

Decision No. C12-1404

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 12R-1248T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES REGULATING
TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS, 4 CODE OF
COLORADO REGULATIONS 723-2, SECTION 2307.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: December 12, 2012
Adopted Date: December 5, 2012

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) hereby issues this Notice of Proposed Rulemaking (NOPR) regarding proposed Rule 2307 of the Rules Regulating Telecommunications Providers, Services, and Products, 4 *Code of Colorado Regulations* (CCR), 723-2 and any conforming amendments that may be necessary.

2. The statutory authority for the proposed rules is found in §§ 24-4-103, 40-2-108, 40-3-101, 40-15-101, and 40-15-201, C.R.S.

B. Background

3. This docket has its origins in Docket No. 12M-817T. In that docket, Dex Media East, Inc. (Dex) petitioned the Commission to open a rulemaking docket and permanently amend Rule 2307 of the Rules Regulating Telecommunications Providers, Services, and Products, 4 *Code of Colorado Regulations* (CCR) 723-2. That rule relates to the publication and distribution of telephone directories. In Docket No. 12M-817T, Dex generally argued that environmental practices, current customer usage patterns, and customer demand all indicate that

delivery of residential white pages by local exchange carriers (LECs) or their official directory publishers was no longer in the public interest. By this Order we administratively notice Docket No. 12M-817T.

4. The Commission referred Docket No. 12M-817T to an Administrative Law Judge (ALJ) due to practical and public interest concerns that warranted further development before a consideration of the merits. These concerns included possible impacts upon rural LECs whose distribution of white page directories would be impacted by any amendments to Rule 2307 and the concerns related to the provision and availability of emergency and non-emergency contact information.¹

5. On November 27, 2012, the ALJ issued Decision No. R12-1367-I. By that order, the ALJ submitted a report to the Commission containing her recommendations with respect to the rulemaking petition filed by Dex.

6. By Decision No. C12-1402, mailed December 5, 2012, the Commission agreed with the recommendations contained in that report. The Commission granted the Amended Petition for Rulemaking filed by Dex on October 22, 2012 and closed Docket No. 12M-817T. The Commission also agreed to issue a NOPR based upon the Rule 2307 language contained in the Amended Petition. The instant NOPR follows those determinations.

C. Policy Objectives of Proposed Rules

7. In its Amended Petition, Dex observes that there are several trends that have reduced both the use and usefulness of residential white pages. These trends include, without limitation, that consumers are choosing to drop their landline phone in favor of

¹ Decision No. C12-1091-I, mailed September 20, 2012, at ¶¶ 13-14.

other telecommunications platforms, such as cell phones or voice over Internet protocol (VoIP). Not only are cell phone numbers not ordinarily listed in white page directories, but these phones include technology capable of storing large volumes of phone numbers, serving as a substitute for print residential white page directories. Additionally, Dex notes that many consumers have access to online phone directories through the Internet.

8. In an attempt to bring the rules up to date to reflect modern environmental practices, current customer usage patterns, and customer demand, the proposed rules included in the Amended Petition, and attached hereto, modify subsection (a)(III) and (b) of Rule 2307. These proposed revisions are intended to eliminate outdated saturated delivery requirements while retaining pro-consumer provisions of Rule 2307. Proposed revisions are also intended to ensure that all customers will be provided essential emergency calling information and non-emergency numbers to help reduce the number of non-emergency calls placed through Colorado's emergency-911 system.

D. Miscellaneous

9. Rules not specifically discussed in this NOPR do not constitute a portion of this NOPR. The Commission is not proposing any changes to the rules not specifically discussed in this NOPR, other than those conforming amendments that may be necessary (*e.g.*, amendment to references to Rule 2307 that may appear in other rules).

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

11. 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 homepage at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=12R-1248T

12. The Commission encourages and invites public comment to the proposed updates.

13. The Commission shall refer this matter to an Administrative Law Judge (ALJ). The ALJ 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 ALJ 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-1248T no later than January 9, 2013. Reply comments should be submitted in the same docket and through the Commission's E-Filings System by January 23, 2013. The Commission will consider all submissions, whether oral or written.

14. 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 suggest rule language in legislative format.

15. The Commission desires to proceed with this rulemaking in an efficient and effective manner, which requires it 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. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the December 25, 2012 edition of *The Colorado Register*.

2. The Commission takes administrative notice of Docket No. 12M-817T in this proceeding.

3. A hearing on the proposed rules and related materials shall be held before an Administrative Law Judge (ALJ) as follows:

DATE: January 28, 2013
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Suite 250
1560 Broadway
Denver, Colorado

4. The ALJ 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 ALJ 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-1248T no later than January 9, 2013.

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-1248T no later than January 23, 2013.

8. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 5, 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

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]

2307. Directories for Basic Local Exchange Service.

(a) Publication and distribution of directories.

- (I) A LEC shall cause telephone directories to be published annually to include each exchange served by that LEC, listing the name, address, and telephone number of all basic local exchange customers served by that exchange except for those requesting omission of their listing from the directory. Each directory shall include a list of all exchanges in the local calling area.
- (II) All telephone directories shall be revised annually. However, a LEC may petition the Commission for an extension of time for good cause shown. A LEC only needs to petition the Commission to extend the life of a directory if the current directory will be in circulation more than an extra three months for a total life of 15 months or more.
- (III) Upon issuance, the LEC shall ensure that all customers served by that directory have access to the directory. A LEC satisfies this requirement if it, or its directory publisher, offers customers the option to receive the directory upon request, free of charge, and within a reasonable time of the request. If a directory required by this rule is not distributed automatically to all customers, then the LEC or its directory publisher shall:
 - (A) notify customers of the option to request the directory, and
 - (B) provide all customers in a directory that is distributed automatically to all customers (except those who affirmatively request not to receive directories) or alternative printed form the information required by subparagraphs 2307(b)(III) through (VI). ~~cause a copy of the published directory to be distributed free of charge to all customers served by that directory.~~
- (IV) Upon request from a customer with more than one access line, a directory for each access line shall be provided at no charge. A LEC shall provide additional free

directories in response to a reasonable request from any customer. Also, upon request from a customer, directories for the other exchanges in the customer's local calling area shall be provided at no charge. A copy of each directory published for each LEC shall be provided annually to the Commission. Upon written request, public libraries within the state shall be provided free copies of the directories for all exchanges served by the LEC within the state.

- (b) Directory information and instructions. Each directory shall include:
- (I) On the front cover, An indication of the area included in the directory and the month and year of issue or alternatively, the month and year through which the directory is effective, shall appear on the front cover. The phone service pages must include information on every ILEC and CLEC with listings included in the directory. Information pertaining to emergency calls, such as for the police and fire departments, shall appear conspicuously in the front part of the directory.
 - (II) Phone service pages including information on every ILEC and CLEC with listings included in the directory.
 - (III) On the first page of the directory, information pertaining to emergency calls, such as for the police and fire departments, including "9-1-1".
 - (IV) If provided by governmental public safety agencies, alternative numbers to use in case of an outage of the 9-1-1 system and non-emergency numbers to reduce inappropriate use of 9-1-1; either contained or referenced in the front part of a directory.
 - (#V) The directory shall include: -i) instructions for placing local and long distance calls; instructions for placing calls to repair and directory assistance services; the business office website, if applicable; and the telephone number of the LEC's business offices appropriate to the area served by the directory- or alternative information publication.
 - (#VI) Each directory shall include, -i) In a prominent manner in the instructional section of a directory, notice of the Commission's current toll free telephone number and the customer's right to make inquiries regarding telecommunications services to the Commission.
- (c) Directory assistance and intercept.
- (I) The LEC shall list its basic local exchange customers (except for those customers requesting otherwise) with the directory assistance operators within 72 hours of service connection.
 - (II) In the event of an error in the listed number or name of any customer by the LEC and until a new directory is published, the LEC shall make whatever special arrangements are necessary and reasonable at no charge to ensure that calling parties are able to reach the customer whose listed number or name is in error.

- (III) In the event of an error in the number, name, or address listing of any customer, the customer's correct name, address, and telephone number shall be included in the databases of directory assistance and intercept operators within 72 hours of confirmation of the error by the LEC or sent to the providers of these services within 24 hours if the LEC does not provide its own services. The LEC shall take the necessary steps to ensure that the error is corrected in the next issue of the directory.
- (IV) In the event a customer's telephone number is changed, the correct number shall be in the databases of directory assistance and intercept operators within 72 hours of the number change or sent to the providers of these services within 24 hours if the LEC does not provide its own services.
 - (A) Whenever a customer's telephone number is changed at the request of the customer after a directory is published, the LEC shall provide intercept service for all calls to the former number for a reasonable period but not fewer than 60 days. The customer may pay to have the intercept recording include the customer's new number.
 - (B) If the change is due to the initiative of the LEC, the LEC shall provide intercept service for all calls to the former number for 60 days or the remaining life of the directory, whichever is greater. The intercept recording shall include the customer's new number at no charge.

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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

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 - (III) Upon issuance, the LEC shall ensure that all customers served by that directory have access to the directory. A LEC satisfies this requirement if it, or its directory publisher, offers customers the option to receive the directory upon request, free of charge, and within a reasonable time of the request. If a directory required by this rule is not distributed automatically to all customers, then the LEC or its directory publisher shall:
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 - (B) provide all customers in a directory that is distributed automatically to all customers (except those who affirmatively request not to receive directories) or alternative printed form the information required by subparagraphs 2307(b)(III) through (VI).
 - (IV) Upon request from a customer with more than one access line, a directory for each access line shall be provided at no charge. A LEC shall provide additional free directories in response to a reasonable request from any customer. Also, upon request

from a customer, directories for the other exchanges in the customer's local calling area shall be provided at no charge. A copy of each directory published for each LEC shall be provided annually to the Commission. Upon written request, public libraries within the state shall be provided free copies of the directories for all exchanges served by the LEC within the state.

- (b) Directory information and instructions. Each directory shall include:
- (I) On the front cover, an indication of the area included in the directory and the month and year of issue or alternatively, the month and year through which the directory is effective.
 - (II) Phone service pages including information on every ILEC and CLEC with listings included in the directory.
 - (III) On the first page of the directory, information pertaining to emergency calls, such as for the police and fire departments, including "9-1-1".
 - (IV) If provided by governmental public safety agencies, alternative numbers to use in case of an outage of the 9-1-1 system and non-emergency numbers to reduce inappropriate use of 9-1-1; either contained or referenced in the front part of a directory.
 - (V) Instructions for placing local and long distance calls; instructions for placing calls to repair and directory assistance services; the business office website, if applicable; and the telephone number of the LEC's business offices appropriate to the area served by the directory or alternative information publication.
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 - (II) In the event of an error in the listed number or name of any customer by the LEC and until a new directory is published, the LEC shall make whatever special arrangements are necessary and reasonable at no charge to ensure that calling parties are able to reach the customer whose listed number or name is in error.
 - (III) In the event of an error in the number, name, or address listing of any customer, the customer's correct name, address, and telephone number shall be included in the databases of directory assistance and intercept operators within 72 hours of confirmation of the error by the LEC or sent to the providers of these services within 24 hours if the LEC does not provide its own services. The LEC shall take the necessary steps to ensure that the error is corrected in the next issue of the directory.

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 - (A) Whenever a customer's telephone number is changed at the request of the customer after a directory is published, the LEC shall provide intercept service for all calls to the former number for a reasonable period but not fewer than 60 days. The customer may pay to have the intercept recording include the customer's new number.
 - (B) If the change is due to the initiative of the LEC, the LEC shall provide intercept service for all calls to the former number for 60 days or the remaining life of the directory, whichever is greater. The intercept recording shall include the customer's new number at no charge.

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