

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0329T

IN THE MATTER OF ESTABLISHING THE 2025 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 OPENING PROCEEDING;
SETTING NOTICE AND INTERVENTION PERIOD; AND
PROPOSING THRESHOLD, SURCHARGE, AND CHARGE
AMOUNTS AND DISTRIBUTION FORMULA**

Issued Date: August 2, 2024
Adopted Date: July 31, 2024

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I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission begins fulfilling the annual requirements set forth in § 29-11-102, 102.3, and 102.5, C.R.S., which require the Commission to establish by October 1 of each year the local Emergency Telephone Charge threshold, a statewide 9-1-1 surcharge, a prepaid wireless 9-1-1 charge, and formulas for distribution of money from the statewide 9-1-1 surcharge and the prepaid wireless 9-1-1 charge to governing bodies, each to be effective by January 1 of the following year.

2. In accordance with Rule 2148, 4 *Code of Colorado Regulations* (“CCR”) 723-2¹ of the Commission’s Rules Regulating Telecommunications Service and Providers of Telecommunications Service, we open this proceeding to establish the required threshold, surcharges, and formulas by October 1, 2024, and propose amounts for the local Emergency Telephone Charge threshold, statewide 9-1-1 surcharge, and prepaid wireless 9-1-1 charges, and formulas for distribution of revenues from both the statewide 9-1-1 surcharge and the prepaid wireless 9-1-1 charge.

3. We invite interested persons to submit comments or briefing on this matter and the proposed amounts and formula no later than August 21, 2024. Any person desiring to intervene or participate as a party in this proceeding in accordance with the Rule 1401 of the Commission’s Rules of Practice and Procedure, 4 CCR 723-1 shall file appropriate notices or motions concurrent with their respective comments by **August 21, 2024**. Reply briefs or comments shall be due **September 4, 2024**.

¹ All rules referenced can be found in the Commission’s Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 CCR 723-2, unless otherwise indicated.

B. Discussion

4. Sections 29-11-102 through 102.5, C.R.S., requires the Commission to establish annually, by October 1 of each year, (1) the authorized threshold amount at which applications are required to increase the local Emergency Telephone Charge; (2) a statewide 9-1-1 surcharge; (3) a prepaid wireless 9-1-1 charge; and (4) formulas for distribution of money from the statewide 9-1-1 surcharge and prepaid wireless 9-1-1 charge to the governing bodies. By statute, these items will be effective January 1 of the following year.

5. In accordance with Rule 2148, we propose amounts for the required threshold, surcharge, and charge, and distribution formulas. We invite interested persons to comment on these proposals and present any arguments supporting alternative amounts or distribution formulas through the briefing and comment period afforded by this Decision.

1. Emergency Telephone Charge Threshold

6. Governing bodies may pay for costs for the operation of emergency telephone service as described in § 29-11-104, C.R.S., by imposing an Emergency Telephone Charge on service users. Governing bodies must annually establish the amount of the Emergency Telephone Charge per month per 9-1-1 access connection,² and if the amount is greater than the authorized threshold amount, the governing body must obtain prior Commission approval to charge that amount. Currently, and through December 31, 2024, the authorized threshold amount is \$2.05 per month per 9-1-1 access connection. Section 29-11-102(2)(f)(II), C.R.S., requires the Commission to establish the authorized threshold amount on or before October 1 of each year to be effective

² See Decision No. C23-0641, Proceeding No. 23M-0385T issued September 27, 2023, establishing an emergency telephone charge threshold of \$2.05 per month per 9-1-1 access connection, a statewide 9-1-1 surcharge of \$0.09 per month per 9-1-1 access connection, a prepaid wireless 9-1-1 charge of \$1.81 per retail transaction of prepaid wireless telecommunications service, and a distribution formula consistent with statute.

January 1 of the following year. Under statute, the Commission must take into account inflation and the needs of the governing bodies in setting the authorized threshold amount.³ Pursuant to Rules 2148(a)(I)(A) and (B), the Commission shall take these considerations into account by considering, at a minimum, inflation rates, future projections, historical data, and the rate of increase of the average emergency telephone charge, in addition to comments provided.

7. Per the federal Bureau of Labor and Statistics, the inflation rate from May of 2023 to May of 2024 was 3.3 percent⁴. Applying this rate to the current emergency telephone charge threshold of \$2.05 per 9-1-1 access connection per month yields a new rate of \$2.12.

8. The Commission notes that, in addition to inflation, statute directs the Commission to take into account “the needs of the governing bodies.” The Commission requests comment on whether there are other increases in costs related to the needs of the governing bodies that may justify consideration of an adjustment in addition to the one being proposed to account for inflation, and what that additional adjustment may be. Prior to consideration of comments, if any, that an additional adjustment may be appropriate, the Commission proposes to adjust the threshold rate for inflation only.

9. Therefore, we propose that the Emergency Telephone Charge threshold be set by October 1, 2024, at \$2.12, effective January 1, 2025. As stated above, we invite interested persons to provide comments on this proposed threshold.⁵

³ § 29-11-102, C.R.S.

⁴ See https://www.bls.gov/news.release/archives/cpi_06122024.htm

⁵ Processes for an Application to set an emergency telephone charge in excess of the threshold established by the Commission are prescribed in Rule 2147, 4 CCR 723-2.

2. Statewide 9-1-1 Surcharge

10. Section 29-11-102.3, C.R.S., imposes a statewide 9-1-1 surcharge on service users in an amount to be established by the Commission on or before October 1 of each year to be effective January 1 of the following year. The surcharge amount may not exceed \$0.50 per month per 9-1-1 access connection, and the amount must be reasonably calculated to meet the needs of governing bodies to operate the 9-1-1 system. To establish this calculation, Rule 2148(a)(II)(B) states that the Commission will consider, at a minimum, historical data, costs to the 9-1-1 governing body of basic emergency service tariffs, and comments of interested stakeholders.

11. In Decision C23-0641, the Commission set the statewide 9-1-1 surcharge rate at \$0.09 per month per 9-1-1 access connection for the 2024 calendar year. This rate was calculated by determining the total cost to every 9-1-1 governing body under the Lumen ESInet tariff and setting the surcharge rate at an amount reasonably calculated to reimburse the 9-1-1 governing bodies for those costs. The rate also took into consideration an expected increase to the tariff rate due to a tariff amendment that at the time had been filed, but not was not yet effective.⁶ This methodology is enabled by the fact that the unit of pricing for the ESInet tariff is per concurrent session, and the distribution of the statewide 9-1-1 surcharge funds is also based on the number of concurrent sessions at each 9-1-1 governing body⁷.

12. For calendar year 2025, we propose to set the rate at an amount calculated to reimburse 9-1-1 governing bodies for the cost of paying the monthly recurring ESInet tariff rates. To determine the rate, we find that there are currently 617 concurrent sessions that are being paid

⁶ See Proceeding 22AL-0356T. This tariff amendment was subsequently withdrawn.

⁷ See Proceedings 17AL-0487T, 18AL-0916T, and 19AL-0238T.

by 9-1-1 governing bodies⁸. This number, multiplied by the monthly recurring tariff rate, provides the total statewide cost for all concurrent sessions per month.

13. On July 11, 2024, the BESP, Qwest Corporation doing business as Centurylink QC (“CenturyLink”) indicated at the PUC 9-1-1 Advisory Task Force meeting that they intend to file a tariff amendment in August 2024, adding several features to the ESInet. These features will increase the monthly recurring ESInet tariff rates, in addition to assessing a non-recurring rate for implementation of services. However, at the time of this decision, this tariff amendment has not been filed and the proposed charges are unknown.⁹ The Commission seeks comment on whether additional costs should be included in its calculations for setting the surcharge rate. In the absence of specific cost data to be considered or an approved BES tariff filing, the Commission proposes not to include these potential costs in its calculations for the 2025 9-1-1 surcharge rate.

14. On April 24, 2023, CenturyLink filed an application for approval of a Basic Emergency Service Improvement Plan.¹⁰ Upon approval of such a plan under Rule 2143(b) an additional “improvement amount” may be approved by the Commission to be added to CenturyLink’s Basic Emergency Service tariff. However, this proceeding is ongoing and no improvement amount has been approved by the Commission. Rule 2148(a)(II)(B) requires the Commission to include the improvement amount in its calculations of the 9-1-1 surcharge rate. However, in the absence of an approved improvement plan to account for, the Commission

⁸ Attachment A.

⁹ In the event the tariff filing is made in the pendency of this proceeding, CenturyLink or other commenters may provide and include proposed amounts that may effect the proposed 2025 9-1-1 surcharge rate with supporting information.

¹⁰ See Proceeding No. 23A-0197T.

proposes not to include a potential improvement plan in its calculations for the 2025 9-1-1 surcharge rate.

15. Finally, the Commission notes that the passage of Senate Bill 24-139 requires the Commission to take into account 9-1-1 Service Enterprise Fee established by that bill. This bill becomes effective on August 7, 2024. However, at this time, no 9-1-1 Service Enterprise Fee has yet been established, and it is questionable whether one will be established in time for the October 1 deadline for the establishment of the 2025 9-1-1 surcharge rate. In the absence of a 9-1-1 Service Enterprise Fee to consider, the Commission proposes not to include an additional amount to include in the 2025 9-1-1 surcharge rate for the 9-1-1 Service Enterprise Fee. The Commission seeks comment on whether this approach regarding potential tariff rate adjustments, a potential improvement plan, and a potential 9-1-1 Service Enterprise Fee is appropriate or, if it is not, what alternative approaches the Commission may use to determine the statewide tariff costs to the governing bodies.

16. Consistent with the discussion above, the Commission calculates a statewide tariff cost of \$752.22 per month per concurrent session for ESInet service, and \$108.00 per month per concurrent session for ECaTS, for a total of $(\$752.22 + \$108.00) \times 617$ concurrent sessions = \$530,755.74 per month that must be raised by the surcharge to fully reimburse all ESInet tariff costs. Adding an additional four percent to cover the Commission's allowed administrative retention, we arrive at a total amount of \$551,985.97 that must be raised by the statewide 9-1-1 surcharge each month in order to reimburse 9-1-1 governing bodies for the cost of purchasing basic emergency service. This is lower than the needs calculated by the Commission

for 2024, which was \$556,301.27¹¹, due to the removal of non-recurring charges assessed in 2024 for implementation of ECaTS service.¹²

17. For June 2023 through May 2024, the average number of lines reported monthly to the Commission by providers remitting 9-1-1 surcharge funds was 6,799,289. This is an increase compared to the average line count of 6,628,755 as reported in Proceeding No. 23M-0385T. Based on this, we find that a surcharge rate of \$0.09 per month per 9-1-1 access connection will continue to be sufficient to reimburse the 9-1-1 governing bodies for the cost of purchasing basic emergency service. Based on the current average number of lines being reported, we estimate that a surcharge rate of \$0.09 should raise roughly \$611,936 per month in 2025, an amount greater than the \$551,985.97 required as described above. However, setting the rate at \$0.08 would generate only \$543,943 per month, which is insufficient to cover costs. Maintaining the current rate¹³ of \$0.09 per access connection per month would result in governing bodies receiving distributions higher than the amount that those governing bodies pay each month for 9-1-1 call delivery. However, the Commission also notes that any excess funds must still be spent for purposes enumerated in § 29-11-104, C.R.S., namely for costs associated with the operation of Emergency Telephone Service and Emergency Notification Service.

18. Based on the above discussion, we propose maintaining the current statewide 9-1-1 surcharge rate at \$0.09, effective January 1, 2025. We invite interested persons to provide comments on this rate.

¹¹ See Decision No. C23-0641, Proceeding No. 23M-0385T.

¹² The Commission notes that not all governing bodies and PSAPs have yet been assessed the non-recurring charges for the implementation of ECaTS. However, all governing bodies will have received the funding for the 9-1-1 surcharge rate established by the Commission for calendar year 2024, which was calculated to cover the non-recurring costs for all governing bodies in the state.

¹³ See Decision No. C23-0641, Proceeding No. 23M-0385T. \$0.09 is the same rate set by the Commission for calendar year 2024.

19. The Commission notes that § 29-11-102.3(1)(b), C.R.S., does not necessarily limit the use of the state 9-1-1 surcharge to reimbursement of current tariff rates for Basic Emergency Service, and rather states that the amount “must be reasonably calculated to meet the needs of governing bodies to operate the 911 system.” Therefore, the Commission also seeks comment on whether there are other expenses that would be appropriate for reimbursement through an adjustment to the 9-1-1 surcharge, noting that the distribution of the surcharge must be based on the number of concurrent sessions being purchased or funded by each of the governing bodies.

3. Prepaid Wireless 9-1-1 Charge

20. Statute requires that the Commission set a per retail transaction prepaid wireless 9-1-1 charge by October 1 of each year to take effect on the following January 1. This rate is transmitted to the Colorado Department of Revenue, which collects the surcharge from retailers. Statute prescribes the method for determining this surcharge rate as the average of the local emergency telephone charges plus the statewide 9-1-1 surcharge rate. § 29-11-102.5, C.R.S.

21. The average local Emergency Telephone Charge as of June 1, 2024¹⁴ was \$1.97¹⁵. Taking our proposal of \$0.09 for the statewide 9-1-1 surcharge and adding this to \$1.97 average emergency telephone charge results in per transaction prepaid wireless 9-1-1 charge rate of \$2.06. This is an increase of \$0.25 per transaction, and reflective of both the increase in the average emergency telephone charge rate and the state 9-1-1 surcharge rate remaining stable from 2024. We invite interested persons to provide comments on this amount.

¹⁴ Governing bodies may only change their emergency telephone charge effective February 1 or June 1 of each year. § 29-11-102(2)(b), C.R.S.

¹⁵ Attachment A.

4. Statewide 9-1-1 Surcharge Distribution Formula and Prepaid Wireless 9-1-1 Charge Distribution Formula

22. The Commission must establish formulas for distribution of money collected from the statewide 9-1-1 surcharge and the prepaid wireless 9-1-1 charge to the governing bodies by October 1 of each year. For the statewide 9-1-1 surcharge distributions, the formula must be based on the number of concurrent sessions maintained by the Public Safety Answering Points (PSAPs) of each governing body.¹⁶ Additionally, the Commission may retain up to four percent of the collected surcharges to cover the direct and indirect costs of administering the surcharge.¹⁷

23. For the prepaid wireless 9-1-1 charge distributions, the formula must be based on the number of wireless 9-1-1 calls taken by all the PSAPs of each governing body as a percentage of the total wireless 9-1-1 calls received by all PSAPs in the state.¹⁸

24. To implement this statutory requirement, we propose 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 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. We invite interested persons to provide comments on this formula¹⁹.

25. Additionally, we propose a distribution formula which will be transmitted to the Colorado Department Revenue for use by that Department in distributing prepaid wireless 9-1-1 charge funds, less administrative costs to be retained by Department, to each 9-1-1 governing body in amounts proportional to the number of wireless 9-1-1 calls received by the PSAPs associated

¹⁶ § 29-11-102.3(3)(c)(III), C.R.S.

¹⁷ § 29-11-102.3(3)(c)(II), C.R.S.

¹⁸ § 29-11-102.5(3)(e)(III), C.R.S.

¹⁹ Attachment A.

with each 9-1-1 governing body. We invite interested persons to provide comments on this formula²⁰.

C. Conclusion

26. Sections 29-11-102 through 102.5, C.R.S. requires the Commission to undertake several actions related to 9-1-1 surcharges and surcharge funds, all of which must be completed by October 1:

- a. Establish an emergency telephone charge threshold above which Commission approval is required;
- b. Establish a statewide 9-1-1 surcharge rate;
- c. Establish a prepaid wireless 9-1-1 charge rate; and
- d. Establish formulas for the distribution of statewide 9-1-1 surcharge funds and prepaid wireless 9-1-1 charge funds to the governing bodies;

27. For these reasons, we find good cause to open this Proceeding for the purpose of establishing by October 1, 2024, the required threshold, surcharge, and charge amounts, and to establish formulas for distribution of the statewide 9-1-1 surcharge and prepaid wireless 9-1-1 charge, consistent with §§ 29-11-102 through 102.5, C.R.S.

28. Taking into account inflation and the needs of the governing bodies, as discussed above, we propose for stakeholder comment that \$2.12 be established as local emergency telephone charge threshold required by § 29-11-102, C.R.S.

29. Taking into account the requirement that a statewide 9-1-1 surcharge required by § 29-11-102.3, C.R.S., be reasonably calculated to meet the needs of governing bodies to operate the 9-1-1 system, as discussed above, we propose for stakeholder comment that \$0.09 is an appropriate rate for the statewide 9-1-1 surcharge required by § 29-11-102.3, C.R.S.

²⁰ Attachment C.

30. Applying the formula for the prepaid wireless 9-1-1 charge, and incorporating our proposal for the statewide 9-1-1 surcharge, as discussed above, we propose for stakeholder comment that \$2.06 is an appropriate amount to propose for the prepaid wireless 9-1-1 charge, per transaction, as required by § 29-11-102.5, C.R.S.

31. Applying the requirement as set forth in § 29-11-102.3(3)(c)(III), C.R.S., we propose for stakeholder comment that it is appropriate to propose a formula for distribution of money from the statewide 9-1-1 surcharge 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 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, as shown in Attachment A.

32. We also propose for stakeholder comment that it is appropriate to propose a formula for distribution of money from the prepaid wireless 9-1-1 charge, which will be transmitted to the Colorado Department of Revenue for use by that department to distribute funds from the prepaid wireless 9-1-1 charge, less administrative costs to be determined by the Department in accordance with statute, to each 9-1-1 governing body in amounts proportional to the number of wireless 9-1-1 calls received by each PSAP associated with each 9-1-1 governing body, as shown in Attachment C.

33. This Decision is available for public inspection by accessing the Commission's E-Filing system under the above proceeding number at Colorado:

www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=572790&p_docket_id=24M-0329T.

This Decision is the Notice that the Commission is opening a proceeding to establish by October 1, 2024, the authorized Emergency Telephone Charge threshold, statewide 9-1-1 surcharge, prepaid wireless 9-1-1 charge, and formulas for distribution of the statewide 9-1-1 surcharge and prepaid wireless 9-1-1 charge to governing bodies, each to be effective January 1, 2025.

34. The Commission's notice period for this Decision opening this Proceeding shall extend through and include **5:00 p.m. on August 21, 2024**.

35. We invite interested persons to submit comments or briefing on the amounts proposed for the required threshold, surcharge, and charge, and the formula for distribution of the statewide 9-1-1 surcharge. Comments and briefing shall be filed no later than **5:00 p.m. on August 21, 2024**.

36. Any person desiring to intervene or participate as a party or in this proceeding shall file appropriate notices or motions to become a party concurrent with their respective comments no later than **5:00 p.m. on August 21, 2024**.

37. Reply comments may be filed on or before 5:00 p.m. September 4, 2024.

II. ORDER

A. The Commission Orders That:

1. The Commission opens this Proceeding on its own motion consistent with §§ 29-11-102 through 102.5, C.R.S., and Rule 2148, 4 *Code of Colorado Regulations* ("CCR") 723-2 of the Commission's Rules Regulating Telecommunications Service and Providers of Telecommunications Service, to establish by October 1, 2024, the authorized Emergency

Telephone Charge threshold, statewide 9-1-1 surcharge, prepaid wireless 9-1-1 charge, and formula for distribution of money from the statewide 9-1-1 surcharge to the governing bodies.

2. Consistent with the discussion above, we notify interested persons that we propose the following amounts and formula to be effective January 1, 2025: (1) under § 29-11-102, C.R.S., an authorized Emergency Telephone Charge threshold of \$2.12; (2) under § 29-11-102.3, C.R.S., a statewide 9-1-1 surcharge of \$0.09; (3) under § 29-11-102.5, C.R.S., a prepaid wireless 9-1-1 charge of \$2.06; (4) under § 29-11-102.3(3)(c)(III), C.R.S., 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 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, as proposed in Attachment A; and (5) under § 29-11-102.5(3)(e)(III), C.R.S., a distribution formula to be transmitted to the Colorado Department of Revenue for use by that department to distribute funds from the prepaid wireless 9-1-1 charge, less administrative costs to be determined by the department in accordance with statute, to each 9-1-1 governing body in amounts proportional to the number of wireless 9-1-1 calls received by the PSAPs associated with each 9-1-1 governing body, as proposed in Attachment C.

3. The notice period for this Decision shall extend through and include **5:00 p.m. on August 21, 2024.**

4. Any person desiring to intervene or participate as a party in this proceeding shall file a Petition for Leave to Intervene or, pursuant to the Commission's Rules of Practice and Procedure, other appropriate pleadings to become a party by **5:00 p.m. on August 21, 2024.**

5. Briefing on this matter shall be due by **5:00 p.m. on August 21, 2024.**

6. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments on or before August 20, 2021, addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202.

7. Reply briefs or comments shall be due by **5:00 p.m. on September 4, 2024.**

8. This Decision is effective immediately on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 31, 2024.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners

Rebecca E. White,
Director