

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04R-446T

IN THE MATTER OF THE EMERGENCY ADOPTION OF RULE 4 CCR 723-43, REGARDING THE QUALITY OF TELECOMMUNICATIONS SERVICES AND FACILITIES OFFERED BY INCUMBENT TELECOMMUNICATIONS PROVIDERS TO COMPETING TELECOMMUNICATIONS PROVIDERS.

ORDER GRANTING EMERGENCY ADOPTION OF RULE

Mailed Date: September 2, 2004

Adopted Date: September 1, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for the emergency adoption of expired Rule 4 CCR 723-43, Rules Regarding Quality of Telecommunications Services and Facilities Offered by Incumbent Telecommunications Providers to Competing Telecommunications Providers. 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 rules 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. Generally, the purpose of the rule adopted by this order is to continue the procedures for maintaining service quality to CLECs that wish to purchase wholesale services and products from Qwest without having to enter into an interconnection agreement (ICA) with them. This rule had been in effect since at least March 1, 2000. It expired on June 30, 2004, as stipulated in Rule 723-43-2. No action was taken before that date to extend it.

3. The expiration of the Rule leaves only Qwest's Ninth Revised Statement of Generally Available Terms and Conditions (SGAT) as a way for CLECs to purchase wholesale products and services and receive a defined level of service quality. However, opting in to the SGAT is a voluntary action that requires entering into an ICA with Qwest. This Commission recognizes that it is necessary that the Rule remains in place which will cover other providers who do not have an ICA with Qwest.

4. Notice of Proposed Rulemaking (NOPR) Docket No. 03R-524T is the current venue for reviewing and rewriting all Commission Rules of Practice and Procedure, including Rule 723-43. The Commission scheduled a hearing regarding Rule 723-43 for September 20, 2004. Because the regular rulemaking process will require up to several months to implement permanent rules, the adoption of the of interim rules on an emergency basis is appropriate and serves the public interest.

5. Therefore, we view this emergency adoption as necessary and appropriate for the continued coverage of wholesale service quality to all telecommunications providers that do not have an ICA with Qwest. The statutory authority for the emergency adoption of this rule is set forth in §§ 40-2-108, 40-3-101, 40-4-101 and 24-4-103(6), 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 for 210 days, or until permanent rules become effective, whichever period is less.

II. ORDER

A. The Commission Orders That:

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

2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 1, 2004.**

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Bruce N. Smith".

Bruce N. Smith
Director

The standards within these rules do not apply to rural telecommunications providers as defined in 4 CCR 723-39-2.17 unless the exemption under 4 CCR 723-39-9 for providing interconnection and network elements has been terminated through the issuance of a final order by the Commission.

RULE (4 CCR) 723-43-2. [reserved for future use]

RULE (4 CCR) 723-43-3. DEFINITIONS.

The meaning of terms used within these rules shall be consistent with their general usage in the telecommunications industry unless specifically defined by Colorado statute or this rule. The definitions contained in 4 CCR 723-2-2 and 4 CCR 723-39-2 shall also apply. As used in these rules, unless context indicates otherwise, the following definitions shall apply:

723-43-3.1 Basic Rate Interface (“BRI”) refers to the Basic Rate Interface of the ISDN (“Integrated Services Digital Network”) 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.

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.