

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 12R-862T

IN THE MATTER OF THE PROPOSED RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS, 4 CODE OF COLORADO REGULATIONS 723-2.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: August 6, 2012
Adopted Date: August 1, 2012

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) hereby issues this Notice of Proposed Rulemaking (NOPR) regarding proposed Rules Regulating Telecommunications Providers Services, and Products, 4 *Code of Colorado Regulations* (CCR), 723-2.

2. The Commission proposes amendments to the existing rules in response to significant technological and marketplace changes that have occurred in the telecommunications industry and to further the policy goals set forth in § 40-15-101, C.R.S., which include encouraging the continued emergence of a competitive telecommunications environment while protecting and maintaining a wide availability of high-quality telecommunications services.

3. The amended rules are proposed as a first step in certain telecommunications reform proceedings set forth below. The basis and purpose of the proposed rules in the instant docket is to set forth a regulatory framework for determining the existence of “effectively competitive areas”; eliminate funding from the CHCSM in effectively competitive areas; address limited treatment of IP-enabled and Interconnected VoIP services; and make permanent certain emergency rules set forth in Rule 2202, 2203, 2843, and 2856.

4. The statutory authority for the proposed rules is found in §§ 24-4-103, 40-2-108, 40-3-110, 40-4-101, 40-15-101, 40-15-201, 40-15-207, 40-15-208, 40-15-301, 40-15-307, 40-15-501, and 40-15-503(5), C.R.S.

5. The proposed rules in legislative (*i.e.*, ~~strikeout~~/underline) format (Attachment A) and in final format (Attachment B) are available through the Commission’s Electronic Filings (E-Filings) system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=12R-862T

or, by searching the E-Filings system from <http://www.dora.state.co.us/pls/efi/EFI.homepage>. (Once at the E-Filings page, the rules can be accessed by selecting “*Search*” and entering this proceeding number (12R-862T) and selecting “*Search*.”)

6. The Commission encourages and invites public comment to all updates and specifically requests comment regarding the proposed method of reducing the Colorado High Cost Support Mechanism (CHCSM), discussed below.

B. Administrative Notice of Docket No. 10M-565T and Representative Input

7. In Decision No. C10-0918, issued August 20, 2010, the Commission opened a miscellaneous docket on its own motion to establish a Telecom Advisory Group (TAG), Docket No. 10M-565T. TAG was established to consist of a broad cross section of telecommunications stakeholders, whose role it has been to study and inform the Commission on technological and marketplace advancements in telecommunications. TAG members include representatives of incumbent and competitive wireline and wireless providers from rural and urban areas, cable-telephony providers, public safety, the Office of Consumer Counsel, consumer organizations, local government, the Governor's Office of Information Technology and others.

8. Through Docket No. 10M-565T, the Commission requested information from these broad stakeholders to aid the Commission in determining the policies necessary to meet its statutory role of promoting a competitive telecommunications marketplace while protecting and maintaining the wide availability of high-quality telecommunications services. To further these goals, the Commission found it appropriate to convene advisory group meetings and to receive information from stakeholders and interested persons, to issue reports, and to draw conclusions about desirable changes to existing regulatory practices or existing telecommunications law. Docket 10M-565T has been a repository for any such written material as well as any written material exchanged at an *ex parte* presentation pursuant to Permit-but-Disclose processes adopted in Decision No. C10-0918.

9. Docket No. 10M-565T establishing the TAG included a representative group of participants with an interest in the subject of this rulemaking. The Commission has diligently solicited input from these representatives in Docket No. 10M-565T. The Commission requested comments to update the record as recently as June 6, 2012, through Decision No. C12-0613-I. In this Decision, the Commission requested comment specific to recent telecommunications technological, market, and federal regulatory changes in order for the Commission to assess and propose updates to the Rules Regulating Telecommunications Providers, Services, and Products, 4 CCR, 723-2.

10. By this order, the Commission takes administrative notice of the information from Docket No. 10M-565T in order to further consider the proposed rulemaking in this docket. We find that information from Docket No. 10M-565T will help to provide a comprehensive basis for determining proposed modifications to Rules Regulating Telecommunications Providers Services, and Products, 4 CCR, 723-2. Further, the Commission shall provide notice of this rulemaking to all stakeholders and interested persons in Docket No. 10M-565T, including those representatives of the TAG.

C. Description of Telecommunications Reform Proceedings Process

11. Starting with this rulemaking, the Commission is commencing a three-phase proceeding process designed to update and reform the Rules Regulating Telecommunications Providers, Services, and Products, 4 CCR, 723-2. This process is intended to: (a) achieve reduced regulation where appropriate, including appropriate reductions to the CHCSM; and (b) clean up and modernize the telecommunications rules.

12. In the first phase of this process, in this initial rulemaking the Commission proposes updates to the rules to: (a) set forth a regulatory framework for determining the

existence of “effectively competitive areas”; (b) eliminate funding from the CHCSM in effectively competitive areas; (c) address limited treatment of IP-enabled and Interconnected VoIP services; and (d) make permanent certain emergency rules in Rules 2202, 2203 2843, and 2856. Most notably, these proposed rules would define and set forth factors the Commission deems appropriate when determining if an “effectively competitive area” exists. The proposed rules would lessen regulatory treatment (including the possibility of reclassification of certain services currently under Part 2 of Article 15, Title 40, of the Colorado Revised Statutes) in geographical areas where basic local exchange service is found to have effective competition. The rules will require periodic review of areas where “effective competition” is found, to help ensure that areas that are deemed effectively competitive areas continue to be appropriately categorized.

13. In the second phase of this telecommunications reform process, the Commission will open an adjudicatory docket to determine what areas of the state are subject to “effective competition” for basic local exchange service in addition to other telecommunications services, and should be deemed “effectively competitive areas” pursuant to the updated rules set forth in this first phase of these proceedings. This second phase of the reform process will therefore apply the rulemaking updates initiated in this docket to factual circumstances throughout Colorado.

14. Based on information and data previously collected in Docket No. 10M-565T, including interested telecommunications service provider comments indicating robust markets, we anticipate that findings in this adjudicatory docket will likely conclude that metropolitan areas in the state are “effectively competitive areas,” which support a diverse and competitive telecommunications marketplace. The Commission may determine that it is appropriate to

commence this adjudicatory docket prior to the conclusion of the first phase rulemaking in order to begin collecting, aggregating, and reviewing information to make appropriate findings in an efficient and timely manner. As noted above, the proposed rules will provide for similar adjudicatory docket proceedings biennially to reclassify areas throughout Colorado as they become increasingly competitive.

15. In the third phase of the process, the Commission anticipates opening a second rulemaking docket in 2013 for the continued purposes of streamlining the Rules Regulating Telecommunications Providers Services, and Products, 4 CCR, 723-2, and making appropriate updates based on the changing telecommunications market and regulatory landscape as evident throughout this telecommunications reform process and in findings set forth in Docket No. 10M-565T.

D. Description of Proposed Rules in the Instant Rulemaking Docket

16. This NOPR generally proposes to make the following amendments, without limitation, to the Rules Regulating Telecommunications Providers Services, and Products. Rule numbers below appear in abbreviated form; *e.g.*, Rule 2001 of the Rules Regulating Telecommunications Providers Services, 4 CCR 723-4, appears as Rule 2001.

1. Rules addressing regulatory framework in "effectively competitive areas"

17. The first category of proposed amendments includes those updates that address regulatory framework in "effectively competitive areas", including without limitation:

- a) Proposed paragraph 2001(ff) defines the term "effectively competitive area," setting forth basic requirements for when the Commission may find that an area in Colorado meets this definition, including without limitation that there is effective competition for basic local exchange service pursuant to § 40-15-207, C.R.S. in the relevant area among other criteria.

- b) Proposed Rule 2214 addresses the reclassification of Part II services in areas found to be effectively competitive areas. Specifically, the proposed rule sets forth the process of an adjudicatory proceeding initiated by the Commission, beginning no later than January 2013 and biennially thereafter, to make findings regarding effectively competitive areas. The rule further states that in areas found to be effectively competitive areas, Part II services, with the exception of basic emergency service, shall be reclassified as Part III services.
- c) Proposed Rule 2215 indicates treatment of Part III services in effectively competitive areas. Specifically, the proposed rule sets forth, among other initiatives, what Commission rules shall apply to Part III services in effectively competitive areas, and what rules shall no longer be applicable in such areas.
- d) Proposed paragraph 2215(e) addresses customer complaints or billing-related questions regarding services in effectively competitive areas. The proposed paragraph sets forth that the Commission shall accept such complaints and questions, and assist customers in resolving complaints with the appropriate provider. Further, the proposed paragraph 2215(e) notes that the Commission may record information regarding these complaints and questions, and may consider such information in determining whether the effectively competitive area should be reclassified pursuant to Commission review set forth in proposed paragraph 2214(c).
- e) Proposed paragraph 2215(f) sets forth that providers previously designated as providers of last resort in an effectively competitive area shall be allowed to relinquish such designation upon the filing and approval of an application.

2. Rules addressing CHCSM funds in effectively competitive areas

18. The second category of proposed amendments includes those updates that address CHCSM funds in effectively competitive areas. Specifically, among other initiatives, Rule 2116 sets forth the elimination of CHCSM funding in effectively competitive areas. The Commission notes that, as proposed, this elimination would apply to only those areas found to be effectively competitive areas pursuant to the Commission review process set forth in proposed Rule 2214(c), and further steps may be necessary to appropriately reform the CHCSM. The Commission invites specific comment regarding the proposed elimination and whether alternative reduction methods of CHCSM funds, including gradual phase out, would be appropriate in effectively competitive areas. Commentors should discuss whether elimination or phase out is appropriate in “effectively competitive areas.”

3. Rules addressing IP-Enabled and VoIP Services

19. The third category of proposed amendments includes those updates that address IP-enabled and VoIP services. Proposed Rule 2213 would include without limitation, that such services are deregulated, except: (a) to the extent such services are used to provide support for emergency telephone service, in which case rules 2130 through 2159 shall still apply; or (b) to the extent such services are used to provide local service to residential customers, in which case the Commission may assist customers in resolving complaints regarding service quality or billing disputes with the appropriate provider.

4. Rules making permanent emergency rules in Rules 2202, 2203, 2843 and 2856

20. The fourth category of proposed amendments makes permanent certain emergency rules adopted in Decision No. C12-0179, Docket No. 12R-148T, as a result of enactments made in the Federal Communications Report and Order and Notice of Proposed Rulemaking, issued November 18, 2011.¹ Proposed updates make permanent rules set forth in: (a) subparagraph 2202(f)(III), which capped switched access charges by rate element for ILECs; (b) subparagraph 2203((II)(C) which capped switched access charges by rate element for CLECs; (c) paragraph 2843(c), which capped the CHCSM fund at \$54,000,000 or \$13,500,000 per quarter; and (d) rule 2856, which required an application under extraordinary circumstances for initial or resetting of HCSM support. The Commission notes that issues related to access charges and the CHCSM fund addressed in these rules will be revisited in the follow-up rulemaking initiated by the third phase of the proposed telecommunications reform process.

¹ See *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90, GN Docket No. 09-51, et. al., Order No. 11-161 (rel. November 18, 2011).

E. Designation of Advisory and Trial Staff

21. For the convenience of the stakeholders and interested persons, the Commission finds it appropriate to indicate individuals designated as Trial Staff and Advisory Staff to the Commission in this Docket No. 12R-862T. The following individuals are designated as Commission Trial Staff: Lynn Notarianni, Pat Parker, Judy Swinnerton, and Susan Travis. The following individuals shall aid the Commission in an advisory capacity: Rebecca Quintana, Michael Hydock, and Erin McLauthlin.

F. Conclusion

22. The proposed amendments will be published in the August 25, 2012 edition of *The Colorado Register*.

23. The Commission will conduct a hearing on the proposed rules and related issues at the below-stated time and place. Interested persons may submit written comments on the proposed rules, including data, views, or arguments, and present these orally at hearing unless the Commission deems oral presentations unnecessary. The Commission prefers and strongly encourages that interested persons submit comments through the Commission's E-Filings System and do so in Docket No. 12R-862T no later than August 29, 2012. Reply comments should be submitted in the same docket and through the Commission's E-Filings System no later than September 19, 2012. The Commission will consider all submissions, whether oral or written.

24. In submitting comments or replies, interested persons are invited to suggest changes that will make the subject rules more efficient and effective. We recognize that regulation imposes costs; therefore, suggestions concerning rules that may be unnecessary or unduly burdensome will be fully considered by the Commission. Interested persons are strongly encouraged to suggested rule language in legislative format.

25. We desire to proceed with this rulemaking in an efficient and effective manner, which requires us to maintain an efficient timeline. Therefore, we request that commentors include alternate rule language, as necessary with their comments, by the dates and manner specified above.

II. ORDER

A. The Commission Orders That:

1. Administrative Notice is taken of Docket No. 10M-565T.
2. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the August 25, 2012 edition of *The Colorado Register*.
3. A hearing on the proposed rules and related materials shall be held before the Commission *en banc* as follows:

DATE: October 1 through 4, 2012
TIME: 9:00 AM to 5:00 PM October 1, 2, and 4, 2012.
1:00 PM to 5 PM October 3, 2012
PLACE: Commission Hearing Room A
Suite 250
1560 Broadway
Denver, Colorado

4. The Commission may set additional hearings, if necessary.
5. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

6. Interested persons may file written comments in this matter before hearing. The Commission prefers and strongly encourages that interested persons submit comments through the Commission’s Electronic Filings System and do so in this Docket No. 12R-862T no later than August 29, 2012.

7. Interested persons may file reply comments in this matter before hearing. The Commission prefers and strongly encourages that interested persons submit comments through the Commission’s Electronic Filings System and do so in the Docket No. 12R-862T no later than September 19, 2012.

8. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
August 1, 2012.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

PAMELA J. PATTON

Commissioners

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COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2 RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS

* * *

[indicates omission of unaffected rules]

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) "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) "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) "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) "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) [Reserved].~~

- (fe) "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.
- (gf) "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).
- (hg) "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 designed maximum load. The 60-minute periods are generally measured from hour-to-hour or from half-hour to half-hour.
- (ih) "Busy line interrupt service" means operator interrupt service.
- (ji) "Busy line verify service" means operator verification service.
- (kj) "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.
- (lk) "Calls" means customers' telecommunications messages.
- (ml) "Carrier" means provider.
- (am) "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.
- (en) "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.
- (po) "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.
- (qp) "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).
- (rq) "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.
- (~~sr~~) "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.
- (~~ts~~) "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.
- (~~ut~~) "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.
- (~~vu~~) "Customer" means a person who is currently receiving a jurisdictional 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.
 - (III) "Small business customer" means a business customer with five or fewer voice-grade or voice-grade equivalent access lines at a single location.
- (~~wv~~) "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.
- (~~xw~~) "Day" means a calendar day, consistent with the definition found in rule 1004(i).
- (~~yx~~) "Decibel" means the unit of measurement for the logarithmic ratio to the base ten of two power signals. The abbreviation dB is commonly used for the term decibel.

- (zy) "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.
- (aaz) "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.
- (bbaa) "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).
- (eebb) "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.
- (ddcc) "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.
- (eedd) "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.
- (fee) "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.
- (ff) "Effectively competitive area" means a geographic area where the Commission finds there is effective competition for basic local exchange service pursuant to § 40-15-207, C.R.S. This determination includes without limitation, the consideration of providers offering similar services in the relevant geographic area and findings that barriers to exit and entry are low. Further, the determination includes findings that local service is reliable, affordable, available and offered by no less than three non-affiliated providers. Such a geographic area may be defined by the Commission to be a zip code area, census block group, wire center service area, or some other geographic area.
- (gg) "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.
- (hh) "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).

- (ii) "Eligible Provider" (EP) means a provider who offers basic local exchange services and has been designated by the Commission as qualified to receive disbursements from the Colorado High Cost Support Mechanism.
- (jj) "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.
- (kk) "End user" means a person, other than another telecommunications provider, who purchases a jurisdictional telecommunications service from a telecommunications provider.
- (ll) "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.
- (mm) "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.
- (nn) "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.
- (oo) "FCC" means the Federal Communications Commission.
- (pp) "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.
- (qq) "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.
- (rr) "Held service order":
 - (I) 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 within ten days 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, as well as requests made by secure website, shall all be considered applications.
 - (II) 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.

- (ss) "Incumbent local exchange carrier" (ILEC) means either:
- (I) 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) 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.
- (tt) "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.
- (uu) "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.
- (vv) "Interexchange carrier" (IXC) or "Interexchange provider" means a person who provides telecommunications services between exchange areas.
- (ww) "Internet protocol-enabled service" or "IP-enabled service" means any service, capability, functionality, or application provided using Internet protocol or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.
- ~~(wwwx)~~ "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.

- (~~xyy~~) "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.
- (~~yyzz~~) "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.
- (~~zzaaa~~) "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.
- (~~aaabbb~~) "Local call" means any call originating and terminating within the same local calling area.
- (~~bbbccc~~) "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.
- (~~eedddd~~) "Local exchange carrier" (LEC) means any person authorized by the Commission to provide basic local exchange service.
- (~~dddeee~~) "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.
- (~~eeefff~~) "Local usage" means the usage necessary to place and receive calls within a local calling area in which the customer is located.
- (~~ffgggg~~) "Master Street Address Guide" (MSAG) means the file of street names and ranges used to define emergency service agencies particular to a telephone number.
- (~~ggghhh~~) "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.
- (~~hhhhii~~) "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.
- (~~iiijjj~~) "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.
- (~~jjkkkk~~) "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.

(~~kkklll~~) "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.

(~~lllmmm~~) "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.

(~~mmmmnnn~~) "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.

(~~oooooo~~) "Operator interrupt service" means a service provided at the request of a customer to interrupt a conversation on another customer's line.

(~~eepppp~~) "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.

(~~ppppqq~~) "Operator service provider" means a person that sells optional and/or non-optional operator services.

(~~qqqrrr~~) "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.

(~~rrssss~~) "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.

(~~sssttt~~) "Out-of-service trouble report" means a report by the customer 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.

(~~ttuuuu~~) "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.

- (~~uuu~~v~~vv~~) "Part II service" means a service subject to regulation pursuant to Title 40, Article 15, Part 2, C.R.S.
- (~~www~~ww) "Plain old telephone service" (POTS) means single-line, basic telephone service provided to a customer's premises.
- (~~www~~xx) "Price list" means a provider's rate schedule, filed with the Commission by transmittal letter, listing current rates for regulated telecommunications services and products and does not include rate bands, ceilings, or floors.
- (~~xxx~~yy) "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.
- (~~yyy~~zz) "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.
- (~~zzz~~aaa) "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.
- (~~aaa~~bbb) "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.
- (~~bbb~~ccc) "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.
- (~~eee~~ddd) "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.
- (~~ddd~~eee) "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.
- (~~eee~~fff) "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.
- (~~fff~~ggg) "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 offering, or in combination with other services, to an end user.

(~~ggghhhh~~) "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.

(~~hhhhjjj~~) "Service" means any intrastate telecommunications product or service offered by providers.

(~~jjjj~~) "Service affecting trouble report" means a report by the customer of:

- (I) Impairment of the quality of the call such as noise, crosstalk, 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.

(~~jjjjkkkk~~) "Service territory" means a geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to provide such services.

(~~kkkklll~~) "Station" means a device and any other necessary equipment at the customer's premises that allows the customer to establish and continue communication.

(~~llllmmm~~) "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.

(~~mmmm~~) ————(~~Reserved.~~)

- (nnnn) "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.
- (oooo) "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.
- (pppp) "Telecommunications service" means the electronic or optical transmission of information between separate points by prearranged means.
- (qqqq) "Toll blocking" means a service that permits customers to disallow the completion of outgoing 1+ toll calls from a customer's local access line.
- (rrrr) "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.
- (ssss) "Toll limitation" means the blocking or controlling of toll service.
- (tttt) "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.
- (uuuu) "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.
- (vvvv) "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.
- (wwww) "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.

- (xxxx) "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.
- (yyyy) "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.
- (zzzz) "USOA" means Uniform System of Accounts.
- (aaaaa) "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 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.
- (bbbbbb) "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.
- (ccccc) "Wire center serving area" means the geographic area of an exchange area served by a single wire center.
- (dddddd) "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.

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[indicates omission of unaffected rules]

2202. Default Form of Regulation for ILECs.

- (a) This rule applies to all ILECs.
- (b) 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) 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) 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) 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) 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;
 - (II) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987; ~~and,-~~
 - (III) Each ILEC's switched access charges by rate element shall be capped at that ILEC's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate reductions pursuant to federal requirements.
- (g) 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 Forms of Regulation for CLECs.

- (a) Requirements of all CLECs.

- (I) 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.
- (II) Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, providers' access charges:
 - (A) Shall be cost-based, as determined by the Commission; ~~and~~
 - (B) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987; ~~and-~~
 - (C) Each CLEC's switched access charges by rate element shall be capped at that CLEC's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate reductions pursuant to federal requirements.
- (III) To enable the Commission to track the progress of competition and to monitor the delivery of basic, premium and advanced services to all areas of the state, it is in the public interest for CLECs to provide the Commission with information in annual reports and/or other special reports, pursuant to rule 2006.

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[indicates omission of unaffected rules]

2213. Deregulation of IP-Enabled Service and Interconnected Voice over Internet Protocol Service.

- (a) IP-enabled service as defined in paragraph 2001(ww) and Interconnected VoIP service as defined in § 29-11-101(4.3), C.R.S. are deregulated telecommunications services pursuant to § 40-15-102(6), C.R.S., except:
 - (I) to the extent such services are used to provide or support emergency telephone service, in which case such services shall continue to be subject to regulation pursuant to rules 2130 through 2159; and
 - (II) to the extent such services are used to provide local service to residential customers, in which case the Commission shall assist customers of such services in resolving complaints regarding service quality or billing disputes with the appropriate provider.
- (b) Notwithstanding any other provisions in these rules, the intrastate retail revenues of IP-enabled service and Interconnected VoIP service are subject to the assessment of fees or surcharges for telecommunications programs or funds including, but not limited to:

- (I) Emergency Telephone Charge (rule 2138);
- (II) Low Income Telephone Assistance Program (rule 2805);
- (III) Telephone Relay Service (rule 2827);
- (IV) Colorado High Cost Surcharge Mechanism (rule 2846); and
- (V) Fixed Utility Fund (§ 40-2-110, C.R.S.).

2214. Reclassification of Part II Services in Effectively Competitive Areas

- (a) Based upon evidence provided through an adjudicatory proceeding initiated by the Commission, the Commission may find that certain geographic areas of Colorado are designated as effectively competitive areas.
- (b) The Commission shall review the telecommunications landscape in biennial adjudicatory proceedings beginning no later than January 2013 and January of each odd year thereafter, to make findings as to whether relevant geographic areas can be classified as effectively competitive areas. Once an area is determined by the Commission to be an effectively competitive area, the Commission will presume that it is an effectively competitive area unless and until an application is filed requesting that the area be reclassified and that application has been approved by the Commission.
- (c) In such adjudicatory proceedings, the Commission shall consider the number of providers, the technology used to provide service, and the availability of service in the relevant geographic area in determining whether local service is reliable, affordable, available and offered by no less than three non-affiliated providers. The Commission may consider telecommunications service providers that offer local service to the geographic area through traditional wireline, cable-based, IP-enabled, and/or wireless technology. In determining if an area should be designated as an effectively competitive area, the Commission may, but need not, make additional findings of effective competition pursuant to § 40-15-207, C.R.S., for telecommunications services other than local service in the relevant geographic area.
- (d) If the Commission finds that a relevant geographic area is an effectively competitive area, the Commission shall reclassify all Part II services in the effectively competitive area, except for basic emergency service, to Part III for all companies offering service in that area. All Part III services shall then be regulated in accordance with rule 2215.

Rule 2215. Regulation in Effectively Competitive Areas.

- (a) All Part III services in effectively competitive areas, with the exception of switched access services, are not price-cap or rate of return regulated. Providers of Part III services in effectively competitive areas are not required to follow the Commission tariffing rules 2120 to 2124. However, each provider of Part III services in an effectively competitive area shall make its retail service rates available on its website. Tariffs, prices lists and customer specific contracts containing rates, terms and conditions for retail services provided to customers are not required and need not be filed at the Commission.

- (b) Rules 2130 to 2159 for regulated basic emergency service, shall continue to apply to providers in effectively competitive areas.
- (d) The Commission will regulate providers offering service in effectively competitive areas pursuant to the following rules: Reports (paragraphs 2006(a), (b), (f), (g), (h), (i), and (j)), Application for LOR (rule 2103), Numbering Administration (rules 2700-2741), Programs (rules 2800-2895), Provider Obligations to Other Providers (rules 2500-2588), and Collection and Disclosure of Personal Information (rules 2360-2362).
- (e) The Commission shall accept customer complaints or billing-related questions and shall assist customers in resolving complaints regarding such disputes with the appropriate provider. The Commission may record information regarding these complaints and questions, including without limitation, the frequency, severity, and subject matter, and may consider such information in determining whether an effectively competitive area should be reclassified pursuant to Commission review as set forth in rule 2214(c).
- (f) Providers subject to this rule 2215 shall be released from their obligations under rule 2185 if they are currently a Provider of Last Resort (POLR), if they file an application to relinquish designation as a POLR, and if the application is approved by the Commission.
- (g) Relinquishment of a POLR designation will become effective 120 days after the effective date of the order approving such application.

 - (I) The contents of the application shall include:

 - (A) The information required by rule 2002(b).
 - (B) A detailed explanation of the proposed relinquishment.
 - (C) An explanation of how all customers currently served by the provider can continue to be served by other providers after relinquishment by the POLR provider.
 - (II) Notice to customers. In addition to filing an application with the Commission, the POLR shall prepare a notice regarding the proposed relinquishment and shall mail or hand-deliver the notice of the application within 30 days of the filing of the application to all currently served customers or subscribers in the affected area, including all interconnecting telecommunications providers. The POLR shall separately provide notice to all potentially affected customers through publication for four consecutive weeks in a newspaper publication or publications that are distributed in the affected certificated area. In the notice, the POLR must also indicate that customers can receive information on alternative providers of local service from the Commission. The applicant shall file proof of publication and other noticing requirements with the Commission.

2216. Distribution of CHCSM Funds in Effectively Competitive Areas

- (a) In effectively competitive areas, any distribution of CHCSM funds will be eliminated upon the effective date of a Commission decision designating the area as an effectively competitive area.

(b) In the event that the Commission determines that an area is no longer classified as an effectively competitive area, a provider may file an application requesting CHCSM support pursuant to rule 2856.

22137. – 2299. [Reserved].

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[indicates omission of unaffected rules]

2843. General.

The HCSM shall be coordinated with the Federal 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) 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 that may be collected through a rate element assessment by each telecommunications provider; and
 - (III) Proposed total amount of the HCSM fund from which distributions are to be made for the following calendar year.
- (b) 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.

(c) Beginning in 2012, the HCSM fund is capped at \$54,000,000 or \$13,500,000 per quarter. If the quarterly calculated support amount is above the \$13,500,000 quarterly capped amount due to rule 2856 or to the increase in the number of access lines or handsets per carrier, a sizing factor will be used to adjust each EP's monthly support per line or handset. The sizing factor shall be the capped amount divided by the uncapped amount.

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[indicates omission of unaffected rules]

2856. Extraordinary Circumstance.

Any company that currently receives HCSM support and wants to reset its HCSM support amount or a company seeking initial HCSM support may file an application ~~petition~~ to demonstrate that extraordinary circumstances exist. Bankruptcy or tax liens will not be considered as an extraordinary circumstance. To qualify for the extraordinary circumstance, the ~~petitioner~~ applicant must include the following information in its ~~petition~~ application:

- (a) A demonstration that the provider is not receiving funds from this or any other source that, together with local exchange service revenues, exceeds the cost of providing local exchange service to the customers of such provider;
- (b) A demonstration that a large investment was necessary for the continued operation of basic local exchange service;
- (c) A demonstration that pro forma adjustments were made for known and measurable changes;
- (d) Support that granting the ~~petition~~ application is in the public interest;
- (e) The information required by paragraph ~~20032002~~ (b), as well as all information necessary to complete the calculations contained in paragraphs (a) through (e) of rule 2848, as applicable;
- (f) A statement that the company will submit to a full audit to ensure compliance with §§ 40-15-106, 40-15-108 and 40-15-208 (2), C.R.S., if necessary and applicable; and
- (g) If §§ 40-15-106 and 40-15-108, C.R.S. are not applicable, a statement that the ~~petitioner~~ applicant will submit to a full audit to ensure compliance with § 40-15-208(2), C.R.S., if necessary. If this information is already on file with the Commission, the ~~petitioner~~ applicant must identify when and in what form the information relied on was filed.

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[indicates omission of unaffected rules]

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2 RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS

* * *

[indicates omission of unaffected rules]

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) "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) "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) "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) "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) "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.

- (f) "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).
- (g) "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 designed maximum load. The 60-minute periods are generally measured from hour-to-hour or from half-hour to half-hour.
- (h) "Busy line interrupt service" means operator interrupt service.
- (i) "Busy line verify service" means operator verification service.
- (j) "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.
- (k) "Calls" means customers' telecommunications messages.
- (l) "Carrier" means provider.
- (m) "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.
- (n) "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.
- (o) "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.
- (p) "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).
- (q) "Collocation" means the following:
 - (l) 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.
- (r) "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.
- (s) "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.
- (t) "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.
- (u) "Customer" means a person who is currently receiving a jurisdictional 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.
 - (III) "Small business customer" means a business customer with five or fewer voice-grade or voice-grade equivalent access lines at a single location.
- (v) "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.
- (w) "Day" means a calendar day, consistent with the definition found in rule 1004(i).
- (x) "Decibel" means the unit of measurement for the logarithmic ratio to the base ten of two power signals. The abbreviation dB is commonly used for the term decibel.
- (y) "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.

- (z) "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.
- (aa) "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).
- (bb) "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.
- (cc) "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.
- (dd) "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.
- (ee) "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.
- (ff) "Effectively competitive area" means a geographic area where the Commission finds there is effective competition for basic local exchange service pursuant to § 40-15-207, C.R.S. This determination includes without limitation, the consideration of providers offering similar services in the relevant geographic area and findings that barriers to exit and entry are low. Further, the determination includes findings that local service is reliable, affordable, available and offered by no less than three non-affiliated providers. Such a geographic area may be defined by the Commission to be a zip code area, census block group, wire center service area, or some other geographic area.
- (gg) "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.
- (hh) "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).
- (ii) "Eligible Provider" (EP) means a provider who offers basic local exchange services and has been designated by the Commission as qualified to receive disbursements from the Colorado High Cost Support Mechanism.

- (jj) "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.
- (kk) "End user" means a person, other than another telecommunications provider, who purchases a jurisdictional telecommunications service from a telecommunications provider.
- (ll) "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.
- (mm) "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.
- (nn) "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.
- (oo) "FCC" means the Federal Communications Commission.
- (pp) "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.
- (qq) "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.
- (rr) "Held service order":
 - (I) 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 within ten days 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, as well as requests made by secure website, shall all be considered applications.
 - (II) 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.
- (ss) "Incumbent local exchange carrier" (ILEC) means either:

- (l) 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 (l)(A) of this paragraph; or
- (ll) 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 (l) of this paragraph;
 - (B) Such carrier has substantially replaced an ILEC described in subparagraph (l) of this paragraph; and
 - (C) Such treatment is consistent with the public interest, convenience, and necessity.
- (tt) "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.
- (uu) "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:
 - (l) Informs the calling party that the called telephone number has been disconnected, discontinued, or changed to another number; or
 - (ll) Informs the calling party that another telephone number is receiving calls.
- (vv) "Interexchange carrier" (IXC) or "Interexchange provider" means a person who provides telecommunications services between exchange areas.
- (ww) "Internet protocol-enabled service" or "IP-enabled service" means any service, capability, functionality, or application provided using Internet protocol or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.
- (xx) "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.

- (yy) "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.
- (zz) "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.
- (aaa) "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.
- (bbb) "Local call" means any call originating and terminating within the same local calling area.
- (ccc) "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.
- (ddd) "Local exchange carrier" (LEC) means any person authorized by the Commission to provide basic local exchange service.
- (eee) "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.
- (fff) "Local usage" means the usage necessary to place and receive calls within a local calling area in which the customer is located.
- (ggg) "Master Street Address Guide" (MSAG) means the file of street names and ranges used to define emergency service agencies particular to a telephone number.
- (hhh) "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.
- (iii) "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.
- (jjj) "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.
- (kkk) "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.

- (III) "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.
- (mmm) "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.
- (nnn) "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.
- (ooo) "Operator interrupt service" means a service provided at the request of a customer to interrupt a conversation on another customer's line.
- (ppp) "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.
- (qqq) "Operator service provider" means a person that sells optional and/or non-optional operator services.
- (rrr) "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.
- (sss) "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.
- (ttt) "Out-of-service trouble report" means a report by the customer 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.
- (uuu) "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.

- (vvv) "Part II service" means a service subject to regulation pursuant to Title 40, Article 15, Part 2, C.R.S.
- (www) "Plain old telephone service" (POTS) means single-line, basic telephone service provided to a customer's premises.
- (xxx) "Price list" means a provider's rate schedule, filed with the Commission by transmittal letter, listing current rates for regulated telecommunications services and products and does not include rate bands, ceilings, or floors.
- (yyy) "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.
- (zzz) "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.
- (aaaa) "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.
- (bbbb) "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.
- (cccc) "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.
- (dddd) "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.
- (eeee) "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.
- (ffff) "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.
- (gggg) "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 offering, or in combination with other services, to an end user.

- (hhhh) "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.
- (iiii) "Service" means any intrastate telecommunications product or service offered by providers.
- (jjjj) "Service affecting trouble report" means a report by the customer of:
- (I) Impairment of the quality of the call such as noise, crosstalk, 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.
- (kkkk) "Service territory" means a geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to provide such services.
- (llll) "Station" means a device and any other necessary equipment at the customer's premises that allows the customer to establish and continue communication.
- (mmmm) "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.
- (nnnn) "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.

- (oooo) "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.
- (pppp) "Telecommunications service" means the electronic or optical transmission of information between separate points by prearranged means.
- (qqqq) "Toll blocking" means a service that permits customers to disallow the completion of outgoing 1+ toll calls from a customer's local access line.
- (rrrr) "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.
- (ssss) "Toll limitation" means the blocking or controlling of toll service.
- (tttt) "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.
- (uuuu) "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.
- (vvvv) "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.
- (wwww) "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.
- (xxxx) "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.
- (yyyy) "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.

(zzzz) "USOA" means Uniform System of Accounts.

(aaaa) "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 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.

(bbbb) "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.

(cccc) "Wire center serving area" means the geographic area of an exchange area served by a single wire center.

(dddd) "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.

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[indicates omission of unaffected rules]

2202. Default Form of Regulation for ILECs.

- (a) This rule applies to all ILECs.
- (b) 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) 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) 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) 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) 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;
 - (II) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987; and,
 - (III) Each ILEC's switched access charges by rate element shall be capped at that ILEC's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate reductions pursuant to federal requirements.

- (g) 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 Forms of Regulation for CLECs.

- (a) Requirements of all CLECs.
 - (I) 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.
 - (II) Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, providers' access charges:
 - (A) Shall be cost-based, as determined by the Commission;

- (B) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987; and
 - (C) Each CLEC's switched access charges by rate element shall be capped at that CLEC's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate reductions pursuant to federal requirements.
- (III) To enable the Commission to track the progress of competition and to monitor the delivery of basic, premium and advanced services to all areas of the state, it is in the public interest for CLECs to provide the Commission with information in annual reports and/or other special reports, pursuant to rule 2006.

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[indicates omission of unaffected rules]

2213. Deregulation of IP-Enabled Service and Interconnected Voice over Internet Protocol Service.

- (a) IP-enabled service as defined in paragraph 2001(ww) and Interconnected VoIP service as defined in § 29-11-101(4.3), C.R.S. are deregulated telecommunications services pursuant to § 40-15-102(6), C.R.S., except:
 - (I) to the extent such services are used to provide or support emergency telephone service, in which case such services shall continue to be subject to regulation pursuant to rules 2130 through 2159; and
 - (II) to the extent such services are used to provide local service to residential customers, in which case the Commission shall assist customers of such services in resolving complaints regarding service quality or billing disputes with the appropriate provider.
- (b) Notwithstanding any other provisions in these rules, the intrastate retail revenues of IP-enabled service and Interconnected VoIP service are subject to the assessment of fees or surcharges for telecommunications programs or funds including, but not limited to:
 - (I) Emergency Telephone Charge (rule 2138);
 - (II) Low Income Telephone Assistance Program (rule 2805);
 - (III) Telephone Relay Service (rule 2827);
 - (IV) Colorado High Cost Surcharge Mechanism (rule 2846); and
 - (V) Fixed Utility Fund (§ 40-2-110, C.R.S.).

2214. Reclassification of Part II Services in Effectively Competitive Areas

- (a) Based upon evidence provided through an adjudicatory proceeding initiated by the Commission, the Commission may find that certain geographic areas of Colorado are designated as effectively competitive areas.
- (b) The Commission shall review the telecommunications landscape in biennial adjudicatory proceedings beginning no later than January 2013 and January of each odd year thereafter, to make findings as to whether relevant geographic areas can be classified as effectively competitive areas. Once an area is determined by the Commission to be an effectively competitive area, the Commission will presume that it is an effectively competitive area unless and until an application is filed requesting that the area be reclassified and that application has been approved by the Commission.
- (c) In such adjudicatory proceedings, the Commission shall consider the number of providers, the technology used to provide service, and the availability of service in the relevant geographic area in determining whether local service is reliable, affordable, available and offered by no less than three non-affiliated providers. The Commission may consider telecommunications service providers that offer local service to the geographic area through traditional wireline, cable-based, IP-enabled, and/or wireless technology. In determining if an area should be designated as an effectively competitive area, the Commission may, but need not, make additional findings of effective competition pursuant to § 40-15-207, C.R.S., for telecommunications services other than local service in the relevant geographic area.
- (d) If the Commission finds that a relevant geographic area is an effectively competitive area, the Commission shall reclassify all Part II services in the effectively competitive area, except for basic emergency service, to Part III for all companies offering service in that area. All Part III services shall then be regulated in accordance with rule 2215.

Rule 2215. Regulation in Effectively Competitive Areas.

- (a) All Part III services in effectively competitive areas, with the exception of switched access services, are not price-cap or rate of return regulated. Providers of Part III services in effectively competitive areas are not required to follow the Commission tariffing rules 2120 to 2124. However, each provider of Part III services in an effectively competitive area shall make its retail service rates available on its website. Tariffs, prices lists and customer specific contracts containing rates, terms and conditions for retail services provided to customers are not required and need not be filed at the Commission.
- (b) Rules 2130 to 2159 for regulated basic emergency service, shall continue to apply to providers in effectively competitive areas.
- (d) The Commission will regulate providers offering service in effectively competitive areas pursuant to the following rules: Reports (paragraphs 2006(a), (b), (f), (g), (h), (i), and (j)), Application for LOR (rule 2103), Numbering Administration (rules 2700-2741), Programs (rules 2800-2895), Provider Obligations to Other Providers (rules 2500-2588), and Collection and Disclosure of Personal Information (rules 2360-2362).

- (e) The Commission shall accept customer complaints or billing-related questions and shall assist customers in resolving complaints regarding such disputes with the appropriate provider. The Commission may record information regarding these complaints and questions, including without limitation, the frequency, severity, and subject matter, and may consider such information in determining whether an effectively competitive area should be reclassified pursuant to Commission review as set forth in rule 2214(c).
- (f) Providers subject to this rule 2215 shall be released from their obligations under rule 2185 if they are currently a Provider of Last Resort (POLR), if they file an application to relinquish designation as a POLR, and if the application is approved by the Commission.
- (g) Relinquishment of a POLR designation will become effective 120 days after the effective date of the order approving such application.
 - (I) The contents of the application shall include:
 - (A) The information required by rule 2002(b).
 - (B) A detailed explanation of the proposed relinquishment.
 - (C) An explanation of how all customers currently served by the provider can continue to be served by other providers after relinquishment by the POLR provider.
 - (II) Notice to customers. In addition to filing an application with the Commission, the POLR shall prepare a notice regarding the proposed relinquishment and shall mail or hand-deliver the notice of the application within 30 days of the filing of the application to all currently served customers or subscribers in the affected area, including all interconnecting telecommunications providers. The POLR shall separately provide notice to all potentially affected customers through publication for four consecutive weeks in a newspaper publication or publications that are distributed in the affected certificated area. In the notice, the POLR must also indicate that customers can receive information on alternative providers of local service from the Commission. The applicant shall file proof of publication and other noticing requirements with the Commission.

2216. Distribution of CHCSM Funds in Effectively Competitive Areas

- (a) In effectively competitive areas, any distribution of CHCSM funds will be eliminated upon the effective date of a Commission decision designating the area as an effectively competitive area.
- (b) In the event that the Commission determines that an area is no longer classified as an effectively competitive area, a provider may file an application requesting CHCSM support pursuant to rule 2856.

2217. – 2299. [Reserved].

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[indicates omission of unaffected rules]

2843. General.

The HCSM shall be coordinated with the Federal 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) 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 that may be collected through a rate element assessment by each telecommunications provider; and
 - (III) Proposed total amount of the HCSM fund from which distributions are to be made for the following calendar year.
- (b) 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.
- (c) Beginning in 2012, the HCSM fund is capped at \$54,000,000 or \$13,500,000 per quarter. If the quarterly calculated support amount is above the \$13,500,000 quarterly capped amount due to rule 2856 or to the increase in the number of access lines or handsets per carrier, a sizing factor will be used to adjust each EP's monthly support per line or handset. The sizing factor shall be the capped amount divided by the uncapped amount.

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[indicates omission of unaffected rules]

2856. Extraordinary Circumstance.

Any company that currently receives HCSM support and wants to reset its HCSM support amount or a company seeking initial HCSM support may file an application to demonstrate that extraordinary circumstances exist. Bankruptcy or tax liens will not be considered as an extraordinary circumstance. To qualify for the extraordinary circumstance, the applicant must include the following information in its application:

- (a) A demonstration that the provider is not receiving funds from this or any other source that, together with local exchange service revenues, exceeds the cost of providing local exchange service to the customers of such provider;
- (b) A demonstration that a large investment was necessary for the continued operation of basic local exchange service;
- (c) A demonstration that pro forma adjustments were made for known and measurable changes;
- (d) Support that granting the application is in the public interest;
- (e) The information required by paragraph 2002(b), as well as all information necessary to complete the calculations contained in paragraphs (a) through (e) of rule 2848, as applicable;
- (f) A statement that the company will submit to a full audit to ensure compliance with §§ 40-15-106, 40-15-108 and 40-15-208 (2), C.R.S., if necessary and applicable; and
- (g) If §§ 40-15-106 and 40-15-108, C.R.S. are not applicable, a statement that the applicant will submit to a full audit to ensure compliance with § 40-15-208(2), C.R.S., if necessary. If this information is already on file with the Commission, the applicant must identify when and in what form the information relied on was filed.

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[indicates omission of unaffected rules]