

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 13R-0801T

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IN THE MATTER OF THE PROPOSED REPEAL OF RULES REGARDING THE ADMINISTRATION OF THE LOW INCOME ASSISTANCE PROGRAM, 4 CODE OF COLORADO REGULATIONS 723-2.

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**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MELODY MIRBABA  
REPEALING RULES**

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Mailed Date: September 23, 2013

**I. STATEMENT**

1. On July 15, 2013, the Public Utilities Commission issued the Notice of Proposed Rulemaking that commenced this proceeding. See Decision No. C13-0870. The Commission referred the instant rulemaking proceeding to an administrative law judge (ALJ) and scheduled a hearing for August 20, 2013.<sup>1</sup>

2. Statutory authority for the proposed rules is found in §§40-2-108, 40-3-102, 4-3-103, 40-3-106, 40-3-111, 40-4-101 and 40-15-503.5, C.R.S.

3. The amended rules should provide for clarity, necessity and conciseness and those rules found to be duplicative, inconsistent or unnecessarily burdensome should be repealed.

4. Throughout the proceeding no public comment was submitted, either in writing or verbally at the time of the Rulemaking Hearing. No interested persons appeared at the

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<sup>1</sup> Two Errata Notices were later issued correcting the time to commence the hearing from 9:00 p.m. to 9:00 a.m. and day of week from Wednesday to Tuesday. C13-0870-E and C13-870-E2. Neither notice changed the date and location of the hearing.

Rulemaking Hearing to provide public comment. A representative for the Commission's Staff, John Scott, appeared to provide an explanation for the proposed rule changes.

## **II. FINDINGS, DISCUSSION, AND CONCLUSION**

5. The purpose of this proceeding is to harmonize the Commission's rules with Colorado Senate Bill 13-194 (SB13-194), enacted April 1, 2013. SB13-194 repeals the Colorado Low-Income Telephone Assistance Program (LITAP), which the Commission administers. SB13-194 repeals Articles 3.4 of Title 40 and amendments to §§40-3-106 and 40-15-503.5, C.R.S. In Decision No. C13-0870, the Commission provided further detail on the purpose of this proceeding.

6. Not all modifications to the proposed rules are specifically addressed herein. Any changes incorporated into the redline version of the rules appended hereto are recommended for adoption.

7. Commission Staff member John Scott explained that the proposed changes are intended to conform the Commission's Rules administering LITAP with the General Assembly's decision to repeal all provisions of LITAP through SB13-194.

8. The proposed rules attached to Decision No. C13-0870 in legislative (i.e., strikeout/underline) format and in final format, were made available through the Commission's Electronic Filings (E-Filings) system. Moreover, information was posted through *The Colorado Register* on how to access the language of the proposed rules.

9. Notice of the proceedings was properly provided.

10. No public comments to the proposed rulemaking were filed with the Commission or made at the time noticed for the hearing.

11. The ALJ finds that no further hearings are necessary.

12. The undersigned ALJ has reviewed the record in this proceeding.

13. The ALJ finds that the proposed changes to the rules fulfill the repeal of LITAP through SB13-194. Accordingly, the ALJ finds that the proposed changes are both appropriate and necessary.

14. Being fully advised in this matter and consistent with the discussion above, in accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding along with a written recommended decision.

**I. ORDER**

**A. The Commission Orders That:**

1. The Rules Regulating Telecommunications Providers, 4 Code of Colorado Regulations 723-4, contained in redline and strikeout format attached to this Recommended Decision as Attachment A are adopted.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S.

If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

MELODY MIRBABA

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,  
Director

## **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**

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[indicates omission of unaffected rules]

#### **2006. Reports.**

Each provider shall submit reports to the Commission as follows:

- (a) Annual reports of Colorado jurisdictional operations. Each provider shall file with the Commission, on or before April 30 of each year, an annual report for the preceding calendar year. The provider shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the provider. All providers shall use the forms prescribed and supplied by the Commission and shall file the required number of copies pursuant to subparagraph 1204(a)(IV) of the Commission's Rules of Practice and Procedure. If the Commission grants the provider an extension of time to file the annual report, the provider shall nevertheless file with the Commission, on or before April 30, the provider's total gross operating revenue from intrastate telecommunications business transacted in Colorado for the preceding calendar year.
- (b) If a certified public accountant prepares an annual report for a provider, the provider shall file two copies of the report with the Commission within 30 days after publication.
- (c) Report of held local exchange service orders exceeding 90 days (90-day held orders) and not subject to any applicable exceptions in rule 2310. This paragraph only applies with respect to a LEC's residential and small business customers. Consistent with subparagraph 2310(f), when a LEC does not supply basic local exchange service to any customer in an exchange area currently served by the LEC within 90 days, the LEC shall file a report with the Director of the Commission, stating the circumstances causing the delay, explaining if such circumstances are beyond the LEC's control, and providing an estimate of the time necessary to provide service. This report shall identify: the name and address of each applicant; the date of application for service; the class type applied for (e.g., residence or business); the date the application became a 90-day held order; the wire center from which the customer will receive service; and the order number assigned by the LEC to the application for service. This report shall be filed with the Director by the last business day of the following month and shall identify all customers where the period to provide local exchange service exceeds 90 days.

- (d) Report of service orders exceeding thresholds. This paragraph only applies with respect to a LEC's residential and small business customers. When the lesser of 50 or five percent of the total number of service applications in a wire center in a consecutive three-month period are held orders, the provider shall, within five days of the close of the three-month period, submit to the Commission a report identifying the information required by subparagraph 2005(c)(V)(D) and identifying the number of days service has been delayed for each held order. The provider shall further submit to the Commission, within 14 days of the close of the three-month period, a plan of its proposed action to reduce the number of these held service orders to fewer than the lesser of 50 or five percent of the total number of service applications in that wire center.
- (e) Costs incurred and revenue foregone for failure to meet service requirements. This paragraph only applies with respect to a LEC's residential and small business customers. In compliance with subparagraphs 2310(e)(III) and (IV), a LEC shall report, on a monthly basis, all costs incurred and revenues foregone in providing bill credits and installation fee waivers. Such expenses, revenues foregone, bill credits and installation fee waivers shall be identified by class and type of service and duration. This report shall be filed with the Director by the last day of the following month.
- (f) Reports related to E9-1-1 and 9-1-1 services, as required by paragraph 2143(h) and rule 2144.
- ~~(g) Reports related to Low-Income Telephone Assistance, as required by rule 2804.~~
- (hg) Reports related to Telecommunications Relay Services for Disabled Telephone Users, as required by subparagraph 2827(b)(IV).
- (hi) Reports related to administration of the Colorado High Cost Support Mechanism, as required by rule 2846.
- (ij) Reports from the Commission's designated agent who administers the No-call list, as required by rule 2893.
- (kj) Other reports as required by this Part 2, but not specifically enumerated by this rule.
- (kl) Other reports as the Commission may require.

**2007. [Reserved].**

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[indicates omission of unaffected rules]

**2103. Application for CPCN or LOR.**

To request a CPCN to provide Part II regulated telecommunications services, a LOR to provide Part III emerging competitive services, or both, an applicant shall submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

- (a) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) The information required by paragraph 2002(b);
  - (II) Name, mailing address, toll free telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to customer disputes;
  - (III) Name, mailing address, telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to the Commission concerning customer informal complaints;
  - (IV) A copy of the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
  - (V) If the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;
  - (VI) Name and address of applicant's Colorado agent for service of process;
  - (VII) A description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;
  - (VIII) A copy of the applicant's most recent audited balance sheet, income statement, and statement of retained earnings;
  - (IX) If the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph (VIII): detailed information on the sources of capital funds that will be used to provide telecommunications services, including the amount of any loans, lines of credit, or equity infusions that have been received or requested, and the names of each source of capital funds;
  - (X) The names, business addresses, and titles of all officers, directors, partners, agents and managers who will be responsible for the provisioning of jurisdictional telecommunications services in Colorado;
  - (XI) A copy of any management contracts, service agreements, marketing agreements or any other agreements between the applicant and any other entity, including affiliates of the applicant, that relate to the provisioning of jurisdictional telecommunications services in Colorado;

- (XII) Identification of any of the following actions by any court or regulatory body within the last five years regarding the provisioning of regulated telecommunications services by the applicant, by any of applicant's agents, officers, board members, managers, partners, or management company personnel, or by any of applicant's affiliates that resulted in:
  - (A) Assessment of fines or civil penalties;
  - (B) Assessment of criminal penalties;
  - (C) Injunctive relief;
  - (D) Corrective action;
  - (E) Reparations;
  - (F) A formal complaint proceeding brought by any regulatory body;
  - (G) Initiation of or notification of a possible initiation of a disciplinary action by any regulatory body, including, but not limited to, any proceeding to limit or to place restrictions on any authority to operate, any CPCN, or any service offered;
  - (H) Refusal to grant authority to operate or to provide a service;
  - (I) Limitation, de-certification, or revocation of authority to operate or to provide a service; or
  - (J) Any combination of the above;
- (XIII) For each item identified in subparagraph (XII) of this paragraph: an identification of the jurisdiction, summary of any applicable notification of a possible initiation or pending procedure, including the docket, case, or file number, and, upon the request of the Commission or its Staff, a copy of any written decision;
- (XIV) A list of the Part III emerging competitive telecommunications services to be provided in conjunction with its LOR; and
- (XV) Acknowledgment that by signing the application, the applicant:
  - (A) Certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the telecommunications services for which it is applying;
  - (B) Understands that:
    - (i) The filing of the application does not by itself constitute authority to operate;
    - (ii) If the application is granted, the applicant shall not provide service until:
      - (a) the applicant complies with applicable Commission rules and any



conditions established by Commission order granting the application; (b) has an effective tariff on file with the Commission; and (c) the Commission approves its Declaration of Intent to Serve, if seeking to provide local exchange service in the service territory of a rural telecommunications provider;

- (C) Agrees to respond in writing, within ten days, to all customer informal complaints made to the Commission;
  - (D) Agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:
    - (i) The Fixed Utility Fund;
    - (ii) The Colorado High Cost Support Mechanism;
    - (iii) The Colorado Disabled Telephone Users Fund;
    - ~~(iv) The Low-Income Telephone Assistance Program;~~
    - (iv) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and
    - (v) Any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2)(b)(V), C.R.S.; and
  - (E) Certifies that, pursuant to its tariff, it will not unjustly discriminate among customers in the same class of service.
  - (F) Certifies that the applicant will not permit any other person or entity to operate under its Commission-granted authority without explicit Commission approval.
- (b) If an applicant is requesting only a LOR for Part III emerging competitive services, its application shall include the information required by subparagraphs (a)(I) - (VII) and (XII) – (XV).

**2104. Application to Amend a CPCN or LOR.**

To amend a CPCN or LOR, an applicant shall submit the required information by filing an application with the Commission.

- (a) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits, to the extent that information has changed since the original grant of authority:
  - (I) The information required for a CPCN or for a LOR by subparagraphs 2103(a)(I) – (III) and (XV);
  - (II) A list of services affected by the proposed amendment;

- (III) The reason for requesting the proposed amendment;
- (IV) Acknowledgment that by signing the application, the applicant:
  - (A) Certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the telecommunications services for which it is applying;
  - (B) Understands that:
    - (i) The filing of the application does not by itself constitute approval to amend its authority;
    - (ii) If the application is granted, the applicant shall not provide the proposed service until: (a) the Commission approves the application; (b) the applicant has an effective tariff reflecting the amended authority on file with the Commission; and (c) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application;
  - (C) Agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:
    - (i) The Fixed Utility Fund;
    - (ii) The Colorado High Cost Support Mechanism;
    - (iii) The Colorado Disabled Telephone Users Fund;
    - ~~(iv) The Low-Income Telephone Assistance Program;~~
    - (iv) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and
    - (v) Any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2)(b)(V), C.R.S.; and
  - (D) Certifies that, pursuant to its tariff, it will not unjustly discriminate among customers in the same class of service.
- (b) Combined applications. An applicant may file a combined application for amending the applicant's CPCN and LOR.

[indicates omission of unaffected rules]

**2122. Tariffs and Advice Letters.**

- (a) All tariffs and advice letters shall comply with rule 1210 of the Commissions Rules of Practice and Procedure.
- (b) Filing and contents of tariff. In addition to the requirements and contents in rule 1210, the following shall be included in a provider's tariff, as applicable:
  - (I) A description of the provider's local calling areas, which shall include the exchange area and all other exchanges which are included in its local calling area.
  - (II) Exchange maps. Each LEC shall have on file with the Commission, as part of its tariff, a currently applicable exchange area boundary map for each of its exchanges within the state in which the LEC has been granted authority to provide service. Each map shall identify clearly the boundary lines of the exchange area and shall include a map scale. Exchange boundary lines shall identify, by appropriate measurement, the boundary line if the boundary line is not otherwise located on section lines, waterways, railroads, or roads. Maps shall include detail equivalent to the detail provided on county highway maps. In lieu of filing a separate set of exchange area boundary maps, the tariff of a CLEC may incorporate by reference the exchange area boundary maps of a LEC or LECs, provided the CLEC's service territory mirrors the exchange area of the other LEC or LECs. This incorporation by reference shall be a listing of the exchange boundary area(s) in which the CLEC will provide service.
  - (III) The provider's rates and charges for Colorado jurisdictional services or alternatively, the provider's maximum rates or range of rates if the provider is also filing a price list.
  - (IV) A description of subscribers' options regarding freezing their authorized local, intraLATA toll, and interLATA toll carriers consistent with subparagraph 2311(d), except that providers who are registered solely as toll resellers shall not be subject to this requirement.
  - (V) The rates, charges, terms, and conditions for interconnection, consistent with rules 2500 through 2529.
  - (VI) A description of the Colorado High Cost Support Mechanism (CHCSM) surcharge, consistent with paragraphs 2847(f) and (g).
  - ~~(VII) A description of the Low Income Telephone Assistance Plan (LITAP) surcharge, consistent with rule 2803.~~
  - (VII) A description of the Telecommunications Relay Services (TRS) surcharge, consistent with rule 2827.
  - ~~(XVIII)~~ A description of all other state-mandated surcharges.

- (IX) Initial Tariff. Each provider shall file an initial Tariff accompanied by an initial Advice Letter, in compliance with this rule and any relevant Commission order, on not less than 30-days notice to the Commission. If the provider chooses to also file a Price List, the Tariff shall state the provider's maximum or range of rates whereas the Price List shall identify the actual prices that will be charged to its customers.(XI)Changing existing tariffs.
- (A) Introducing a new regulated service. Any ILEC proposing to introduce any new regulated service shall file an advice letter and proposed tariff pages on not less than 30-days notice to the Commission and to the public. The Commission may order the ILEC to give additional notice of the proposed new service. A new regulated service does not include new package offerings of existing services; adding new term periods and rates to existing services; or adding different configuration and rates to an existing service.
- (B) Changing tariffs on 14-days notice. A provider that has been granted an alternative form of regulation for Part III emerging competitive services or that has been granted a form of price regulation other than rate-of-return regulation, or a CLEC that is providing service pursuant to a default form of regulation may propose a change in its tariff by filing an advice letter and tariff pages on not less than 14-days notice.
- (C) ILEC notice requirements for tariff changes.
- (i) Changing tariffs on not less than 30-days notice. Any ILEC proposing to change any rate, or to change any rule, regulation, classification, term, or condition in a tariff that will result in an increase in rates or charges shall give notice in accordance with § 40-3-104, C.R.S.
- (ii) Changing tariffs to decrease rates. Any ILEC proposing to change any rate in a tariff that will result in a decrease in rates or charges shall file an advice letter and tariff pages on not less than 14-days notice to the Commission. No additional public notice shall be required.
- (iii) Changing tariff terms or conditions on not less than 14-days notice. Any ILEC proposing a change in its tariff terms or conditions shall file an advice letter and tariff pages on not less than 14-days notice to the Commission. No additional notice is required, unless the Commission finds that it is in the public interest to order additional notice. If the Commission so orders, and to avoid rejection of the advice letter filing, the provider shall extend the effective date of such advice letter to accommodate the additional notice.
- (D) Changing tariffs upon less than 30-days or 14-days notice. A provider may file an application for permission to change a tariff on less than 30-days or 14-days notice, as applicable. The Commission, for good cause shown, under § 40-3-104(2), C.R.S., may grant permission to change a tariff without formal oral hearing on less than 30-days or 14-days notice. No tariff change shall become effective unless the Commission orders: a change in the manner in which the

tariff shall be filed and published; the change to be made to the tariff; and the date when the change shall take effect. In providing notice of the application, the provider shall comply with paragraph 1206(f) concerning less-than-statutory notice. The following shall be included in the application: details of the proposed change to the provider's tariff; the tariff pages that the provider proposes to change; justification for the proposed change becoming effective on less than 14-days or 30-days notice, as applicable; any prior Commission action, in any proceeding, pertaining to the present or proposed tariff; and financial data supporting the proposed change, if appropriate.

- (c) Customer notice. If the utility is required by statute, Commission rule or order to provide additional notice to customers of the advice letter filing, such customer notice shall include, without limitation, the following:
- (I) Information required by paragraph 2002(d)(I) – (XII); and
  - (II) Identification of the advice letter number, if known at the time the customer notice is provided.

\* \* \*

[indicates omission of unaffected rules]

## PROGRAMS

### ~~Low-Income Telephone Assistance Program~~

#### ~~Basis, Purpose, and Statutory Authority~~

~~The basis and purpose of these rules is to implement the Low-Income Telephone Assistance Program (LITAP) so that low-income individuals receive assistance adequate to ensure access to residential basic local exchange telecommunications service and to prescribe the procedures for the administration of the LITAP Fund.~~

~~The statutory authority for the promulgation of these rules is found at §§ 40-2-108, 40-3.4-106, and 40-15-502(3)(a), C.R.S. These rules are consistent with 47 U.S.C. § 254 and 47 C.F.R., Part 54 (October 2002).~~

#### ~~2800.—Applicability.~~

- ~~(a) Rules 2800 through 2805 are applicable to all providers of basic local exchange telecommunications service.~~

~~(b) Rules 2800 through 2819 are applicable to LECs who are Eligible Telecommunications Carriers (ETCs) and who are certified to do business in and to offer basic local exchange service within the state of Colorado.~~

**2801.—Definitions.**

The following definitions apply only in the context of rules 2800 through 2819:

~~(a) "Eligible subscriber" means an individual who is qualified to receive low-income telephone assistance pursuant to § 40-3.5-105, C.R.S.~~

~~(b) "Low Income Telephone Assistance Program (LITAP) service" means a retail residential local service offering that:~~

~~(I) Allows eligible subscribers to pay reduced charges by applying the support amount described in § 40-3.4-104, C.R.S.; and~~

~~(II) Is available to eligible subscribers as determined by the Colorado Department of Human Services.~~

**2802.—Incorporation by Reference.**

~~References in rules 2800 through 2819 to Part 54 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.~~

**2803.—Plan Implementation.**

~~Prior to implementing a program plan, each provider to which these rules apply shall file with the Commission the information specified in paragraph 2804(b), along with an advice letter and tariff pages adding the LITAP service.~~

~~(a) The tariff shall include a description of the LITAP service offered to eligible subscribers and the associated monthly rate. Such tariff shall provide a 25 percent discount, or the end user common line charge, whichever is greater, for a single residential basic local exchange line in the principal residence of an eligible subscriber. In addition, eligible subscribers who are billed by the provider and who pay mileage or zone charges associated with the line are eligible for a 25 percent discount for these charges.~~

~~(b) LITAP service rates shall be further reduced by any amount that the basic local exchange provider receives from any federal program providing for a reduction in such intrastate rate.~~

~~(c) In no event shall the discount for LITAP service be less than the end user common line charge imposed by the FCC.~~

**2804.—Fund Administration.**

~~The Commission shall determine, and by appropriate order, impose a uniform charge on each business and residential access line in a uniform amount for participating telecommunications providers. Such~~

~~charges can be adjusted on or before July 1 of each year. To assist the Commission in calculating that uniform charge, the following information shall be provided to the Commission:~~

- ~~(a) — The Department of Human Services shall forward to the Commission by April 1 of each calendar year its estimate of its administrative expenses incurred under § 40-3.4-101, C.R.S., et seq., and its estimate of the number of eligible subscribers for the coming fiscal year.~~
- ~~(b) — Each provider of basic local exchange telecommunications services shall, in its annual report to the Commission, state its estimate for the coming year of the number of eligible subscribers who will receive low-income telephone assistance, the number of business and residential subscribers subject to the uniform charge, and its administration cost of the program as well as the historic monthly amounts of collections generated by the uniform charge, the monthly amounts of revenue forgone due to the discount of the program, its monthly administration expenses, and amounts reimbursed from or remitted to the Low Income Telephone Assistance Fund as managed by the State Treasurer. Providers of basic local exchange telecommunications services having more than 500,000 access lines shall report program administrative fees based on actual costs. Providers of basic local exchange telecommunications services having less than 500,000 access lines shall report a Commission-approved administrative fee based on an average cost to administer the program as shown in the provider's industry-standard cost documentation or actual cost to administer the program as demonstrated through the provider's accounting documentation.~~
- ~~(c) — The State Treasurer shall forward to the Commission by April 1 of each calendar year, an accounting of the transactions occurring in the Low Income Telephone Assistance Fund.~~
- ~~(d) — The Commission by April 1, of each calendar year shall estimate its administrative expenses incurred under § 40-3.4-101, C.R.S., et seq.~~
- ~~(e) — The Commission, within 30 days of receipt of each report and after examining same, shall calculate the uniform charge based upon the undisputed amounts. Disputes concerning the amounts due for reimbursements from the fund shall be resolved through the Commission's administrative hearing process.~~
- ~~(f) — The Commission, shall by order, specify the amount of reimbursement due to each LEC if the foregone revenues plus any reasonable administrative expenses exceed the total amount of the uniform charge collected by the LEC.~~

**~~2805. — Uniform Charge.~~**

- ~~(a) — The uniform charges imposed pursuant to § 40-3.4-108(1), C.R.S., shall be billed to each access line of each provider of basic local exchange telecommunications services.~~
- ~~(b) — The uniform charge shall not be imposed on any state or local governmental body or on eligible subscribers.~~
- ~~(c) — A provider of basic local exchange telecommunications service may collect the uniform charge by a specific line item on subscribers' bills if provided for in its tariff. Alternatively, the uniform charge may be included in each subscriber's bill as part of the subscriber's basic exchange service rate and the provider's tariff shall indicate, through a footnote or other explanatory text,~~

~~that the basic exchange service rate contains the uniform charge. In addition, if the basic exchange service rate includes the uniform charge, a market informational note shall be added to the bill once a year informing customers that "The base rate includes a Commission-approved monthly charge for the Low-Income Telephone Assistance Program".~~

~~(d) Upon collecting the uniform charge, each provider may retain, from the total charges collected, an amount sufficient to reimburse such provider for its provision of low-income telephone assistance.~~

~~(I) If the total collected is in excess of the amount sufficient to reimburse the provider, the provider shall by the 30th day following the end of each quarter (January 30, April 30, July 30, and October 30) remit the excess to the Commission. To assist providers, the Commission may provide net contributors a form at least 30 days prior to the above due dates in order to accurately calculate the amounts to be remitted to the Commission. The Commission shall deposit such amount with the State Treasurer, who shall credit the same to the Low-Income Telephone Assistance Fund.~~

~~(II) If the total collected is insufficient to reimburse the provider, the provider shall request reimbursement from the fund by providing the required information of paragraph 2804(b) in its annual report to the Commission. The Commission, after examining the information provided, shall calculate the amount due for reimbursements from the fund, and request reimbursement from the State Treasurer, who shall remit that amount and shall debit the same amount from the Low-Income Telephone Assistance Fund.~~

~~(e) The Department of Human Services shall file with the Commission a report detailing its costs in administering the low-income telephone assistance program in accordance with § 40-3.4-101, C.R.S., et seq. The Commission shall request reimbursement of the approved expenses of the Department of Human Services from the State Treasurer, who shall remit that amount and shall debit the same from the Low-Income Telephone Assistance Fund.~~

~~**2806. Prohibition of Disconnection.**~~

~~(a) Providers shall not disconnect LITAP service subscribers for non-payment of toll charges.~~

~~(b) The Commission may grant a variance of paragraph (a) of this rule if the LEC can demonstrate all of the following:~~

~~(I) It would incur substantial and unjustifiable costs in complying with this requirement;~~

~~(II) It offers toll limitation to its qualifying low-income customers without charge; and~~

~~(III) Telephone subscriptions among low-income customers in the carrier's service area are greater than or equal to the national subscription rate for low-income customers. For purposes of this subparagraph, a "low-income customer" is one with an income below the poverty level as defined by the Department of Human Services for a family of four residing in the state.~~



**~~2807.—Offering of Toll Limitation.~~**

- ~~(a) All ETCs shall offer toll limitation to all qualifying low-income customers at the time such customers subscribe to LITAP service. If the customer elects to receive toll limitation, that service shall become part of the customer's LITAP service.~~
- ~~(b) LITAP support for providing toll limitation shall be provided from the federal lifeline program.~~

**~~2808.—Service Deposit.~~**

~~Providers shall not collect a service deposit in order to initiate LITAP service, if the qualifying low-income customer voluntarily elects toll limitation from the carrier, where available. If toll limitation is unavailable, the carrier may charge a service deposit.~~

**~~2809.—Federal Reporting Requirements.~~**

~~Each ETC shall file information with the administrator of the federal Lifeline program demonstrating that the carrier's LITAP plan meets the criteria set forth in 47 C.F.R., Part 54, Subpart E, and stating the number of qualifying low-income customers and the amount of state assistance.~~

**~~28100. – 2819. [Reserved].~~**

\* \* \*

[indicates omission of unaffected rules]

**2847. Eligible Provider.**

- (a) As a prerequisite for designation and eligibility to receive support from the HCSM, a provider shall be in compliance with the Commission's rules applicable to the provision of basic local exchange service.
- (b) Upon request and consistent with the public interest, convenience, and necessity, the Commission may designate more than one common carrier as an EP in a service area designated by the Commission, so long as each additional requesting carrier meets the requirements of Commission rules. The Commission shall find that the designation is in the public interest.
- ~~(c) All EPs shall make available, collect, and remit the LITAP surcharge, and advertise LITAP as defined in rules 2800 through 2819, to qualifying low-income customers.~~
- (~~c~~) The EP shall agree to certify that it is complying with the Commission's service quality standards and consumer protection rules, and shall agree to submit to the Commission's enforcement and sanction authority with regards to violations of such service quality standards and/or consumer protection rules.

- (ed) Application. A provider shall file an application with the Commission to be designated as an EP within a geographic support area and eligible to receive support from the HCSM.
- (I) Contents. In addition to complying with the requirements of paragraph 2002(b), the application must provide evidence sufficient to establish that:
- (A) The provider is, or is applying to be, designated as an ETC under rule 2187 for purposes of being eligible to receive federal universal service support;
  - (B) The provider agrees to provide such basic local exchange service as described in Sections 214(e) and 254 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996;
  - (C) The provider will offer basic local exchange service throughout the entire geographic support area;
  - (D) The provider has the managerial qualifications, financial resources, and technical competence to provide basic local exchange service throughout the specified support area regardless of the availability of facilities or the presence of other providers in the area;
  - (E) The provider is not receiving funds from the HCSM or any other source that together with revenues, exceed the reasonable cost of providing basic local exchange service to customers of such provider;
  - (F) The granting of the application serves the public convenience and necessity, as defined in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.; and
  - (G) The provider acknowledges that it will offer basic local exchange service within one year of the effective date of the Commission order approving such application for EP designation or its designation will become null and void.
- (II) Process for determining eligibility.
- (A) The Commission processes applications in accordance with the Rules of Practice and Procedure.
  - (B) An application filed pursuant to paragraph (e) may be filed contemporaneously with an application for a CPCN, LOR, or an alternative form of regulation. In addition, an application to be designated as an EP may be filed in a combined application to be designated a POLR or an ETC pursuant to rules 2183 and 2187.
- (fe) Reseller ineligibility. A provider which provisions its service to end users solely through purchase of a finished service from a facilities-based provider, and then sells that same service or that service combined with other services is not eligible to receive support from the HCSM.
- (gf) Portability of support. HCSM support shall be portable between any EP chosen by the end user.

(hg) Annual reporting requirements for eligible providers.

- (I) Each EP shall submit the reporting information specified below no later than August 15<sup>th</sup> of each calendar year to the Commission. EPs failing to meet these annual reporting requirements may not be eligible to receive high cost support and are subject to Commission enforcement and sanction with regard to failure to comply.
  - (A) For the previous calendar year, a detailed schedule/exhibit showing the actual dollar amounts expended by the carrier in the provision, maintenance, upgrading, plant additions and associated infrastructure costs for local exchange service within the service areas in Colorado where the carrier has been designated an EP. This information shall be submitted at the wire center level or at the authorized service area. If service improvements in a particular wire center are not needed, an explanation of why improvement is not needed and how funding will otherwise be used to further the provision of supported services in that area.
  - (B) Documentation the carrier offers and advertises the rate and availability of Basic Universal Service (BUS) offerings ~~and LITAP program~~ throughout the service areas in Colorado where the carrier has been designated an EP. Copies of written material used in newspaper advertisements, press releases, posters, flyers and outreach efforts and a log of when and where these materials were distributed. For newspaper advertisements, dated copies of the published newspaper advertisements may serve as copies of written material. For radio station advertising, a confirmation from broadcasters of when the public service announcement was aired.
  - (C) Documentation that a competitive EP is offering an unlimited local usage plan or a plan with at least 900 minutes of use per month that is comparable to that offered by the incumbent LEC in the relevant service areas.
  - (D) An affidavit attesting to the fact that the information reported on the annual report and information submitted under this rule is true and correct. An officer, director, partner, or owner of the company must sign the affidavit.
- (II) If a review of the data submitted by an EP indicates that the EP is no longer in compliance with the Commission's criteria for EP designation, the Commission may refrain from authorizing HCSM support to the carrier until the carrier is in compliance with the Commission's criteria for EP designation.

\* \* \*

[indicates omission of unaffected rules]

**2895. Regulated Telecommunications Utility Rule Violations, Civil Enforcement, and Civil Penalties.**

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

<b>Citation</b>	<b>Description</b>	<b>Maximum Penalty Per Violation</b>
	Articles 1-7 and 15 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 2005	Records and Record Retention	\$2000
Rule 2108(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	\$2000
Rule 2109, text preceding (a) only	Applications to Transfer or Encumber	\$2000
Rule 2110(a) and (b)	Toll Reseller Restrictions and Obligations	\$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	\$2000
Rule 2133(a)	Service Components and Requirements	\$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	\$2000
Rule 2136	Obligations of Basic Emergency Service Providers	\$2000
Rule 2137	Obligations of ALI Database Providers	\$2000
Rule 2138	Obligations of Basic Local Exchange Carriers	\$2000
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	\$2000
Rule 2141(b) and (c)	Obligations of Multi-line Telephone Systems	\$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	\$2000

Rule 2143	Diverse Routing and Priority Service Restoration	\$2000
Rule 2164(b),(c)(V),(e),(f),(k), and (l)	Regulation of Non-optional Operator Services	\$2000
Rule 2165(b)-(e)	Requirements for Non-optional Operator Service Providers	\$2000
Rule 2185	Obligations of Providers of Last Resort	\$2000
Rule 2186(a),(d), and (e)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2187(c) and (f)	Eligible Telecommunications Carrier Designation	\$2000
Rule 2202(e)-(g)	Default Form of Regulation for ILECs	\$2000
Rule 2203	Default Forms of Regulation for CLECs	\$2000
Rule 2204(c)-(e)	General Requirements	\$2000
Rule 2205(a) and (f)	Application for Alternative Form of Regulation	\$2000
Rule 2206(b),(c),(e)-(g)	Simplified Regulatory Treatment for Rural ILECs	\$2000
Rule 2209(e)	Deregulation of Part III Emerging Competitive Services	\$2000
Rule 2304	Billing Information, Procedures, and Requirements	\$2000
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2310(a),(c),(d)-(f)	Line Extensions	\$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2403(a)	Specific Types of Services	\$2000
Rule 2404(a),(d)	Uniform System of Accounts	\$2000
Rule 2405(a),(c)	State-Interstate Separation of Costs	\$2000
Rule 2410	Reporting and Record Keeping	\$2000

Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2414	Affiliate Transactions for Interexchange Providers	\$2000
Rule 2415	Separation of Colorado Intrastate Access Costs	\$2000
Rule 2416	Intrastate Access Charge Elements	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2702(a),(d),(e),(f)	Assignment of Telephone Numbers in Colorado	\$2000
Rule 2723	Local Number Portability	\$2000
Rule 2724(b),(c)	Long-Term Service Provider Number Portability	\$2000
Rule 2741(d),(e),(f)(IV-V),(g)(X),(h)(III-IV),(j)(III-IV),(l)	Abbreviated Dialing Codes	\$2000
<del>Rule 2803</del>	<del>LITAP Plan Implementation</del>	<del>\$2000</del>

<b>Citation</b>	<b>Description</b>	<b>Maximum Penalty Per Violation</b>
Rule 2004	Disputes	\$1000
Rule 2123	Price Lists and Transmittal Letters	\$1000
Rule 2144	Reports	\$1000
Rule 2168	Access Codes of Non-Optional Operator Service Providers	\$1000
Rule 2169	Access From Registered Equipment and Access to Common Carriers	\$1000
Rule 2311(b)-(g)	Changing Providers and Carrier Presubscription	\$1000
Rule 2312(b)-(e)	IntraLATA Equal Access	\$1000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000

Rule 2336(a),(b)	Adequacy of Service	\$1000
Rule 2337(b),(d)-(h)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2338	Interexchange Trunk Connections	\$1000
Rule 2339	PBX and Multiline Channels	\$1000
Rule 2340	Network Call Completion Requirements	\$1000
Rule 2341(a),(b),(d)-(f)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 2502	Interconnection	\$1000
Rule 2503(c)-(e)	Compensation for Terminating Local Traffic	\$1000
Rule 2504	Other Intercompany Arrangements	\$1000
Rule 2505(c)	Unbundling	\$1000
Rule 2506	Process and Imputation	\$1000
Rule 2582(a),(c)-(f)	Regulation of Facilities-Based Telecommunications Providers	\$1000
Rule 2583(b)-(d)	Service Quality	\$1000
Rule 2584	Confidentiality	\$1000
Rule 2585	Tariff Filings	\$1000
Rule 2586(b)	Negotiation, Mediation and Arbitration	\$1000
Rule 2587	Regulation of Resellers	\$1000
Rule 2894	Local Exchange Carriers' Responsibilities – Notification of Designated Agent	\$1000

<b>Citation</b>	<b>Description</b>	<b>Maximum Penalty Per Violation</b>
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500

Rule 2307	Directories for Basic Local Exchange Service	\$500
Rule 2308	Local Exchange Service Standards	\$500

Citation	Description	Maximum Penalty Per Violation
Rule 2006(a)-(e); (l)	Reports	\$100
Rule 2303	Denial or Discontinuance of Service	\$100
Rule 2306	Public Information	\$100
<del>Rule 2804(b)</del>	<del>LITAP Fund Administration</del>	<del>\$100</del>
<del>Rule 2805(a)-(d)</del>	<del>Timely or Completely Filing or Making Appropriate Payments to the LITAP Fund</del>	<del>\$100</del>
<del>Rule 2806(a)</del>	<del>Prohibition of Disconnection of LITAP Customers</del>	<del>\$100</del>
<del>Rule 2807(a)</del>	<del>Offering of Toll Limitation for LITAP</del>	<del>\$100</del>
<del>Rule 2808</del>	<del>LITAP Service Deposit</del>	<del>\$100</del>
<del>Rule 2809</del>	<del>LITAP Federal Reporting Requirements</del>	<del>\$100</del>
Rule 2823(a),(c)-(e)	Conformity with the Federal Americans with Disabilities Act of 1990	\$100
Rule 2824	Conformity with the Commission's Quality of Service Rules	\$100
Rule 2827(b)	Timely or Completely Filing or Making Appropriate Payments to the TRS Fund	\$100
Rule 2846	Timely or Completely Filing or Making Appropriate Payments to the CHCSM Fund	\$100

2896. – 2899. [Reserved].

**GLOSSARY OF ACRONYMS**

ABS Alternate Billing Service  
ALI Automatic Location Identification



AMA Automatic Message Accounting  
AML Actual Measured Loss  
ANI Automatic Number Identification  
ANSI American National Standards Institute  
BER Bit Error Rate  
BESP Basic Emergency Service Provider  
BRI Basic Rate Interface  
BSA Basic Serving Arrangement  
BSE Basic Service Element  
CASB Cost Accounting Standards Board  
CCR Code of Colorado Regulations  
CEI Comparably Efficient Interconnection  
CFR Code of Federal Regulations  
CHCSM Colorado High Cost Support Mechanism  
CLASS Custom Local Area Signaling System  
CLEC Competitive Local Exchange Carrier  
CMRS Commercial Mobile Radio Service  
CNS Complementary Network Service  
CPCN Certificate of Public Convenience and Necessity  
CPNI Customer Proprietary Network Information  
CRCP Colorado Rules of Civil Procedure  
CRS Colorado Revised Statutes  
CSR Customer Service Record  
dB Decibel  
dBmC Decibel above Reference Noise level using C-message weighting  
DEM Dial Equipment Minutes of Use  
DMS Data Management System  
DS0,DS1,DS3 Digital Signaling levels 0, 1 and 3  
E9-1-1 Enhanced 911  
e-mail Electronic mail  
ENS Emergency Notification Service  
EP Eligible Provider  
ESP Enhanced Service Provider  
ETC Eligible Telecommunications Carrier  
ETS Emergency Telephone Service  
FCC Federal Communications Commission  
FDC Fully Distributed Cost  
FOC Firm Order Confirmation  
GAAP Generally Accepted Accounting Principles  
Hz Hertz  
ICB Individual Case Basis  
IEEE Institute of Electrical and Electronics Engineers  
ILEC Incumbent Local Exchange Carrier  
ISDN Integrated Services Digital Network  
IXC Interexchange Carrier  
kbit/sec kilobit per second (1,000 bits per second)  
LATA Local Access Transport Area  
LCA Local Calling Area  
LEC Local Exchange Carrier  
LIDB Line Identification Database

~~LITAP—Low Income Telephone Assistance Plan~~

LLC Limited Liability Company  
LNP Local Number Portability  
LOR Letter of Registration  
LRIC Long Run Incremental Cost  
LSR Local Service Request  
ma milliamps  
Mbps Megabits per second  
MLTS Multi-line Telephone System  
MSA Metropolitan Statistical Area  
MSAG Master Street Address Guide  
MTB Minimum Transport Bandwidth  
MTE Multi-Tenant Environment  
NANP North American Numbering Plan  
NANPA North American Numbering Plan Administrator  
NECA National Exchange Carrier Association  
NENA National Emergency Number Association  
NID Network Interface Device  
NIIF Network Interconnection Interoperability Forum  
NPA Numbering Plan Area  
NPAC Number Portability Administration Center  
OC1 Optical Carrier-Level 1 Signal  
OCC Office of Consumer Counsel  
ONA Open Network Architecture  
OSS Operational Support Systems  
PBX Private Branch Exchange  
PCS Personal Communications Service  
PIN Personal Account Identification Number  
POLR Provider of Last Resort  
POTS Plain Old Telephone Service  
PRI Primary Rate Interface  
PSAP Public Safety Answering Point  
RBOC Regional Bell Operating Company  
RTEZ Rural Technology Enterprise Zone  
RTF Rich Text Format  
RUS Rural Utility Service  
SCP Service Control Point  
SGAT Statement of Generally Available Terms and Conditions  
SLU Subscriber Line Usage  
SS7 Signaling System #7  
STP Signal Transfer Point  
TDD Telecommunications Device for the Deaf  
TRS Telecommunications Relay Services  
TSLRIC Total Service Long Run Incremental Cost  
UNE Unbundled Network Element  
USF Universal Service Fund  
USOA Uniform System of Accounts  
WATS Wide Area Telephone Service