

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23M-0385T

IN THE MATTER OF ESTABLISHING THE 2024 EMERGENCY TELEPHONE CHARGE THRESHOLD, STATEWIDE 9-1-1 SURCHARGE, PREPAID WIRELESS 9-1-1 CHARGE, AND SURCHARGE DISTRIBUTION FORMULAS PURSUANT TO §§ 29-11-102 THROUGH 102.5, C.R.S.

**COMMISSION DECISION GRANTING INTERVENTIONS;
AND ESTABLISHING THRESHOLD, SURCHARGE AND
CHARGE AMOUNTS, AND DISTRIBUTION FORMULA**

Mailed Date: September 27, 2023
Adopted Date: September 20, 2023

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I. BY THE COMMISSION**A. Statement**

1. The Commission opened this proceeding through Decision No. C23-0494, adopted July 28, 2023 (Opening Decision) to fulfill the Commission's obligations under §§ 29-11-102 through 102.5, C.R.S., which require the Commission establish by October 1, annually, the local Emergency Telephone Charge threshold, a statewide 9-1-1 surcharge, a prepaid wireless 9-1-1 charge, a formula for distribution of money from the statewide 9-1-1 surcharge to governing bodies, and a formula for distribution of money from the prepaid wireless 9-1-1 charge to governing bodies, each to be effective the following January 1.

2. Through this Decision, we address intervention pleadings and establish the following amounts and formula to be effective January 1, 2024: (1) an authorized Emergency Telephone Charge threshold of \$2.05; (2) a statewide 9-1-1 surcharge of \$0.09; (3) a prepaid wireless 9-1-1 charge of \$1.88; (4) a distribution formula through which the Commission will distribute funds from the statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding four (4) percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its Public Safety Answering Points (PSAPs) as a percentage of the total number of concurrent sessions in the state; and (5) a distribution formula through which the Colorado Department of Revenue will distribute funds from the prepaid wireless 9-1-1 charge, less administrative costs to be determined by the Department of Revenue but not exceeding three (3) percent, to each 9-1-1 governing body in amounts proportional to the number of wireless 9-1-1 calls received at its PSAPs as a percentage of the total number of wireless 9-1-1 calls received by all PSAPs in the state.

B. Background

3. As described in our Opening Decision, we proposed for participant comment, amounts and formulas required by statute to be established by October 1, 2023, with an effective date of January 1, 2024. The proposed rates and distribution formulas were calculated as prescribed by statute and 4 *Code of Colorado Regulations* (CCR) 723-2-2148 of the Commission's Rules Regulating Telecommunications Services and Providers of Telecommunications Services.

4. Interested persons were invited to submit comments or briefing, in addition to intervention requests, by August 18, 2023, and to submit responsive briefs or comments by September 1, 2023.¹

C. Intervention

5. On August 18, 2023, Lumen filed a Motion to Intervene pursuant to Rules 1400 and 1401(b), 4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure. Lumen states that as Colorado's only active Basic Emergency Service Provider, Lumen has an interest in the establishment of the 9-1-1 surcharge rate.

6. Under Rule 1401(c), 4 CCR 723-1, persons seeking permissive intervention must demonstrate that the proceeding may substantially affect the pecuniary or tangible interests of the movant, and that the movant's interests would not otherwise be adequately represented. The proposed 9-1-1 surcharge rate of \$0.09 per 9-1-1 access connection per month is calculated to reimburse 9-1-1 governing bodies for the cost of Lumen's tariffed ESInet service. As such, the Commission finds that Lumen does have a pecuniary or tangible interest that would not

¹ *Id.*, at ¶ 3.

otherwise be adequately represented. Therefore, Lumen's pleading seeking intervention is granted.

D. Emergency Telephone Charge Threshold

7. Section 29-11-102, C.R.S., requires the Commission to take into account inflation and the needs of the governing bodies in setting the authorized Emergency Telephone Charge threshold. This threshold sets the rate above which approval by the Commission is required for a 9-1-1 governing body to set its Emergency Telephone Charge.² As required by Rule 2148(a)(I)(A) and (B), 4 CCR 723-2 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, the Commission must take into account, at a minimum, historical data, future projections, inflation rates, the rate of increase of the average emergency telephone charge, comments provided to the Commission, and other factors the Commission deems relevant.

8. In our Opening Decision, we proposed for stakeholder comment an authorized Emergency Telephone Charge threshold of \$2.05. This is an increase of \$0.08 over the current threshold of \$1.97, and reflects the 4.0 percent inflation rate provided by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers from May of 2022 to May of 2023.³

² See § 29-11-102(2)(c), C.R.S. For example, with the 2023 Emergency Telephone Charge Threshold set by the Commission at \$1.97 per 9-1-1 access connection per month, a 9-1-1 governing body has the statutory authority to adopt an Emergency Telephone Charge rate up to and including \$1.97 per 9-1-1 access connection per month. To adopt an Emergency Telephone Charge in excess of the threshold, the governing body must first file an application and the application must be approved by the Commission.

³ See <https://www.bls.gov/opub/ted/2023/consumer-prices-up-4-0-percent-from-may-2022-to-may-2023.htm>.

9. Also in our Opening Decision, we requested comment on whether there were other factors that the Commission should consider when setting this threshold. No comments addressing this issue were received.

10. Therefore, we find no reason to modify our original proposal established in the Opening Decision and establish an authorized Emergency Telephone Charge threshold of \$2.05, effective January 1, 2024.

E. Statewide 9-1-1 Surcharge

11. Pursuant to § 29-11-102.3, C.R.S., the statewide 9-1-1 surcharge must be reasonably calculated to meet the needs of governing bodies to operate the 9-1-1 system, and the amount may not exceed \$0.50 per month per 9-1-1 access connection. To establish this amount, Rule 2148(a)(II)(B) provides that the Commission shall consider historical data, costs to the 9-1-1 governing body of basic emergency service tariffs, comments of interested stakeholders, and other factors the Commission deems relevant. Additionally, § 29-11-102.3(3)(c)(III), C.R.S., implies that the purpose of the surcharge is to “reimburse” governing bodies for the concurrent sessions⁴ being purchased from the Basic Emergency Service Provider (BESP).

12. In our Opening Decision, we proposed for stakeholder comment on a statewide 9-1-1 surcharge rate of \$0.09 per 9-1-1 access connection per month. This proposed amount was intended to raise enough funding statewide that when distributed to the 9-1-1 governing bodies, the amount will reimburse 9-1-1 governing bodies for the monthly recurring charges they are required under the tariff to pay the BESP for the concurrent sessions at each of the PSAPs funded by the governing body. This calculation also included an expected increase in pricing enabled by

⁴ A “concurrent session” means a channel for an inbound simultaneous 9-1-1 request for assistance. § 29-11-102.3(3)(c)(III), C.R.S.

an amendment to the Lumen ESInet tariff.⁵ This represents a maintenance of the current rate of \$0.09.

13. Lumen's comments support the Commission's proposal to maintain the current 9-1-1 surcharge rate of \$0.09 per 9-1-1 access connection per month. Lumen notes that it intends to propose one or more projects in Proceeding No. 23A-0197T, its BES Improvement Plan Application, and that it is working on amendments to its ESInet Tariff that may also increase pricing for ESInet services in the future. However, Lumen does not believe that the costs of these changes would impact Colorado's 9-1-1 governing bodies in calendar year 2024, and as such it believes that maintaining the current rate of \$0.09 is appropriate. No other comments were received either in support or in opposition to the proposed rate of \$0.09 per 9-1-1 access connection per month.

14. Therefore, we find no reason to modify our original proposal established in the Opening Decision and establish a statewide 9-1-1 surcharge rate of \$0.09, effective January 1, 2024, maintaining the current rate.

F. Prepaid Wireless 9-1-1 Charge

15. Pursuant to § 29-11-102.5, C.R.S., and Rule 2148, 4 CCR 723-2, the flat rate per transaction prepaid wireless 9-1-1 charge is to be calculated by adding the average of the local Emergency Telephone Charge rates as of July 1 of that year and the amount of the statewide 9-1-1 surcharge amount established by the Commission for the following year. In our Opening Decision, we stated that the average Emergency Telephone Charge as of June 1, 2023 was \$1.79,

⁵ See Proceeding No. 23AL-0133T. Although an increase in pricing is authorized in the amended tariff, the increased pricing will take effect for each 9-1-1 governing body as the new call metrics service, ECaTS, is implemented for the Public Safety Answering Points funded by those governing bodies.

an assertion supported by data presented in Attachment B to the Opening Decision.⁶ Taking our proposal of \$0.09 for the statewide 9-1-1 surcharge and adding the average Emergency Telephone Charge of \$1.79, we proposed setting the prepaid wireless 9-1-1 charge rate of \$1.88 per prepaid wireless service transaction for calendar year 2024.

16. No comments were received in response to this proposed rate for the prepaid wireless 9-1-1 charge.

17. Therefore, we find no reason to modify our original proposal established in the Opening Decision, and under § 29-11-102.5, C.R.S., and Rule 2148, 4 CCR 723-2, we establish a prepaid wireless 9-1-1 charge of \$1.88, effective January 1, 2024.

G. Statewide 9-1-1 Surcharge Distribution Formula

18. Pursuant to § 29-11-102.3(3)(c)(III), C.R.S., and Rule 2148, 4 CCR 723-2, the Commission must establish a formula for distribution of money collected from the statewide 9-1-1 surcharge to the governing bodies. This formula must be based on the number of concurrent sessions maintained by the PSAPs of each governing body, and the Commission may retain up to four (4) percent of the collected surcharges to cover the direct and indirect costs of administering the surcharge.

19. To implement this statutory requirement, through our Opening Decision, we proposed a distribution formula through which the Commission will distribute funds from the

⁶ Although the average was provided for June 1, 2023, this average would also apply to July 1, 2023, since governing bodies may only change their emergency telephone charge rates with effective dates of February 1 or June 1 of each year. § 29-11-102 (2) (b), C.R.S.

statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding four (4) percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its PSAPs as a percentage of the total number of concurrent sessions. Through the Opening Decision, we provided that the formula proposed would include the 617 concurrent sessions identified in Attachment A to that decision and invited participant comment.

20. As there were no comments regarding the distribution formula as attached to the Opening Decision, we establish a distribution formula as discussed in our Opening Decision and attached to the Opening Decision as Attachment A. The Commission will distribute funds from the statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding four (4) percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its PSAPs as a percentage of the total number of concurrent sessions in the state, effective January 1, 2024.

H. Prepaid Wireless 9-1-1 Charge Distribution Formula

21. Pursuant to § 29-11-102.5(3)(e)(III), C.R.S., and 2148 CCR 723-2, the Commission must establish a formula for distribution of money collected from the prepaid wireless 9-1-1 charge to the governing bodies. This formula must be based on the number of wireless 9-1-1 calls received by the PSAPs of each governing body as a percentage of the total number of wireless 9-1-1 calls received by all PSAPs in the state. The Commission must transmit the formula to the Colorado Department of Revenue by October 1 of each year, to take effect on the following January 1.

22. To implement this statutory requirement, through our Opening Decision, we proposed a distribution formula for transmittal to the Department of Revenue establishing percentages for each 9-1-1 governing body based on wireless 9-1-1 call volume, as reported to Commission Staff by the BESP. We provided a formula as Attachment C to the Opening Decision and invited participant comment.

23. As there were no comments regarding the proposed distribution formula as attached to the Opening Decision, we establish a distribution formula for transmittal to the Colorado Department of Revenue for the prepaid wireless 9-1-1 charge as discussed in our Opening Decision and attached to the Opening Decision as Attachment C. The effective date of this formula will be January 1, 2024.⁷

II. ORDER

A. The Commission Orders That:

1. The Intervention filing provided by Qwest Corporation dba CenturyLink QC (“Lumen”) on August 18, 2023, is granted, consistent with the discussion above.

2. Effective January 1, 2024, the authorized Emergency Telephone Charge threshold shall be \$2.05.

3. Effective January 1, 2024, the statewide 9-1-1 surcharge shall be \$0.09.

4. Effective January 1, 2024, the prepaid wireless 9-1-1 charge shall be \$1.88.

⁷ A request for a midyear adjustment to the percentages for distribution of the prepaid wireless 911 charge revenues has been transmitted to the Colorado Department of Revenue for the remaining months of 2023, and this adjustment is reflected in the updated version of Attachment C to this Decision. However, this adjustment has no impact on the percentages proposed for 2024.

5. Effective January 1, 2024, we establish a distribution formula through which the Commission will distribute funds from the statewide 9-1-1 surcharge, less administrative costs to be determined by the Commission but not exceeding four (4) percent, to each 9-1-1 governing body in amounts proportional to the number of concurrent sessions each 9-1-1 governing body maintains at its Public Safety Answering Points as a percentage of the total number of concurrent sessions in the state.

6. We establish a distribution formula for the distribution of prepaid wireless 9-1-1 charge funds, to be transmitted to the Colorado Department of Revenue by October 1, 2023, for an effective date of January 1, 2024.

7. The 20-day period provided for in § 40-6-114(1), C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

8. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 20, 2023.**

(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