

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04R-313T

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

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
ADOPTING RULES**

Mailed Date: August 16, 2004

I. STATEMENT

1. This proceeding was instituted by the issuance of Commission Decision No. C04-0634, June 16, 2004. By that decision the Commission gave notice of a proposed rulemaking concerning the provisioning of the abbreviated dialing code 3-1-1, to be used by a governmental entity to provide non-emergency police and other governmental information to its citizens. Notice of the proposed rulemaking was published in *The Colorado Register* on July 12, 2004. A hearing on the proposed rules was held on August 9, 2004. At the assigned place and time the undersigned Administrative Law Judge (ALJ) called the matter for hearing. Staff of the Commission (Staff) presented an overview of the rules. There were no other commenters present to comment. No written comments had been filed.

II. FINDINGS AND CONCLUSIONS

2. These proposed rules are within the authority granted to the Commission by the Federal Communications Commission (FCC) *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. The Commission proposes the implementation of the 3-1-1 dialing code for non-emergency police and other governmental information services to help alleviate congestion on 9-1-1 circuits, which will in turn permit more effective operation of 9-1-1 emergency services.

3. The Commission adopted these rules substantially in their proposed form in Decision No. C04-0525, May 26, 2004 as emergency rules. By this order the rules are made permanent. At the hearing Staff presented several minor wording changes which do not affect the substance of the rule. The ALJ raised two issues. The first was whether a petition by a governmental entity for assignment of the 3-1-1 abbreviated dialing code should be noticed. The ALJ has determined that the Commission's general notice provisions contained in the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 will allow the Commission to give notice as it deems appropriate and that a separate provision in these rules is not necessary.

4. The ALJ also raised the question of whether a governmental entity that had previously been granted 3-1-1 authority and was seeking to discontinue providing it needed to file an application or simply a notice with the Commission. The rules provide for notification rather than an application. This seems appropriate, as the Commission generally has extremely limited authority over the provider of the 3-1-1 services. Nonetheless, a provision will be inserted into Rule 5.11.1.1, indicating that the Commission may give notice of the notification of termination if it determines notice would be in the public interest. This will permit the Commission in an appropriate case to adequately publicize the termination of 3-1-1 services.

5. With those limited changes, the rules are in the public interest and they should be adopted as proposed.

6. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The rules relating to the provision of the abbreviated dialing code 3-1-1 for non-emergency police and other governmental service information, 4 *Code of Colorado Regulations* 723-24-5, as set forth in the Appendix to this Order are hereby adopted.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KEN F. KIRKPATRICK

Administrative Law Judge

**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 Identification of funding source(s) for implementation and maintenance of the service, should the Commission grant the petition.
- 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 attempt to 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 it 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, a jurisdictional telecommunications provider that provides telecommunications services in the affected area shall:
 - 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. If a provider does not intend to recover its implementation costs, no analysis is required.
- 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 No fewer 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.
- [corrected citation] 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 fewer than 45 days prior to the

effective date of the proposed discontinuance. The Commission may give notice of the notification if it determines notice would be in the public interest.

[corrected citation] 723-24-5.11.2 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 3-1-1 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 3-1-1 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.