

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04R-259T

IN THE MATTER OF EMERGENCY RULES RELATING TO THE PROVISIONING OF THE ABBREVIATED DIALING CODE 3-1-1 FOR NON-EMERGENCY POLICE AND OTHER GOVERNMENTAL INFORMATION.

ORDER ADOPTING EMERGENCY RULES

Mailed Date: May 26, 2004

Adopted Date: May 26, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of emergency rules entitled rules Relating to the Provisioning of the Abbreviated Dialing Code 3-1-1 for Non-Emergency Police and Other Governmental Information, 4 *Code of Colorado Regulations* (CCR) 723-24-5 (Non-Emergency Police and Other Governmental Information Rules). For the reasons set forth in this decision, we now adopt on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth in § 24-4-103, C.R.S.) the rules appended to this Order as Attachment A. We take this action in accordance with the provisions of § 24-4-103(6), C.R.S.

2. Generally, the purpose of the rules adopted by this order is to set the procedure for implementation of a 3-1-1 abbreviated dialing code to be used by a government entity to provide non-emergency police and other governmental information to the citizens of Colorado. These rules are enacted within the authority granted to the Commission by the Federal Communications

Commission (FCC) pursuant to its *First Report and Order*.¹ In that order, the FCC determined that the U.S. Department of Justice had demonstrated that assignment of an N11 dialing code for nationwide access to non-emergency police telephone calls was in the public interest, and therefore assigned 3-1-1 for that purpose. We find that implementation of the 3-1-1 dialing code for non-emergency police and other governmental information services will help alleviate congestion on 9-1-1 circuits, which in turn will permit more effective operation of 9-1-1 emergency services.

3. These rules also further the FCC's directive that government entities may request the use of 3-1-1 and that local jurisdictions shall determine whether 3-1-1 should be used locally to reach other governmental services in addition to non-emergency police services. These emergency rules also follow the FCC's finding that state public utilities commissions, in conjunction with state and local governments, can address any conflicting requests for use of 3-1-1.

4. Therefore, we adopt these emergency rules as necessary for the expeditious administration of the 3-1-1 dialing code for transportation and traffic information.

5. Rule 24-5 sets forth the "public benefit" standard in order to grant use of the 3-1-1 dialing code. Rule 24-5.3 provides that the process for assignment of the 3-1-1 dialing code shall be upon the Commission's own motion or by petition of a governmental entity. Rule 24-5.5 sets the burden of proof required for assignment of the 3-1-1 dialing code. The rule requires that a governmental entity must show by clear and convincing evidence that a public benefit exists.

¹ *In the Matter of The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, First Report and Order and Further Notice of Proposed Rulemaking, adopted February 18, 1997, released February 19, 1997. FCC 97-51.

6. Rule 24-5.6 sets forth the required contents of a petition to the Commission for assignment of the 3-1-1 dialing code for non-emergency police and other governmental service information. This rule requires that the petitioner provide information on the petitioner's background, as well as demonstration of public need. Additionally, the petitioner must provide background on the historic volume of calls it has received seeking transportation and traffic information, as well as the geographic area it proposes to serve. The rule also requires the petitioner to provide cost recovery solutions, letters of support, its proposed community outreach and notification plan, and other pertinent factors the Commission may deem necessary.

7. Rule 24-5.7 sets out the procedure if two or more entities petition this Commission to provide access to non-emergency police and other governmental service information via the 3-1-1 dialing code. Rule 24-5.9 sets out the tasks required of the jurisdictional telecommunications providers affected by the 3-1-1 designation, including discontinuation of non-compliant uses, providing information regarding recovery or internal costs associated with 3-1-1 call completion, and estimates of the time required to perform the necessary translation and/or facilities work to allow 3-1-1 call completion from its subscribers. Rule 24-5.9.5 sets 30 days from the date a petition is granted as the deadline for jurisdictional telecommunications service providers to file the information required by Rule 25-5.9. Rule 24-5.9.4 provides that the Commission will set a timeline for assignment and implementation of the 3-1-1 dialing code based upon a showing of public benefit, and that all jurisdictional telecommunications service providers serving customers in the affected area are to comply with this assignment date, unless the Commission grants a waiver for additional time.

8. We adopt the attached rules as emergency rules in accordance with the provisions of § 24-4-103(6), C.R.S. We find that immediate adoption of the rules is imperative and

necessary to provide a process for implementation of the 3-1-1 dialing code in Colorado. Further, compliance with the rulemaking requirements associated with permanent rules, as set forth in § 24-4-103, C.R.S., would be contrary to the public interest.

9. As grounds for these findings, we state: It is necessary to adopt these emergency rules to ensure that the 3-1-1 dialing code may be implemented in Colorado in a timely manner to provide its citizens with critical information regarding non-emergency police and other governmental service information.

10. Failure to adopt these rules on an emergency basis would delay action on this matter for several months. These rules provide for easy, consistent access to critical information to the citizens of Colorado seeking non-emergency police and other governmental service information via the 3-1-1 dialing code. Implementation of this shortcut dialing code would be unduly delayed without these rules.

11. Therefore, emergency adoption of the attached rules is appropriate. The statutory authority for adoption of these rules is set forth in §§ 40-2-108, 40-3-101, 40-4-101 and 24-4-103(6), C.R.S. The rules attached to this order shall be effective immediately upon the mailed date of this decision, and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

II. ORDER

A. The Commission Orders That:

1. The rules appended to this decision as Attachment A are hereby adopted as emergency rules consistent with the above discussion.

2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 26, 2004.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

Decision No. C04-0525-E

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04R-259T

IN THE MATTER OF EMERGENCY RULES RELATING TO THE PROVISIONING OF THE
ABBREVIATED DIALING CODE 3-1-1 FOR NON-EMERGENCY POLICE AND OTHER
GOVERNMENTAL INFORMATION.

ERRATA NOTICE

ORDER ADOPTING EMERGENCY RULES

Mailed Date: May 26, 2004
Adopted Date: May 26, 2004
Errata Mailed Date: May 28, 2004

Correct rule citations in the adopted rules attached to Commission Decision No. C04-0525, by advancing the subsections under 723-24-5.11, "*Discontinuance of offering of 3 1 1 access*," from subsections 723-24-5.11.1.1 and 723-24-5.11.1.2 to 723-24-5.11.1 and 723-24-5.11.2 respectively, as shown below:

723-24-5.11 Discontinuance of offering of 3-1-1 access.

723-24-5.11.1 Any governmental entity that has been granted the authority to offer 3-1-1 access and wishes to discontinue providing the 3-1-1 service shall file a notification with the Commission not less than 45 days prior to the effective date of the proposed discontinuance.

723-24-5.11.2 Contents of the notification. The notification shall contain the following information:

SEAL



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A handwritten signature in cursive script that reads "Bruce N. Smith".

BRUCE N. SMITH

Director

Dated at Denver, Colorado this
28th day of May, 2004.

**RULES RELATING TO THE PROVISION OF
THE ABBREVIATED DIALING CODE 3-1-1 FOR NON-EMERGENCY
POLICE AND OTHER GOVERNMENTAL SERVICE INFORMATION**

723-24-5 A governmental entity submitting a Petition for use of the 3-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet the public benefit standards as delineated in this rule. Any government entity that is granted the authority to offer 3-1-1 access to non-emergency police and other governmental services information shall comply with this rule and any other provisions set out in the Commission's decision granting such authority.

723-24-5.1 Definitions. The following definitions apply to this rule:

723-24-5.1.1 "Affected area" means the geographic area within which a 3-1-1 abbreviated dialing code is sought to be used, will be used, or (after implementation) is used for the purpose of providing non-emergency police and other governmental service information to the public.

723-24-5.1.2 "Governmental entity" or "entity" when used in this section means a department or agency of the State of Colorado, any county, or any city, municipality or town as those terms are defined in Colorado Revised Statutes Section 31-1-101 as may be revised or amended from time to time; and any Ambulance District, Fire Protection District, Health Service District or Metropolitan District as those terms are defined in Colorado Revised Statutes Section 32-1-103 as may be revised or amended from time to time.

723-24-5.1.3 "Jurisdictional telecommunications service provider" or "provider" means a local exchange provider, as defined in § 40-15-101(18), C.R.S.

723-24-5.2 On and after the date established by the Commission for implementation within an affected area, an assigned 3-1-1 abbreviated dialing code shall be used within that affected area exclusively to deliver non-emergency police and other governmental service information to the public.

723-24-5.3 Process for Assignment of 3-1-1 Abbreviated Dialing Code. The Commission will consider assignment of the 3-1-1 abbreviated dialing code either upon the Commission's own motion or upon the filing of a petition by a governmental entity.

723-24-5.4 The Commission will assign a 3-1-1 abbreviated dialing code when, after taking into consideration the available information, the Commission finds that assignment of a 3-1-1 abbreviated dialing code in a specific affected area for the purpose of delivering non-emergency police and other governmental service information to the public is in the public interest. A governmental entity that is granted the authority to offer access to non-emergency police and other

governmental service information using a 3-1-1 abbreviated dialing code shall comply with this Rule 24.5 and with the provisions contained in the Commission's decision granting authority.

723-24-5.5 Petition for Assignment of a 3-1-1 Abbreviated Dialing Code. A governmental entity filing a petition must present evidence that a public benefit exists. The Commission will evaluate the petition based upon the evidence presented.

723-24-5.6 Contents of the Petition. A petition shall contain the following information and, as necessary, supporting documentation:

723-24-5.6.1 Specific information regarding the entity including:

- (a) The name and address of the governmental entity filing the petition;
- (b) The name, address and telephone number of the person filing the petition on behalf of the governmental entity;
- (c) The name, address, telephone number, facsimile number, and e-mail address of the entity's representative to whom all inquiries concerning the petition should be addressed;
- (d) The name, address, and telephone number of the person to contact with respect to the implementation and/or provisioning of the 3-1-1 abbreviated dialing service, if different from the person identified in (c) in the event the Commission grants the petition;
- (e) Information about the governmental entity, including the composition of any governing board or agency.

723-24-5.6.2 A statement that the entity agrees to answer all questions propounded by the Commission or its Staff concerning the petition.

723-24-5.6.3 A detailed plan for the use of the 3-1-1 abbreviated dialing code, including:

- (a) A description of the services to be offered;
- (b) Proposed hours of operation;
- (c) Proposed staffing;
- (d) A description of the staff training;
- (e) A detailed plan for community outreach with examples of notices and releases;
- (f) The proposed method for routing the 3-1-1 calls to the call center.

- 723-24-5.6.4 A precise description of the affected area, including a map of the affected area.
- 723-24-5.6.5 Historic volume of calls seeking non-emergency police and other governmental services information.
- 723-24-5.6.6 Demonstration of public need, including letters of support.
- 723-24-5.6.7 Estimated cost of implementation and the on-going provisioning of the 3-1-1 abbreviated dialing code.
- 723-24-5.6.8 Proposed cost recovery mechanism, including funding mechanisms.
- 723-24-5.6.9 Acknowledgement that by signing the petition the entity understands that:
 - 723-24-5.6.9.1 The filing of the petition does not, by itself, constitute approval of the petition.
 - 723-24-5.6.9.2 If the petition is granted, the entity shall not commence the requested action until the entity has complied with applicable Commission rules and with any conditions established by the Commission order granting the petition.
- 723-24-5.7 In the event two or more requests for 3-1-1 are made to the Commission that cover the same geographic area or overlap the same geographic area, the governmental entities making the conflicting requests shall negotiate a settlement as to which entity shall provide the service in conflict. In the event the entities are not able to resolve a conflicting request for 3-1-1 service, the Commission shall have the final authority to determine which entity shall provide 3-1-1 service, taking into account the nature of the services to be provided, the number of residents the entity serves and the potential frequency of access to entities wishing to implement the 3-1-1 service.
- 723-24-5.8 The Commission shall mail its order granting the petition to all jurisdictional providers that offer service in the affected area.
- 723-24-5.9 When a jurisdictional telecommunications service provider receives notice of a Commission order assigning the 3-1-1 abbreviated dialing code for providing non-emergency police and other governmental service information to the public:
 - 723-24-5.9.1 If the jurisdictional telecommunications service provider is using a 3-1-1 abbreviated dialing code for purposes other than providing the public with access to non-emergency police and other governmental service information, that provider shall discontinue use for that non-compliant purpose within 30 days or such other time as the Commission shall order.

- 723-24-5.9.2 If the jurisdictional telecommunications service provider plans to seek recovery of its costs associated with implementation using the 3-1-1 abbreviated dialing code associated with non-emergency police and other governmental service information, the provider shall perform all analyses required to quantify its costs for the necessary translations and/or facilities work associated with implementation of the 3-1-1 abbreviated dialing code.
- 723-24-5.9.3 The jurisdictional telecommunications service provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 3-1-1 call completion for its subscribers as requested in the Petition, keeping in mind that the Federal Communications Commission has determined that a request for 3-1-1 service shall initiate a 6 month deadline to take any necessary steps to complete 3-1-1 calls.
- 723-24-5.9.4 Not less than 30 days prior to the Commission-ordered implementation date, each jurisdictional telecommunications service provider that offers service within the affected geographic area shall file, on not less than 30 days' notice, an advice letter and accompanying tariff that describes the availability of the 3-1-1 abbreviated dialing code; that contains the terms and conditions of the 3-1-1 abbreviated dialing code service; and, if the provider desires to recover its costs, the rates for the 3-1-1 abbreviated dialing code service.
- 723-24-5.9.5 All jurisdictional telecommunications service providers serving customers in the affected area shall comply with the Commission-established schedule unless a waiver is sought and granted.
- 723-24-5.10 Upon a showing that it is in the public interest to assign the 3-1-1 abbreviated dialing code for providing non-emergency police and other governmental service information to the public, and considering the jurisdictional providers' filed information pursuant to Rule 24-5.9, the Commission will establish a schedule for assignment and implementation of the 3-1-1 abbreviated dialing code in the affected area.
- 723-24-5.11 Discontinuance of offering of 3-1-1 access.
- 723-24-5.11.1.1 Any governmental entity that has been granted the authority to offer 3-1-1 access and wishes to discontinue providing the 3-1-1 service shall file a notification with the Commission not less than 45 days prior to the effective date of the proposed discontinuance.

- 723-24-5.11.1.2 Contents of the notification. The notification shall contain the following information:
- (a) The entity's name, complete mailed address (street, city and zip code), telephone number, and e-mail address;
 - (b) Name, mailing address, telephone number and e-mail address of the person to contact for questions regarding the discontinuance;
 - (c) The proposed effective date, which shall not be sooner than 45 days after the date on which the notification is filed with the Commission;
 - (d) The reason(s) for the discontinuance;
 - (e) A detailed description of the affected area, including a map of the affected area;
 - (f) A copy of the notice to the affected users of the discontinuance of 311 service and a list of all the newspapers of general circulation in which the notice of discontinuance will be published;
 - (g) A detailed description of the other means to be utilized to inform and educate the affected users of the discontinuance of 311 service; Acknowledgment that by signing the notification, it is understood and agreed that:
 - i. Filing of the notification does not, by itself, constitute authority to discontinue the offering of the service, and
 - ii. If the discontinuance is granted, it is conditional upon fulfillment of any conditions established by Commission Order.
 - (h) An affidavit signed by a person who is authorized to act on behalf of the provider, stating that the contents of the notification are true, accurate and correct.