

Decision No. C02-883

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02R-420T

IN THE MATTER OF PROPOSED RULES REGARDING PUBLIC NOTICE OF
CHANGES TO THE RATES, TERMS, AND CONDITIONS FOR INTRASTATE
TELECOMMUNICATIONS SERVICES.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: August 16, 2002
Adopted Date: August 7, 2002

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission hereby gives notice of proposed rulemaking regarding the public notice to be given by telecommunications service providers, when such providers propose changes to the rates, terms, and conditions of service. The intent of the proposed rules is to implement House Bill 02-1169. In that newly-enacted statute, the Legislature established requirements for public notice of proposed changes to the services offered by regulated telephone utilities. Specifically, § 40-3-104(1)(c)(V)(A), C.R.S., provides that public notice of proposed decreases to the rates and charges for telecommunications services shall be given by filing the proposed new tariffs with the Commission fourteen days prior to their effective date; proposed rate decreases are not subject to

other notice. Section 40-3-104(1)(c)(V)(B), C.R.S., provides that proposed changes to the terms and conditions for telecommunications service are also subject to a fourteen day notice period, such notice to be given by filing the proposed changes with the Commission. Section 40-3-104(1)(c)(V)(B) provides that the Commission may order additional notice if it determines that such additional notice is in the public interest.

2. A copy of the proposed rules is attached to this notice of proposed rulemaking. The statutory authority for the proposed rules is found at §§ 40-2-108 and 40-3-104(1)(c)(V)(A-B), C.R.S.

3. The Commission will conduct a hearing on the proposed rules and related issues at the below stated time and place. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. The Commission also encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before hearing, the Commission requests that such comments be filed ten days prior to the hearing date. The Commission will consider all submissions.

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 September, 2002 edition of The Colorado Register.

2. Hearing on the proposed rules and related matters shall be held before an Administrative Law Judge for the Commission as follows:

TIME: 9:00 a.m.

DATE: October 7, 2002

PLACE: Commission Hearing Room A
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

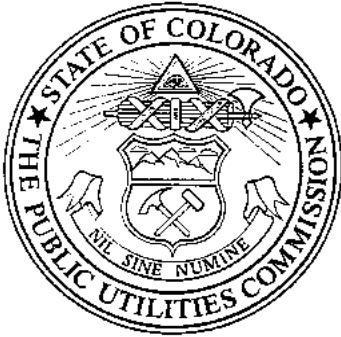
3. Interested persons may file written comments in this matter before hearing. The Commission requests that such prefiled comments be submitted at least ten days before the scheduled hearing. All submissions, whether oral or written, will be considered by the Commission.

4. This Order is effective immediately upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 7, 2002.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



RAYMOND L. GIFFORD

POLLY PAGE

ATTEST: A TRUE COPY

Bruce N. Smith
Director

JIM DYER

Commissioners

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

**RULES CONCERNING NOTICE WHEN INCUMBENT LOCAL EXCHANGE
CARRIERS PROPOSE DECREASES TO RATES,
OR CHANGES TO TERMS OR CONDITIONS OF SERVICE**

4 CCR 723-XX

BASIS, PURPOSE AND STATUTORY AUTHORITY

These rules implement House Bill 02-1169 (codified at § 40-3-104(1)(c)(V), C.R.S.). In that bill, the Legislature established new provisions for public notice when incumbent local exchange carriers propose changes to the rates, terms, and conditions for service. Specifically, when incumbent local exchange carriers propose decreases to their regulated rates, public notice will be given by filing the proposed changes with the Commission fourteen days prior to the effective date; no additional notice is required. When an incumbent local exchange carrier proposes changes to the terms and conditions for services, public notice will be given again by filing those proposals with the Commission fourteen days prior to the effective date; however, the Commission may order additional notice if it determines that such additional notice is in the public interest.

House Bill 02-1169 does not affect existing notice requirements (§ 40-3-104(1)(a),(c)(I-IV),C.R.S.) for rate increases proposed by incumbent local exchange carriers. As such, these rules do not affect any existing Commission requirements regarding public notice of rate increases for telephone service. Additionally, these rules do not affect an incumbent local exchange carrier's right to propose changes to its tariff or price list under the notice provisions set forth in § 40-3-104(2), C.R.S.

The statutory authority for these amendments is found in §§ 40-2-108, and 40-3-104(1)(c)(V), C.R.S.

723-XX-1 APPLICABILITY

These rules apply to incumbent local exchange carriers as defined below.

723-XX-2 Definitions

Advice Letter: A letter, numbered sequentially, in the prescribed Commission format, which shall accompany each tariff filing with the Commission.

Incumbent Local Exchange Carrier (ILEC):

(I) With respect to a geographic area, the local exchange carrier that, on the day of enactment of the Telecommunications Act of 1996 (February 8, 1996), local exchange service in such geographic area that either:

(A) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R. 69.601(b) of the Federal Communications Commission's regulations; or,

(B) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in subparagraph (A) of this paragraph; or

(II) Any comparable local exchange carrier, or class or category thereof, that the Commission has, by rule or order, deemed to be an incumbent local exchange carrier after finding that:

(A) such carrier occupies a position in the market for telephone exchange service within a geographic area that is comparable to the position occupied by a carrier described in subparagraph (I) of this paragraph;

(B) such carrier has substantially replaced an incumbent local exchange carrier described in subparagraph (I) of this paragraph; or

(C) such treatment is consistent with the public interest, convenience, and necessity and the purpose of this Rule.

Local Exchange Carrier: Any person who holds a certificate of public convenience and necessity to provide basic local exchange service as that term is defined in § 40-15-102(3), C.R.S.

Price List: A filing with the Commission, in the prescribed Commission format, filed as an attachment to a transmittal letter, which contains all current rates of a provider of local exchange or emerging competitive telecommunications services and products. A price list typically does not contain information duplicating information in a tariff.

Tariff: A filing with the Commission, in the prescribed Commission format, which contains all rates and charges, collected or enforced, or to be collected or enforced, combined with all terms and conditions, rules, and regulations which in any manner affect or relate to rates, charges, or services.

Transmittal Letter: A letter, numbered sequentially, in the prescribed Commission format, which shall accompany each price list filing with the Commission.

723-XX-3 Notice of Rate Decrease An ILEC proposing a decrease to any rate for regulated service shall give notice of the proposed decrease

by filing with the Commission an Advice Letter or Transmittal Letter accompanied by the proposed tariff or price list sheets. The Advice Letter or Transmittal Letter shall be filed with the Commission at least fourteen days prior to the proposed effective date of the rate decrease. The date of filing with the Commission shall not be considered part of the fourteen day notice. And, the fourteenth day must expire prior to the effective date of the rate decrease. No additional public notice shall be required.

723-XX-4 Notice of Changes to Terms or Conditions of Service

723-XX-4.1 An ILEC proposing a change to the terms or conditions of any regulated service shall give notice of such proposed change by filing with the Commission an Advice Letter or Transmittal Letter accompanied by the proposed tariff or price list sheets. The Advice Letter or Transmittal Letter shall be filed with the Commission at least fourteen days prior to the proposed effective date of the change to the terms or conditions of service. The date of filing with the Commission shall not be considered part of the fourteen day notice. And, the fourteenth day must expire prior to the effective date of the proposed change. No additional notice shall be required unless the Commission determines that additional notice is in the public interest in accordance with section 4.2 of this rule.

723-XX-4.2 Prior to the expiration of the fourteen day notice period, the Commission may determine that additional public notice of a proposed change to the terms or conditions of service is in the public interest, and may require the ILEC to provide additional notice as specified by the Commission. If the Commission determines that additional notice is required, the Commission shall reject without prejudice the Advice Letter or Transmittal Letter filing, unless the telephone utility voluntarily extends, for at least thirty days, the proposed effective date of its filing to accommodate the additional notice specified by the Commission.