Repeal and Reenactment of the Rules for Electricity, Gas, Water and Telephone Services will address the interest rate on customer deposits, however, the process for establishing those rules is ongoing and will not be completed prior to early January 2003. The existing rate of 4.32 percent terminates on December 31, 2002. Therefore, a regulatory gap in determining the interest rate on customer deposits will exist without this emergency rule to set interim rates.

8. To avoid such a regulatory gap, it is essential that this interest rate be in place as rapidly as possible in order for LECs to have a specific interest rate in place for customer deposits subsequent to December 31, 2002. Implementation of the emergency rule will serve to establish an interest rate until the proposed new telecommunications services rules become effective.

9. Therefore, emergency adoption of the attached rules is appropriate. The statutory authority for adoption of these rules is set forth in §§ 40-2-108, 40-3-102, 40-4-101, 40-15-201, and 10-15-302, C.R.S. The rule attached to this order shall be effective immediately upon the mailed date of this decision, and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

II. ORDER

A. The Commission Orders That:

1. The rule appended to this Decision as Attachment A is hereby adopted as an emergency rule consistent with the above discussion.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 4, 2002.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

POLLY PAGE

JIM DYER

Commissioners

Rule 4 CCR 723-2-8.5 Interest and Deposits

723-2-8.5.2 Simple interest to be paid on a deposit by the LEC shall be at a rate of 4.32 percent. This rate shall remain in effect until permanent rules regulating telecommunications service providers become effective or for 210 days, whichever period is less. Any LEC receiving customer deposits shall be required to amend its respective tariffs to declare that the interest rate on customer deposits is established by the Colorado Public Utilities Commission. A copy of the letter from the Commission declaring the rate of interest to be paid shall be posted in the LEC's general office and each and every payment center where customer payments are accepted. Any customer requesting to confirm the applicable rate of interest shall contact the Colorado Public Utilities Commission. The LEC shall provide the Customer with the address of the Commission.