COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-2

PART 2
RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS

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[indicates omission of unaffected rules]

2202.   Default Form of Regulation for ILECs.

(a)   This rule applies to all ILECs.

(b)   Part II services. Each ILEC shall be regulated using a rate-of-return form of regulation for its Part II services, except call delivery to a Basic Emergency Service Provider (BESP), in the absence of another Commission-approved alternative form of regulation.

(c)   Part III services. Each ILEC shall be regulated using rate-of-return regulation for its emerging competitive services, except non-optional operator services, in the absence of a Commission-approved alternative form of regulation.

(d)   The Commission shall regulate the terms and conditions, including rates and charges, under which Part III services are offered and provided to customers exclusively in accordance with the provisions of §§ 40-4-101(1), 40-4-111, 40-4-112, 40-5-105, 40-15-302, 40-15-303, 40-15-306, and 40-15-307.

(e)   Prices for residential basic local exchange service. Consistent with § 40-15-502(3)(b)(I) and except as otherwise provided by law, prices for residential basic local exchange service, including zone charges, if any, shall not rise above the levels in effect on May 24, 1995, for comparable services regardless of the form of regulation of the ILEC.

(f)   Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, ILECs' access charges:

(I)   Shall be cost-based, as determined by the Commission;

(II)   Shall not exceed the average price by rate element and type of access in effect on July 1, 1987; and.

(III)   Each ILEC's switched access charges by rate element shall be capped at that ILEC's tariffed rate as of the effective date of this rule. The capping of rates does not affect any required implementation of rate reductions pursuant to federal requirements.

(g)   Customer-specific contracts and notice.

    (I)   The Commission may permit an ILEC to provide a customer with regulated services, under contract, irrespective of any Tariff or Price List requirements.

    (II)   A notice of contract shall be filed with the Commission under seal within 14-days of the date the contract is executed. The notice shall: disclose any early termination penalty to the customer; confirm that the contract is a non-discriminatory offering; confirm that the charges exceed the company's cost; and confirm that the contract contains a provision acknowledging that it is subject to regulatory review.

    (III)   The contract shall be subject to Commission review to determine if:

        (A)   The negotiated contract is nondiscriminatory;

        (B)   The contract terms are not inconsistent with the public interest; and

        (C)   The contract terms are not inconsistent with applicable Commission rules.

    (IV)   The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the applicant shall bear the burden of proof with respect to the contract. If the Commission does not set the contract for hearing, the contract is effective according to its terms.

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[indicates omission of unaffected rules]

2203.   Default Forms of Regulation for CLECs.

(a)   Requirements of all CLECs.

    (I)   Prices for residential basic local exchange service. Consistent with § 40-15-502(3)(b)(I) and except as otherwise provided by law, prices for residential basic local exchange service, including zone charges, if any, shall not rise above the levels in effect on May 24, 1995, for comparable services regardless of the form of regulation of the provider.

    (II)   Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, providers' access charges:

        (A)   Shall be cost-based, as determined by the Commission; ~~and~~

        (B)   Shall not exceed the average price by rate element and type of access in effect on July 1, 1987~~;~~. and

        (C)   Each CLEC's switched access charges by rate element shall be capped at that CLEC's tariffed rate as of the effective date of this rule. The capping of rates does not affect any required implementation of rate reductions pursuant to federal requirements.

(III)   To enable the Commission to track the progress of competition and to monitor the delivery of basic, premium and advanced services to all areas of the state, it is in the public interest for CLECs to provide the Commission with information in annual reports and/or other special reports, pursuant to rule 2006.

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[indicates omission of unaffected rules]

2843.   General.

The HCSM shall be coordinated with the Federal Universal Service Fund (USF), as described by regulations found at 47 C.F.R. §§ 36.601 to 36.641 and §§ 54.1 to 54.707 and any other Universal Service Support Mechanism that may be adopted by the FCC pursuant to 47 U.S.C. 254 of the Communications Act, as amended by § 101 of the Telecommunications Act of 1996.

(a)   The HCSM shall operate on a calendar-year basis. The Commission shall, by November 30 of each year, adopt a budget for the HCSM including the:

(I)   Proposed benchmarks;

(II)   Proposed contributions that may be collected through a rate element assessment by each telecommunications provider; and

(III)   Proposed total amount of the HCSM fund from which distributions are to be made for the following calendar year.

(b)   If the budget prepared pursuant to paragraph (a) and submitted to the General Assembly pursuant to paragraph 2849(p) includes a proposal for an increase in any of the amounts listed in paragraph (a), such increase shall be suspended until March 31 of the following year.

(c)   Beginning in 2012, the HCSM fund is capped at $54,000,000 or $13,500,000 per quarter. If the quarterly calculated support amount is above the $13,500,000 quarterly capped amount, due to rule 2856 or to the increase in the number of access lines or handsets per carrier, a sizing factor will be used to adjust each EP's monthly support per line or handset. The sizing factor shall be the capped amount divided by the uncapped amount.

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[indicates omission of unaffected rules]

2856. Extraordinary Circumstance.

A~~ny~~ company that currently receives HCSM support and wants to reset its HCSM support amount or a company seeking initial HCSM support may file a~~n application~~ ~~petition~~ to demonstrate that extraordinary circumstances exist. Bankruptcy or tax liens will not be considered as an extraordinary circumstance. To qualify for the extraordinary circumstance, the applicant~~petitioner~~ must include the following information in its ~~petition~~application:

(a)   A demonstration that the provider is not receiving funds from this or any other source that, together with local exchange service revenues, exceeds the cost of providing local exchange service to the customers of such provider;

(b)   A demonstration that a large investment was necessary for the continued operation of basic local exchange service;

(c)   A demonstration that pro forma adjustments were made for known and measurable changes;

(d)   Support that granting the ~~petition~~ application is in the public interest;

(e)   The information required by paragraph 200~~3~~2(b), as well as all information necessary to complete the calculations contained in paragraphs (a) through (e) of rule 2848, as applicable;

(f)   A statement that the company will submit to a full audit to ensure compliance with §§ 40-15-106, 40-15-108 and 40-15-208 (2),C.R.S., if necessary and applicable; and

(g)   If §§ 40-15-106 and 40-15-108, C.R.S. are not applicable, a statement that the applicant~~petitioner~~ will submit to a full audit to ensure compliance with § 40-15-208(2), C.R.S., if necessary. If this information is already on file with the Commission, the applicant~~petitioner~~ must identify when and in what form the information relied on was filed.

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[indicates omission of unaffected rules]