

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25R-0174T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO 4 CODE OF COLORADO REGULATIONS 7232 MODIFYING THE COMMISSION RULES REGARDING BASIC EMERGENCY SERVICE TARIFFED ITEMS AND REIMBURSEMENT.

NOTICE OF PROPOSED RULEMAKING

Issued Date: April 29, 2025
Adopted Date: April 23, 2025

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I. BY THE COMMISSION

A. Statement

1. By this Decision, the Colorado Public Utilities Commission (“Commission”) issues this Notice of Proposed Rulemaking (“NOPR”) to amend the Rules Regulating Telecommunications Services and Providers of Telecommunications Services contained in

4 *Code of Colorado Regulations* (“CCR”) 723-2-2131, 2137, 2148, and 2149 (collectively, the Basic Emergency Service Rules).

2. The changes proposed are intended to (1) update the definitions of items included in a tariff filed by a Basic Emergency Service Provider (“BESP”), and (2) clarify the method by which governing bodies will be reimbursed for such tariffed items.

3. This rulemaking follows a Petition for Declaratory Order or Rulemaking (“Petition”), made in Proceeding No. 24D-0534T, in which several governing bodies asked for clarification and direction of how “optional” services might be reimbursed through the statewide 9-1-1 surcharge. In closing that Proceeding, the Commission directed Staff of the Colorado Public Utilities Commission (“Staff”) to engage stakeholders regarding potential language updates to address the issues brought forth in the Petition.

4. Pre-rulemaking stakeholder engagement included circulating advanced drafts of rule amendments to the members of the Commission’s 9-1-1 Advisory Task Force. Three workshop sessions were held (April 11, 2025, April 18, 2025, and April 25, 2025) in which participants worked from drafts of rules proposed by the stakeholders and by Staff. Through these workshops, stakeholders developed the consensus rules which are attached to this NOPR.

5. The proposed rules are attached to this Decision as Attachment A, the proposed rules in legislative format (strikeout and underline), and Attachment B, the proposed rules in final format.

6. This matter is referred to an Administrative Law Judge (“ALJ”) for issuance of a recommended decision, consistent with the discussion below.

B. Background

7. On September 17, 2024, Qwest Corporation doing business as CenturyLink QC¹ (“CenturyLink”) filed revisions to Emergency Reporting Services Tariff Colo. P.U.C No. 25, proposing to offer four new services to its current Basic Emergency Services offering, with a proposed effective date of October 18, 2024, Proceeding No. 24AL-0397T (“Tariff Proceeding”). CenturyLink stated that the purpose of filing Advice Letter 3169 was to “add several services/features to the above-referenced tariff. These additions to the ESInet [Emergency Services IP Network] will be a benefit to all of Colorado and continues the state down the path of achieving a full i3 NG911 standard.”

8. Following protests, the Commission issued Decision No. C24-0750 on October 17, 2024, setting the matter for hearing, suspending the effective date of tariffs, and referring the proceeding to an ALJ. Despite addressing interventions and moving the matter towards hearing,² on January 31, 2025, CenturyLink filed a Motion to Withdraw Advice Letter and Related Tariff Pages. CenturyLink cited a Joint Petition filed December 9, 2024, by the Boulder Regional Emergency Telephone Authority, Douglas County Emergency Telephone Service Authority, and El Paso-Teller County Emergency Telephone Service Authority (“Petitioning Authorities”) that requested a declaratory order or rulemaking that initiated Proceeding No. 24D-0534T (“Petition Proceeding”). As indicated in its motion seeking withdrawal, CenturyLink “determined that, in the interest of efficiency, it is logical to wait for guidance from the Commission in [the Petition Proceeding] before litigating tariff changes in this proceeding.” CenturyLink further stated that they are “committed to amending its BES offerings

¹ CenturyLink also does business in Colorado as Lumen or Lumen Technologies.

² Decision No. R24-0901-I on December 12, 2024, Proceeding No 24AL-0397T.

to include in some form the services currently at issue in this proceeding....” The withdrawal request was subsequently granted.³

9. In the Petition Proceeding, the Petitioning Authorities stated that:

the issues which parties in [the Tariff Proceeding] will be addressing and with which the presiding [ALJ] will be presented include whether the services introduced in the tariff filing should be optional or mandatory,” and requested that the Commission “issue an order (i) declaring that optional services may be tariffed, (ii) declaring that the Commission will determine whether specific optional tariffed services will be funded with proceeds of the Surcharge in the tariff approval proceeding in which the optional services and associated charges are approved, and (iii) establishing the criteria for determine whether the optional services will be funded with proceeds of the Surcharge.

10. In the absence of a Declaratory Order, the Petitioning Authorities requested the Commission “open a rulemaking to adopt rules providing the criteria for approval of optional services and subsidization of the optional services with proceeds of the Surcharge.”

11. The Commission issued Decision No. C25-0015-I Interim Decision Accepting Petition For Declaratory Order and Alternative Petition for Rulemaking, Issuing Notice, and Establishing 30-Day Intervention Period on January 7, 2025. This Interim Decision opened a 30-day comment period.

12. Several parties filed to intervene including the Petitioning Authorities, but also Montrose Emergency Telephone Service Authority, Ouray County Emergency Telephone Service Authority, and San Miguel Emergency Telephone Service Authority (as “West Region 9-1-1 Authorities”) filed jointly; Adams County E-911 Emergency Telephone Service Authority, Arapahoe County 911 Authority, and Jefferson County Emergency Communications Authority (as the “AAJ Authorities”); and CenturyLink.

³ Decision No. R25-0090, issued February 10, 2025, Proceeding No. 24AL-0397T.

13. Petitioning Authorities and West Region 9-1-1 Authorities filed comments urging the Commission to issue an expedited decision in the matter, citing the service offerings in Advice Letter No. 3169 as “critical,” recommending the Commission adopt emergency rules regarding whether “the Commission will establish the amount of the 9-1-1 Surcharge and distribute proceeds of the 9-1-1 Surcharge to fund Non-Mandatory Tariff Charge amounts for essential and transitional NG9-1-1 Services to all Governing Bodies regardless of whether the Governing Bodies (i) will obtain the services pursuant to the tariff,” and providing suggested rule language as well as comments on the services offered in Advice Letter No. 3169.

14. CenturyLink provided comments as well, and within its arguments included that “CenturyLink does not believe there is a controversy requiring resolution” with respect to whether optional services may be tarified. Additionally, it believes that there is no controversy or uncertainty around whether optional services may be funded through the 9-1-1 surcharge.

15. On March 3, 2025, the Commission issued Decision No. C25-0152, granting, in part, the Joint Petition. In the decision, the Commission clarified that optional services may be offered and tarified, but also recognized that rule changes could potentially improve or clarify processes given the questions raised in the Joint Petition. The Commission directed Staff to initiate stakeholder processes regarding proposed rule updates with the expectation that Staff will bring forward a proposed NOPR for Commission consideration.

16. Staff held three stakeholder meetings, April 11, 2025, April 18, 2025, and April 25, 2025, in which participants worked from a draft of rules proposed by the stakeholders and developed consensus on the language. The proposed rules attached to this NOPR reflect this consensus language.

C. Proposed Rule Changes**1. Rule 2131: Definitions.**

17. Changes to the Definitions of the Basic Emergency Service Rules include the introduction of a definition for “Core BES component,” and one for “Optional BES component”.

18. A “Core BES component” is proposed to be defined as:

A component of basic emergency service that (I) must be purchased to receive routing and transport of voice 9-1-1 calls and associated location information to the primary demarcation point; (II) should reasonably be provided by a BESP for technical or operational reasons related to the provision of basic emergency service; and (III) may also include monitoring, measurement, and management of BES, such as the provision of call metrics services for 9-1-1 call delivery.

19. An “Optional BES component” is proposed to be defined as:

A component of basic emergency service that is not a core BES component. Optional BES components may be purchased or declined by governing bodies or PSAPs purchasing BES from the BESP.

20. These definitions are designed to distinguish between BES components that must be purchased to provide voice BES, and those which may be offered on tariff without affecting the provision of voice BES. The Commission notes that this distinction between voice BES and non-voice BES to determine which components are considered “core” and which components are considered “optional” may be adjusted in future rulemakings. The Commission proposes these definitions but raises that while “optional” is used to identify a current service that is a non-voice BES, it is not intended to imply that these non-voice services are not critical, particularly as they become more widely available. The proposed definitions are aimed at differentiating service offerings, not to diminish their potentially critical value to customers.

21. We invite comments on these definitions to better identify and differentiate BES tariff offerings, including specifically the addition of “optional BES component” that identifies

those services approved in BES tariffs that are non-voice services not necessarily required for purchase by a governing body.

2. Rule 2137: Required Components of a Basic Emergency Service Tariff.

22. Rule 2137 establishes the requirements for a basic emergency service tariff. The introduction of definitions of “Core BES component” and “Optional BES component” creates the necessity for the BESP to identify, in future tariff filings, whether a proposed component is a “Core BES component” or an “Optional BES component.” Additionally, the rule is intended to provide clarity about the bundling of core BES components, to avoid bundling “optional BES components” unnecessarily with “core BES components.”

23. Therefore, proposed Rule 2137 (f) states “In its advice letters and BES tariff, a BESP shall classify the components of its basic emergency service offering as core BES components or optional BES components. Components of basic emergency service shall not unreasonably be bundled such that certain components which could be classified as optional BES components are instead classified as core BES components.”

3. Rule 2148: Process for the Establishment of Annual Emergency Telephone Charge Threshold, State 9-1-1 Surcharge Rate, Wireless Prepaid 9-1-1 Surcharge Rate, and Associated Fund Distribution Schedules.

24. Rule 2148 establishes the criteria the Commission takes into consideration when setting the 9-1-1 Surcharge rate. The proposed changes adding specific definitions for “Core BES components” and “Optional BES components” is intended to provide additional clarity concerning the reimbursement of both component categories. Therefore, the proposed rules add a provision specifically stating the 9-1-1 surcharge shall “be not less than a rate sufficient to reimburse all governing bodies for the cost to purchase all components of basic emergency service offered under

a BES tariff. If there is more than one BES tariff in effect, the Commission will use the most expensive BES tariff to determine this cost.”

25. The rule continues to include the following additional factors: (i) the needs of governing bodies to pay for the provision of emergency telephone service as defined in § 29-11-101(14), C.R.S.; (ii) the historical rate of the 9-1-1 surcharge and amounts distributed to governing bodies; (iii) comments provided under this rule; (iv) the amount of the 9-1-1 enterprise fee imposed by the 9-1-1 Service Enterprise pursuant to § 29-11-108(8)(a), C.R.S.; and (v) an amount necessary to reimburse the governing bodies for the most recently approved improvement amount as described in subparagraph 2137(e)(II).

26. The updated language is intended to allow for reimbursement of “Optional BES services,” even if an authority does not select the purchase of one or more “Optional BES services.” As discussed by workshop participants, even if governing bodies are not purchasing “Optional BES services,” 9-1-1 surcharge proceeds may only be spent pursuant to §29-11-104, C.R.S., and money received from the 9-1-1 surcharge will benefit citizens. Because only BESP may offer tariffed BES services, including Optional Services, if in the future more than one BESP offers the same Optional Service, the rule is designed to anticipate competitive tension, while still reimbursing and encouraging service purchases for needed offerings. If a governing body does not purchase an Optional Service from any BESP, under statute, the funds may still only be used for permitted purposes.

27. In this way, having the funds available in an amount up to the Optional Service offerings is intended to encourage and permit purchase of those services where it makes sense for the governing body, or otherwise permit equitable funding to all Colorado governing bodies for appropriate service needs.

28. We therefore propose this rule update that allows for surcharge use to consider the needs of the governing bodies, in allowing them the possibility to purchase all BES offerings, including Optional Services that have been approved through tariffs, or to otherwise use the designated funding amount consistent with § 29-11-104, C.R.S. We intend that the rule adds both clarity and efficiency, including by permitting a timely review process with regard to any approved BES tariff amounts that are in effect at the time of annual surcharge consideration.

29. We welcome comments on these consensus rule changes that are intended to better enable BES service offering purchases and support, consistent with statute.

4. Rule 2149: Annual Data Collection from 9-1-1 Governing Bodies.

30. To assist the Commission with making data-driven decisions, Rule 2149 grants the authority to annually gather data relevant to PSAP funding, among other needs. The proposed rule adds a required “(III) statement indicating which optional BES components are currently being purchased by the governing body or the PSAPs in the governing body’s service area from a BESP.”

31. The updated reporting requirement is intended to better allow the Commission to consider and review what service offerings are being purchased. For example, in the event extensive Optional Services are offered but not purchased, the Commission would have better information to understand next steps, if any, that may be appropriate.

D. Conclusion

32. Through this NOPR, the Commission solicits comments from interested persons on the new rules proposed in this Decision and its attachments. Interested persons may file written comments including data, views, and arguments into this Proceeding for consideration. The Commission also welcomes submission of alternative proposed rules, including both consensus proposals joined by multiple rulemaking participants and individual proposals.

33. Participants are encouraged to provide redlines of any specific proposed rule changes.

34. The proposed rules in legislative (*i.e.*, strikeout/redline) format (Attachment A) and final format (Attachment B) are available through the Commission's E-filing system at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0174T

35. The Commission refers this matter to an ALJ for a Recommended Decision. The ALJ will hold a hearing on the proposed rules at the below-stated time and place. In addition to submitting written comments, participants will have an opportunity to present comments orally at the hearing, unless the ALJ deems oral presentation unnecessary. The Commission will consider all comments submitted in this Proceeding, whether oral or written.

36. Initial written comments on the proposed rule changes are requested by **May 20, 2025**. Any person wishing to file comments responding to the initial comments is requested to file such comments by **May 30, 2025**. These deadlines are set so that the comments and responses may be considered at the public hearing to be conducted by the ALJ on June 9, 2025, at 11:30 AM, nonetheless, persons may file written comments into this Proceeding at any time.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking including Attachment A and Attachment B attached hereto, shall be filed with the Colorado Secretary of State for publication in the May 10, 2025 edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge ("ALJ") for the issuance of a Recommended Decision.

3. A hearing on the proposed rules and related matters shall be held as follows:

DATE: June 9, 2025

TIME: 11:30 a.m. until not later than 5:00 p.m.

PLACE: By video conference using Zoom at a link to be provided on the calendar of events on the commission's website, and available at: <https://puc.colorado.gov/>.

4. 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.

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than May 20, 2025, and that any pre-filed comments responsive to the initial comments be submitted no later than May 30, 2025. The Commission will consider all submissions, whether oral or written. The Commission prefers comments be filed into this Proceeding using the Commission's E-filings System at: <http://www.dora.state.co.us/pls/efi/EFI.homepage>.

6. This Decision is effective upon its Issue Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 23, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners