

Decision No. C06-1044

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06R-482T

IN THE MATTER OF EMERGENCY RULES RELATING TO THE PROVISIONING OF THE ABBREVIATED DIALING CODE 8-1-1 FOR PROVIDING ADVANCED NOTICE OF EXCAVATION ACTIVITIES TO UNDERGROUND FACILITY OPERATORS.

ORDER ADOPTING EMERGENCY RULES

Mailed Date: September 6, 2006

Adopted Date: September 6, 2006

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission to consider whether to adopt emergency rules entitled Rules Relating to the Provisioning of the Abbreviated Dialing Code 8-1-1 for Advanced Notice of Excavation Activities to Underground Facility Operators, 4 *Code of Colorado Regulations* (CCR) 723-2-2741(j) (One Call Rules) to replace previously adopted rules in Docket Nos. 05R-486T and 06R-063T. *See* Decision Nos. C05-1350 and C06-0113, respectively. 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 allow the rules to remain in effect during the pendency of the permanent rulemaking in Docket No. 06R-316T. No substantive changes were made from the previous version adopted by Decision No. C06-0113.

3. 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 prevent a situation where no rules are in effect while the permanent rulemaking is proceeding. 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.

4. 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. 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 is less.

3. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 6, 2006.**

(SEAL)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

N-1-1 Abbreviated Dialing Codes

Basis, Purpose, and Statutory Authority

The basis and purpose for these rules is to establish the Colorado N-1-1 regulations so that the use of N-1-1 in Colorado is consistent with the FCC assignments by: identifying the designated uses of N-1-1 codes; identifying the limitations of the N-1-1 code usage; and establishing Commission procedures regarding petitions for N-1-1 use or assignment.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-15-201, and 40-2-108, C.R.S. These rules are consistent with the FCC's rules found at 47 C.F.R., Part 52 (October 1, 2002).

2740. Applicability.

Rules 2740 through 2799 are applicable to all telecommunications providers.

2741. Abbreviated Dialing Codes.

(a) Definitions.

- (I) "Abbreviated dialing codes" enable callers to connect to a location in the telephone network that otherwise would be accessible only through the use of a seven or ten-digit telephone number. The network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number, including toll free numbers, and route the call accordingly.
- (II) "N-1-1" codes are three-digit codes of which the first digit can be any digit other than 1 or 0, and the last two digits are both one. N-1-1 codes "0-1-1" and "1-1-1" are unavailable because "0" and "1" are used for switching and routing purposes.

(b) The following abbreviated dialing codes have been designated and assigned by the FCC and shall be used for the FCC's stated purpose in Colorado:

- (I) 2-1-1 – Community Information and Referral Services;
- (II) 3-1-1 - Non-emergency governmental police and other governmental service information;
- (III) 5-1-1 - Traffic and Transportation Information;
- (IV) 7-1-1 – Telecommunications Relay Service; ~~and~~
- (V) 8-1-1 - Advanced Notice of Excavation Activities; and
- (VI) 9-1-1 – Emergency Service.

(c) The following abbreviated dialing codes are commonly used for the FCC's stated purpose in Colorado, but may be used for other purposes:

- (I) 4-1-1 – Directory Assistance and Directory Assistance Call Completion; ~~and~~
- (II) 6-1-1 – Repair Service; ~~and~~

~~(III) — 8-1-1 — Business Office.~~

- (d) A provider in Colorado may assign or use N-1-1 dialing codes only as directed by the Commission.
- (e) The following limitations apply to a provider's use of N-1-1 dialing codes for internal business and testing purposes:
 - (I) The provider's use shall not interfere with the assignment of such numbers by the FCC or with the North American Numbering Plan (NANP); and
 - (II) The provider's use shall be discontinued upon 30-days notice if the dialing code is reassigned on a statewide or nationwide basis, provided that the code not be reassigned earlier than six months after the provider's use is discontinued in order to allow sufficient time for customer education regarding the discontinuance and reassignment of the dialing code.
- (f) Rule relating to the provisioning of the 2-1-1 abbreviated dialing code for community information and referral services.
 - (I) An entity submitting an application for use of the 2-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any applicant that is granted the authority to offer 2-1-1 access to a referral service for non-commercial community resource information shall comply with this rule and any provisions set out in the Commission decision granting such authority.
 - (A) Assignment of 2-1-1 abbreviated dialing code. The assignment of the 2-1-1 abbreviated dialing code will be considered by the Commission upon:
 - (i) The Commission's own motion; or
 - (ii) The application of an information and referral organization.
 - (II) Application. An entity filing an application to request assignment of the 2-1-1 abbreviated dialing code for access to community information and referral services shall present evidence that a public benefit exists. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (A) Background of the applicant, including composition of any governing board or agency;
 - (B) Demonstration of public need;
 - (C) Comprehensive list of participating agencies including proposed process to add to or delete agencies from the list;
 - (D) Historic volume of calls seeking community service information;
 - (E) Affected geographic area including list of cities, towns, counties, and central offices, if known, and any plans for expansion of that initial geographic area;

- (F) Staffing expectations, including hours and days of operation;
 - (G) Proposed cost recovery solution, including funding mechanisms;
 - (H) Letters of support from stakeholders (e.g., community members, government agencies, non-profit organizations);
 - (I) Proposed plan for community notification and outreach; and
 - (J) Other information demonstrating a public benefit.
- (III) If two or more entities file an application with the Commission to provide community information and referral services using 2-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (f)(II) to establish one assignee.
- (IV) When an application is granted by the Commission under subparagraph (f)(II), all telecommunications providers that provide service in the geographic area outlined in the application shall complete the following tasks:
- (A) If an affected provider is using 2-1-1 for purposes other than access to community information and referral services, that provider shall discontinue use for that non-compliant purpose.
 - (B) If the affected provider plans to seek recovery of its costs associated with 2-1-1 implementation, the affected provider shall calculate the cost for the necessary translations and facilities work.
 - (C) The affected provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 2-1-1 call completion from its subscribers as requested in the application.
- (V) Within 30 days of the granting of an application the affected provider shall file with the Commission the information requested in subparagraphs (f)(II)(B) and (C).
- (VI) Upon a showing that the public will benefit from the assignment of 2-1-1 to an applicant and factoring in the provider filed information, the Commission will establish a timeline for assignment and use of the 2-1-1 abbreviated dialing code in the affected geographic area. All providers serving customers in the affected area shall comply with this assignment date unless a variance is sought and granted.
- (g) Rules relating to the provisioning of the 3-1-1 abbreviated dialing code for non-emergency governmental police and other governmental service information:
- (I) A government 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.
 - (II) Definitions. The following definitions apply to paragraph (g):

- (A) "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.
 - (B) "Government entity" or "entity" means a department or agency of the state of Colorado, any county, or any city, municipality or town as those terms are defined in § 31-1-101 C.R.S.; and any Ambulance District, Fire Protection District, Health Service District or Metropolitan District as those terms are defined in § 32-1-103 C.R.S.
- (III) 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.
- (IV) 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.
- (V) 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 and with the provisions contained in the Commission's decision granting authority.
- (VI) 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.
- (VII) Contents of the Petition. A petition shall contain the following information and, as necessary, supporting documentation:
- (A) Specific information regarding the entity including:
 - (i) The name and address of the governmental entity filing the petition;
 - (ii) The name, address and telephone number of the person filing the petition on behalf of the governmental entity;
 - (iii) 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;
 - (iv) 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 (iii) in the event the Commission grants the petition;

- (v) Information about the governmental entity, including the composition of any governing board or agency.
- (B) A statement that the entity agrees to answer all questions propounded by the Commission or its Staff concerning the petition.
- (C) A detailed plan for the use of the 3-1-1 abbreviated dialing code, including:
 - (i) A description of the services to be offered;
 - (ii) Proposed hours of operation;
 - (iii) Proposed staffing;
 - (iv) A description of the staff training;
 - (v) A detailed plan for community outreach with examples of notices and releases;
 - (vi) The proposed method for routing the 3-1-1 calls to the call center.
- (D) A precise description of the affected area, including a map of the affected area.
- (E) Historic volume of calls seeking non-emergency police and other governmental services information.
- (F) Demonstration of public need, including letters of support.
- (G) Estimated cost of implementation and the on-going provisioning of the 3-1-1 abbreviated dialing code.
- (H) Identification of funding source(s) for implementation and maintenance of the service, should the Commission grant the petition.
- (I) Acknowledgement that by signing the petition the entity understands that:
 - (i) The filing of the petition does not, by itself, constitute approval of the petition.
 - (ii) 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.
- (VIII) 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.

- (IX) The Commission shall mail its order granting the petition to all jurisdictional providers that offer service in the affected area.
- (X) 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:
 - (A) 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.
 - (B) 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.
 - (C) 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 FCC 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.
 - (D) 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.
 - (E) 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.
- (XI) 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 paragraph (C), the Commission will establish a schedule for assignment and implementation of the 3-1-1 abbreviated dialing code in the affected area.
- (XII) Discontinuance of offering of 3-1-1 access.
 - (A) 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.

- (B) Contents of the notification. The notification shall contain the following information:
- (i) The entity's name, complete mailed address (street, city and zip code), telephone number, and e-mail address;
 - (ii) Name, mailing address, telephone number and e-mail address of the person to contact for questions regarding the discontinuance;
 - (iii) The proposed effective date, which shall not be sooner than 45 days after the date on which the notification is filed with the Commission;
 - (iv) The reason(s) for the discontinuance;
 - (v) A detailed description of the affected area, including a map of the affected area;
 - (vi) 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;
 - (vii) 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;
 - (viii) Acknowledgment that by signing the notification, it is understood and agreed that:
 - (ix) Filing of the notification does not, by itself, constitute authority to discontinue the offering of the service; and
 - (x) If the discontinuance is granted, it is conditional upon fulfillment of any conditions established by Commission order.
 - (xi) 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.
- (h) Rules relating to the provisioning of the 5-1-1 abbreviated dialing code for traffic and transportation information:
- (I) A government entity submitting a Petition for use of the 5-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any petitioner that is granted the authority to offer 5-1-1 access to intelligent transportation systems or other transportation information shall comply with this rule and any provisions set out in the Commission's decision granting such authority.
 - (A) Process for Assignment of 5-1-1 Abbreviated Dialing Code. The assignment of the 5-1-1 abbreviated dialing code will be considered by the Commission upon:
1) the Commission's own motion; or 2) the Petition of a government entity.

- (B) Petition for Consideration of the Assignment of 5-1-1. A government entity filing a Petition to request consideration of the assignment of the 5-1-1 abbreviated dialing code for intelligent transportation systems or other transportation information must present clear and convincing evidence that a public benefit exists. The Commission will evaluate the Petition based upon this evidence.
- (C) Contents of the Petition. The Petition shall contain the following information and documentation:
 - (i) Background of the Petitioner, including composition of any governing board or agency;
 - (ii) Demonstration of public need;
 - (iii) Historic volume of calls seeking transportation information;
 - (iv) Proposed affected geographic area, including a list of cities/towns and counties or central offices, if known, and any plans for expansion of that initial geographic area;
 - (v) Proposed cost recovery solution, including funding mechanisms;
 - (vi) Letters of support from stakeholders;
 - (vii) Proposed plan for community outreach and notification; and
 - (viii) Other pertinent factors that the Commission deems relevant.
- (II) If two or more entities petition the Commission to provide access to intelligent transportation systems or other transportation information using 5-1-1 in the same or overlapping geographic areas, the Commission shall apply the criteria in subparagraph (C) to establish one assignee.
- (III) When a Petition is granted by the Commission under subparagraph (C), any jurisdictional telecommunications provider that provides service in the geographic area outlined in the Petition shall complete the following tasks:
 - (A) If an affected jurisdictional telecommunications service provider is using 5-1-1 for purposes other than access to intelligent transportation systems or other transportation information, that provider shall discontinue use for that noncompliant purpose.
 - (B) If the affected jurisdictional telecommunications service provider plans to seek recovery of internal costs associated with 5-1-1 call completion, the affected provider shall perform all analyses required to quantify its cost for the necessary translations and/or facilities work.
 - (C) The affected jurisdictional telecommunications service provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 5-1-1 call completion from its subscribers as requested in the petition.

- (IV) Within 30 days of the granting of a Petition, the affected jurisdictional telecommunications service providers shall file with the Commission the information requested in subparagraphs (B) and (C).
 - (V) Upon a showing that the public will benefit from the assignment of 5-1-1 to a petitioner and factoring in the jurisdictional telecommunications service providers' filed information the Commission will set a timeline for assignment and implementation of the 5-1-1 abbreviated dialing code in the affected geographic area. All jurisdictional telecommunications service providers serving customers in the affected area will comply with this assignment date unless a waiver is sought and granted.
- (i) Rules relating to the provisioning of the 7-1-1 abbreviated dialing code for telecommunications relay service:
- (I) See rules 2820 through 2839.
- (j) Rules relating to the provisioning of the abbreviated dialing code 8-1-1 for providing advanced notice of excavation activities to underground facility operators:
- (I) An entity submitting a Petition for use of the 8-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any petitioner that is granted the authority to offer 8-1-1 access to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities shall comply with this rule and any provisions set out in the Commission's decision granting such authority.
 - (A) Process for Assignment of 8-1-1 Abbreviated Dialing Code. The assignment of the 8-1-1 abbreviated dialing code will be considered by the Commission upon: 1) the Commission's own motion; or 2) the Petition of an entity.
 - (B) Petition for Consideration of the Assignment of 8-1-1. An entity filing a Petition to request consideration of the assignment of the 8-1-1 abbreviated dialing code to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities must present clear and convincing evidence that a public benefit exists. The Commission will evaluate the Petition based upon this evidence.
 - (C) Contents of the Petition. The Petition shall contain the following information and documentation:
 - (i) Background of the Petitioner, including composition of any governing board or agency;
 - (ii) Demonstration of public need;
 - (iii) Historic volume of calls seeking notification to facility operators in advance of their intent to engage in excavation activities;
 - (iv) Proposed affected geographic area;
 - (v) Proposed cost recovery solution, including funding mechanisms;
 - (vi) Proposed plan for community outreach and notification; and

(vii) Other pertinent factors that the Commission deems relevant.

(II) If two or more entities petition the Commission to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities using 8-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (C) to establish one assignee.

(III) When a Petition is granted by the Commission under subparagraph (C), any telecommunications provider that provides service in the geographic area outlined in the Petition, shall complete the following tasks:

(A) If an affected telecommunications service provider is using 8-1-1 for purposes other than access to notification to facility operators in advance of their intent to engage in excavation activities, that provider shall discontinue use for that non-compliant purpose.

(B) If the affected telecommunications service provider plans to seek recovery of internal costs associated with 8-1-1 call completion, the affected provider shall perform all analyses required to quantify the cost to its individual company for the necessary translations and/or facilities work.

(C) The affected telecommunications service provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 8-1-1 call completion from its subscribers as requested in the Petition.

(IV) Within 30 days of the granting of a Petition, the affected telecommunications service providers shall file with the Commission, the information requested in subparagraphs (B) and (C).

(V) All telecommunications service providers serving customers in the affected area will complete the requirements of subparagraph IV to allow for 8-1-1 call completion no later than April 13, 2007, unless a waiver is sought and granted.

(k) Rules relating to the provisioning of the 9-1-1 abbreviated dialing code for emergency services:

(I) See rules 2130 through 2159.

(kl) Neither an entity granted the use of a N-1-1 abbreviated dialing code nor a provider may charge end users a fee on a per-call or per-use basis for using the N-1-1 system without the consent of the Commission.

(I) Sale or transfer of N-1-1 codes through private transactions is not allowed.

2742. – 2799. [Reserved].