

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

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BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is generally to: regulate providers of telecommunications service; administer and enforce the telecommunications provisions of Title 40 of the Colorado Revised Statutes; and regulate telecommunications proceedings before the Commission. These rules address a wide variety of subject areas. Therefore, specific statements of Basis, Purpose, and Statutory Authority are found at the beginning of each subchapter of these rules.

The statutory authority for the promulgation of these rules is found at §§ 29-11-106(3); 39-32-104; 40-2-108; 40-3-101; 40-3-102; 40-3-103; 40-3-107; 40-3-110; 40-3.4-106; 40-4-101; 40-7-113.5; 40-7-116.5; 40-15-101; 40-15-108(2); 40-15-109(3); 40-15-201; 40-15-203.5; 40-15-208(2)(a); 40-15-301; 40-15-302(1)(a) and (2); 40-15-302.5; 40-15-305; 40-15-404; 40-15-502(1), (3)(a), and (5)(b); 40-15-503; 40-17-103(2) and (3), C.R.S.

GENERAL PROVISIONS

2000. Scope and Applicability.

All rules in this Part 2, the "2000" series, shall apply to all providers of telecommunications service, and to all Commission proceedings and operations concerning providers of telecommunications service, unless a specific statute or rule provides otherwise. Other applicability provisions are found in the various subchapters of this Part 2.

2001. Definitions.

The meaning of terms in Part 2 shall be consistent with general usage in the telecommunications industry unless specifically defined by Colorado statute or a more specific rule. In the event the general usage of terms in the telecommunications industry or the definitions anywhere in Part 2 conflict with statutory definitions, the statutory definitions control. In the event the general usage of terms in the telecommunications industry conflict with definitions anywhere within Part 2, the Part 2 definitions control. In the event another Commission rule of general applicability (such as in the Commission's Rules of Practice and Procedure) conflicts with Part 2 rules, the Part 2 rules control. Except as may be provided by applicable statute or more specifically applicable rule, the following definitions apply throughout this Part 2:

- (a) "Access line" means the connection of a customer's premises to the public switched telephone network regardless of the type of technology used to connect the customer to the network.
- (b) "Access to emergency services" means access to services, such as 9-1-1 basic emergency service provided by local governments or other public safety organizations to the extent the local government or the public safety organization has implemented 9-1-1.
- (c) "Access to operator service" means access to a mechanized system or access through a real person to arrange for billing and/or completion of a telephone call.
- (d) "Access to toll service" means the use of the network elements, including but not limited to loop, circuit, and switch facilities or their functional equivalents, necessary to access an interexchange provider's network.
- (e) "Base rate area" means the geographic area within an exchange service area, as defined in the tariff of a local exchange provider, wherein uniform rates that do not vary with distance from the central office apply to each class or grade of service.

- (f) "Basic local exchange service" or "basic service" means the telecommunications service that provides:
 - (I) a local dial tone;
 - (II) local usage necessary to place or receive a call within an exchange area; and
 - (III) access to emergency, operator, and interexchange telecommunications services.
- (g) "Busy hour" means the uninterrupted period of 60 minutes during the day when the traffic load offered to a particular switch, trunk, or network component is at its designed maximum load. The 60-minute periods are generally measured from hour-to-hour or from half-hour to half-hour.
- (h) "Busy season" means a month or several months that may be non-consecutive, within a consecutive 12-month interval, when the maximum busy hour requirements are experienced excluding days with abnormal traffic volume, such as Christmas or Mother's Day. The busy season generally is at least 30 days in length and generally does not exceed 60 days in length.
- (i) "Calls" means customers' telecommunications messages.
- (j) "Central office" means the plant, facilities, and equipment, including, but not limited to, the switch, located inside a structure of a provider of telecommunications service that functions as an operating unit to establish connections between customer lines, between customer lines and trunks to other central offices within the same or other exchanges, and between customer lines and the facilities of other providers of telecommunications service.
- (k) "Certificate of Public Convenience and Necessity" (CPCN) means the Commission-granted authority to provide Part II services, subject to terms and conditions established by the Commission in its decision granting the authority.
- (l) "Channel" means a transmission path for telecommunications between two points. It may refer to a one-way path that permits the completion of traffic from the first point to the second point, or from the second point to the first point. Alternatively, it may refer to a two-way path that permits the completion of traffic in either direction. Generally a channel is the smallest subdivision of a transmission system by means of which a single type of communication service is provided.
- (m) "Class of service" means a classification of a telecommunications service provided to a customer or group of customers, which denotes characteristics such as its nature of use (business or residence) or type of rate (flat rate, measured rate, or message rate).
- (n) "Collocation" means the following:
 - (I) physical collocation occurs when one provider of telecommunications service owns interconnection facilities physically located within another provider of telecommunications service physical premises; or
 - (II) virtual collocation occurs when one telecommunications provider extends its facilities to a point of interconnection within a reasonably close proximity to, but not physically located within, another telecommunications provider's physical premises. In virtual collocation, the provider requesting collocation (lessee) may request the type of equipment to be used from another provider who owns the space (lessor). In such case, the lessee may own or may lease and maintain the equipment.
- (o) "Commercial Mobile Radio Service" or "CMRS" means cellular or wireless service, personal communications service, paging service, radio common carrier service, radio mobile service, or enhanced specialized mobile radio service.

- (p) "Common carrier" means a provider of telecommunications service that offers telecommunications services to the public, or to such classes of users as to be effectively available to the public, on a non-discriminatory basis.
- (q) "Community of interest" means an area consisting of one or more exchanges in which the general population has similar governmental, health, public safety, business, or educational interests.
- (r) "Competitive local exchange carrier" (CLEC) means a provider of local exchange service that is not the incumbent local exchange carrier in an identified exchange area. .
- (s) "Customer" means a person who is currently receiving a jurisdictional telecommunications service.
 - (I) "Business customer" means a customer whose use of telecommunications service is primarily of a commercial, professional, institutional, or other occupational nature.
 - (II) "Residential customer" means a customer whose use of telecommunications service is primarily of a social or domestic nature.
- (t) "Customer trouble report" means any oral or written report from a customer or from a user of telecommunications services relating to a physical defect with or relating to difficulty or dissatisfaction with the operation of the provider's facilities. Any subsequent report received from the same customer or user of telecommunications services in the same day shall be counted as a separate report, unless it duplicates a previous report or unless it merely involves an inquiry concerning progress on a previous report.
- (u) "Day" means a calendar day, consistent with the definition found in rule 1004(o).
- (v) "Decibel" means the unit of measurement for the logarithmic ratio to the base ten of two power signals. The abbreviation dB is commonly used for the term decibel.
- (w) "Decibel above reference noise level using C-message weighting" (dBrnC) means the reference noise level of one Pico watt that is defined as 0 dBrnC. C-message weighting accounts for the frequency characteristics of a typical telephone set by weighting the noise signal at various frequencies to calculate the composite average noise signal value.
- (x) "Deregulated telecommunications services" means services and products exempted from regulation pursuant to Title 40, Article 15, Part 4, C.R.S., or by the Commission in accordance with § 40-15-305(1), C.R.S.
- (y) "Dial equipment minutes of use" (DEM) means the minutes of holding time of originating and terminating local switching equipment, as defined in 47 C.F.R., Part 36.
- (z) "Dial tone or its equivalent" means:
 - (I) the signal placed on a local access line by the wireline provider signaling that the network is ready to receive a call from the subscriber; or
 - (II) the receipt by a wireless provider of the caller's dialed digits without a 'system busy' response.
- (aa) "Effective competition area" (ECA) means a geographic area in which the Commission has determined that basic local exchange service is competitive and no longer eligible to receive HCSM pursuant to § 40-15-207, C.R.S.

- (bb) "Electronic mail" (e-mail) means an electronic message that is transmitted between two or more computers or electronic terminals. Electronic mail includes electronic messages that are transmitted within or between computer networks.
- (cc) "Eligible telecommunications carrier" (ETC) means a common carrier that is authorized by the Commission to receive federal universal service support as required by 47 U.S.C. 214(e)(2).
- (dd) "Eligible Provider" (EP) means a provider who offers basic local exchange services and has been designated by the Commission as qualified to receive disbursements from the Colorado High Cost Support Mechanism.
- (ee) "Emerging competitive telecommunications services" (Part III services) means services and products regulated by the Commission in accordance with Title 40, Article 15, Part III, C.R.S.
- (ff) "End user" means a person, other than another provider of telecommunications service, who purchases a jurisdictional telecommunications service from a telecommunications provider.
- (gg) "Enhanced 9-1-1" (E9-1-1) means a telephone system which includes such features as Automatic Number Identification (ANI), Automatic Location Identification (ALI), and call routing features to facilitate public safety response as described within rules 2130 through 2159.
- (hh) "Exchange" means the totality of the telecommunications plant, facilities, and equipment including plant, facilities and equipment located inside and outside of buildings, used in providing telecommunications service to customers located in a geographic area defined by a provider of telecommunications service's tariff. An exchange may include more than one central office location or more than one wire center.
- (ii) "Exchange area" means a geographic area established by the Commission for the purpose of establishing a local calling area that consists of one or more central offices together with associated facilities and plant located outside the central office, used in providing basic local exchange service.
- (jj) "FCC" means the Federal Communications Commission.
- (kk) "Governing body" means the board of county commissioners of a county; the city council or other governing body of a city, city and county, or town; or the board of directors of a special district.
- (ll) "Held service order":
 - (l) For all ILECs, except rural providers of telecommunications service, "held service order" means an application by a customer for basic local exchange service in the ILEC's service territory that the LEC is unable to provide within ten days of the customer's application, except when the customer requests a later service date. The application shall be notice to the LEC that the customer desires service. Oral or written requests, as well as requests made by secure website, shall all be considered applications.
 - (ll) For rural providers of telecommunications service, "held service order" means an application by a customer for basic local exchange service in the rural telecommunications provider's service territory that the rural telecommunications provider is unable to provide within 30 days after the date of the customer's application, except when the customer requests a later service date. The application shall be notice to the RLEC that the customer desires service. Oral or written requests shall both be considered applications.
- (mm) "HCSM recipient" means a provider of basic service in a geographic support area for which the Commission provides high costs support distributions pursuant to §§ 40-15-208 and 40-15-502(5), C.R.S.

- (nn) "Incumbent local exchange carrier" (ILEC) means either:
- (I) with respect to a geographic area, the LEC that, on the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), provided telephone exchange service in such geographic area and that either:
 - (A) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R., 69.601(b) of the FCC's regulations; or
 - (B) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in subparagraph (I)(A) of this paragraph; or
 - (II) any comparable LEC that the Commission has, by rule or order, deemed to be an ILEC after finding that:
 - (A) such carrier occupies a position in the market for telephone exchange service within a geographic area that is comparable to the position occupied by a carrier described in subparagraph (I) of this paragraph;
 - (B) such carrier has substantially replaced an ILEC described in subparagraph (I) of this paragraph; and
 - (C) such treatment is consistent with the public interest, convenience, and necessity.
- (oo) "Individual line service or its functional equivalent" means a grade of basic local exchange service that permits a user to have exclusive use of a dedicated message path for the length of the user's particular transmission.
- (pp) "Information service" has the same meaning as set forth in 47 USC § 153.
- (qq) "Interexchange provider" means a person who provides interexchange telecommunications services.
- (rr) "Interexchange telecommunications service" means telephone service between exchange areas that is not included in basic local exchange service.
- (ss) "Internet-Protocol- enabled service" or "IP- enabled service" means a service, functionality, or application, other than voice-over-internet protocol, that uses internet protocol or a successor protocol and enables an end user to send or receive a voice, data, or video communication in internet protocol format or a successor format, utilizing a broadband connection at the end users location.
- (tt) "Jurisdictional service" means any telecommunications service subject to the authority of the Commission under the statutes of the State of Colorado included in Title 40, Articles 1-7 and Article 15, Part 2, Part 3, Part 4 or Part 5, C.R.S.
- (uu) "Letter of Registration" (LOR) means Commission-granted authority to provide Part III services, subject to terms and conditions established in the Commission decision granting the authority.
- (vv) "Local Access and Transport Area" (LATA) means a geographic area designated at the time of the 1984 divestiture of the American Telephone and Telegraph System. A LATA may encompass more than one contiguous local exchange area that serves common social, economic, or other purposes, even where such area transcends municipal or other local government boundaries.
- (ww) "Local call" means any call originating and terminating within the same local calling area.

- (xx) "Local calling area" (LCA) means the geographic area approved by the Commission in which customers may make calls without payment of a toll charge for each call. The local calling area may include exchange areas in addition to the serving exchange area.
- (yy) "Local exchange carrier" (LEC) or "local exchange provider" means any person authorized by the Commission to provide basic local exchange service.
- (zz) "Local exchange telecommunications service" means basic local exchange service and other such services identified in § 40-15-401, C.R.S., or defined by the Commission pursuant to § 40-15-502(2), C.R.S., and switched access as defined in § 40-15-301(2) C.R.S.; or any of the above singly or in combination.
- (aaa) "Local usage" means the usage necessary to place and receive calls within a local calling area in which the customer is located.
- (bbb) "Network element" means a facility or equipment used in the provision of a telecommunications service including features, functions, and capabilities that are provided by means of such a facility or equipment, including subscriber numbers, databases, signaling systems, including information sufficient for billing and collection of such elements, and including facilities used in the transmission, routing, or other provision of a telecommunications service.
- (ccc) "Out-of-service trouble report" means a report by the customer of:
 - (I) no dial tone, inability to make calls, or inability to receive calls on the customer's local access line; or
 - (II) service quality deterioration to such an extent that the customer is incapable of sending or receiving a facsimile or data transmission at voicegrade, or technology equivalent, transmission levels using the local access line.
- (ddd) "Outside plant" means the telecommunications plant, equipment, and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between a central office and customers' locations or between central offices.
- (eee) "Part II service" means a service subject to regulation pursuant to Title 40, Article 15, Part 2, C.R.S.
- (fff) [Reserved].
- (ggg) "Private branch exchange" (PBX) means a private switchboard or switching system usually on the premises of customers such as campuses, large business offices, apartment buildings, or hotels, which, over a common group of lines from the central office, can receive calls, place outgoing calls, and interconnect intra-office extensions.
- (hhh) "Provider of last resort" (POLR) means a Commission-designated telecommunications provider that has the responsibility to offer basic local exchange service to all customers who request it within a geographic support area.
- (iii) "Public agency" means any city, city and county, town, county, municipal corporation, public district, or public authority located, in whole or in part, within this state that provides, or has the authority to provide, fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.
- (jjj) "Rate area" means the surrounding geographic area determined by wire center boundaries for which a particular rate center's vertical and horizontal coordinates apply when calculating long distance charges. A rate area may be comprised of a single wire center or multiple wire centers.

- (kkk) "Rate center" means a geographic point which is defined by specific vertical and horizontal coordinates on a map used by telecommunication companies to determine interexchange mileage when calculating toll charges.
- (lll) "Rural telecommunications provider" or "rural provider" (RLEC) means a local exchange provider that meets one or more of the following conditions:
- (I) provides common carrier service to any LEC study area, as defined by the Commission, that does not include either:
 - (A) any incorporated place of 10,000 inhabitants or more or any part thereof, based on the most recent available population statistics of the United States Bureau of the Census; or
 - (B) any territory, incorporated or unincorporated, included in an urbanized area as defined by the United States Bureau of the Census as of August 10, 1993;
 - (II) provides telephone exchange service, including exchange access to fewer than 50,000 access lines;
 - (III) provides telephone exchange service to any LEC study area, as defined by the Commission, with fewer than 100,000 access lines; or
 - (IV) has less than 15 percent of its access lines in communities of more than 50,000 inhabitants.
- (mmm) "Service" means any intrastate telecommunications product or service offered by providers of telecommunications service.
- (nnn) "Service affecting trouble report" means a report by the customer of:
- (I) impairment of the quality of the call such as noise, crosstalk, ringing, echo or diminished volume; or
 - (II) service quality deterioration such that the performance characteristics of the customer's local access line fall within the substandard range as defined in rule 2337.
- (ooo) "Service territory" means a geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to provide such services.
- (ppp) "Station" means a device and any other necessary equipment at the customer's premises that allows the customer to establish and continue communication.
- (qqq) "Switched access" means the service or facilities provided by a local exchange provider of telecommunications service to interexchange providers of telecommunications service, which allows them to use the local exchange network or the public switched network to originate, terminate, or both originate and terminate interexchange telecommunications services.
- (rrr) "Telecommunications relay service" means any telecommunications transmission service that allows a person who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability. Such term includes any service that enables two-way communication between a person who uses a telecommunications device or other nonvoice terminal device and an individual who does not use such a device.

- (sss) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(53) and § 40-15-102(29).
- (ttt) "Toll service" (interexchange telecommunications service) means a type of telecommunications service, commonly known as long-distance service that is provided on an intrastate basis between LATAs and within LATAs and that:
 - (I) is not included as part of basic local exchange service;
 - (II) originates and terminates in different local calling areas; and
 - (III) is traditionally billed to the customer separately from basic local exchange service.
- (uuu) "Transmission insertion loss" means the ratio, expressed in decibels, of the power delivered to the load or station, in the case of an access line or channel, before and after activation of the channel. For the purposes of this Part 2, insertion loss shall be considered equivalent to transducer loss which is the ratio of available power from a power source connected to one end of a channel or access line to the delivered power at the load, station or standard impedance, connected to the other end of the channel.
- (vvv) "Unbundling" means the disaggregation of facilities and functions into network products or services so that they can be separately offered to other providers of telecommunications service in a manner that allows requesting providers of telecommunications service to combine such elements in order to provide telecommunications services.
- (www) "Universal service", "Universal basic service", or "Universal basic local exchange service" means the availability of basic local exchange service to all citizens of Colorado at affordable rates.
- (xxx) "Urban rate floor" means the basic local exchange service rate required to be charged in order to prevent a reduction in Federal high cost support.
- (yyy) "USOA" means Uniform System of Accounts.
- (zzz) "Voicegrade access" to the public switched network means the functionality that enables a user of telecommunications services to transmit voice communications within the frequency range of approximately 300 Hertz and 3,000 Hertz, for a bandwidth of approximately 2,700 Hertz. It also includes signaling the network that: the caller wishes to place a call; there is an incoming call; and the called party is ready to receive voice communications.
- (aaaa) "Voice-over-internet protocol" or VoIP" means service that:
 - (I) enables real-time, two-way voice communications originating from or terminating at a user's in internet protocol or a successor protocol;
 - (II) utilizes a broadband connection from the user's location; and
 - (III) permits a user to generally receive calls that originate on the public switched network and to terminate calls on the public switched telephone network.
- (bbbb) "Wire center" means the structure that houses the equipment used for providing telecommunications services and that terminates outside cable plant and other facilities for a designated serving area.
- (cccc) "Wire center serving area" means the geographic area of an exchange area served by a single wire center.

2002. Applications.

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application:
 - (I) for a CPCN to provide Part II services, as provided in rule 2103;
 - (II) for the issuance of a LOR for Part III services, as provided in rule 2103;
 - (III) to amend a CPCN or LOR, as provided in rule 2104;
 - (IV) to change exchange area boundaries, as provided in rule 2105;
 - (V) to discontinue the provisioning of basic emergency service, switched access service or basic local exchange service provided by an ETC, EP, or HCSM recipient, as provided in rule 2107;
 - (VI) to transfer or encumber a CPCN, LOR or assets or to merge a provider with another entity, as provided in rule 2108;
 - (VII) to amend a tariff on less than statutory notice, as provided in subparagraph 2122;
 - (VIII) for certification as a basic emergency service provider, as provided in rule 2132;
 - (IX) for designation as a POLR, as provided in rules 2183 and 2184;
 - (X) for relinquishment of the designation as a POLR, ETC, or EP, as provided in rule 2186;
 - (XI) for designation as an ETC, as provided in rule 2187;
 - (XII) for approval of a disaggregation of a study area of a rural ILEC, as provided in rule 2189;
 - (XIII) for reclassification of a Part II service to a Part III, as provided in rule 2204;
 - (XIV) for deregulation of Part III Services, as provided in rule 2205;
 - (XV) for approval of a refund plan, as provided in rule 2305; or
 - (XVI) for any other authority or relief provided for in these rules, or for any other relief not inconsistent with statute or rule and not specifically described in this rule.
- (b) Unless otherwise noted in specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) the name and address of the applicant;
 - (II) the name(s) under which the applicant is, or will be, providing telecommunications service in Colorado;
 - (III) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;

- (IV) the name, address, telephone number, and e-mail address of the applicant's contact person for customer inquiries concerning the application, if that contact person is different from the person listed in subparagraph (III);
 - (V) a statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held;
 - (VI) a statement that the applicant agrees to respond to all questions propounded by the Commission or its Staff concerning the application;
 - (VII) a statement that the applicant shall permit the Commission or any member of its Staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VIII) a statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;
 - (IX) acknowledgment that, by signing the application, the applying utility understands that:
 - (A) the filing of the application does not by itself constitute approval of the application;
 - (B) if the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and with any conditions established by Commission order granting the application;
 - (C) if a hearing is held, the applying utility shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and
 - (D) in lieu of the statements contained in subparagraphs (b)(IX)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IX)(A) through (C) of this rule.
 - (X) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant; and
 - (XI) the company's proposed notice to the public and its customers, if such notice is required.
- (c) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure.
- (d) Except as required or permitted by § 40-3-104, C.R.S., if the applicant is required by statute, Commission rule, or order to provide notice to its customers of the application, the applicant shall, within seven days after filing an application with the Commission, cause to have published notice of the filing of the application in each newspaper of general circulation in the municipalities impacted by the application. The applicant shall provide proof of such customer notice within 14 days of the publication in the newspaper. Failure to provide such notice or failure to provide the Commission with proof of notice may cause the Commission to deem the application incomplete. The applicant may also be required by statute, Commission rule, or order to provide additional notice. Both the newspaper notice and any additional customer notice(s) shall include the following:
- (I) the title "Notice of Application by [Name of the Utility] to [Purpose of Application]";

- (II) state that [Name of Utility] has applied to the Colorado Public Utilities Commission for approval to [Purpose of Application]. If the utility commonly uses another name when conducting business with its customers, the “also known as” name should also be identified in the notice to customers;
 - (III) provide a brief description of the proposal and the scope of the proposal, including an explanation of the possible impact, including rate impact, if applicable, upon persons receiving the notice;
 - (IV) identify which customer class(es) will be affected and the monthly customer rate impact by customer class, if customers’ rates are affected by the application;
 - (V) identify the proposed effective date of the application;
 - (VI) identify that the application was filed on less than statutory notice or if the applicant requests an expedited Commission decision, as applicable;
 - (VII) state that the filing is available for inspection in each local office of the applicant and at the Colorado Public Utilities Commission;
 - (VIII) identify the proceeding number, if known at the time the customer notice is provided;
 - (IX) state that any person may file written comment(s) or objection(s) concerning the application with the Commission. As part of this statement, the notice shall identify both the address and e-mail address of the Commission and shall state that the Commission will consider all written comments and objections submitted prior to the evidentiary hearing on the application;
 - (X) state that if a person desires to participate as a party in any proceeding before the Commission regarding the filing, such person shall file an intervention in accordance with the rule 1401 of the Commission’s Rules of Practice and Procedure or any applicable Commission order;
 - (XI) state that the Commission may hold a public hearing in addition to an evidentiary hearing on the application and that if such a hearing is held members of the public may attend and make statements even if they did not file comments, objections or an intervention. State that if the application is uncontested or unopposed, the Commission may determine the matter without a hearing and without further notice; and
 - (XII) state that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission or shall alternatively contact the External Affairs section of the Commission at its local or toll-free phone number. Such statement shall also identify both the local and toll-free phone numbers of the Commission’s External Affairs section.
- (e) Filings should be made in accordance with rule 1204.

2003. Petitions.

- (a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate petition:
 - (I) for variance from a Commission rule, as provided in rule 1003;
 - (II) for issuance of a declaratory order, as provided in paragraph 1304(i);

- (III) for arbitration of an interconnection agreement, as provided in rules 2562 through 2579; or
- (IV) for use of N-1-1 abbreviated dialing codes, as provided in rules 2742(e).
- (b) Unless otherwise noted in specific rules, all petitions shall include, the information contained in paragraph 2002(b).
- (c) If the petitioner is required by statute, Commission rule or order to provide additional notice to its customers of the petition, such notice shall include the same information as required in paragraph 2002(d).
- (d) Filings should be made in accordance with rule 1204.

2004. Disputes Concerning Providers of Telecommunications Services.

For purposes of this rule, a dispute is a concern, difficulty, or problem needing resolution that a customer brings directly to the attention of the provider of telecommunications services without involvement of the Commission staff. In any dispute that a customer initiates directly with a provider, and that concerns jurisdictional issues, the provider of telecommunications services shall give to the customer the current address and phone numbers (local and toll free) of the External Affairs Section of the Commission if the customer and provider are unable to resolve the dispute.

2005. Records for Regulated Providers and Services.

- (a) Unless otherwise authorized by the Commission, all regulated providers shall make available required records to the Commission or Commission staff at any time upon request.
- (b) Providers of telecommunications service shall preserve and retain all required records for not less than:
 - (I) two years after the date of entry of the record; or
 - (II) for any longer period of time enumerated by a specific FCC or Commission rule, whichever is longer.
- (c) Records to be maintained include:
 - (I) Each provider of telecommunications service shall keep a record showing all interruptions affecting service in an entire exchange area or any major portion of the exchange area that affects the lesser of 25 percent or 1,000 of the exchange's local access lines for one or more hours during the day. This record shall identify the date, time, duration, extent, and cause of the interruption. Each provider shall also keep a record of all customers eligible for credits related to such interruptions, pursuant to subparagraph 2304(b)(IV).
 - (II) Each provider shall keep customer billing and dispute records for a minimum period of two years.
 - (III) Submitting carriers shall maintain and preserve carrier change authorization records of verification of subscriber authorization of service for a minimum period of two years after obtaining such verification.
 - (IV) Held service orders.
 - (A) This rule applies to POLRs and providers of telecommunications service receiving HCSM.

- (B) During periods of time when the provider is not able to establish new primary line service to customers in areas of an exchange currently served by the provider within the time frames set forth in the applicable definition of held service order in rule 2001 of this Part, or by Commission order, the provider shall keep a record, by wire center serving area, identifying the following:
 - (i) the name and address of each applicant for service;
 - (ii) the date of the application;
 - (iii) the class of service (e.g., residence, business);
 - (iv) the order number assigned to the application for service;
 - (v) the reason for the delay in providing service to the applicant;
 - (vi) the expected in-service date; and
 - (vii) a record of all provider contacts, whether written or oral, with the applicant.
- (C) During periods of time when the provider is not able to supply service to customers within the time frames established by the applicable definitions of held service order in rule 2001 of this Part or by Commission order, the provider shall keep a record identifying:
 - (i) all expenses incurred in providing bill credits as a result of failure to timely provide service; and
 - (ii) all installation fees waived and credits issued in compliance with subparagraphs 2308(f)(III) and (IV).
- (D) When the number of held service orders to establish new primary line service exceeds 50 access lines at a wire center providing service to 2,000 or more access lines, or the number of held service orders to establish primary line service exceeds 20 access lines at a wire center serving fewer than 2,000 access lines, the provider shall maintain records including information on each held service order showing the application date, the cause(s) for the delay and number of days for installation beyond ten days or the customer's requested installation date, if later.
- (V) Each provider shall maintain records showing the monthly and annual performance of the provider to determine the level of service for each item included in rules 2330 through 2399.
- (VI) Maintenance and operations records. Each provider shall maintain records of the various tests and inspections, including but not limited to, non-routine corrective maintenance actions and monthly traffic analysis summaries for network administration. Corrective maintenance records shall show the line or facility, such as a specific trunk, that was tested or inspected. The records shall also include the reason for the test, the general conditions under which the test was made, the results of the test, and any corrections made as a result of the test and inspection.
- (VII) Each provider shall keep complete maps and records showing the location and description of its plant and facilities, including, but not limited to, the number of interexchange circuits, the nature and amount of plant and equipment used in providing telecommunications services, and the areas served by the provider.
- (VIII) Other records as required by this Part 2, but not specifically enumerated by this rule.

- (IX) Other records as the Commission may require.
- (d) Accounting Records.
 - (I) Except as specifically provided by Commission rule, each provider shall maintain its books of accounts and records using Generally Accepted Accounting Principles (GAAP).
 - (II) Unless otherwise approved by the Commission, depreciation for book purposes shall be determined by applying the straight-line method of depreciation.
 - (III) ILECs shall use the Uniform System of Accounts (USOA) prescribed for Common Carriers, Classes A and B by the FCC, pursuant to 47 C.F.R. Part 32.
 - (IV) For all providers of telecommunications service exempt from USOA requirements, the system for keeping the books of account and associated records shall be capable of generating Colorado intrastate- specific information upon request. The books of account and records shall be maintained in sufficient detail to allow for a determination by the Commission that the provider complies with standards relating to cross-subsidization, affiliate transactions, separations, and other standards set forth by Commission order, rules, or applicable statute.

2006. Reports.

All providers of telecommunications service subject to the Commission's jurisdiction, supervision, and regulation, pursuant to § 40-2-109, C.R.S. are required by the Department of Revenue to file an annual DR525 form and shall file with the Commission, on or before May 15 of each year, a copy of the DR525 form filed with the Department of Revenue pursuant to § 40-2-111, C.R.S., for use in the Commission's budgetary process.

2007. Registrations – Providers of Telecommunications Service.

All providers of telecommunications service shall initially register and provide any necessary updates to their registration using the form(s) provided by the Commission on its website for the following purposes, as applicable. All forms shall be filed in the proceedings opened by the Commission for such purpose.

- (a) To provide interexchange telecommunications service. A completed registration is effective 30 days from the date filed, unless the Commission orders otherwise.
- (b) To receive numbering resources. A completed registration is effective 30 days from the date filed, unless the Commission orders otherwise.
- (c) To enter into an interconnection agreement(s). Any provider that does not have an effective Colorado interconnection agreement with the ILEC as of the effective date of these rules shall file a registration with the Commission. A completed registration is effective 90 days from the date filed, unless the Commission orders otherwise.

2008. Incorporations by Reference.

- (a) The Commission incorporates by reference the following standards issued by the National Emergency Number Association: Standard Data For Data Exchange & GIS Mapping (NENA-02-010), revised as of March 28, 2011; Wireless (Pre-XML) Static and Dynamic ALI Data Content Technical Information Document (NENA 02-501), as issued October 16, 2016; ALI Query Service Standard (NENA 04-005), as issued November 21, 2006; NG9-1-1 Additional Data (NENA 71-007), as issued September 17, 2009; Next Generation 9-1-1 (NG9-1-1) United States Civic Location Data Exchange Format (CLDXF) Standard (NENA-STA-004.1.1-2014), as issued March 23, 2014; Data Standards for Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdictions (NENA-02-011),

revised as of May 12, 2012; and NENA Recommended Standards for Local Service Provider Interconnection Information Sharing (NENA-06-001), revised as of August 2004. NENA Functional & Interface Standards for NG9-1-1 (i3) (NENA 08-002) and NENA Interim VoIP Architecture for Enhanced 9-1-1 Services (i2) (NENA 08-001) are standards issued by the National Emergency Number Association and have been incorporated by reference herein. No later amendments to or editions of these standards are incorporated into these rules.

- (b) The Commission incorporates by reference 47 C.F.R., Parts 32, 36, 54, 68, 69 and Part 64 Subparts I and K (as published February 4, 2015). No later amendments to or editions of these regulations are incorporated in these rules.
- (c) Except as provided in paragraph (a) of rule 2361, the Commission incorporates by reference the regulations published in 47 C.F.R. Part 64 Subpart U as revised on June 8, 2007. No later amendments to or editions of the C.F.R. are incorporated into these rules.
- (d) The Commission incorporates by reference the National Electrical Safety Code, C2-2007 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.
- (e) The Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319, as revised on January 27, 2015. No later amendments to or editions of these regulations are incorporated into these rules.
- (f) The Commission incorporates by reference the rule promulgated by the FCC's *LNP First Report and Order*, Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996. No later amendments to or editions of these requirements are incorporated into these rules.
- (g) The Commission incorporates by reference the FCC's Truth in Billing Rules found at 47 C.F.R. § 64.2401, et seq. revised on November 30, 2012. No later amendments to or editions of the C.F.R. are incorporated into these rules.
- (h) The standards and regulations incorporated by reference may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library.

CIVIL PENALTIES

2009. Definitions.

The following definitions apply to rules 2009, 2010, and 2011, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Civil penalty" means any monetary penalty levied against a public utility because of intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.
- (b) "Civil penalty assessment" means the act by the Commission of imposing a civil penalty against a public utility after the public utility has admitted liability or has been adjudicated by the Commission to be liable for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.

- (c) "Civil penalty assessment notice" means the written document by which a public utility is given notice of an alleged intentional violation of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders and of a proposed civil penalty.
- (d) "Intentional violation." A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute, rule, or order defining the violation.

2010. Regulated Telecommunications Utility Violations, Civil Enforcement, and Enhancement of Civil Penalties.

- (a) The Commission may impose a civil penalty in accordance with the requirements and procedures contained in § 40-7-113.5, C.R.S., § 40-7-116.5, C.R.S., and paragraph 1302(b), 4 Code of Colorado Regulations 723-1, for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders as specified in §§ 40-7-113.5 and 40-7-116.5, C.R.S., and in these rules.
- (b) The director of the commission or his or her designee shall have the authority to issue civil penalty assessments for the violations enumerated in § 40-7-113.5, C.R.S., subject to hearing before the Commission. When a public utility is cited for an alleged intentional violation, the public utility shall be given notice of the alleged violation in the form of a civil penalty assessment notice.
- (c) The public utility cited for an alleged intentional violation may either admit liability for the violation pursuant to § 40-7-116.5(1)(c) or the public utility may contest the alleged violation pursuant to § 40-7-116.5(1)(d), C.R.S. At any hearing contesting an alleged violation, trial staff shall have the burden of demonstrating a violation by a preponderance of the evidence.
- (d) In any written decision entered by the Commission pursuant to § 40-6-109, C.R.S., adjudicating a public utility liable for an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order, the Commission may impose a civil penalty of not more than two thousand dollars, pursuant to § 40-7-113.5(1), C.R.S. In imposing any civil penalty pursuant to § 40-7-113.5(1), C.R.S., the Commission shall consider the factors set forth in Rule 1302(b).
- (e) The Commission may assess doubled or tripled civil penalties against any public utility, as provided by § 40-7-113.5(3), C.R.S., § 40-7-113.5(4), C.R.S., and this rule.
- (f) The Commission may assess any public utility a civil penalty containing doubled penalties only if:
 - (I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;
 - (II) the conduct for which doubled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable; and
 - (III) the conduct for which doubled civil penalties are sought occurred within one year after conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable.
- (g) The Commission may assess any public utility a civil penalty containing tripled penalties only if:

- (I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted two or more prior intentional violations of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;
 - (II) the conduct for which tripled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has either admitted liability by paying the civil penalty assessment or been adjudicated by the Commission in an administratively final written decision to be liable, in at least two prior instances; and
 - (III) the conduct for which tripled civil penalties are sought occurred within one year after the two most recent prior instances of conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable.
- (h) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the date of such alleged conduct for which tripled civil penalties are sought.
 - (i) Nothing in this rule shall preclude the assessment of tripled penalties when doubled and tripled penalties are sought in the same civil penalty assessment notice.
 - (j) The Commission shall not issue a decision on doubled or tripled penalties until after the effective date of the administratively final Commission decision upon which the single civil penalty was based.
 - (k) The civil penalty assessment notice shall contain the maximum penalty amount provided by rule for each individual violation noted, with a separate provision for a reduced penalty of 50 percent of the penalty amount sought if paid within ten days of the public utility's receipt of the civil penalty assessment notice.
 - (l) The civil penalty assessment notice shall contain the maximum amount of the penalty surcharge pursuant to § 24-34-108(2), C.R.S., if any.
 - (m) A penalty surcharge referred to in paragraph (l) of this rule shall be equal to the percentage set by the Department of Regulatory Agencies on an annual basis. The surcharge shall not be included in the calculation of the statutory limits set in § 40-7-113.5(5), C.R.S.
 - (n) Nothing in these rules shall affect the Commission's ability to pursue other remedies in lieu of issuing civil penalties.

2011. Regulated Telecommunications Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
Rule 2108(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	\$2000
Rule 2109, text preceding (a) only	Applications to Transfer or Encumber	\$2000

Rule 2122	Keeping a Current Tariff on File with the Commission	\$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	\$2000
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	\$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	\$2000
Rule 2143	Diverse Routing and Priority Service Restoration	\$2000
Rule 2186(a),(d), and (e)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2209(e)	Deregulation of Part III Emerging Competitive Services	\$2000
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2742(d),(e),(f)(IV- V),(g)(X),(h)(III- IV),(j)(III- IV),(l)	Abbreviated Dialing Codes	\$2000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000
Rule 2337(b),(d)-(h)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 2823(a),(c)-(e)	Conformity with the Federal Americans with Disabilities Act of 1990	\$100

Rule 2824	Conformity with the Commission's Quality of Service Rules	\$100
Rule 2827(b)	Timely or Completely Filing or Making Appropriate Payments to the TRS Fund	\$100
Rule (TBD)	Timely or Completely Filing or Making Appropriate Payments to the HCSM Fund	\$100

2012. – 2099. [Reserved].

OPERATING AUTHORITY

Authority to Offer Part II or Part III Services – Discontinuances – Transfers – Interexchange Provider Registration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish regulations regarding: applications for a Certificate of Public Convenience and Necessity (CPCN) to provide Part II services; applications for Letters of Registration (LOR) to provide Part III services; applications to discontinue telecommunications services or authorities; applications to execute a merger, encumbrance or transfer; and registration as an interexchange provider.

The statutory authority for promulgation of these rules is found at §§ 24-4-103, 40-2-108, 40-15-204, 40-15-301(2), 40-15-302(2), 40-15-302.5, 40-15-303, 40-15-305(2), 40-15-501, 40-15-502, 40-15-503(2), 40-15-503.5, and 40-15-509, C.R.S.

2100. Applicability.

Rules 2100 through 2110 apply to all providers of telecommunications service applying for a CPCN to provide Part II services, a LOR to provide Part III services and interexchange services registration, , authority to discontinue any Part II or Part III telecommunications service or Part II or Part III authorities, and authority to execute a transfer, encumbrance or any combination of these.

2101. Definitions.

The following definitions apply only in the context of rules 2100 through 2119:

- (a) "Alternate provider" means any provider of telecommunications service certified by the Commission that has an effective tariff on file to provide basic emergency service.
- (b) "Encumbrance" means any liability, lien, claim or restriction placed on a provider of telecommunications service's CPCN or LOR.
- (c) "Transfer" means any or all of the following:
 - (I) a transaction to convey, by sale, assignment, or lease: a CPCN; a LOR; or any combination of these;
 - (II) a transaction to obtain, whether by conveyance of assets or shares, controlling interest in a provider defined as a public utility;
 - (III) a conveyance of assets not in the ordinary course of business; or

- (IV) an execution of a merger of a provider of telecommunications service defined as a public utility.

2102. Application Procedures.

- (a) The applicant shall submit filings in accordance with rule 1204 and any supporting documentation.
- (b) Rule 1206 shall apply to applications made pursuant to this rule, except that the Commission need only give notice by electronic posting on its website within seven days of receipt of an application for a CPCN, a LOR. Unless otherwise ordered by the Commission, the notice period will expire 30 days after the notice is posted.
- (c) No CPCN, LOR, authority to discontinue service, or authority to execute a transfer or encumbrance shall become effective until the Commission issues an order approving such application.

2103. Application for CPCN or LOR.

To request a CPCN to provide Part II telecommunications services or a LOR to provide Part III services, an applicant shall submit the required information by filing an application or the LOR form provided by the Commission on its website.

- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) the information required by paragraph 2002(b);
 - (II) name, mailing address, toll free telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to customer disputes;
 - (III) name, mailing address, telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to the Commission concerning customer informal complaints;
 - (IV) the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;
 - (V) if the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;
 - (VI) a description of the geographic service area for which the applicant seeks authority;
 - (VII) name and address of applicant's Colorado agent for service of process;
 - (VIII) a description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;
 - (IX) the applicant's most recent audited balance sheet, income statement, and statement of retained earnings;
 - (X) if the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph
 - (XI) detailed information on the sources of capital funds that will be used to provide telecommunications services, including the amount of any loans, lines of credit, or equity infusions that have been received or requested, and the names of each source of capital funds;

- (XII) the names, business addresses, and titles of all officers, directors, partners, agents and managers who will be responsible for the provisioning of jurisdictional telecommunications services in Colorado;
- (XIII) any management contracts, service agreements, marketing agreements or any other agreements between the applicant and any other entity, including affiliates of the applicant, that relate to the provisioning of jurisdictional telecommunications services in Colorado;
- (XIV) identification of any of the following actions by any court or regulatory body within the last five years regarding the provisioning of regulated telecommunications services by the applicant, by any of applicant's agents, officers, board members, managers, partners, or management company personnel, or by any of applicant's affiliates that resulted in:
 - (A) assessment of fines or civil penalties;
 - (B) assessment of criminal penalties;
 - (C) injunctive relief;
 - (D) corrective action;
 - (E) reparations;
 - (F) a formal complaint proceeding brought by any regulatory body;
 - (G) initiation of or notification of a possible initiation of a disciplinary action by any regulatory body, including, but not limited to, any proceeding to limit or to place restrictions on any authority to operate, any CPCN, or any service offered;
 - (H) refusal to grant authority to operate or to provide a service;
 - (I) limitation, de-certification, or revocation of authority to operate or to provide a service; or
 - (J) any combination of the above.
- (XV) For each item identified in subparagraph (XII) of this paragraph: an identification of the jurisdiction, summary of any applicable notification of a possible initiation or pending procedure, including the docket/proceeding, case, or file number, and, upon the request of the Commission or Commission staff, a copy of any written decision; and
- (XVI) acknowledgment that by signing the application, the applicant:
 - (A) certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the telecommunications services for which it is applying;
 - (B) understands that:
 - (i) the filing of the application does not by itself constitute authority to operate; and
 - (ii) if the application is granted, the applicant shall not provide service until: (a) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application; (b)

has an effective tariff on file with the Commission; unless ordered otherwise;

- (C) agrees to respond in writing, within ten days, to all customer informal complaints made to the Commission;
- (D) agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:
 - (i) Telecommunications Utility Fund
 - (ii) Colorado High Cost Support Mechanism;
 - (iii) Colorado Disabled Telephone Users Fund;
 - (iv) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and
 - (v) any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, and
- (E) certifies that, pursuant to its tariff, it will not unjustly discriminate among customers in the same class of service; and
- (F) certifies that the applicant will not permit any other person or entity to operate under its Commission-granted authority without explicit Commission approval.

2104. Application to Amend a CPCN or LOR.

To amend a CPCN or LOR, an applicant shall submit the required information by filing an application with the Commission.

- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits, to the extent that information has changed since the original grant of authority:
 - (I) the information required for a CPCN or for a LOR by subparagraphs 2103(a)(I) – (III) and (VI);
 - (II) the services affected by the proposed amendment;
 - (III) the reason for requesting the proposed amendment;
 - (IV) acknowledgment that by signing the application, the applicant:
 - (A) certifies that it meets the requirements pursuant to subparagraph 2103(a)(XVI)(A)
 - (B) understands that:
 - (i) the filing of the application does not by itself constitute approval to amend its authority;
 - (ii) if the application is granted, the applicant shall not provide the proposed service until the requirements pursuant to subparagraph 2103(a)(XVI)(B)(ii) are met.

- (C) agrees to contribute in the manner described in subparagraph 2103(a)(XVI)(D)
- (D) certifies that, pursuant to its tariff, it will not unjustly discriminate among customers in the same class of service.

2105. Application to Change Exchange Area Boundaries.

This rule applies to ILECs that seek to change exchange area boundaries. An applicant shall submit the required information by filing an application with the Commission. If the exchange area boundary change affects more than one provider of telecommunications service, the affected providers shall file a joint application containing the information applicable to each provider.

- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) the information required by paragraph 2002(b);
 - (II) the specific boundaries described by metes and bounds that the applicant proposes to change;
 - (III) the proposed exchange area maps;
 - (IV) the proposed effective date of the change;
 - (V) the facts (not in the form of conclusory statements) relied upon to show that the proposed change is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-111(2), 40-15-501, and 40-15-502, C.R.S.; and
 - (VI) acknowledgment that by signing the application, the applicant understands and agrees to the requirements of subparagraph 2002(b)(IX).
- (c) If a grant of the application will result in changing a customer's provider of telecommunications service, phone number, local calling area, or rates, the applicant shall provide customer notice to affected customers as follows:
 - (I) concurrent with the filing of the application, the applicant shall provide notice to the affected customers; and
 - (II) in addition to the information required by paragraph 2002(d), the notice shall provide details of the proposed change, including a description of changes in the provider of telecommunications service, rates, phone numbers, and local calling areas.

2106. CPCN or LOR Deemed Null and Void.

- (a) A CPCN or a LOR shall be deemed null and void without further action of the Commission, if the provider of telecommunications service fails to file an applicable tariff within one year after the effective date of the Commission order granting the CPCN and/or LOR. For good cause shown, the provider of telecommunications service may file a motion to extend the one-year filing deadline at least 30 days prior to the expiration of the one year deadline.
- (b) All CPCNs granted by the Commission, or held by a provider of telecommunications service pursuant to § 40-15-202(IV), C.R.S. are null and void for services that are deregulated. Except that:
 - (I) a provider of telecommunications service requesting HCSM support must obtain a CPCN for basic service in a geographic support area that has not been deemed to be an effective competition area; and

- (II) a CPCN held by a provider of basic service on or before July 1, 2016 remains in effect only in geographic support areas for which the Commission provides HCSM support to the provider of telecommunications service.

2107. Discontinuance of Services.

To discontinue basic emergency service or access service, any service required for the provisioning of basic emergency service or access service, or basic local exchange service provided by an ETC or EP, in a selected service territory or portion(s) thereof, a provider of telecommunications service shall file an application with the Commission not less than 45 days prior to the effective date of the proposed discontinuance. The applicant may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

- (a) An application to discontinue service is not required if any of the following apply:
 - (I) the provider of telecommunications service has no customers in Colorado and has notified the Commission under paragraph 2107(f) of this rule;
 - (II) the provider of telecommunications service is discontinuing interexchange service and has notified the Commission under subparagraph 2109(a)(II);
 - (III) the provider of telecommunications service is discontinuing facilities-based long distance service and has notified the Commission and the provider's customers under subparagraph (g); or
 - (IV) the discontinuance is the result of a transfer, no interruption or change of service will occur, and the provider of telecommunications service has filed an application to transfer under rule 2108.
- (b) Compliance with reporting and regulatory funding requirements.
 - (I) If the application is for a discontinuance of all telecommunications services in Colorado the provider of telecommunications service shall:
 - (A) cancel its tariffs;
 - (B) submit its annual reports and remit payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;
 - (C) identify the name, title, address, phone number, facsimile number, and e-mail address of the officer or officers or agent responsible for completion of all subsequent reports and payments required by the Commission and an affidavit from the officers acknowledging their responsibility under this rule; and
 - (D) make all necessary and appropriate arrangements with underlying facilities-based provider of telecommunications service regarding the discontinuation of services provided.
 - (II) If the application is for a discontinuance of all facilities-based local exchange telecommunications services in Colorado the provider shall notify NANPA and/or the Number Pooling Administrator of the pending return of numbers if the applicant has been assigned numbering resources.
- (c) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

- (I) the information required by paragraph 2002(b);
- (II) identification of the service territory or portion thereof proposed for discontinuance.
- (III) a statement as to whether the granting of the application will result in the cancellation of its tariff in part or in its entirety, CPCN, and LOR.
- (IV) a statement that the applicant has notified NANPA and/or the Number Pooling Administrator of the pending return of numbers, if applicable.
- (V) the proposed effective date, which shall not be sooner than 45 days after the date on which the provider of telecommunications service files the application with the Commission.
- (VI) the notice that will be provided to customers in accordance with paragraph (e) of this rule.
- (VII) acknowledgment that by signing the application, the applicant and its successors understand and agree that:
 - (A) filing of the application does not, by itself, constitute authority to discontinue any service;
 - (B) if the application is granted, any discontinuance is conditional upon fulfillment of conditions established by Commission order;
 - (C) if the application is granted, any discontinuance is conditional upon fulfillment of relevant statutory and regulatory obligations, including filing annual reports and remitting payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;
 - (D) acknowledgement that the officer or officers or agent named in its application may be held personally liable if reports are not completed and submitted and if payments are not submitted to the appropriate regulatory agency, in accordance with § 40-7-106, C.R.S., and that the officer or officers may be punished as provided in § 18-1-106, C.R.S.; and
 - (E) if the application is granted, the provider of telecommunications service shall, on not less than two business days' notice, make a compliance advice letter filing citing the applicable Commission decision number that cancels part or all of its tariffs.
- (d) If the applicant has been designated as a POLR, it shall supplement its application by providing the information required by the Commission's rule relating to relinquishment of the POLR designation, in accordance with rule 2186.
- (e) The applicant shall work with Commission staff on the content of the notice and shall provide such customer notice of the application to discontinue service.
 - (I) At least 30 days prior to the effective date of the proposed discontinuance, the applicant shall mail by a separate first-class mailing, or by hand delivery, the notice to each of the applicant's affected customers. A list of alternate providers of telecommunications service to include in the notice pursuant to subparagraph (L) of this rule shall be obtained from the Commission.
 - (II) Except as may otherwise be ordered by the Commission, the notice shall:
 - (A) include the information required by subparagraphs 2002(d)(I) – (XII);

- (B) provide details of the proposed discontinuance, including a description of the services affected;
 - (C) state the specific time period during which customers must select an alternate provider of telecommunications service; and
 - (D) notify customers that if a customer does not select an alternate local provider of telecommunications service within the specified time period, the customer's basic local exchange service will be disconnected, the customer will be without dialtone and the customer may not be able to retain his telephone number.
- (III) The applicant shall file with the Commission an affidavit attesting to its compliance with this paragraph regarding notice not less than 15 days before the date of the proposed discontinuance. The affidavit shall state the date on which notice was completed and the method used to give notice. A copy the notice given shall accompany the affidavit.
- (f) If no customers are affected by the proposed discontinuance, the provider of telecommunications service is not required to file an application. However, at least 30 days prior to the proposed date of discontinuance, the provider of telecommunications service shall file with the Commission a written notification of discontinuance and an affidavit in the prescribed Commission format attesting that no customers will be affected.
- (g) If the proposed discontinuance requires an amendment of the provider of telecommunications service's tariff, nothing in this rule shall be construed as a waiver or variance from statute or Commission rules regarding the provider's obligation to file an appropriate advice letter.

2108. Application to Transfer or Encumber.

To request authority to execute a transfer or encumbrance of services or authorities that are subject to Commission jurisdiction, the transferor and the transferee or lender for an encumbrance shall file a joint application with the Commission not less than 45 days prior to the effective date of the proposed transfer or encumbrance. If the transferee does not hold a Commission- issued CPCN and/or LOR, the transferee shall provide the Commission with the information required pursuant to rule 2103, and must receive an appropriate Commission grant of authority to assume the transferor's CPCN and/or LOR. The joint applicants may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

- (a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) the information required by paragraph 2002(b);
 - (II) name under which the transferee or encumberer is, or will be, providing service in Colorado if the transfer or encumbrance is approved;
 - (III) the specific assets, including any operating authority or rights obtained under such operating authority that the applicants propose to transfer or encumber;
 - (IV) a statement of the facts (not in the form of conclusory statements) relied upon to show that the proposed transfer or encumbrance is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.; and
 - (V) acknowledgment that by signing the application, the joint applicants understand and agree that:

- (A) the filing of the application does not, by itself, constitute authority to execute the transfer or encumbrance;
 - (B) the applicants shall not undertake the proposed transfer or encumbrance unless and until a Commission decision granting the application is issued;
 - (C) the granting of the application does not constitute execution of the transfer or encumbrance, but only represents the Commission's approval of the request for authority to transfer or encumber;
 - (D) if a transfer is granted, such transfer is conditional upon:
 - (i) the existence of applicable, effective tariffs for relevant services, including any required adoption notices;
 - (ii) compliance with the statutes and all applicable Commission rules, including the transferor's filing an annual report and remitting payment for all amounts due to all applicable funds or support mechanisms for the period up to the effective date of the transfer; and
 - (iii) compliance with all conditions established by Commission order; and
 - (E) if the application to transfer or encumber is granted, the joint applicants shall notify the Commission if the transfer is not consummated within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. This notice shall include the proceeding and decision number(s) which granted the authority to execute the transfer or encumbrance.
- (b) If the Commission has designated either the transferor or the transferee as a POLR, the application shall also include the information required by rule 2186 relating to relinquishment of POLR designation.

2109. Interexchange Provider Obligations.

- (a) An Interexchange provider shall:
- (I) agree to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the:
 - (A) Telecommunications Utility Fund;
 - (B) Colorado High Cost Support Mechanism; and
 - (C) Any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2)(b)(V), C.R.S.
 - (II) File an updated registration form within 15 days of any change in the information previously provided to the Commission, including any discontinuance of service.
- (b) For the purposes of enforcing § 40-15-112, C.R.S. and § 40-15-113, C.R.S, the Commission may invoke all lawful remedies available under Title 40, Articles 1 through 7, C.R.S. Failure to comply with applicable statutes or Commission rules is cause for revocation of the registration, an order to cease and desist, an order to the appropriate local exchange providers of telecommunications service to disconnect an interexchange provider's service, or any other remedy deemed appropriate by the Commission.

2110. Financial Assurance.

The Commission may require a bond or other security as a condition of obtaining a Commission operating authority.

2111. – 2119. [Reserved].

Advice Letters and Tariffs,

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to describe the process by which a provider of telecommunications services produces and files tariffs and advice letters enabling the Commission to ensure that jurisdictional rates, charges, terms, and conditions are just, reasonable, and not unduly discriminatory.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101(1), 40-3-102, 40-3-103, 40-3-104, 40-3-104(1)(c)(V), and 40-2-108, 40-15-208 and 40-15-502 C.R.S.

2120. Applicability.

Rules 2120 through 2129 are applicable to all providers of regulated services, except interexchange providers, regulated under Parts II, III, IV or V of Article 15, Title 40, C.R.S.

2121. Definitions [Reserved].

2122. Tariffs and Advice Letters.

- (a) All tariffs and advice letters shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.
- (b) Tariff requirements for HCSM recipients for areas in which they are receiving HCSM support. In addition to the requirements and contents in rule 1210, the following shall be included in a HCSM recipient's tariff, as applicable:
 - (I) a description of the provider of telecommunications service's local calling areas, which shall include the exchange area and all other exchanges which are included in its local calling area;
 - (II) a currently applicable exchange area boundary map for each of its exchanges within the state in which the HCSM recipient has been granted authority to provide service. Each map shall identify clearly the boundary lines of the exchange area and shall include a map scale. Exchange boundary lines shall identify, by appropriate measurement, the boundary line if the boundary line is not otherwise located on section lines, waterways, railroads, or roads. Maps shall include detail equivalent to the detail provided on county highway maps;
 - (III) the rates and charges for basic service pursuant to § 40-15-401(1)(b)(IV)(B), C.R.S.;
 - (IV) a description of subscribers' options regarding freezing their authorized local, intraLATA toll, and interLATA interexchange providers consistent with subparagraph 2309(d), except that providers who are registered solely as interexchange providers shall not be subject to this requirement;
 - (V) a description of the High Cost Support Mechanism (HCSM) surcharge, consistent with paragraphs 2847(f) and (g);

- (VI) a description of the Telecommunications Relay Services (TRS) surcharge, consistent with rule 2827; and
 - (VII) a description of all other state-mandated surcharges.
- (c) All providers of telecommunications service proposing to introduce any regulated service shall file an advice letter and proposed tariff pages on not less than 30-days' notice to the Commission and to the public. The Commission may order the provider of telecommunications service to give additional notice of the proposed service.
- (d) Notice requirements for all tariff changes.
- (I) Any provider of telecommunications services proposing to change any rate, or to change any rule, regulation, classification, term, or condition in a tariff that will result in an increase in rates or charges shall give notice in accordance with § 40-3-104, C.R.S.
 - (II) Any provider of telecommunications services proposing to change any rate in a tariff that will result in a decrease in rates or charges shall file an advice letter and tariff pages on not less than 14-days' notice to the Commission. No additional public notice shall be required.
 - (III) Changing tariff terms or conditions on not less than 14-days' notice. Any provider of telecommunications services proposing a change in its tariff terms or conditions shall file an advice letter and tariff pages on not less than 14-days' notice to the Commission. No additional notice is required, unless the Commission finds that it is in the public interest to order additional notice. If the Commission so orders, and to avoid rejection of the advice letter filing, the provider of telecommunications service shall extend the effective date of such advice letter to accommodate the additional notice.
- (e) Changing tariffs upon less than 30-days' or 14-days' notice. A provider of telecommunications service may file an application for permission to change a tariff on less than 30-days or 14-days' notice, as applicable. The Commission, for good cause shown, under § 40-3-104(2), C.R.S., may grant permission to change a tariff without formal oral hearing on less than 30-days or 14-days' notice. No tariff change shall become effective unless the Commission orders: a change in the manner in which the tariff shall be filed and published; the change to be made to the tariff; and the date when the change shall take effect. In providing notice of the application, the provider of telecommunications service shall comply with paragraph 1207(a) concerning less-than-statutory notice. The following shall be included in the application: details of the proposed change to the provider's tariff; the tariff pages that the provider proposes to change; justification for the proposed change becoming effective on less than 14- days' or 30-days' notice, as applicable; any prior Commission action, in any proceeding, pertaining to the present or proposed tariff; and financial data supporting the proposed change, if appropriate.
- (f) Customer notice. If the utility is required by statute, Commission rule or order to provide additional notice to customers of the advice letter filing, such customer notice shall include, without limitation, the following:
- (I) information required by subparagraphs 2002(d)(I) – (XII); and
 - (II) identification of the advice letter number, if known at the time the customer notice is provided.

2123. Promotional and/or Discount Offerings.

All ILECs are required to comply with FCC 96-325 *First Report and Order* at ¶ 950 where it states, "To preclude the potential for abuse of promotional discounts, any *benefit* of the promotion must be realized within the time period of the promotion, e.g., no benefit can be realized more than ninety days after the promotional offering is taken by the customer if the promotional offering was for ninety days. In addition, an incumbent LEC may not use promotional offerings to evade the wholesale obligation, for example by consecutively offering a series of 90-day promotions." A LEC foregoing revenues because of a promotional or discount offering will not be made whole for this loss.

2124. – 2129. [Reserved].

* * *

[indicates omission of unaffected rules - 911]

2160. – 2179. [Reserved].

Designation of Providers of Last Resort, Eligible Telecommunications Carriers and Eligible Providers and Relinquishment of Designations

The basis and purpose of these rules is to: establish regulations concerning the designation of providers of last resort (POLRs) in geographic support areas for which the Commission provides HCSP support; establish the obligations that attach to such designation; establish procedures for changing or relinquishing such designation; establish regulations concerning the designation and relinquishment of designation of eligible telecommunications carriers (ETCs) and of eligible providers (EPs).

The statutory authority for the promulgation of these rules is found at §§ 40-15-201, 40-15-301, 40-15-502(5) and (6), and 40-2-108, C.R.S. These rules are consistent with 47 U.S.C. 254 and 47 C.F.R., Part 54.

2180. Applicability.

Rules 2180 through 2199 are applicable to all providers of telecommunications service seeking to be designated as a POLR, ETC or EP; or to relinquish a designation as a POLR or as an ETC or EP.

2181. Definitions.

The following definitions apply only in the context of rules 2180 through 2199.

- (a) "Geographic area" means a Commission defined geographic unit usually the same as or smaller than an existing provider of telecommunications service's serving area.
- (b) "Service area" means a geographic area established by the Commission for the purpose of determining federal universal service obligations and support mechanisms.
 - (i) A service area defines the overall area for which the carrier may receive support from federal universal service support mechanisms. In the case of a service area served by a rural provider of telecommunications service, "service area" means such company's "study area", as defined in 47 C.F.R., Part 36, unless and until the FCC and the Commission, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of the Telecommunications Act of 1934, establish a different definition of service area for such company.

- (II) If the Commission proposes to define a service area served by a rural provider of telecommunications service to be other than such company's study area, the FCC will consider that proposed definition in accordance with the procedures set forth in 47 C.F.R. § 54.207(c).

2182. Incorporation by Reference.

References in rules 2180 through 2199 to Parts 36 and 54 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2183. Designation of Providers of Last Resort.

- (a) A provider of basic local exchange service that receives HCSM support in a geographic area shall be considered a POLR in those geographic areas.
- (b) If multiple providers of telecommunications service receive HCSM support in the same geographic area, the Commission:
 - (I) may, in the case of an area served by a rural telecommunications provider of basic local exchange service, permit more than one POLR in a geographic area; and
 - (II) shall, in the case of all other areas receiving HCSM, permit more than one POLR in a geographic area.

2184. Application for Designation as an Additional Provider of Last Resort.

- (a) A provider of basic local exchange service seeking designation as an additional POLR shall file an application with the Commission requesting designation as such for a specific geographic area in which it receives HCSM.
- (b) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) the information required by paragraph 2002(b);
 - (II) a description of the geographic area for which applicant seeks designation as a POLR including a description of such geographic area by metes and bounds and a map displaying the service area;
 - (III) an affirmative statement that the applicant will accept the responsibilities identified in rule 2185;
 - (IV) the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it has the managerial, financial, and technical ability to provide basic local exchange service throughout that relevant geographic area notwithstanding whether there are other providers of basic local exchange service in that area;
 - (V) the facts (not in the form of conclusory statements) relied upon by the applicant to establish that the POLR designation for that geographic area serves the public interest by demonstrating that such designation is consistent with the legislative statements of intent in §§ 40-15-101, 40-15-501, and 40-15-502(7), C.R.S.;
 - (VI) a statement that the applicant understands that the filing of the application does not constitute, by itself, designation as a POLR; and

- (VII) a statement that, if a designation is granted, applicant understands that such designation is conditional upon compliance with applicable Commission rules and any conditions established by Commission order.

2185. Obligations of Providers of Last Resort.

- (a) A POLR shall offer basic local exchange service to every customer who requests such service within a designated geographic area, regardless of the availability of facilities, unless said customer has an outstanding balance owing to the POLR and no agreement for repayment has been established;
- (b) If a certified public accountant prepares an annual report for a provider of basic local exchange service, the provider shall file the report with the Commission within 30 days after publication.
- (c) A POLR shall advertise the availability of such service and charges using media of general distribution.
- (d) Report of held local exchange service orders exceeding 90 days (90-day held orders) and not subject to any applicable exceptions in rule 2308. This paragraph only applies with respect to a LEC's residential and small business customers. Consistent with paragraph 2308(f), when a LEC does not supply basic local exchange service to any customer in an exchange area currently served by the LEC within 90 days, the LEC shall file a report with the Director of the Commission, stating the circumstances causing the delay, explaining if such circumstances are beyond the LEC's control, and providing an estimate of the time necessary to provide service. This report shall identify: the name and address of each applicant; the date of application for service; the class type applied for (e.g., residence or business); the date the application became a 90-day held order; the wire center from which the customer will receive service; and the order number assigned by the LEC to the application for service. This report shall be filed with the Director by the last business day of the following month and shall identify all customers where the period to provide local exchange service exceeds 90 days.
- (e) Report of service orders exceeding thresholds. This paragraph only applies with respect to a LEC's residential and small business customers. When the lesser of 50 or five percent of the total number of service applications in a wire center in a consecutive three-month period are held orders, the provider of basic local exchange service shall, within five days of the close of the three-month period, submit to the Commission a report identifying the information required by subparagraph 2005(c)(IV) and identifying the number of days service has been delayed for each held order. The provider of basic local exchange service shall further submit to the Commission, within 14 days of the close of the three-month period, a plan of its proposed action to reduce the number of these held service orders to fewer than the lesser of 50 or five percent of the total number of service applications in that wire center.
- (f) Costs incurred and revenue foregone for failure to meet service requirements. This paragraph only applies with respect to a LEC's residential and small business customers. In compliance with subparagraphs 2308(f)(III) and (IV), a LEC shall report, on a monthly basis, all costs incurred and revenues foregone in providing bill credits and installation fee waivers. Such expenses, revenues foregone, bill credits and installation fee waivers shall be identified by class and type of service and duration. This report shall be filed with the Director by the last day of the following month.

2186. Relinquishment of Designation as a Provider of Last Resort, Eligible Telecommunications Carrier or Eligible Provider.

- (a) As of July 1, 2016, only providers of basic local exchange service with POLR obligations in geographic areas in which they receive HCSM support retain POLR obligations.

- (b) Providers of basic local exchange service seeking to relinquish designation as a POLR, EP or an ETC, shall file an application with the Commission, at least 45 days before the effective date of the proposed relinquishment.
- (c) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) the information required by paragraph 2002(b);
 - (II) a detailed explanation of the proposed relinquishment and the affected geographic area;
 - (III) an explanation as to how the customers currently served by the applicant will continue to be served. A list of known alternative telecommunications providers of basic local exchange service shall be provided;
 - (IV) a plan for transition of customers to another provider of basic local exchange service, if the applicant proposes to discontinue the provision of basic local exchange service. The transition plan shall include sufficient notice to permit the purchase or construction of adequate facilities by a remaining POLR, ETC, EP or other provider of basic local exchange service; and
 - (V) the amount of support the provider of basic local exchange service receives from the federal universal service fund for the geographic serving area for which the relinquishment is sought.
- (d) If the applicant proposes to discontinue the provision of basic local exchange service, the Commission shall establish a time, not to exceed one year after the approval of the discontinuance, within which such purchase or construction of adequate facilities by a remaining POLR, ETC, EP or other provider of basic local exchange service shall be completed.
- (e) During the transition period, the applicant shall ensure that customers do not experience a break in service as a result of the applicant discontinuing service.
- (f) In addition to filing an application with the Commission, the applicant shall prepare a written notice regarding the proposed relinquishment and shall mail or hand-deliver the notice at least 30 days before the effective date to all currently served customers or subscribers, including all interconnecting telecommunications providers of basic local exchange service. The applicant shall separately provide notice to all potentially affected customers through publication for four consecutive weeks in a publication or publications that are distributed in the affected certificated area. A notice shall be mailed to the Board of County Commissioners of each affected county, and to the Mayor of each affected city, town or municipality.
 - (I) In addition to the requirements of paragraph 2002(d), the notice shall:
 - (A) be signed by an authorized officer of the provider or its representative; and
 - (B) include said officer or representative's title and address.
 - (II) At least 15 days before the date of the proposed relinquishment, the applicant shall file with the Commission a written affidavit stating its compliance with this paragraph. The affidavit shall state the date notice was completed and the method used to give notice. A copy of the notice shall accompany the affidavit.
- (g) No hearing needs to be held if no objection, protest, or intervention is filed. If a hearing is to be held on an application, the Commission shall endeavor, within its operating constraints, to hold the hearing, or a portion thereof, at a location within the local calling area of the affected community.

- (h) No proposed relinquishment shall be effective until the Commission issues an order approving it.

2187. Eligible Telecommunications Carrier Designation.

- (a) The Commission shall, upon application, designate a common carrier that meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202 and paragraph 2187(b) as an ETC for a service area designated by the Commission.
- (b) Upon request and consistent with the public interest, convenience, and necessity, the Commission may, in the case of an area served by a rural telecommunications provider, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by the Commission, so long as each additional requesting carrier meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202. Before designating an additional ETC for an area served by a rural telecommunications provider, the Commission shall find that the designation is in the public interest.
- (c) Pursuant to Subpart E of 47 C.F.R., Part 54, as of January 27, 2015 all ETCs shall make available Lifeline service, as defined in § 54.401, to qualifying low-income customers.
- (d) The application for designation as an ETC shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
- (I) the information required by paragraph 2002(b);
 - (II) a description of the service area for which the applicant seeks designation as an ETC. The application shall include either a description of such service area by metes and bounds or the underlying carrier's exchange area map displaying the applicant's service area;
 - (III) the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202;
 - (IV) an affirmative statement that the applicant will offer the services that are supported by the federal universal service support mechanisms under 47 U.S.C. § 254(c);
 - (V) an affirmative statement that the applicant is a common carrier;
 - (VI) an affirmative statement that the applicant (ETC) will advertise the availability of such service and charges using media of general distribution pursuant to 47 U.S.C. § 214(e)(1)(B) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996;
 - (VII) an affirmative statement that the applicant will make available Lifeline service, as defined in 47 C.F.R. § 54.401, to qualifying low-income customers;
 - (VIII) an affirmative statement that the applicant is in compliance with the Commission's rules;
 - (IX) a demonstration of the applicant's ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;
 - (X) a demonstration that the applicant will satisfy consumer protection and service quality standards. Wireless applicants that comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service will satisfy this requirement;

- (XI) a two-year build-out plan demonstrating how high-cost universal service support will be used to improve the applicant's coverage, service quality or capacity in every wire center for which it seeks designation and expects to receive universal service support. If a wire center is not part of the build-out plan and the applicant does not have existing facilities in the service area, a detailed explanation of how the applicant will provide service to a requesting customer in the service area for which it is seeking designation;
- (XII) common carriers seeking designation as an eligible telecommunications for purposes of receiving support only for low-income consumers other than for the purpose of receiving Lifeline broadband support must provide:
 - (A) a demonstration that it is financially and technically capable of providing the Lifeline service in compliance with 47 C.F.R. § 54.400, Subpart E;
 - (B) an affirmative statement that the applicant will offer local usage plans that meet the minimum service standards as prescribed by the FCC in order to receive Lifeline support; and
 - (C) an affirmative statement that the applicant will satisfy the requirements for an initial determination of a subscriber's eligibility and certification requirements pursuant to 47 C.F.R. § 54.400.
- (e) Within one year of the effective date of the Commission's decision approving an application for ETC designation, the ETC shall offer the supported services. If the ETC does not offer the supported services within one year, its ETC designation shall be cancelled and deemed null and void.
- (f) As required by the FCC's universal service regulations found at 47 C.F.R. § 54.313, and when appropriate, the Commission shall file an annual certification with the Administrator of the federal Universal Service Fund (USF) and the FCC on behalf of each jurisdictional ETC serving access lines in the state, stating that all federal high-cost support provided to such carriers within that state will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission shall require a carrier to provide the information it finds necessary and convenient to make such a certification. At a minimum, carriers shall furnish requested information outlined in paragraph (g). ETCs that have LATAs that cross the Colorado state boundary and have the primary study area located within an adjacent state to Colorado, will be allowed to file a copy of the adjoining state regulatory commission's ETC certification to the FCC in lieu of information requested in paragraph (g) no later than October 1st of each year.
- (g) Annual reporting requirements for Eligible Telecommunication Carriers.
 - (I) In order for an ETC previously designated by the Commission, or previously designated by the FCC, to be certified to receive federal support for the following calendar year, or to retain its ETC designation, it shall submit the reporting information specified below no later than August 15th of each calendar year to the Commission. ETCs failing to meet these annual report filing requirements and deadlines may not be certified by the Commission to the FCC and the Universal Service Administrative Company (USAC) as eligible to receive federal support for the following calendar year.
 - (II) FCC forms 481, 497 477 and 690.
 - (III) In addition to the information and certifications included in Form 477 and required in §§ 54.313(b),(c), (d) and 54.316, each ETC receiving federal high cost support shall provide the wire centers associated with each of the locations reported, where the build-out of broadband-capable networks occurred.

- (IV) Certification that the ETC is complying with the applicable service quality standards and consumer protection rules, e.g., the CTIA Consumer Code for Wireless Service.
- (V) Certification that the ETC is able to function in emergency situations as set forth in 47 C.F.R. § 54.202(a)(2).
- (VI) The total amount of all federal high cost support received in the previous calendar year and year-to-date through June 30 for the current calendar year.
- (VII) Documentation the carrier offers and advertises the rate and availability of Basic Universal Service offerings, Lifeline, and Linkup programs throughout the service areas in Colorado where the carrier has been designated an ETC. Copies of written material used in newspaper advertisements, press releases, posters, flyers and outreach efforts and a log of when and where these materials were distributed. For newspaper advertisements, dated copies of the published newspaper advertisements may serve as copies of written material. For radio station advertising, a confirmation from broadcasters of when the public service announcement was aired.
- (VIII) A copy of cost study filing made on July 31st to NECA for current year. If an ETC is not required to file cost study to NECA, then a copy of the line count filing made to the FCC and USAC Administrator shall be submitted.
- (IX) Each ETC shall file with the Commission, on or before April 30 of each year, an annual report for the preceding calendar year. The ETC shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; and, shall ensure the forms are verified and signed by a person authorized to act on behalf of the ETC.
- (X) If a certified public accountant prepares an annual report for an ETC, within 30 days of publication, the ETC shall either file two copies of the report or shall file the report through the Commission's E-Filings System.
- (XI) An affidavit attesting to the fact that the information reported on the annual report and information submitted under this rule is true and correct. The affidavit must also state that the ETC is aware of the purpose of the support for the federal high-cost support and it is complying with the requirement set forth by the FCC in 47 U.S.C. § 254(e). An officer, director, partner, or owner of the company must sign the affidavit.
- (XII) If a review of the data submitted by an ETC indicates that the ETC is no longer in compliance with the Commission's criteria for ETC designation, the Commission may refrain from certifying the carrier to the FCC or revoke the carrier's designation as an ETC. In addition, ETCs must submit their reports on a timely basis.

2188. Combined Applications.

Applicants may file to be designated as a POLR, to be designated as an ETC, and/or to be designated as an EP in a combined application. Applicants may file to relinquish designation as a POLR, to relinquish designation as an eligible provider, and to relinquish designation as an ETC in a combined application. In a combined application, the applicant shall follow the application process and shall provide all information required for each separate component of the combined application.

2189. Disaggregation Paths.

- (a) The Commission shall use the disaggregation plans of each rural ILEC established pursuant to 47 C.F.R. § 54.315, November 30, 2001 for disaggregation of the study area of the rural ILEC pursuant to 47 C.F.R. 54.207 into smaller discrete service areas.

- (b) A provider of telecommunications service must file an application to modify a disaggregation plan of a rural ILEC pursuant to paragraph (a). Such application shall include the information required by paragraph 2002(b) in addition to the requirements of this paragraph:
 - (I) a description of the geographic area to be disaggregated, other providers offering similar services in that geographic area, and the level of the proposed disaggregation;
 - (II) the proposed method of disaggregation and targeting of Universal service support plan, if applicable; and
 - (III) support in the form of a description of the rationale used, including the methods and data relied upon to develop the disaggregation area.
- (c) The Commission shall make a determination as to whether the disaggregation plan is in the public interest.

2190. – 2199. [Reserved].

Default, Alternative, and Simplified Forms of Regulation; Refraining from Regulation; and Reclassification of Parts II and III Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify default forms of regulation for services subject to the jurisdiction of the Commission and to establish procedures and standards concerning: alternative forms of regulation; simplified regulatory treatment for rural telecommunications providers; refraining from regulation for competitive purposes; reclassifying a regulated telecommunications service as an emerging competitive service;

The statutory authority for the promulgation of these rules is found at §§ 40-15-101, 40-15-203, 40-15-203.5, 40-15-207, 40-15-301, 40-15-302, 40-15-305, 40-15-501, 40-15-502, 40-15-503, and 40-2-108, C.R.S.

2200. Applicability.

Rules 2200 through 2299 are applicable to all providers of Part II and Part III services pursuant to § 40-15-201, C.R.S., or § 40-15-301, C.R.S. Nothing in rules 2200 through 2206, shall limit the Commission's authority to investigate the rates and charges assessed by providers of telecommunications service.

2201. Default Form of Regulation.

- (a) Each rural ILEC receiving HCSM funds shall be regulated using a rate-of-return form of regulation in the absence of another Commission-approved alternative form of regulation
- (b) Basic emergency service providers shall be regulated using cost based regulation for its basic emergency services, in the absence of a Commission approved alternative form of regulation.
- (c) The Commission shall regulate the terms and conditions, including rates and charges, under which Part II 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, 40-15-201, 40-15-203, 40-15-204, and 40-15-207.
- (d) Customer-specific contracts and notice.
 - (I) The Commission may permit a customer contract for regulated services irrespective of any tariff 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. If a provider of telecommunications service fails to timely make the required notice with the Commission, both parties of the contract may be subject to Commission sanctions, including civil penalties.
- (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.

2202. Default Forms of Regulation for Providers of Switched Access.

- (a) 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, 40-15-301, 40-15-302, 40-15-303, and 40-15-307.
- (b) Requirements of all providers of switched access.
 - (I) 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 rate of the competing ILEC, unless the provider of telecommunications service is determined to be a rural CLEC pursuant to FCC 47 C.F.R. §§ 61.26 and 61.3. A rural CLEC competing with a non-rural ILEC, shall not file rates for its intrastate access above the rates prescribed in the NECA access tariff.
 - (C) Each switched access provider's charges by rate element shall be capped at that provider of telecommunications service's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate changes pursuant to federal requirements.
 - (D) All switched access traffic exchanged between a local exchange carrier and another telecommunications carrier in Time Division Multiplexing (TDM) format that originates and/or terminates in IP format shall be subject to a rate equal to the relevant interstate access charges.
 - (II) Customer-specific contracts and notice.
 - (A) The Commission may permit a provider of telecommunications service to provide a customer with switched access, under contract, irrespective of any tariff requirements.

- (B) 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. If a provider of telecommunications service fails to timely make the required notice with the Commission, both parties of the contract may be subject to Commission sanctions, including civil penalties.
- (C) The contract shall be subject to Commission review to determine if:
 - (i) the negotiated contract is nondiscriminatory;
 - (ii) the contract terms are not inconsistent with the public interest; and
 - (iii) the contract terms are not inconsistent with applicable Commission rules.
- (D) 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.

2203. General Requirements.

- (a) If the provider of telecommunications service is required by the Commission to file an accounting plan, the provider shall bear the burden of proving that the accounting plan submitted is sufficient to segregate assets, liabilities, revenues, and expenses.
- (b) Providers of telecommunications service exempted from filing a cost separation manual pursuant to rules 2400 through 2459 shall not be required to file accounting plans or updates, but shall be required to follow the cost segregation rules.

2204. Reclassification of a Part II Service to a Part III Service.

- (a) The Commission, if it finds that effective competition exists in the relevant market for a Part II service and that reclassification of such service to a Part III service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may reclassify such service upon its own motion or upon application by any Part II provider of telecommunications service. Such reclassification shall be in compliance with the requirements of § 40-15-207, C.R.S.
- (b) Any application under this rule shall comply with the requirements of § 40-15-207, C.R.S. and shall include the information required by paragraph 2002(b).
- (c) At the time the application is filed, the applicant shall file its direct testimony and attachments to be offered at the hearing.
- (d) Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves or requires an alternative notice procedure. The notice shall include the requirements of paragraph 2002(d).

2205. Deregulation of Part III Services.

- (a) The Commission, if it finds that effective competition exists in the relevant market for a Part III service and that deregulation of such service to a Part IV service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may deregulate such service upon its own motion or upon application by any Part III provider of telecommunications service. Such deregulation shall be in compliance with the requirements of § 40-15-305, C.R.S.
- (b) Any application under this rule shall comply with the requirements of § 40-15-305, C.R.S., and shall include the information required by paragraph 2002(b).
- (c) At the time the application is filed, the applicant shall file its direct testimony and attachments to be offered at the hearing.
- (d) Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves or requires an alternative notice procedure. The notice shall include the requirements of paragraph 2002(d).
- (e) If the Commission deregulates a service under § 40-15-305, C.R.S., all providers of the deregulated service shall submit to the Commission an accounting plan, account-by-account, to segregate the assets, liabilities, revenues, and expenses (including common and joint assets, liabilities, expenses, and revenues) assigned and allocated to the deregulated service to ensure compliance with § 40-15-108, C.R.S. The accounting plans shall be filed with the Commission within 30 days from the effective date of the final order granting the deregulation.

2206. Adjudicatory Proceedings for Determination of Effective Competition Areas

- (a) Based upon evidence provided through an adjudicatory proceeding initiated by the Commission or any person, the Commission may find that certain geographic areas in Colorado are designated as effective competition areas (ECAs).
- (b) A geographic area is defined as a wire center serving area unless the Commission determines otherwise. If a proposal for a relevant geographic service area that is smaller than a wire center for an ECA designation, the proponent must provide data and information supporting the use of such smaller geographic area.
- (c) In adjudicatory proceedings addressing evaluating the level of effective competition of basic local exchange service pursuant to § 40-15-207, C.R.S. the Commission may consider similar services offered by multiple, non-affiliated, providers of telecommunications service regardless of technology.
- (d) If the Commission finds that a geographic area is an ECA, then the ECA is deregulated pursuant to § 40-15-401, C.R.S.
- (e) HCSM fund support will be discontinued in an ECA beginning on the effective date of a Commission order designating the geographic area as an ECA.

2207. – 2299. [Reserved].

RELATIONSHIPS BETWEEN CUSTOMERS AND PROVIDERS OF TELECOMMUNICATIONS SERVICE

Services Provided to the Public

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify services subject to the Commission's regulation and to reflect continuing evolution of standards and technology. The Commission is charged with establishing standards for the adequate provisioning and performance of Part II and Part III services.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-102, 40-3-103, , 40-4-101(1), 40-4-101(2), 40-15-112, 40-15-113, 40-15-201(1), 40-15-302(1)(a), 40-15-503(2), and 40-2-108, C.R.S.

2300. Applicability.

Rules 2300 through 2310 regulate the provision of intrastate telecommunications services and facilities to the public and apply to all providers of telecommunications services subject to the jurisdiction of the Commission.

2301. Definitions. [Reserved].

2302. Customer Deposits.

- (a) With the exception of subsection (b)(I) of this rule, this rule governs deposits for ILECs in geographic areas in which they are receiving HCSM support.
 - (I) Each ILEC shall process an application for service made orally, in writing, or via a secure website in a non-discriminatory manner.
 - (II) The ILEC shall establish and maintain a written procedure for determining an applicant's credit status and include this on its website.
- (b) Criteria for establishment and amount of deposits for ILECs in geographic areas in which they are receiving HCSM support.
 - (I) Each ILEC's deposit and credit policy shall determine credit worthiness in an equitable and non-discriminatory manner.
 - (A) The ILEC may require a new or existing customer to pay a deposit if billing records are available and records indicate recent or substantial delinquencies.
 - (B) An ILEC shall not refuse to provide service to a customer who declines to provide a social security number.
 - (C) All ILECs requiring deposits shall offer customers at least one non-cash alternative that does not require the use of the customer's social security number, in lieu of a cash deposit.
 - (D) No ILEC shall require a deposit that exceeds an amount equal to the charges for 90 days' basic local exchange service and any associated taxes and surcharges.
 - (II) A deposit required under this rule may be in addition to any advance payment, contribution to, or guarantee in connection with construction of lines or facilities, as provided in the line extension policy of the ILEC's tariffs, if applicable, on file with the Commission.

- (III) The payment of a deposit shall not relieve any customer of the obligation to pay current bills when due. If forfeited, a deposit shall be applied only to the indebtedness of the customer.
- (c) A customer who is required by an ILEC to pay a deposit shall pay the deposit in full, prior to receiving service, or if agreed to by the ILEC, enter into a written installment arrangement for payment of the deposit.
- (d) Interest and deposits.
 - (I) Simple interest shall be paid by the ILEC upon a deposit at the percentage rate per annum as determined by Commission staff on an annual basis, payable upon the return of the deposit. Interest on a deposit shall be earned for the time the deposit is held by the ILEC, and shall be calculated from the date the deposit is received by the ILEC to the date of refund to the customer.
 - (II) When it is determined that a change in the interest rate is warranted, the Commission shall send a letter to each ILEC within the state by November 15th identifying the new rate to be paid beginning on January 1 of the next year. Following notification by the Commission, each provider of telecommunications service shall file an advice letter and revised tariff on not less than one-day notice to be effective January 1 of the following year. To the extent any of the dates contemplated herein are modified, there shall be at least 45 days between the date of the notification letter and the effective date of the rate change.
- (e) Refund of deposits. Upon discontinuance of service, or when a customer establishes satisfactory credit, the ILEC shall promptly refund any deposit, plus accrued simple interest, or the balance, if any, in excess of the unpaid bills.
- (f) Each ILEC shall file as part of its tariffs and website, its deposit requirement policy, explaining in detail under what circumstances a deposit shall be required, and under what conditions the deposit shall be returned.

2303. Denial or Discontinuance of Service.

- (a) No HCSM recipient shall deny or discontinue service to a customer without prior written notice except for the following reasons.
 - (I) If a safety condition that is immediately dangerous or hazardous to life, physical safety, or property exists.
 - (II) Upon order by an appropriate court, the Commission, or any other duly authorized public authority.
 - (III) If service, having already been properly discontinued, has been restored by someone not authorized by the company and the original cause for discontinuance has not been cured.
 - (IV) Violation of any Commission rule or effective tariff that may adversely affect the safety of any person or the integrity of the provider of telecommunications' service.
 - (VI) Failure to comply with municipal ordinances or other laws pertaining to telecommunications service that may adversely affect the safety of any person or the integrity of the provider's service.
 - (VII) Failure of the customer to permit the provider of telecommunications service reasonable access to its facilities or equipment.
 - (VIII) The customer obtained service by subterfuge. Subterfuge includes, without limitation:

- (A) obtaining service in another person's name with the intent to avoid outstanding charges; or
 - (B) applying for new service at a location:
 - (i) where a person has outstanding charges for jurisdictional service including outstanding charges for any associated taxes and surcharges; and
 - (ii) where such person continues to reside.
- (b) A HCSM recipient may temporarily suspend or permanently discontinue service and may sever the connection and remove any of its equipment from the customer's premises after at least 15-days written notice only for one of the following reasons:
- (I) non-payment of any past due bill for basic local exchange service and any associated taxes and surcharges. Solely for the purposes of this paragraph, a bill is past due if not paid within 30 days of the due date which must be at least 15 days after the billing date; or.
 - (II) if the HCSM recipient determines service was obtained fraudulently or is being used for fraudulent purposes.
- (c) Restrictions on denial or discontinuation of service – Disposition of payments.
- (I) Basic local exchange service shall not be denied or discontinued for delinquency or nonpayment of charges for service unless the customer has been issued a bill for the charges consistent with the billing requirements under rule 2304.
 - (II) A HCSM recipient shall not deny or discontinue basic local exchange service for delinquency in payment for service rendered to a previous occupant of the premises to be served, for unpaid charges for services or facilities not ordered by the applicant or customer, or for any other indebtedness, except as incurred for basic local exchange service and any associated taxes and surcharges.
 - (III) A HCSM recipient may not use its purchase of a customer's indebtedness, i.e., the accounts receivable, from another provider of telecommunications service to deny or discontinue providing its jurisdictional services to that customer.
 - (IV) If a customer pays or is willing to pay all current charges, a HCSM recipient shall not discontinue service for non-payment of a past due amount for these services when the customer has entered into a payment arrangement with the HCSM recipient. If the payment arrangement is not satisfied, the service may be disconnected for non-payment without further notice.
 - (V) Unless requested by the customer, a HCSM recipient shall disconnect dial tone only during the normal business hours of the HCSM recipient's business or customer service offices. There shall be no disconnection of dial tone when the business or customer service offices of the HCSM recipient is not open or after noon the day before the business or customer service offices will not be open.
 - (VI) When a provider of telecommunications service has been granted the authority by the Commission to discontinue offering basic local exchange service, an alternative provider of telecommunications service may refuse service to a customer who has an outstanding balance for local services owing to the alternative provider of telecommunications service and has not entered into an arrangement with the alternative provider to pay the outstanding balance.

(VII) Medical emergencies.

- (A) A HCSM recipient shall postpone discontinuance of basic local exchange service to a residential customer for 60 days from the date of a medical certificate issued by a Colorado-licensed physician or health care practitioner acting under a physician's authority which evidences that discontinuance of service will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this subparagraph 2303(c)(VII)(A) only once in any twelve consecutive months.
- (B) As a condition of obtaining a new installment payment plan on or before the last day covered by a medical certificate, a customer who had already entered into a payment arrangement, but had broken the arrangement prior to seeking a medical certification, may be required to pay all amounts that were due up to the date of the original medical certificate as a condition of obtaining a new payment arrangement. At no time shall a payment from the customer be required as a condition of honoring a medical certificate.
- (C) The certificate of medical emergency shall be in writing, sent to the HCSM recipient from the office of a licensed physician, and show clearly the name of the customer or individual whose illness is at issue; the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical emergency. Such certification shall be incontestable by the LEC as to the medical judgment, although the HCSM recipient may use reasonable means to verify the authenticity of such certification.

(d) Notice requirements.

- (I) The customer shall be notified of the intention of a HCSM recipient to discontinue basic local exchange service and shall be allowed no fewer than 15 days from the date the notice was issued in which to respond to the company. The notice shall clearly state the amount that is past due and the date by which an installment payment arrangement must be entered into or payment must be received to prevent interruption of service. It shall also state that disconnection of basic local exchange service cannot occur for non- payment of other charges, such as for optional services, wireless service, or other companies' services. If the customer has chosen electronic billing, the notice of disconnection may be provided electronically.
- (II) All discontinuance notices shall be printed in English and Spanish.

(e) Restoration of service

- (I) Any service already discontinued must be restored without any additional charge if it was not properly discontinued or restored as provided in this rule 2303.
- (II) Service must be restored within 24 hours, or by 5:00 p.m. on the next business day in the event the end of the 24-hour period falls on a Saturday, Sunday, or holiday unless prevented by safety concerns, or circumstances beyond the company's control, if the customer:
 - (A) Within ten days of the discontinuance of service, remits the full amount shown on the notice for jurisdictional services, plus any deposit as may be specifically required by the HCSM recipient's tariff by:

- (i) paying the HCSM recipient directly; or
 - (ii) paying an authorized payment agent of the HCSM recipient, contacting the HCSM recipient by telephone and providing the HCSM recipient with the date paid, the amount paid and the valid receipt information;
- (B) Presents a medical certificate, as provided in subparagraph 2303 (c)(VII), within 24 hours of a disconnection for non-payment; or
- (C) Demonstrates to the HCSM recipient that the cause for the discontinuance, if other than non- payment, has been cured.

2304. Customer-Billing Requirements.

- (a) The Commission incorporates by reference the FCC's Truth in Billing Rules, as identified in rule 2008. In addition to the requirements found in the FCC's Truth in Billing Rules, all bills for telecommunications services shall clearly display the billing date and the payment due date, which must be at least 15 days after the billing date. At the option of the customer, and where it is technically feasible, electronic billing (e-billing) is permitted.
- (b) Payment of bills, billing disputes, and bill credits or refunds.
 - (I) Whenever a customer makes a partial payment, the HCSM recipient shall apply it first to past due basic local exchange service and any associated taxes and surcharges in such a manner consistent with preserving basic local exchange service, unless otherwise instructed by the customer.
 - (II) In the event of a billing dispute between the customer and the provider of telecommunications service, the provider may require the customer to pay the undisputed portion of the bill to avoid discontinuance of service for non-payment. The provider of telecommunications service shall make a prompt investigation appropriate to the case and report the results to the customer. In the event the dispute is not reconciled, the provider shall advise the customer that an informal complaint may be registered with Commission Staff or that a formal complaint may be filed with the Commission.
 - (III) Whenever billing for basic local exchange service and any associated taxes and surcharges has not been determined accurately because of a HCSM recipient's omission or negligence, the HCSM recipient shall offer the following:
 - (A) Whenever a HCSM recipient over-bills a customer for the service, the LEC shall offer the customer a refund. When the amount of the refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. If the customer elects a one-time payment, the LEC shall mail the refund within thirty days. Such over-billing shall not be subjected to interest. Refunds for over-billing shall not be provided for a period of time exceeding two years.
 - (B) Whenever a HCSM recipient under-bills a customer for service, the customer shall be allowed to make an installment payment arrangement when the amount exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges. A customer shall be advised that any installment payment agreement may, at the option of the customer, extend over a time period equal in length to the period over which the errors were accrued. Charges for under- billing shall not be billed for a period of time exceeding two years and shall not include late payment fees or interest.

- (C) Whenever a HCSM recipient collects from a customer more money than is due the HCSM recipient because of an erroneous payment or electronic transfer, the HCSM recipient shall electronically issue or mail the customer a refund within five days of realizing the mistake. When the amount of the refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. Such refunds shall not be subjected to interest. Refunds for erroneous payments shall not be provided for a period of time exceeding two years.
- (IV) In the event the customer's basic local exchange service is interrupted and remains out of order for eight or more hours during a continuous 24-hour period after being reported by the customer, or is found to be out of order by the HCSM recipient (whichever occurs first), appropriate adjustments shall be automatically made by the HCSM recipient to the customer's bill.
 - (A) The adjustment shall be, at a minimum, a credit on the monthly bill for basic local exchange service and any associated taxes and surcharges proportional to the duration of the service interruption, with each occurrence of the loss of service for eight or more hours during the 24-hour period counting as one day. For the purpose of administering this rule, every month is considered to have 30 days.
 - (B) The HCSM recipient is not required to provide an adjustment for the loss of service during time periods due to the following conditions:
 - (i) the negligence or willful act of the customer;
 - (ii) a malfunction of facilities other than those under the control of the HCSM recipient;
 - (iii) natural disasters or other events affecting large numbers of customers such as described in paragraph 2336(c); or
 - (iv) the inability of the HCSM recipient to gain access to the customer's premises when required.
- (V) In the event the HCSM recipient misses a service call, i.e., an appointment for a premises visit associated with installation of new service by more than four hours, the HCSM recipient shall make a credit to the monthly bill of the customer in the amount of one-third the tariff rate for installation that was to be charged. This credit shall also apply when the HCSM recipient misses scheduled installation work to be done in the central office.
- (VI) The bill credit policies set forth in paragraphs (a) and (b) are minimum requirements. HCSM recipients that merely adopt paragraphs (a) and (b) as their bill credit policy are not required to file tariffs that incorporate this rule. HCSM recipients that wish to have additional bill credit policies shall file a tariff that fully describes such additional policies. All bill credit policies shall be non-discriminatory and non-preferential.

2305. Refund Plans.

Any provider of telecommunications service proposing or required by Commission order to make a refund to customers by class of service shall file an application for Commission approval of the plan of refund. For a provider of telecommunications service, the application shall contain the analysis of the feasibility and costs of customer-specific refunds in lieu of a general refund.

- (a) An application for approval of a plan of refund shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:
 - (I) the information required by paragraph 2002(b);
 - (II) a detailed description of the proposed refund plan, including but not limited to: a description of the telecommunications service that is the subject of the refund plan; the dollar amount of the proposed refund by class of service; the date applicant proposes to start making the refund, which shall be at least 60 days after the filing of the application; the date by which the applicant proposes to complete the refund; the means by which the refund is proposed to be made; an identification of the service area(s) impacted by the refund; the interest rate that will be paid to customers, equal to the current rate paid on customer deposits unless the Commission establishes an alternative interest rate; and the proposed treatment of unclaimed refunds, consistent with § 40-8-101, C.R.S., et seq.;
 - (III) a statement describing in detail the extent to which the applicant has any financial interest in any other company involved in the refund plan;
 - (IV) a reference by proceeding number, decision number, and date of any Commission decision requiring the refund; and/or a copy of any federal agency or other state order, if the refund is to be made because of the applicant's receipt of monies under any such order;
 - (V) if the applicant proposes to refund less than all of the monies received as described in subparagraph (a)(II), a detailed statement justifying the proposed refund of a lesser amount, with a copy of applicant's most recent balance sheet, dated not earlier than three months before the date of the filing of the application, with a copy of an income statement and a retained earnings statement as of the date of the balance sheet;
 - (VI) a statement showing the accounting entries for the refund plan; and
 - (VII) a statement that if the application is granted, applicant will file an affidavit with the Commission establishing that the refund has been made in accordance with the Commission decision.
- (b) The Commission shall give notice of the filing of an application to make a refund, as provided in rule 1206 of the Rules Regulating Practice and Procedure.
- (c) The applicant shall give notice of the filing of an application to make a refund, as provided in paragraphs 1207 of the Commission's Rules Regulating Practice and Procedure. Such notice shall also include the requirements of paragraph 2002(d).

2306. Public Information.

- (a) Each HCSM recipient shall have one or more business offices or customer service centers staffed to provide access in person or by telephone to qualified personnel, including supervisory personnel when warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and generally act as customer service representatives of the HCSM recipient. Toll free calling to the business office and customer service centers shall be provided to customers.
- (b) Each provider of telecommunications service shall, at a minimum, provide the following information to the public, as applicable and upon request, at each business office open to the public and may also be available on the provider's website:
 - (I) copies of all tariffs as filed with the Commission;

- (II) for each exchange served by the provider of telecommunications service, maps showing the exchange, base rate area and zone (if applicable) boundaries in sufficient size and detail from which all customer locations can be determined and mileage and zone charges measured from these boundaries can be quoted;
- (III) publicly announced information about the present and intended future availability of services at the location of a potential customer;
- (IV) publicly announced information concerning plans for major service changes in the area served by the provider of telecommunications service; and
- (V) information pertaining to services and rates as proposed in pending tariff filings.

2307. Local Exchange Service Standards.

- (a) As part of its obligation to provide adequate basic local exchange service, each provider of telecommunications services shall construct and maintain its telecommunications network so that the instrumentalities, equipment, and facilities within the network shall be adequate, efficient, just, and reasonable in all respects in order to provide the following services or capabilities to each of its customers within its service area:
 - (I) individual line service or its functional equivalent constructed and maintained to meet the general parameters and characteristics of rule 2337;
 - (II) voicegrade access to the public switched network;
 - (III) the local exchange usage necessary to place calls to or receive calls from all local exchange access lines within a Commission approved local calling area;
 - (IV) access to emergency services;
 - (V) access to toll services;
 - (VI) customer billing to the extent described in rule 2304;
 - (VII) public information assistance to the extent described in rule 2306;
 - (VIII) access to operator services;
 - (IX) provisioning of service during maintenance or emergencies to the extent described in rule 2335; and
 - (X) any POLR must offer basic local exchange service by itself as a separate tariff offering; however, this subparagraph does not preclude the LEC/POLR from also offering basic local exchange service packaged with other services.
- (b) In order to maintain a reasonable uniformity between all localities in the state for adequate basic local exchange service in the ordinary course of its business, each POLR shall construct and maintain its telecommunications network so as to provide for universal (i.e., ubiquitous) availability of the following services or capabilities when requested by a customer within its serving area:
 - (I) the basic service standard defined in paragraph 2307(a);
 - (II) E9-1-1 service, either by providing the necessary facilities and identification (name/number, etc.) information to a BESP or as provided by the LEC under rules 2130 through 2159; and

- (III) services to which the customer may voluntarily subscribe:
 - (A) services that deny or limit access to providers of interexchange service; and
 - (B) services that deny access to other information service providers.
- (c) Local calling areas as established by the Commission shall meet either the community of interest or incremental extended service criteria. Any provider of telecommunications service that is granted authority to offer basic local exchange service in an exchange, or for any part of the exchange, for which the Commission has previously established a local calling area, shall provide at least one option to its customers that include that same local calling area, unless modified by order of the Commission. In general, and to the extent possible, each local calling area shall:
 - (I) allow customers to place and receive calls without payment of a toll charge to 9-1-1, their county seat, municipal government, elementary and secondary school districts, libraries, primary centers of business activity, police and fire departments, and essential medical and emergency services;
 - (II) be provided in both directions between the two exchange areas; and
 - (III) not exhibit any discontinuities (i.e., an exchange area physically located between two exchanges that is not included in a local calling area that serves the two exchanges).

2308. Availability of Service -- Adequacy of Facilities.

Each POLR shall employ prudent management planning practices, including budgeting and prioritizing resources, to ensure that adequate facilities and equipment are in service to provide service to prospective customers in its service territory and in areas certificated to the POLR in conformance with the POLR's line extension policy.

- (a) Each POLR shall maintain, as part of its tariffs, the rules, regulations, circumstances, terms, and conditions under which line extensions or extensions of service by the POLR will be made in order to render service to a prospective end user within the exchange area. A POLR's line extension tariffs:
 - (I) shall not discriminate among the POLR's prospective customer by class of service;
 - (II) shall include rate schedules for service connections, extensions, and line mileage, as applicable;
 - (III) shall provide a construction credit to prospective customers which reflects the amount of its capital investment that is supported by customers' revenues, the HCSM, and all other price support mechanisms established by the federal and state governments if the POLR receives support from such price support mechanisms (i.e., its supported costs); and
 - (IV) shall be on file at a business location in Colorado or may be on the provider of telecommunications service's website, and shall be available for inspection by the public during normal business hours.
- (b) Date of application for service.
 - (I) When a customer orders service and the POLR is not required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date of the first oral or written customer contact with the POLR to request service.

- (II) When a customer orders service and the POLR is required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date on which the customer makes payment or partial payment of initial construction charges, regardless of whether the customer's project is an individual construction project or is included as part of a group construction project. If the LEC has to recalculate the construction charges for a group construction project as the result of adding customers to the group or removing customers from the group, the date of application for service remains as the date the customer first made payment or partial payment of the initial construction charges. If no payment is required from the customer, the date of application for service is the date the estimate was provided to the customer.
- (c) Information to be provided to residential or small business customers at the time of application for service.
 - (I) At the time of the first customer contact to apply for service, the POLR shall provide the customer an order number. If construction charges are, or may be required to provide the customer service, the customer shall be informed during the first customer contact that construction may be required to provide service. The POLR must subsequently inform the customer within 30 days of the customer's first contact that construction will be required and a construction charge estimate is necessary before the POLR quotes the estimated construction charge. If the tariffs of the POLR require the payment of an engineering fee prior to the provision of a construction charge estimate, the customer shall be informed of the required fee at the time of second customer contact.
 - (II) The POLR shall specifically ask customers who contact the POLR to inquire about service availability if the customer desires to initiate, at that time, a request for service. The POLR shall not discourage the customer from placing an order at the time of such inquiry and shall use the date the provider of telecommunications service offers for service or a date otherwise agreed upon with the customer for service as the due date for installation.
 - (III) A POLR shall provide any information and assistance necessary to enable customer to choose from the lowest cost jurisdictional telecommunications service or other alternatives it provides which conform to the customer's or applicant's stated needs.
 - (IV) The POLR shall inform customers of the potential of future facility unavailability when the LEC is experiencing or forecasting facility unavailability in specific areas. The LEC shall allow customers to reserve basic local exchange service at the appropriate tariff rate (i.e., vacation service) and shall inform customers of this option.
- (d) Construction charge estimate. When a customer orders service and the tariff of the LEC requires the provision of a construction charge estimate, the LEC shall provide to the customer, within 30 days from the date of the customer's request for an estimate, a good faith written cost estimate of the amount of the required payment. If the tariff of the LEC requires the payment of an engineering fee prior to the provision of a construction charge estimate, the payment of the engineering fee shall be notice to the LEC that the customer desires a construction charge estimate to be performed within 30 days. For group applications, the 30 days commence after all applicants have paid the required engineering fee. The good faith written cost estimate shall inform the customer that receipt of payment or partial payment is required before the customer's request will be considered an application for service.
- (e) Notices to residential and small business customers. All customers who are not provided service within ten days of the date of application for service or by the customer's requested date for service, whichever is later, shall be provided a written notice by the POLR, stating the order number assigned by the POLR to the application for service, the general status of the order, and a phone number to call with questions. This notice shall be postmarked on or before the 15th day after the date of application.

- (f) Provision of basic local exchange service.
 - (I) Time frames for providing basic local exchange service and any remedies associated with not providing service by these time frames shall apply to all applications for service for the primary (first) residential and primary (first) business lines at a residential premises and the first two lines at a business premises. This rule shall not be applicable in geographic areas where the Commission has found basic local exchange service to be effectively competitive.
 - (II) Time frames for provision of service.
 - (A) Each POLR shall provide 95 percent of its customers with primary basic local exchange service no later than ten days from the date of the customer's application for service, except that when the customer requests a later date of service, the service shall be provided by the requested date, unless construction of new facilities is required in which case subparagraph (B) below shall apply. Failure to provide basic local exchange service for at least 95 percent of primary service orders placed in each of the POLR's wire center serving areas within the time set forth in this subparagraph shall constitute a violation of this rule. The POLR shall provide primary basic local exchange service to the remaining five percent of customers within 30 days of the application date for service. Failure to provide basic local exchange service for the remaining five percent of primary service orders placed in each of the POLR's wire center serving areas within the time set forth in this subparagraph shall constitute a violation of this rule.
 - (B) If construction of new facilities is required, the POLR shall provide that customer with basic local exchange service no later than 90 days from the date of the customer's application for service. When construction is required during the months of October through May, or when construction is required in counties that have construction moratoriums in place, a POLR shall provide primary basic local exchange service no later than 150 days from the date of the customer's application for service.
 - (III) Remedies to customers not receiving basic local exchange service within 30 days.
 - (A) If a POLR fails to provide basic local exchange service within 30 days, the POLR shall provide a remedy to the customer for the first residential and the first business line at a residential premises and for the first two lines at a business premises included in the initial order. These remedies shall continue to be provided until the customer receives the basic local exchange service.
 - (B) Remedies shall include a credit that shall be applied to the customer's account no later than the second bill issued for service that has been provided in an amount at least equal to the pro rata monthly local exchange service charge for each day thereafter that service is not provided, a monthly credit up to \$40 to reimburse the cost of a temporary alternative to basic local exchange service and an installation charge waiver. These monthly credits shall accrue until the customer receives basic local exchange service.
 - (IV) The credits and installation charge waivers described in subparagraph (III) shall be offered in addition to, and not in lieu of, any other remedy available to the customer or the Commission, including, but not limited to:
 - (A) an order by the Commission that the POLR provide basic local exchange service by a date certain; or
 - (B) penalties under § 40-7-105, C.R.S.

- (g) POLRs may seek a variance of any part of this rule, subject to all the following limitations.
 - (I) A request by a POLR for a blanket variance shall not be granted. Requested variances for individual customers, or individual developments or areas, shall be considered.
 - (II) A variance may be granted only in those instances where the POLR has demonstrated a good faith effort to comply with the provisions of this rule and the Commission finds that good cause exists to grant the variance.
 - (III) All POLRs may request a variance from the Commission by application that sets forth in detail the grounds upon which the variance is sought.

2309. Changing Providers of Telecommunications Service/Carrier Presubscription

- (a) The following definitions apply only in the context of this rule.
 - (I) "Authorized carrier" means any telecommunications carrier chosen by the subscriber in accordance with the procedures specified in this rule. Authorized carrier can refer to a POLR, interexchange provider, intraLATA long distance carrier or interLATA long distance carrier.
 - (II) "Electronic authorization" means approval for any carrier change that is initiated by a telephone call, either by the subscriber or by an independent third party.
 - (III) "Executing carrier" means any telecommunications carrier that implements a request that a subscriber's telecommunications carrier be changed.
 - (IV) "Slamming" means any change in an end-use subscriber's presubscription to a telecommunications service that is made without appropriate consent of the customer.
 - (V) "Submitting carrier" means any telecommunications carrier that requests that the subscriber's telecommunications carrier be changed.
 - (VI) "Subscriber" means any one of the following:
 - (A) the party identified in the account records of a carrier as responsible for payment of the telephone bill;
 - (B) any adult person authorized by such party to change telecommunications services or to charge services to the account; or
 - (C) any person (e.g., a payphone agent or building owner) who is contractually or otherwise lawfully authorized to represent such party.
 - (VII) "Unauthorized carrier" means any telecommunications carrier that is providing telecommunications service to a subscriber without the subscriber's authorization.
 - (VIII) "Unauthorized change" means a change to a subscriber's carrier of telecommunications service that is made without the subscriber's authorization in accordance with the procedures specified in this rule.
- (b) Verification of orders for service.
 - (I) No telecommunications carrier shall submit or execute a change in a subscriber's authorized carrier except in accordance with the procedures in this rule.

- (II) No submitting carrier shall request a change in a subscriber's authorized carrier prior to obtaining the subscriber's authorization by one of the following methods:
- (A) A written or electronically signed (Internet or e-mail) letter of agency.
- (i) A submitting carrier shall obtain a written or electronically signed letter of agency to obtain authorization to change a subscriber's authorized carrier. Any letter of agency that does not conform to this rule is void.
 - (ii) The letter of agency shall be a separate document or shall be located on a separate screen or web page including only the authorizing language described below. The sole purpose of the letter of agency is to authorize a carrier change. The letter of agency shall be signed and dated by the subscriber. The letter of agency shall not be combined with inducements of any kind on the same document, screen or web page. A letter of agency shall not be valid if it is presented to the customer for signature in connection with a sweepstakes or other game of chance.
 - (iii) The letter of agency may be combined with checks that include only the required letter of agency language prescribed and the necessary information to make the check a negotiable instrument. The letter of agency check shall not include any promotional language or material. The letter of agency check shall include, in easily readable, bold-faced type on the front of the check, a notice that the subscriber is authorizing a carrier change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.
 - (iv) At a minimum, the letter of agency shall be printed in a sufficiently sized and readable type to be clearly legible and shall include clear and unambiguous language, in separate statements, that confirms: the subscriber's billing name and address, and each telephone number to be covered by the authorized carrier change order; the decision to change the authorized carrier from the current telecommunications carrier to the soliciting carrier; the subscriber's approval for the submitting carrier to act as the subscriber's agent for the respective authorized carrier change; the subscriber's understanding that one carrier can be, but does not have to be, the subscriber's authorized carrier for local exchange, intraLATA toll, and interLATA toll services (or any combination of these services) for any one telephone number (although a separate letter of agency for each choice is not necessary); and the subscriber's understanding that a change in an authorized carrier may involve a charge to the subscriber.
 - (v) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the customer's current authorized carrier.
 - (vi) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.
 - (vii) Letters of agency submitted with an electronically signed authorization must include the customer disclosures required by § 101(c) of the Electronic Signatures in Global and National Commerce Act.

- (B) Telephone call initiated by a subscriber. The subscriber must place a telephone call to the carrier of choice. The carrier shall obtain the subscriber's authorization that must confirm the subscriber's billing name and address, the decision to change to the new carrier, and the subscriber's understanding of the executing carrier's change fee. The submitting carrier electing to confirm a change in service electronically shall establish one or more toll free telephone numbers exclusively for that purpose. Calls to the toll free number(s) shall connect a subscriber to a voice response unit or similar mechanism that records the required information regarding the carrier change, including automatically recording the originating number using Automatic Number Identification (ANI).
- (C) Third-party verification.
 - (i) An independent third-party verifier shall not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; shall not have any financial incentive to confirm authorized carrier change orders for the carrier or the carrier's marketing agent; and shall operate in a location physically separate from the carrier or carrier's marketing agent.
 - (ii) Automated third-party verification may be used for verification purposes as long as the requirements of subparagraphs (II)(C)(iii) and (iv) are satisfied.
 - (iii) A carrier or carrier's sales representative initiating a call through an automated verification system shall drop off the call once the three-way connection has been established.
 - (iv) All third-party verification methods shall elicit, at a minimum: the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call intends to make the carrier change; the telephone number(s) to be switched; and the types of services involved in the change. Third-party verifiers may not market the carrier's services by providing additional information, including information regarding authorized carrier freeze procedures.
 - (v) All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. Automated systems shall provide customers with an option to speak with a live person at any time during the call.
- (c) A telecommunications carrier shall submit an authorized carrier change on behalf of a subscriber within three days of obtaining the subscriber's authorization.
- (d) Authorized carrier freeze.
 - (I) An authorized carrier freeze prevents a change in a subscriber's authorized carrier unless the subscriber gives consent to make a change.
 - (II) A LEC may offer carrier freezes for local exchange, intraLATA toll, and interLATA toll services to its subscribers. If a LEC offers carrier freezes they shall be offered at no charge and on a non-discriminatory basis to all subscribers regardless of the subscriber's carrier selections.
 - (III) LECs shall conduct an education program upon initiation of service to a subscriber, which informs the subscriber of the option to freeze his choice of carrier(s) and the effects of freezing the selection of a telecommunications carrier.

- (IV) Authorized carrier freeze procedures, including any solicitation, shall clearly distinguish among telecommunications services (e.g., local exchange, intraLATA toll, and interLATA toll) subject to an authorized carrier freeze. The carrier offering the freeze shall obtain separate authorization for each service for which an authorized carrier freeze is requested.
- (V) All carrier-provided solicitation and other material regarding an authorized carrier freeze shall include the following:
 - (A) An explanation, in clear and neutral language, describing an authorized carrier freeze and which services may be subject to a freeze; and
 - (B) A description of the specific procedures necessary to lift an authorized carrier freeze, an explanation that these steps are in addition to the Commission's verification provisions in paragraph (b), and an explanation that a provider of telecommunications service will be unable to make a change in carrier unless the subscriber cancels the freeze.
- (VI) No LEC shall implement or cancel an authorized carrier freeze unless the subscriber's request to impose or cancel a freeze has first been confirmed in accordance with one of the following procedures:
 - (A) The LEC has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements as a letter of agency; or
 - (B) The LEC has obtained the subscriber's electronic authorization in a form that meets the requirements of paragraph (b).
- (e) Each POLR shall file a tariff describing the subscribers' options regarding freezing their authorized carriers.
- (f) Enforcement.
 - (I) A carrier that violates any provision included in these rules is subject to enforcement and penalties as provided in Articles 1-7 and 15 of Title 40, C.R.S.
 - (II) Upon notification from a subscriber of a change to another telecommunications carrier without authorization, the executing carrier shall switch the subscriber's line(s) back to the authorized carrier at no charge to the subscriber.
 - (III) A telecommunications carrier that initiates an unauthorized change in a subscriber's authorized telecommunications carrier, i.e., an unauthorized carrier, in violation of this section is liable:
 - (A) to the subscriber, the subscriber's previously selected carrier, or both, as determined by the Commission, for all intrastate long distance charges, all interstate long distance charges, local exchange charges, carrier switching fees, the value of any premiums to which the customer would have been entitled, and other relevant charges incurred by the subscriber during the period of the unauthorized change; and
 - (B) to the executing carrier for the change fees associated with the unauthorized change.
- (g) Waiver for the sale or transfer of subscribers.

- (I) A telecommunications carrier that acquires, through a sale or transfer, part or all of another carrier's subscriber base, shall comply with all the following provisions:
 - (A) No later than 45 days prior to the planned transfer of the affected subscribers from one carrier to another, the acquiring carrier shall file with the Commission an application for waiver of this rule. The application shall include the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the proposed date of the transfer. This application for waiver shall also include a copy of the notice that will be sent to the affected subscribers.
 - (B) The notice to subscribers shall be provided at least 45 days prior to the transfer or sale. The acquiring carrier is required to fulfill the obligations set forth in the notice. The notice shall, in addition to the requirements of paragraph 2002(d)(I) – (XII), include:
 - (i) the proposed date on which the transfer will occur;
 - (ii) the rates, charges, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the transfer or sale;
 - (iii) a statement that the acquiring carrier will be responsible for any charges associated with the transfer to the new carrier;
 - (iv) a statement that reflects the subscriber's right to select a different authorized carrier for the telecommunications service(s), if an alternative carrier is available;
 - (v) a statement that all subscribers receiving notice, even those with an authorized carrier freeze(s) in place, will be transferred to the acquiring carrier, unless the subscriber selects a different carrier before the transfer date;
 - (vi) a statement that an existing authorized carrier freeze(s) will be lifted to execute the transfer, and advising the customer to ask the new carrier to institute a freeze after the transfer; and
 - (vii) the toll free customer service number of the acquiring carrier.

2310. IntraLATA Equal Access

- (a) References in this rule to Part 32, Part 36, and Part 64 Subparts I and K are references to rules issued by the FCC and are incorporated by reference as identified in rule 2008.
- (b) All companies offering basic local exchange service shall provide intraLATA equal access to all intraLATA interexchange providers.
- (c) Customer notification for carrier selection. Customers commencing service shall be informed by the LEC of their intraLATA and interLATA interexchange provider(s) options at the time that service is requested, and shall be allowed to select both their primary interLATA and intraLATA interexchange provider(s) at that time.
- (d) Scope of intraLATA equal access.

- (I) Zero-plus (0+) calls, in which the caller dials 0 plus a local number; zero-minus (0-) calls, in which the caller dials 0 and no further digits; abbreviated dialing arrangements included in rules 2740 through 2799; cellular 1+ calling-party-pay calls; 976; 676; and 1+ area code (+555+1212 calls) shall be processed by the customer's local exchange carrier.
- (II) In-WATS calls (1+ 800/888), "follow me" or "go anywhere" service (1+ 500), interactive information service calls (1+ 700), and information service calls (1+ 900) are not subject to these intraLATA equal access rules.
- (III) 1+ interLATA calls; 0+ interLATA calls; 00- calls, in which the caller dials "00" and no further digits; and 1+NPA+555+1212 interLATA calls shall be processed by the caller's presubscribed interLATA toll carrier.
- (IV) 1+ intraLATA calls and 0+ intraLATA calls shall be routed to the customer's primary intraLATA toll carrier.
- (V) No charge shall be imposed for a customer's initial selection of a primary intraLATA or interLATA interstate carrier or for a choice of no presubscribed carrier.
- (VI) No change order for a primary intraLATA or interLATA interstate toll carrier shall be submitted to a LEC until the order has been confirmed pursuant to the procedures set forth in rule 2309 and 47 C.F.R., Part 64, Subpart K.

2311. – 2329. [Reserved].

Quality of Services Provided to the Public

2330. Applicability.

Rules 2330 through 2359 regulate the provision of intrastate telecommunications services and facilities to the public and apply to all providers of telecommunications services subject to the jurisdiction of the Commission. .

2331. Definitions [Reserved].

2332. Incorporation by Reference.

References in these rules to Part 68 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2333. Construction and Maintenance of Plant and Equipment -- Generally.

The telecommunications plant of the provider of telecommunications service shall be constructed, installed, maintained and operated in accordance with good engineering practice in the telecommunications industry to assure, as far as reasonably possible, uniformity in the quality of service provided and the safety of persons and property.

2334. Construction and Maintenance Practices.

- (a) The provider of telecommunications service shall use, as a minimum standard of accepted good engineering practice, the 2007 National Electric Safety Code, as identified in rule 2008.
- (b) For any telecommunications plant constructed or installed prior to February 5, 2001, the minimum standard of accepted good engineering practice shall be the edition of the National Electric Safety Code in effect at the time of beginning construction or installation of the telecommunications plant.

- (c) Telecommunications plant that is constructed, installed, maintained, or operated in accordance with the National Electric Safety Code in effect at the time of its construction or installation shall be presumed to comply with accepted good engineering practice in the telecommunications industry and the provisions of this rule. However, all direct buried cables connecting the network interface at the customer's premises to the network facilities of the provider of telecommunications service shall be permanently buried, as practical, at least 12 inches below the final surface grade as known at time of installation. All other direct buried communication cable shall, at minimum, be buried at depths required for supply cable of similar voltage as specified in the National Electric Safety Code.
- (d) The provider of telecommunications service shall use as a minimum standard of safe practice 47 C.F.R., Part 68, dated August 30, 2013, for the interconnection of new or existing telecommunications plant of the provider of telecommunications service with terminal equipment of a customer.
- (e) The provider shall coordinate with other entities concerning construction work initiated by itself, or other entities, that may affect its facilities used for serving the public. For example, the provider of telecommunications service shall:
 - (I) economically minimize construction expenditures by coordinating construction with other entities, such as the joint use of trenches for cable, where joint construction is both safe, cost effective, and in the best interest of the provider of telecommunications service;
 - (II) take reasonable action to protect service to the public, such as identifying the location of underground facilities that may be affected by construction work for other entities;
 - (III) maintain a database or some other form of quickly accessible information at its facilities sufficient to allow facility location coordination and participation in a program on a statewide basis to minimize service interruptions caused by accidental cutting of cables; and
 - (IV) engage in coordination with electric power utilities in the area prior to constructing new plant or a major rebuild of existing plant that may be impacted by inductive interference from the electric power systems.
- (f) Each provider of telecommunications service shall adopt a program of periodic tests, inspections, and preventative maintenance aimed at achieving efficient operation of its system to permit the rendering of safe, adequate, and continuous service at all times as recognized by general practices within the telecommunications industry. The presence of inductive interference, cut-offs, cross-talk, and excessive noise generation by communication system facilities are symptomatic of inadequate service, and a maintenance program shall be designed to minimize or prevent those occurrences. The provider of telecommunications service shall maintain its system to meet the applicable service adequacy standards defined in rules 2336 through 2338.
- (g) The provider of telecommunications service shall keep records of the tests and inspections necessary to meet industry and Commission service standards on file in its office for review by the Commission. These records shall show the nature of the equipment tested or inspected, the reason for the test or inspection, the general conditions under which the test or inspection was made, the results of the test or inspection, and any corrections made as a result of the test or inspection.

2335. The Provision of Service During Maintenance or Emergencies.

The following paragraphs describe minimum standards for maintaining service.

- (a) Each LEC shall make reasonable provisions to meet emergencies resulting from: power failures; sudden and prolonged increases in traffic; staff shortages; and fire, storm, or acts of God. Each LEC shall issue instructions to its employees identifying procedures to be followed in the event of an emergency in order to prevent or mitigate interruptions or impairment of telecommunications service.
- (b) In the event of a commercial power failure, the provider of telecommunications service shall furnish a minimum of four hours of backup power or battery reserve rated for peak traffic load requirements from the provider's power source to the network interface in landline (coaxial, fiber, or copper) applications in order to support existing basic service to lines that use a traditional ringer. A mobile power source shall be available that can be delivered and connected within four hours. Additional battery reserve capacity beyond the four-hour minimum shall be provided based on the consideration of the following local conditions:
 - (I) reasonable travel time (the time from personnel call-out through arrival at the facility);
 - (II) time for procuring and transporting the portable engine to the site, placing it in position, and connecting it to the load;
 - (III) number of sites serviced by one engine (commercial power failures may simultaneously affect more than one facility); and
 - (IV) frequency and duration of past commercial power failures.
- (c) All local central offices, toll switching or tandem switching offices, repeater huts, microwave radio sites, and other interoffice facilities requiring LEC-supplied power shall have available a minimum of four hours of battery reserve (or backup power) rated for peak traffic load requirements. If the facility is not continuously attended by trained personnel, or does not include a permanent auxiliary power unit, additional battery reserve shall be installed to provide for travel time. Travel time is the time from personnel call-out through arrival at the facility.
 - (I) In central offices with capacity for more than 10,000 access lines, or in toll or tandem switching offices, a permanent auxiliary power unit shall be installed. If the auxiliary power unit requires manual-start and transfer, one hour additional battery reserve shall be installed.
 - (II) For central offices serving fewer than 10,000 lines, repeater huts, microwave radio sites, and other interoffice facilities requiring power, a mobile power source shall be available which can be delivered and connected. Additional battery reserve capacity beyond the four-hour minimum shall be installed by the LEC at these locations based on the consideration of the following local conditions:
 - (A) reasonable travel time (the time from personnel call-out through arrival at the facility);
 - (B) time for procuring and transporting the portable engine to the site, placing it in position, and connecting it to the load;
 - (C) number of sites serviced by one engine (commercial power failures may simultaneously affect more than one facility); and
 - (D) frequency and duration of past commercial power failures.

- (d) Service interruptions for an extended time due to maintenance requirements shall be performed at a time that causes minimal inconvenience to impacted customers. The LEC shall take reasonable steps to notify the customer in advance of extended maintenance requirements. The LEC shall also make emergency service available when the provider of telecommunications service knows that the service interruption affects 1,000 or more access lines and when the provider of telecommunications service knows, based upon the prior experience of the LEC, that the interruption may last more than four hours during the hours of 8 a.m. to 10 p.m. If the LEC cannot provide emergency service, it shall file a report of the occurrence as required by paragraph 2143(h).
- (e) Each LEC shall develop a general contingency plan to prevent or minimize any service interruptions due to the catastrophic loss of a central office switch that serves more than 10,000 access lines or is the toll or tandem switching office for 10,000 access lines. The plan shall describe the actions and systems installed to prevent or minimize the probability of such an occurrence as well as describe the actions and systems available to minimize the extent of any incurred service interruption.

2336. Adequacy of Service.

- (a) Each LEC and toll service provider shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available at all times, including the average busy hour of the busy season. To meet this objective, each LEC and toll service provider shall conduct traffic studies, employ reasonable procedures for forecasting future service demand and maintain the records necessary to demonstrate to the Commission that sufficient equipment is in use and that an adequate operating force is provided.
- (b) The criteria for quality of service define a minimum acceptable standard for the most basic elements of telecommunications service. The rules do not attempt to define all criteria for all service applications or the most desirable service level for any basic element except for the minimal acceptable standard. In the event this subchapter does not cover a specific service element, the provider of telecommunications service shall meet generally accepted industry standards for that element and the total service. Organizations that are recognized for establishing standards that may be appropriate for telecommunications services provided in this state include the IEEE, ANSI, the Rural Utility Service (RUS), and the FCC.
- (c) The standards within this subchapter establish the minimum acceptable quality of service under normal operating conditions. They do not establish a level of performance to be achieved during the periods of emergency, catastrophe, natural disaster, severe storm, acts of terrorism, acts of negligent or willful misconduct by a customer or third parties including but not limited to outages originating from the introduction of a virus onto the provider of telecommunications service's network, or other events affecting large numbers of customers nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events for which a provider of telecommunications service may not have been expected to accommodate, or which are outside of the provider's control including but not limited to failure of the customer to permit the provider of telecommunications service reasonable access to its facilities, equipment or customer premise, and delay caused by local, state, federal or tribal government entities in approving easements or access to rights of way. To the extent such conditions affect the measurement records required or the ability of the provider to meet any other service standards, it is the responsibility of the provider to separately document the duration and magnitude or effect of such occurrences in its records.

2337. Standard Performance Characteristics for Customer Access Lines.

LECs shall construct and maintain all basic service local access lines used for individual line service to meet generally accepted industry standards as the specifications evolve and improve over time. Organizations that are recognized for establishing standards that may be appropriate for local access lines include the IEEE, the ANSI and the FCC. Specifications for resale or unbundled network elements may also be appropriate for establishing such standards.

- (a) Each LEC shall, as good utility practice, engage in testing its physical plant for all the following purposes:
 - (I) identifying potential trouble (routine, preventive, or proactive testing);
 - (II) locating or specifying the type of circuit problem or deficiency (diagnostic testing); and
 - (III) determining the appropriate course of action upon receipt of a customer trouble report to resolve the customer trouble report. Upon receipt of a trouble report pertaining to the LEC's network, the LEC shall test the local access line. The records of these test results shall be maintained pursuant to subparagraph 2005(c)(V). The test results shall be made available to the customer, upon request. This information shall be provided to the Commission upon request.

2338. Network Call Completion Requirements.

- (a) Direct dialed calls.
 - (I) The LEC shall construct and maintain sufficient central office local usage message path capacity, interoffice channel capacity, and other necessary facilities to meet the following minimum requirements during any normal busy hour:
 - (A) dial tone within three seconds for 98 percent of call attempts on the switched network;
 - (B) correct termination of 98 percent of properly dialed intraoffice or interoffice calls within an extended service area; and
 - (C) correct termination of 98 percent of properly dialed intraLATA or interLATA calls when the call is routed entirely over the network of the LEC.
 - (II) Unless otherwise authorized by the Commission, an interexchange provider shall maintain sufficient switching and network channel capacities and other necessary facilities so that 98 percent of properly dialed toll calls are correctly terminated.
 - (III) A dialed call shall be considered properly terminated if:
 - (A) the calling party receives an indication of ringing, a ringing signal is delivered to the station location of the called party, the called party answers, and a connection is established between the calling and called parties;
 - (B) if the called number is busy, the calling party receives a busy signal; or
 - (C) a call to a non-working code or inoperative customer number is directed to the intercept service of the LEC.
 - (IV) A dialed call shall not be considered properly terminated if a connection cannot be established between the calling and called parties, and the calling party receives an overflow announcement or an overflow signal that is different from the called party busy signal.
 - (V) All interexchange providers that use connections provided from the line side of the central office of the LEC or connections that require use of a special access code to reach the provider of telecommunications service, in addition to using trunk side connections without this requirement provided by the LEC at this or any other central office, shall order sufficient quantities of switched access service from the LEC to maintain the same blocking

probability on those connections as the provider of telecommunications service normally establishes for trunk side connections without the access code requirement using similar assumptions of customer toll calling demand. Normally, the Commission shall consider a .01 blocking probability to be a desirable parameter for ordering switched access service from a LEC.

2339. – 2359. [Reserved].

Collection and Disclosure of Personal Information

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to regulate the collection and disclosure of personal information obtained by providers of telecommunications service and to identify procedures for protecting the personal information of the providers' customers.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-4-101, and 40-2-108, C.R.S.

2360. Applicability.

Rules 2360 through 2399 apply to all providers of telecommunications service regulated under Title 40, Article 15, Parts 2 and 3, C.R.S.

2361. Definitions.

The following definition applies only in the context of rules 2360 through 2399.

- (a) "Customer proprietary network information" has the same meaning as the meaning given to such term in 47 U.S.C. § 222(h)(1).

2362. Incorporation by Reference.

Except as provided in paragraph 2361(a), the Commission incorporates by reference the regulations published in 47 C.F.R. § Part 64, Subpart U, as identified in rule 2008.

2363. – 2399. [Reserved].

COSTING AND RATES

Cost Allocation

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to prescribe allocation methodologies for HCSM recipients and providers of Part II, Part III, and wholesale services that ensure deregulated services are not subsidized by regulated services after providers of telecommunications service have separated all investments and expenses associated with facilities and equipment for use by interstate users or providers of intrastate telecommunications services according to applicable federal separations procedures and agreements.

The statutory authority for the promulgation of these rules may be found at §§ 40-15-106, 40-15-108(2) and 40-2-108, C.R.S.

2400. Applicability.

- (a) Except as specifically provided otherwise, rules 2400 through 2459 apply to all intrastate providers of telecommunications service who provide both regulated and deregulated telecommunications services as permitted by law and to providers of telecommunications service who provide facilities and equipment for use by interstate users or providers of intrastate telecommunications services.
- (b) Except as otherwise specifically noted, rule 2415 is applicable to rural telecommunications service providers, as defined in § 40-15-102(24.5), C.R.S., that:
 - (I) are not average-schedule companies as defined in 47 C.F.R. §§ 69.605 to 69.610 (average-schedule LEC); and
 - (II) have opted to have their access charges regulated by the Commission in accordance with § 40-15-105(2), C.R.S.
- (c) Rule 2413 is applicable to all rural telecommunications service providers.

2401. Definitions.

The following definitions apply only in the context of rules 2400 through 2459.

- (a) "Cross-subsidization" occurs when telecommunications services which are not subject to the jurisdiction of the Commission (deregulated services) are priced below cost by use of subsidization from customers of services subject to the jurisdiction of the Commission (regulated services); or when a telecommunications service provider's deregulated services derive benefits from the regulated operations without the regulated operations receiving just and reasonable compensation from the deregulated operations for the benefits derived.
- (b) Deregulated telecommunications services" is defined pursuant to § 40-15-102(6), C.R.S.
- (c) "Fully distributed costs" (FDC) means the costs derived by assigning the total historical costs of the firm to individual products or services using cost accounting, engineering, and economic standards. FDCs include not only all costs related to the provision of service but also the return on investment.
- (d) "Regulated telecommunications services" is defined pursuant to § 40-15-102(24), C.R.S.

2402. Incorporation by Reference.

References in these rules to Parts 32, 36, 64, and 69 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2403. Applicability to Specific Types of Services.

- (a) Each provider of telecommunications service shall file with the Commission a list of each service that it offers, providing a description of such service and its classification of service as a regulated or deregulated telecommunications service, as those terms are used in Title 40, Article 15, C.R.S., and as determined by the Commission. This list shall be updated as changes occur.
- (b) Providers of telecommunications service are permitted to continue accounting for non-tariff services as regulated services when they are offered incidental to tariff services provided that all of the following conditions are met:
 - (I) the non-tariff services are outgrowths of regulated operations;
 - (II) the total revenue from all non-tariff services does not exceed;

- (A) for all providers of telecommunications service except rural telecommunications providers, one percent of the telecommunications service provider's total annual Colorado operating revenue for regulated services; for rural telecommunications providers, seven percent of such telecommunications service provider's total annual Colorado operating revenue for regulated services; or
 - (B) the provider of telecommunications service-specific revenue levels as ordered by the Commission.
- (III) The service is a non-line-of-business service; and
- (IV) the service has traditionally been treated as an incidental service.
- (c) Providers of telecommunications service are permitted to continue accounting for deregulated de minimis services, which have traditionally been offered in conjunction with tariff services, as regulated services provided that the following conditions are met:
 - (I) The sum of the revenues from the incidental services of paragraph (b) and these de minimis deregulated services does not exceed:
 - (A) for all providers of telecommunications service except rural telecommunications providers, one percent of the telecommunications service provider's total annual Colorado operating revenue for regulated services; for rural telecommunications providers, seven percent of such telecommunications service provider's total annual Colorado operating revenue for regulated services, provided that the rates charged for such de minimis deregulated services are compensatory; or
 - (B) the provider of telecommunications service-specific revenue levels as ordered by the Commission.
 - (II) The service has traditionally been treated as a de minimis service.
- (d) Providers of telecommunications service shall specify precisely which services they propose to treat as incidental services and which services they propose to treat as de minimis services.
- (e) Each provider of telecommunications service shall demonstrate that any activity proposed for treatment as either an incidental service or as a de minimis service complies with this rule.

2404. Uniform System of Accounts.

- (a) All providers of telecommunications service shall maintain their books and records in accordance with FCC regulations found at 47 C.F.R., Part 32, Class A, except for rural telecommunications providers, who may use 47 C.F.R., Part 32, Class A or Class B.
- (b) In the event a provider of telecommunications service, other than a CLEC, is authorized by the FCC to maintain its books of account and records in a manner other than under the USOA, it may seek a variance from paragraph (a) allowing it to maintain its books of account and records as permitted by the FCC. However, the provider of telecommunications service requesting such a variance shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.
- (c) Providers of telecommunications service who were already authorized by the Commission prior to April 30, 1990, to maintain their books of account and records in a manner other than the USOA need not seek a variance from paragraph (a) and are authorized to continue maintaining their books of account and records in the manner previously authorized by the Commission.

- (d) CLECs are automatically exempt from paragraph (a). However, a CLEC shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

2405. State-Interstate Separation of Costs.

- (a) Any provider of telecommunications service that provides facilities or equipment for use by customers or providers of interstate telecommunications services shall apply federal cost allocation and separations principles as described in 47 C.F.R., Part 64 (The Cost Allocation Manual) and 47 C.F.R., Part 36 (The Separations Manual).
- (b) The FCC has acknowledged that states retain the ability to adopt any reasonable allocation of costs between the intrastate and interstate jurisdictions for state ratemaking and other purposes. In order to ensure that deregulated services are not subsidized by regulated services after a provider of telecommunications service has applied federal cost allocation and separations principles, the Commission shall adopt reasonable allocation methods or factors for intrastate costs.
- (c) A provider of telecommunications service, that is not required by the FCC to apply the Part 36 rules may apply for a variance of paragraph (a) as it relates to Part 36. However, the provider requesting such a variance shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.
- (d) If a provider of telecommunications services has been given an exemption by the FCC from either Part 64 or Part 36, it is automatically exempt from all corresponding requirements of paragraph (a). However, the provider of telecommunications service shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

2406. Cost Segregation Standards Generally.

For purposes of these rules, and in order to comply with §§ 40-15-106 and 40-15-108(2), C.R.S.:

- (a) All providers of telecommunications service may perform a FDC study for Commission use. In performing an FDC study, all providers of telecommunications service shall follow generally accepted cost accounting and cost causation principles.
- (b) When performing a FDC study the following cost-segregation principles shall be used by all providers of telecommunications service (listed in descending order of preferred application):
 - (I) costs are assigned to all services that cause those costs to be incurred;
 - (II) costs that are identified in their entirety with a specific service are directly assigned to that service;
 - (III) costs that are not directly traceable to a particular service, but do vary in total with some measure of the volume of activity that is associated with services, are segregated according to the estimated rate of variability;
 - (IV) costs of capacity are assigned according to whether they are necessary for the performance of the service. For purposes of allocating network costs, providers of telecommunications service shall assign capacity costs on equipped lines based on the bandwidth required for each service which uses the network. For purposes of allocating voice grade services, the allocation shall use no more than 64 kbps bandwidth, or other Commission approved allocation factor; and
 - (V) a service benefits from a cost if that cost is necessary to render that service.

- (c) Any investments or expenses that are used jointly by two or more different services or that are used in common by services shall be segregated among all of those services using allocators that, to the maximum extent practicable, track how those costs are incurred.
- (d) Consistent with FCC Docket 86-111, adopted December 23, 1986, paragraph 131, these rules do not require or suggest the sole use of Cost Accounting Standards Board (CASB) standards.
- (e) The method for segregating investments and associated expenses which are common or jointly used shall ensure that all services that use those investments and expenses are allocated a portion of the joint investments and expenses. The same allocation factors used to allocate network costs shall be used for common or jointly used investments and expenses. Incremental marginal cost studies will not be accepted for the purposes of this rule.
- (f) Each provider of telecommunications service shall keep records and all supporting documentation for cost segregations for two years following the close of the fiscal year associated with the records.

2407. Specific Cost-Segregation Standards and Guidelines.

- (a) All investments and expenses attributable to interstate jurisdictional services are to be allocated using applicable federal rules. Each provider of telecommunications service shall demonstrate that such rules have been properly applied.
- (b) Each service shall be treated specifically in the cost-segregation procedure. There shall be a description of each service provided by the provider of telecommunications service that identifies the service, the service family, and describes how the service or service family is provided. Unless the service qualifies for treatment as an incidental service under paragraph 2403(b) or a de minimis service under paragraph 2403(c), sufficient information about the service shall be given to determine the appropriate cost categories to be employed.
- (c) In order to provide a consistent approach to segregating all costs, the Commission requires that the following factors be applied (listed in descending order of preferred application):
 - (I) Costs shall be directly assigned whenever possible. Directly assignable costs are defined as those costs that can be attributed only to a specific service (this employs the Traceability principle in subparagraph 2406(b)(II)). Where more than one service uses an investment or causes a cost to be incurred, direct assignment is inappropriate.
 - (II) Methods of segregating common or joint investments and expenses shall use the provider of telecommunications service's own engineering and service-provisioning design criteria as the primary assumptions (this employs the Variability principle in subparagraph 2406(b)(III)). When design criteria are used, the segregation method employed shall include the following to the maximum extent possible:
 - (A) If the service incorporates amounts of use that vary by time period and the engineering design criteria are sensitive to the peak-period usage (for example, end office or toll switching), then the segregation method shall also follow the engineering cost causation.
 - (B) Common or joint costs that vary in direct proportion to the relative amounts of use of a service shall be segregated based upon those relative amounts of use.
 - (III) Common or joint costs that do not vary in direct proportion to the relevant amounts of use of the service shall be segregated assigning capacity costs based upon the bandwidth required for each service which uses the network by a surrogate measure that has a logical or observable correlation to the use of the service (this employs the Capacity Required

principle in subparagraph 2406(b)(IV)); except that a time-reporting method of allocation shall be used for certain labor-intensive items as required in subparagraph (IV).

- (IV) A time-reporting method of allocation shall be used for labor-intensive customer operations, service related expenses, or investments of significance. The allocation of joint marketing (USOA Account Number 6610), operator services, local business office, and planning costs shall employ actual time-reporting methods for the allocation, if not directly assigned.
 - (A) An allocation method that uses statistically valid samples based on time reporting is permissible.
 - (B) A method other than a strict time-reporting allocation method may be approved by the Commission if it can be verified that the surrogate method is reasonably related to the expense being allocated.
- (V) Residual common marketing expenses that cannot be directly assigned or directly or indirectly attributed shall be allocated using a general marketing allocator. This allocator shall be derived from the previously assigned or attributed marketing expenses between regulated and deregulated operations.
- (VI) Common costs for which there is no direct or indirect measure of allocation shall be segregated using an appropriate general allocator that is based upon total expenses otherwise assigned (this employs the beneficiality principle in subparagraph 2406(b)(V)).
- (d) General allocators shall be used only in exceptional cases and, then, only when the justification for their use is fully explained.
- (e) Providers of telecommunications service shall provide the Commission with all the data necessary to verify the cost segregation.
- (f) It is inappropriate to allocate investments or expenses associated with the newly developed services exclusively to existing services. As new services begin to use joint and common investments and expenses are incurred, the methods of segregation shall be modified to track the usage and expenses.

2408. Implementation and Enforcement.

- (a) A certified audit report shall be filed with the Commission when a provider of telecommunications service files a general rate case, which includes requests for a change in revenue requirements, a change in the spread of rates, a change in rate base, and a change in the rate-of-return.
- (b) Certified auditor's reports required under paragraph 2408(a) shall include the following information:
 - (I) the scope of work conducted, specifying the items examined and the extent of examination;
 - (II) the auditor's conclusion as to whether actual methods and procedures designed and implemented by the provider of telecommunications service conform to the procedures described in these rules;
 - (III) any material exceptions or qualifications that the auditor may have identifying the adequacy of the procedures;
 - (IV) any limitations in the scope of review imposed upon the auditor by the provider of telecommunications service; and
 - (V) a statement that the attestation standards have been fully met during the examination.

- (c) Any work papers used by independent auditors shall be made available for Commission staff review. The provider of telecommunications service shall authorize the release of such work papers by the auditors to the Commission staff.
- (d) The certified auditor's report, detailed specifications, documentation, supporting information, and Appendix B may be treated as confidential pursuant to applicable Commission rules governing confidential information.
- (e) A provider of telecommunications service seeking any change in revenue requirements shall have the burden of demonstrating that the change is based on cost information and standards established by these rules.

2409. Informational Requirements.

Each provider of telecommunications service subject to these rules shall provide the following information:

- (a) a description of each service provided by the provider of telecommunications service that identifies the service, the service family, and describes how the service or service family is provided in order to provide sufficient information about the service to ascertain its cost treatment;
- (b) a statement of whether the service is regulated or deregulated. The statement shall also identify the services subject to a Commission decision and order if, in association with these services, the provider of telecommunications service is required by the Commission to file an accounting plan that segregates assets, liabilities, revenues, and expenses in order to define rate base and to implement alternatives to rate-of-return regulation;
- (c) a list of all services that the provider of telecommunications service now treats as incidental services, that are accorded incidental accounting treatment, and the justification for treating each service as incidental;
- (d) a list of all services which the provider of telecommunications service now treats as de minimis services, accords de minimis accounting treatment, and the justification for treating each as de minimis; and
- (e) if the provider of telecommunications service is a local exchange provider, a chart showing all corporate affiliates and a statement identifying those affiliates that engage in transactions (as described in rule 2411) with the provider of telecommunications service and describing the nature, terms, and frequency of those transactions.

2410. Reporting and Record Keeping.

- (a) Each provider of telecommunications service shall keep records and all supporting documentation for cost segregations for two years following the close of the fiscal year associated with the records.
- (b) Each provider of telecommunications service, except rural telecommunications providers, shall file with the Commission its segregated financial statements as part of its annual report.

2411. Affiliate Transactions - Local Exchange Providers.

- (a) Transactions with affiliates involving asset transfers or provision of services into or out of the regulated accounts shall be recorded by the provider of telecommunications service in its regulated accounts as provided in paragraphs (b) through (e).
- (b) Transfer of assets:

- (I) Assets sold or transferred between a provider of telecommunications service and its affiliate pursuant to a tariff shall be recorded in the appropriate revenue accounts at the tariff rate. Non-tariffed assets sold or transferred between a provider of telecommunications service and its affiliate that qualify for prevailing price valuation as defined in paragraph (d) shall be recorded at the prevailing price.
 - (II) All other assets sold by or transferred from a provider of telecommunications service to its affiliate shall be recorded at either fair market value or net book cost, whichever is higher. All other assets purchased by or transferred to a provider from its affiliate shall be recorded at either fair market value or net book cost, whichever is lower. For purposes of this subparagraph, providers of telecommunications service shall make a good faith determination of fair market value.
- (c) Valuation of services provided to or by an affiliate:
- (I) Services provided between a provider of telecommunications service and its affiliate pursuant to a tariff shall be recorded in the appropriate revenue accounts at the tariff rate. Non-tariff services provided between a provider of telecommunications service and its affiliate pursuant to publicly-filed agreements submitted to the Commission pursuant to section 252(e) of the Communications Act of 1934 or statements of generally available terms pursuant to section 252(f) shall be recorded using the charges appearing in such publicly-filed agreements or statements. Non-tariff services provided between a provider and its affiliate that qualify for prevailing price valuation, as defined in paragraph (d), shall be recorded at the prevailing price.
 - (II) All other services provided to an affiliate shall be recorded at the greater of fair market value or FDC. All other services received by a provider of telecommunications service from its affiliate shall be recorded at either fair market value or FDC, whichever is lower, except that services received by a provider from an affiliate which exists solely for the purpose of providing services to members of the provider's corporate family shall be recorded at FDC. For purposes of this subparagraph, providers shall make a good faith determination of fair market value.
- (d) In order to qualify for prevailing price valuation, sales of a particular asset or service to third parties shall be greater than 50 percent of all such products or services sold by an entity. Providers of telecommunications service shall apply this 50 percent threshold on an asset-by-asset, service-by-service basis, rather than on a product line or service line basis. In the case of transactions for assets and services subject to § 272 of the Communications Act of 1934, a RBOC may record such transactions at prevailing price regardless of whether the 50 percent threshold has been satisfied.
- (e) Income taxes shall be allocated among the regulated activities of the provider of telecommunications service, its non-regulated divisions, and members of affiliated groups. If income taxes are determined on a consolidated basis by the provider of telecommunications service and other members of an affiliated group, the income tax expense to be recorded by the provider of telecommunications service shall be the same as if determined for the provider of telecommunications service separately for all time periods, except that the tax effect of carry-back and carry-forward operating losses, investment tax credits, or other tax credits generated by operations of the provider of telecommunications service shall be recorded by the provider during the period they are applied in settlement of the taxes otherwise attributable to any member, or combination of members, of the affiliated group.
- (f) All providers of telecommunications service, except rural telecommunications providers and interexchange providers, shall provide a statement identifying all affiliates that engage in transactions with the provider of telecommunications service and describing the nature, terms and frequency of those transactions as defined below.

- (I) The provider of telecommunications service shall state, for each service transaction, whether the service involves the provision of services or asset transfers and how such transactions are accomplished.
- (II) The provider of telecommunications service shall state the terms at which the service is provided (i.e., at a tariff rate, the prevailing market price, or at the FDC).
- (III) The provider of telecommunications service shall state the frequency with which the service is rendered.

2412. Separation of Colorado Intrastate Access Costs.

- (a) Pursuant to § 40-15-108(1), C.R.S., each provider of telecommunications service who provides facilities or equipment for use by interstate customers or other providers of telecommunications services shall separate all investments and expenses associated therewith according to applicable federal separation procedures and agreements. Prior to separating intrastate costs, each provider of telecommunications service shall segregate its intrastate investments and expenses in accordance with rules 2400 through 2459.
- (b) Colorado intrastate access costs shall be separated from other jurisdictional costs using the separation procedures set forth at 47 C.F.R., Part 36, except as follows:
 - (I) Common line allocation. As provided in subparagraphs (I)(A) and (B), the lesser of 26.5 percent or twice the subscriber line usage (SLU) as measured by the ratio of intrastate interexchange holding time minutes of use to total holding time minutes of use applicable to traffic originating and terminating in the study area, as defined in 47 C.F.R., Part 36, shall be allocated to Colorado switched access. This allocation factor shall be known as the "basic allocation factor".
 - (A) The basic allocation factor specified in this subparagraph shall be modified by multiplying it by a weighting factor, which results in the "Colorado basic allocation factor".
 - (i) For rural telecommunications providers reporting an average unseparated loop cost per working loop less than or equal to 115 percent of the national average for this cost, the weighting factor shall be one (1).
 - (ii) For rural telecommunications providers reporting an average unseparated loop cost per working loop in excess of 115 percent of the national average for this cost, the weighting factor shall be 115 percent of the national average unseparated loop cost per working loop divided by the rural telecommunications provider's average unseparated loop cost per working loop.
 - (B) The Colorado basic allocation factor shall be used for allocating: Subcategory 1.3 of Exchange Line Cable and Wire facilities, Category 4.13 of Exchange Line Circuit equipment excluding Wideband, and Category 1 of Other Information Origination/Termination Equipment.
 - (C) Local switching allocations. Except as provided in this subparagraph, the allocation of Category 3 of Local Switching Equipment shall follow 47 C.F.R. § 36.125, using Colorado relative dial equipment minutes of use (DEM) for interLATA and intraLATA switched access. The Colorado DEM factors shall be weighted by a factor of 1.5. In no event shall the sum of all the interstate and the intrastate allocation factors be greater than 0.85. If the arithmetic sum exceeds 0.85, the intrastate allocation factor(s) shall be reduced accordingly.

(D) Exchange trunk allocations. The allocations shall be based on 47 C.F.R. § 69.305.

2413. Colorado Intrastate Access Charge Elements.

- (a) The rate elements included in the access tariffs of rural telecommunications providers who are not average-schedule rural telecommunications providers, shall be based on the application of 47 C.F.R. §§ 69.1 to 69.502, to the intrastate access revenue requirement of the rural telecommunications provider.
- (b) The intrastate access charge elements for average-schedule rural telecommunications providers shall be set at the average, as determined by the HCSM Administrator, of the access rate elements of the rural telecommunications providers who are not average-schedule LECs prevailing at the time that the average-schedule rural telecommunications provider's tariff rate elements are established. Average-schedule rural telecommunications providers are not required to modify their access charge elements each time the administrator recalculates the average of the access charge elements, but each shall comply with the provisions of paragraph 2855(f). When modified access charge elements are established, through a request by the LEC, a formal complaint, or other proceeding, the access charge elements shall be set at the then-current average.

2414.– 2459. [Reserved].

Costing and Pricing of Regulated Telecommunications Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify standards for determining costs for pricing of regulated services and to provide guidelines for appropriate market and cost analyses that underlie just and reasonable rates.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-110, and 40-2-108, C.R.S.

2460. Applicability.

These Costing and Pricing Rules apply to all providers of telecommunications service other than CLECs. In the event of any inconsistency between these Costing and Pricing Rules and the Cost Allocation Rules, the latter shall apply.

2461. Definitions.

The following definitions apply only in the context of rules 2460 through 2499.

- (a) "Average cost pricing" means the practice of setting the price of a product equal to the average total cost of that product. Such a result can be achieved by adding a mark-up to the average variable cost of the product.
- (b) "Average fixed cost" means the sum of the relevant fixed costs of producing a given quantity of output, divided by the total number of units produced.
- (c) "Average service long-run incremental cost" means the total service long-run incremental cost divided by the total number of units of the service.
- (d) "Average total cost" means the total cost of producing a given quantity of output, divided by the total number of units produced. Average total cost equals the sum of average variable cost and average fixed cost.

- (e) "Average variable cost" means the sum of all variable costs of producing a given quantity of output, divided by the total number of units produced.
- (f) "Bundling" means a situation in which the rate elements and tariff provisions for a service are aggregated such that customers are unable to buy some features and functions included within the aggregation without buying them all.
- (g) "Cost accounting standards" means the assignment of costs to products, services, or customer classes using the following five criteria:
 - (I) Cost causation. Costs are assigned to the revenue-producing products or services that cause those costs to be incurred;
 - (II) Traceability. Costs are assigned using the cost attribute that permits the resources represented by the costs to be identified in their entirety with a revenue-producing activity;
 - (III) Variability. Costs that vary in total with variations in some measure of the volume of activity that is associated with the revenue-producing product or service but that are not traceable to a revenue-producing product or service, are assigned to the revenue-producing product or service based upon the estimated rate of variability;
 - (IV) Capacity required. Costs of capacity are assigned according to whether they are necessary for the performance of the service. Network costs shall be allocated based upon the bandwidth required for each service that uses the network. For purposes of allocating voice grade service, the allocation shall use no more than 64kbps bandwidth, or other Commission-approved allocation factor; and
 - (V) Beneficiality. Costs are assigned to various services based upon the degree of benefit derived by each service.
- (h) "Direct cost" means a cost specifically identifiable with the production of an individual service.

These costs would not be incurred if the service was not offered.

- (i) "Economies of scale" exist if the average cost of producing any group of services increases less than proportionately to an increase in quantity of those services.
- (j) "Economies of scope" exist if the cost of producing any group of services by one firm is less than the sum of the costs of producing the same group and quantities of those services by two or more firms providing mutually exclusive subsets of those services.
- (k) "Elasticity of demand" means the percentage change in the quantity demanded of a service, divided by the percentage change in the price of the service.
- (l) "Elasticity of supply" means the percentage change in the quantity supplied of a service, divided by the percentage change in the price of the service.
- (m) "Fixed cost" means a cost that does not vary with respect to the volume of output within the specified planning horizon. Such a cost must be paid regardless of how many units the firm produces, or whether it produces at all, as long as the firm does not withdraw entirely from the relevant market.
- (n) "Fully distributed costs" (FDC) means the costs derived by assigning the total historical costs of the firm to individual products or services using cost accounting, engineering, and economic standards. FDCs include not only all justifiable costs related to the provision of service but also the return on investment.

- (o) "Functional component" means a cost element or group of cost elements representing the smallest feasible level of unbundling capable of being in a tariff and offered as a service.
- (p) "Historical costs" are the investments or expenses incurred at the time an input or resource is purchased. Such costs are not necessarily equal to the current cost of replacing the input or resource and are directly obtainable from accounting records of the provider of telecommunications service.
- (q) "Imputation" means the practice of including the tariff price of a Part II or fully regulated Part III service in the price floor for the service in question, where:
 - (I) Part II or fully regulated Part III services are bundled with other services; or
 - (II) Part II or fully regulated Part III services are used as inputs to provide either a final or intermediate service.
- (r) "Incremental service incremental cost" means the change in total cost resulting from increasing (or decreasing) the quantity of output of a service by a small number of units, divided by that small number of units. If total cost changes in a continuous fashion as output changes and the increment is sufficiently small, incremental service incremental cost approximates marginal cost.
- (s) "Joint cost" means a cost that occurs when the production process involves intermediate or final outputs that maintains fixed proportions with respect to two or more services.
- (t) "Long-run costs" means the costs incurred by a firm within a specified planning horizon where all elements of the production process can be varied, including the size and type of facilities and other used resources.
- (u) "Marginal cost" means a theoretical change in total cost resulting from an extremely small change in output. In mathematical terms, marginal cost is the first derivative of the total cost function with respect to output.
- (v) "Marginal cost pricing" means the theoretical practice of establishing the price of a product equal to the marginal cost of the last unit of output of the product.
- (w) "Market power" means any power exerted by a firm in a market where the competitive process cannot produce the theoretical outcomes and benefits of perfect competition. The degree of market power is determined by a consideration of the following factors:
 - (I) the relevant market, as determined by service and geographic substitutability on both the demand and supply sides of the market;
 - (II) the market share of the particular service held by the regulated provider of telecommunications service in the relevant market;
 - (III) the supply responsiveness (or elasticity) of competitors in the relevant market, as determined by an assessment of entry and expansion conditions of competitors; and
 - (IV) the market demand characteristics in the relevant market. (For example, the more elastic the total market demand the more customers view other services as substitutes or alternatives for the telecommunications service provider's service.)
- (x) "Monopoly", in the strictest sense, means a situation in which the sole supplier of a service for which there are no substitutes has many buyers of that service. The simple economic analysis of monopoly relaxes the assumption of no substitutes, but assumes that the monopolist faces a relatively stable and predictable downward-sloping market demand curve.

- (y) "Natural monopoly" exists if a single firm produces its set of outputs at less cost than could be achieved by dividing that set among two or more firms.
- (z) "Overhead costs" means shared costs related to the production of all services offered by a firm.
- (aa) "Perfect competition":
 - (I) A market structure is perfectly competitive when the following conditions prevail:
 - (A) there are a large number of firms each with an insubstantial share of the market;
 - (B) the firms possess perfect information and produce a homogeneous service using identical production processes; and
 - (C) there is free entry into and exit from the industry.
 - (II) Perfect competition implies that both marginal revenue and average revenue are equal to price in long run equilibrium. Thus, firms are price takers and can sell as much as they are capable of producing at the prevailing price.
- (bb) "Price ceiling" means the maximum level at which a provider of telecommunications service may price a service.
- (cc) "Price discrimination" means the act of selling different units of a service at price differentials not directly corresponding to differences in cost.
 - (I) Price discrimination includes both:
 - (A) the sale of identical units of the service to different customers at different prices; and
 - (B) the sale of identical units of the service to the same customer at different prices.
 - (II) In order for a firm to practice price discrimination profitably with respect to a particular service, it shall have:
 - (A) some control over the price it charges for that service;
 - (B) the ability to segregate its customers for that service into groups with different price elasticities of demand; and
 - (C) the ability to prevent resale of the service by those customers who can buy it at the lower price.
- (dd) "Price floor" means the minimum level at which a provider may price a service.
- (ee) "Ramsey pricing" means, as subject to relevant regulatory constraints, the practice of pricing all products and services such that the sum of customer and producer welfare is maximized.
- (ff) "Replacement cost" means the cost that the provider of a service would incur to construct its plant and facilities using the current, best technology at current prices but without changing the physical position of such facilities.
- (gg) "Residual pricing" means that service price is set so that revenues from the service equal all costs not covered by revenues from all other services offered by the firm once their prices are set.

- (hh) "Service-specific fixed cost" means a fixed cost caused by the existence of a specific service within the array of services currently offered that does not vary with changes in the number of units produced but would be eliminated if the specific service were deleted from the current array of services offered.
- (ii) "Shared cost" means a cost incurred for facilities and resources used in common for the production of two or more services.
- (jj) "Short-run costs" means the costs incurred by a firm operating within a planning horizon where many elements of the production process are fixed and cannot be readily varied, including the size and type of certain used facilities.
- (kk) "Stand alone cost" means the total cost incurred by a firm to produce a given volume of a service or group of services as if it were the sole service or group of services produced by that firm.
- (ll) "Sunk cost" means a cost that has already been incurred, is irretrievable, and cannot be avoided, even by discontinuing production entirely.
- (mm) "Total cost" means the sum of all costs (including fixed and variable costs) incurred by the firm to produce any given level of output.
- (nn) "Total element long run incremental cost" (TELRIC) has the same meaning as 47 C.F.R. § 51.505.
- (oo) "Total incremental cost" means the change in total cost resulting from an increase or decrease in output. In mathematical terms, total incremental cost equals total cost assuming the increment is produced, minus total cost assuming the increment is not produced.
- (pp) "Total service incremental revenue" means the change in the firm's total revenues resulting from adding or deleting a service.
- (qq) "Total service long run incremental cost" (TSLRIC) is equal to the firm's total cost of producing all of its services assuming the service (or group of services) in question is offered minus the firm's total cost of producing all of its services excluding the service (or group of services) in question.
 - (I) The strict definition of TSLRIC requires that it be calculated by producing two total cost studies and then subtracting one from the other. An estimate of TSLRIC can be made directly.
 - (II) The strict definition of TSLRIC incorporates a forward looking concept which shall, therefore, include the costs that the firm would incur today if it were to install its own original network. An estimate of TSLRIC can be arrived at by assuming that the geographic locations of routes and possible switching locations are the same as those available to the firm today and that future technological changes can be anticipated. In making this estimate, the assumptions underlying it shall be made explicit and the estimating procedure shall reflect the time period in which the resulting prices are anticipated to be in effect.
 - (III) TSLRIC includes both fixed and variable costs specific to the service (or group of services) in question.
 - (IV) The TSLRIC for a group of services is at least equal to the sum of the TSLRICs of the individual services within the group. If the TSLRIC for the group is greater than this sum, the difference is equal to the shared costs attributable to the group of services and/or to some subset of that group. In other words, these shared costs are part of the TSLRIC of the group but are not part of the TSLRIC of any individual service within the group.

- (rr) "Unbundling" means a situation in which the rate elements and tariff provisions for a retail service are disaggregated to the lowest level practicable to permit customers to buy the features and functions they desire without having to purchase those they do not want.
- (ss) "Variable cost" means a cost that changes (but not necessarily proportionately) either with the number of units produced of a given set of services or with the number of services provided.

2462. Service Applicability.

Colorado statutes (§ 40-15-101, C.R.S., et seq.) categorize telecommunications service regulation into three segments: Regulated Telecommunications Services (Part 2), Emerging Competitive Telecommunications Services (Part 3), and Deregulated Telecommunications Services (Part 4). The statutes, Commission decisions, and Commission rules categorize these telecommunications services into three regulatory schemes. The level of actual competition in a specific service is the primary determinant for the extent of regulation of that service under the statute.

- (a) Rule 2463 shall cover Part II telecommunications services.
- (b) Part III telecommunications services shall be treated differently depending upon the amount of actual demonstrated competition for each service.
 - (I) Part III telecommunications services for which the Commission has not made a determination regarding the level of competition or has determined that competition is absent or negligible (i.e., the provider of telecommunications service has significant market power for the service(s)) shall be covered by rule 2463.
 - (II) Part III telecommunications services for which the Commission has determined competition is sufficient to warrant relaxed regulatory treatment shall be covered by rule 2464.
- (c) Rules 2463 and 2464 do not apply to Part 4 telecommunications services. It is assumed that the competitive market determines prices for Part 4 services. Additional protection is provided by applicable Commission rules prohibiting cross-subsidization.

2463. Fully Regulated Telecommunications Services.

- (a) Costing.
 - (I) TSLRIC studies shall be provided at the time a service rate proposal is submitted. Other cost studies may be provided if deemed relevant (e.g., Total Element Long Run Incremental Costs). TSLRIC studies will be used to establish price floors as described below in subparagraph (b)(I). FDC studies shall be filed annually, within 120 days after the close of a provider of telecommunications service's fiscal year. FDC studies shall be used as a component of the actual pricing process described in subparagraph (b)(IV).
 - (II) If a provider of telecommunications service offers a new service that uses a part of the existing investment, a surrogate for a FDC study shall be performed for the new service for the purpose of allocating an appropriate portion of that existing investment to the new service. This is termed a surrogate study because most FDC studies are performed on existing products and services using historical information. The surrogate FDC study shall allocate the existing investment and expenses that the new service uses employing either actual historical or pro forma adjusted investments and expenses. Pro forma adjusted investments and expenses will be considered in cases where the provider of telecommunications service desires to reflect a more current view of expenses and/or investments; for example, in situations wherein the provider of telecommunications service has obsolete investments or one-time expenses on the books of account that would be inappropriate to include in a cost study for a new service. The estimates of existing costs to

be allocated to new services would reduce the total allocations of these costs to existing services by the same amount.

- (III) Cost studies shall be performed either for all specific service offerings or for all functional components that make up the entirety of services offered. The provider of telecommunications service shall notify the Commission in its documentation that it is using either service level or functional component level cost studies. If functional component level cost studies are used, the provider of telecommunications service shall also provide information sufficient to match functional components to services.
 - (IV) The FDC studies shall use the cost accounting standards defined in paragraph 2461(g), and the TSLRIC studies shall use the standards presented in the definition of TSLRIC to properly include all costs identifiably related to a given service. Any deviation from these standards shall be clearly stated, a justification provided, and approved by the Commission.
 - (V) Cost studies shall include, but are not limited to, the relevant costs for billing, marketing, advertising, and network costs in addition to any other relevant costs associated with the service.
 - (VI) Cost studies for any service offerings that include, as underlying functionalities, any tariff Part II services or Part III and Part IV services must impute the tariff rates as part of the costs of the services in question.
 - (VII) Cost studies must be approved by the Commission.
 - (VIII) Individual cost studies for each service or functional component must have been performed within three years of being filed.
- (b) Pricing.
- (I) The Commission shall set the prices for all fully regulated telecommunications services. Such prices shall be designed to advance universal service at just and reasonable rates. The price for each service must be set to satisfy the following conditions:
 - (A) Total revenue from the given service is equal to or greater than its total service long run incremental cost.
 - (B) Total revenue from any group of services in which the given service appears is equal to or greater than the TSLRIC of the group of services.
 - (C) Total revenue for the given service (or any group of services in which the given service appears) shall be equal to or less than the stand-alone cost for the service (or group of services). However, since stand-alone cost studies may be difficult and burdensome to execute, the Commission may use the FDC for the service (or group of services) plus some determined mark-up as a surrogate price ceiling. For a new service, a FDC study must be produced in accordance with subparagraph (a)(II).
 - (D) The access loop is not a separate service but rather is an input necessary for the provision of many telecommunications services. As such, costs associated with the access loop shall not appear in the TSLRIC of any single service requiring the access loop. Rather, it shall appear as part of the total service long run incremental cost of the entire group of services requiring the loop including deregulated services. Consequently, prices must be set so that the sum of the revenues from all services requiring the access loop covers not only the sum of the total service long run incremental costs for the individual services but also the shared cost of the loop. Finally, regarding the computation of stand-alone costs, since each service in

this group requires the access loop, the weighted allocated cost of the loop based on bandwidth shall appear in the stand-alone cost for each of these services.

- (II) Subparagraph (b)(I) will not apply if the Commission specifically determines that, for reasons of public policy, the price for a fully regulated telecommunications service may be below the price floor or above the price ceiling established in subparagraph (b)(I).
- (III) When the Commission sets the price of a fully regulated telecommunications service below its respective price floor, the amount below the price floor and the source from which the resulting deficit is made up must be identified and specifically approved by the Commission.
- (IV) The price set by the Commission for a fully regulated telecommunications service may include some portion of the overhead costs of the provider of telecommunications service in order to allow the provider of telecommunications service to recover its overall revenue requirement. The amount of overhead costs to be recovered by each fully regulated telecommunications service subject to these rules must be specifically identified and must represent the contributions of various services to the covering of overhead costs. As part of this pricing process, the Commission will consider FDC studies. In addition, the following non-exclusive list of factors may be considered by the Commission on a case-by-case basis, depending upon the complexity of the issues and the magnitude of the net revenue involved:
 - (A) other cost studies;
 - (B) market studies designed to determine market structure, extent of competition, etc.;
 - (C) elasticity of demand and supply studies;
 - (D) focus group results;
 - (E) survey results;
 - (F) social obligations, e.g., promotion of universal service and absence of rate shock;
 - (G) rate continuity; and/or
 - (H) statutory requirements.
- (V) Any changes to rates for fully regulated telecommunications services shall be made through the traditional tariff review process prior to implementation. This includes, but is not limited to, revenue neutral rate changes of any fully regulated telecommunications services.
- (VI) Residual pricing may not be used for basic emergency service or switched access service.
- (VII) Nothing in this paragraph shall be construed to limit the Commission's powers to do all things necessary in fulfilling its statutory duties.

2464. Part III Emerging Competitive Services Subject to an Alternative Form of Regulation.

- (a) Costing. The cost studies referred to in this rule must conform to the specifications outlined in paragraph 2463(a).
- (b) Pricing.

- (I) The price floor for Part III emerging competitive services subject to an alternative form of regulation shall be determined pursuant to paragraph 2463(b) and shall include imputation, as defined in paragraph 2461(q).
- (II) The price ceiling for Part III emerging competitive services subject to an alternative form of regulation shall be determined pursuant to subparagraph 2463(b)(I)(C) unless the Commission explicitly adopts an alternative such as, for example, the current price.
- (III) A provider of telecommunications service may request that the Commission review an existing price floor and/or price ceiling by filing a formal request with the Commission. The request shall be supported by appropriate revised cost studies, including imputation.
- (IV) The exact form of regulation of a Part III emerging competitive service subject to an alternative form of regulation shall be specified in the Commission order(s) granting the alternative form of regulation.

2465. Cost Studies to be Provided to the Commission.

(a) Contents.

- (I) The cost study results submitted by a provider of telecommunications service must specify the type of costs being estimated, irrespective of any legitimate simplification and/or approximation incorporated into the studies.
- (II) Cost studies must be produced in accordance with the definition of the type of costs being estimated. Obsolete equipment shall not be included in the incremental cost study.
- (III) The provider of telecommunications service shall identify all instances in which its estimate deviates from the definitions of the cost type. A written explanation justifying each such deviation on the basis of data limitations, methodological simplicity, or other practical considerations shall be provided. The explanation shall be sufficiently clear and detailed to allow interested parties to determine whether the deviation is justified and to understand its potential significance. The Commission has discretion to grant or deny each proposed deviation.
- (IV) The provider of telecommunications service shall identify the costs and elements of the production process it considers to be fixed within the specified planning horizon and the costs it considers to be variable.
- (V) The provider of telecommunications service shall identify any included sunk costs and shall calculate the cost reduction that results from the exclusion of such sunk costs.
- (VI) The provider of telecommunications service shall identify all shared and overhead costs and specify those included in or excluded from the cost study. The provider of telecommunications service shall separately quantify the reduction in the cost estimates that would result if shared and overhead costs were to be excluded. This subparagraph does not apply to FDC studies.
- (VII) Nothing in this paragraph shall be construed to limit the Commission's authority to accomplish its statutory duties.

(b) Cost estimate requirements.

- (I) In any incremental cost estimate submitted, the increment of output analyzed must be relevant to the issues under consideration.

- (II) In any incremental cost estimate submitted, the estimated change in costs must approximate the cost difference between a "business as usual" scenario accommodating existing and future demand and a scenario assuming output levels that are higher (lower) by the relevant increment (decrement).
 - (III) A cost estimate for a service that uses or displaces another service offered by the provider shall reflect the revenue that would have been derived from the other service. For example, the cost estimate for message toll service shall reflect the access revenues that are foregone when the customer purchases toll service from the provider of telecommunications service instead of from a competitor.
- (c) Required work papers.
- (I) A cost estimate submitted to the Commission shall be accompanied by a complete set of supporting work papers and source documents.
 - (II) Work papers shall clearly and logically present all data used in developing the estimate and provide a narrative explanation of all formulas or algorithms applied to such data. They shall also allow others to replicate the methodology and calculate equivalent or alternative results using equivalent or alternative assumptions.
 - (III) Work papers shall clearly set forth all significant assumptions and identify all source documents used in preparing the cost estimate.
 - (IV) Work papers shall be organized so that a person unfamiliar with the study will be able to work from the initial investment, expense, and demand data in order to calculate the final cost estimate. The significance of each number used in developing the estimate shall be clearly identified in the work papers and the source of each number not included within the work papers shall be clearly identifiable and readily available.
 - (V) Any input expressed as a "dollars per minute," "dollars per foot," "dollars per loop," "dollars per port," or similar units must be traceable to the original source documents including without limitation the dollars, minutes, feet, loops, and ports from which such figures are calculated.
 - (VI) Unless impracticable, all data and work papers shall be provided in electronic format using standard, commercially-available spreadsheet or database software formats. Data and work papers shall be accompanied by files or internal comments that define the contents of each data set or work paper, and shall include an explanation of the definitions, formulae, equations, and data provided.
 - (VII) An index or detailed table of contents of the work papers and source documents shall be provided. In addition, to the extent practicable, a cross index shall be included that allows others to track key numbers through the various source documents, work papers, and exhibits.

2466. – 2499. [Reserved].

PROVIDERS OF TELECOMMUNICATIONS SERVICE OBLIGATIONS TO OTHER PROVIDERS OF TELECOMMUNICATIONS SERVICE

Interconnection and Unbundling

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: prescribe non-discriminatory access to, and interconnection with, the facilities of providers of telecommunications service's networks by other providers of telecommunications services; and provide for the unbundling of certain telecommunications service providers' networks.

The statutory authority for the promulgation of these rules is found at §§ 40-15-109(3); 40-15-401(2)(a), (b) and (c), 40-15-503(2)(c) and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252.

2500. Applicability.

Rules 2500 through 2529 are applicable to all telecommunications carriers that provide telecommunications exchange services in the State of Colorado.

2501. Definitions.

The following definitions apply only in the context of rules 2500 through 2529:

- (a) "Common transport link" means a communications path:
 - (I) Used by multiple customers; and
 - (II) Containing one or more circuits connecting two switching systems in a network.
- (b) "Customer network interface" or "network interface device" (NID) means the facilities on or near the customer's premises that allow the customer to connect to the network.
- (c) "Dedicated transport link" means a communications path:
 - (I) Used by one customer; and
 - (II) Containing one or more circuits connecting two switching systems in a network.
- (d) "Essential facilities" or "essential functions" mean those network elements that a provider of telecommunications service is required to offer on an unbundled basis.
- (e) "Exchange access" means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.
- (f) "Interconnection" means the process of providing a seamless connecting link between competing networks for the completion of local traffic that originates in the network of one provider of telecommunications service and terminates in the network of another provider.
- (g) "Loop" means the facilities that connect a customer network interface to a main distribution frame, or its equivalent, regardless of technology.
- (h) "Operator systems" means systems that provide for live or mechanized operator functions that assist end users with call completion and directory assistance.

- (i) "Originating provider" means the provider of telecommunications service that serves the end user who originates a local call.
- (j) "Service control point" (SCP) means a node in the signaling network to which informational requests for service handling (for example, routing) are directed and processed. The SCP includes both the service logic and the customer specific information necessary to process individual requests.
- (k) "Signal transfer point" (STP) means a facility that provides the function of connecting signal links in order to transfer appropriate signals from and between the various elements of a signaling network.
- (l) "Signaling links" means transmission facilities in a signaling network which carry all out-of-band signaling traffic between the end office and signal transfer point, the tandem office and signal transfer point, the signal transfer point and service control point, and the signal transfer point and another signal transfer point.
- (m) "Switch" means a facility that provides the functionalities required to connect appropriate lines or trunks to a desired communications transmission path. These functionalities may include, but are not limited to, recognizing service requests, obtaining required call specific information, data analysis, route selection, call completion or hand-off, testing, recording, or signaling.
- (n) "Tandem switch" means a facility that provides the function of connecting trunks to trunks for the purpose of completing inter-switch calls.
- (o) "Telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services. This definition includes Commercial Mobile Radio Service (CMRS) providers, interexchange providers, and to the extent they are acting as telecommunications carriers, companies that provide both telecommunications and information services.
- (p) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (q) "Terminating provider" means the provider of telecommunications service that serves the end user who receives a local call.

2502. Interconnection.

- (a) All telecommunications carriers shall interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.
- (b) All LECs shall:
 - (I) not prohibit and not impose unreasonable or discriminatory conditions or limitations on the resale of its telecommunications services;
 - (II) provide number portability;
 - (III) provide dialing parity to competing providers of telephone exchange service and telephone toll service;
 - (IV) permit all competing providers of telecommunications service to have non-discriminatory access to telephone numbers, operator services, directory assistance, and directory listings, with no unreasonable dialing delays;

- (V) afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, charges, terms, and conditions that are consistent with 47 U.S.C. § 224; and
 - (VI) establish reciprocal compensation arrangements for the transport and termination of telecommunications.
- (c) In addition to the above obligations, all ILECs shall provide for the interconnection with the facilities and equipment of any requesting telecommunications carrier:
- (I) for the transmission and routing of telephone exchange service and exchange access;
 - (II) at any technically feasible point within the ILEC's network;
 - (III) that is at least equal in quality to that provided by the ILEC to itself or to any subsidiary, affiliate, or any other party to which the ILEC interconnects;
 - (IV) at rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory;
 - (V) in accordance with the rates, charges, terms, and conditions established by the ILEC pursuant to contract or arbitration, as applicable; and
 - (VI) consistent with the Commission's rules regarding the Costing and Pricing of Regulated Telecommunications Services.
- (d) Collocation: An ILEC shall provide, for the physical collocation of equipment necessary for interconnection or access to unbundled network elements at the ILEC's premises at rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory. An ILEC may provide virtual collocation if the Commission determines that physical collocation is not practical for technical or space limitation reasons.
- (e) Each telecommunications carrier shall be responsible for constructing and maintaining the facilities on its side of the point of interconnection unless the interconnecting carriers agree to some other arrangement.
- (f) Each telecommunications carrier shall construct and maintain its interconnection facilities in accordance with accepted telecommunications engineering standards and practices. Each terminating carrier shall make available to all originating providers of telecommunications service all technical references to documents that provide the technical specifications of the terminating telecommunications service provider's interconnection interfaces. In no event shall a telecommunications carrier construct or maintain its interconnection facilities under terms and conditions different from the terms and conditions the telecommunications service provider offers to itself, its affiliates, or another telecommunications carrier.
- (g) All Commission quality of service rules shall apply to the provision of interconnection facilities, unless the provider of telecommunications service has opted into a Performance Assurance Plan mechanism.
- (h) Terminating providers of telecommunications service shall make all required interconnection facilities available within 90 days of a bona fide written request. No unreasonable refusal or delay, or discriminatory provision of service by a terminating provider of telecommunications service shall be allowed.

2503. Compensation for Terminating Local Traffic.

- (a) For purposes of this rule, local calls originate at the customer network interface of the calling party's telecommunications service provider and terminate at the customer network interface of the called party's telecommunications service provider.
- (b) Except as provided in paragraphs (g) and (h), a terminating provider of telecommunications service may charge the originating provider of telecommunications service a termination fee for all local calls that originate on the originating telecommunications service provider's network and terminate on the terminating telecommunications service provider's network.
- (c) The termination fee shall be based on the costs associated with each network element:
 - (I) on the terminating telecommunications service provider's side of the point of interconnection; and
 - (II) used by the terminating telecommunications service provider to terminate the call.
- (d) If the originating provider of telecommunications service is either interconnected to the terminating provider of telecommunications service through the purchase of one or more unbundled elements owned by the terminating provider of telecommunications service or a third provider of telecommunications service, or uses one or more unbundled elements owned by the terminating provider of telecommunications service or a third provider of telecommunications service to originate the call:
 - (I) the terminating provider of telecommunications service shall charge the originating provider of telecommunications service a termination fee in accordance with this rule; and
 - (II) the provider of telecommunications service of the unbundled elements shall charge the originating provider of telecommunications service for the use of the unbundled elements.
- (e) If the terminating provider of telecommunications service is either interconnected to the originating provider of telecommunications service through the purchase of one or more unbundled elements owned by the originating provider of telecommunications service or a third provider of telecommunications service, or uses one or more unbundled elements owned by a third provider of telecommunications service to terminate the call:
 - (I) the terminating provider of telecommunications service shall charge the originating provider of telecommunications service a termination fee in accordance with this rule; and
 - (II) the telecommunications service provider of the unbundled elements shall charge the terminating provider of telecommunications service for the use of the unbundled elements.
- (f) The termination fee, subject to Commission approval, may reflect:
 - (I) a usage-sensitive charge based on, for example, distance, duration, or time of day;
 - (II) a flat charge based on, for example, capacity port charges based on either the trunk group size or the peak-use of interconnecting capacity; or
 - (III) any combination thereof or an alternative mechanism.
- (g) The terminating telecommunications service provider's costs associated with the termination of local calls may be recovered, as approved by the Commission, in the rates the terminating provider of telecommunications service charges for services provided to its customers.

- (h) If the terminating provider of telecommunications service provides the originating provider of telecommunications service with dial tone, the terminating provider of telecommunications service may charge the originating provider of telecommunications service with the use of unbundled local switching for the generation of dial tone when the terminating provider of telecommunications service terminates calls from the originating provider of telecommunications service on the terminating provider's network.

2504. Other Intercompany Arrangements.

- (a) Telecommunications carriers shall deal with other telecommunications carriers in a good faith and cooperative manner.
- (b) All telecommunications carriers shall provide reasonable access to poles, ducts, conduits, and rights-of-way when feasible and when access is necessary for other telecommunications carriers to provide service. Upon application by a telecommunications carrier, the Commission shall determine any matters concerning reasonable access to poles, ducts, conduits, and rights-of-way, upon which agreement cannot be reached, including but not limited to, matters regarding valuations, space, capacity restraints, and compensation for access.
- (c) All LECs shall provide interconnecting telecommunications carriers with both answer and disconnect supervision as well as all available call detail information necessary to enable proper customer billing.
- (d) Interconnecting telecommunications carriers shall be required to enter into mutual billing and collection agreements so that each telecommunications carrier can accept other telecommunications carrier's telephone line number and other nonproprietary calling cards and can bill, collect or third-party calls to a number served by another provider of telecommunications service.
- (e) All LECs shall offer the interoperability of non-optional operator services between networks including, but not limited to, the ability of operators on each network to perform such operator functions as completing collect calls, third-party calls, busy line verification calls, and busy line interrupt.
- (f) Telecommunications carriers shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.
- (g) Telecommunications carriers shall cooperate in developing and implementing procedures for repair service referrals so that trouble reports are directed to the correct carrier or carriers.
- (h) All LECs shall offer, in a non-discriminatory manner pursuant to contract, the necessary operational support to enable other telecommunications carriers the opportunity to provide their customers' quality of service as is available to the LEC's customers, consistent with rules 2330 through 2359. Such contracts shall be approved by the Commission, and available for review pursuant to Commission order.
- (i) Telecommunications carriers shall make available access to technically reasonable, non-proprietary, as determined by the Commission, signaling protocols used in the routing of local and interexchange traffic; including signaling protocols used in the query of call processing databases such as 800 Database Service, Alternate Billing Service (ABS), and Line Information Data Base (LIDB); and shall make available the signaling resources and information necessary for the routing of local and interexchange traffic.

- (j) Telecommunications carriers shall be prohibited from interfering with the transmission of signaling information between customers and other telecommunications providers in a manner that is injurious to network integrity or that results in fraud. This shall not preclude a telecommunications carrier from blocking specific signaling information to the extent required by the end user's service (e.g., CLASS services).
- (k) All parties involved shall abide by the Commission's rules on privacy and the handling of customer proprietary network information.

2505. Unbundling and Resale

- (a) As identified in rule 2008, the Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319.
- (b) A detailed record of all requests for unbundling shall be documented and maintained in accordance with the requirements of the change management process. This information shall include the name of the requesting person, the date of the request, the specific type of unbundling requested, the telecommunications service provider's planned and actual response date, and the telecommunications service provider's response.
- (c) ILECS have the duty to provide unbundled access and resale pursuant to 47 U.S.C. § 251 (c)(3) and (4);

2506. Process and Imputation.

- (a) The LEC shall have the burden of proving that any proposed rates, charges, terms, or conditions are consistent with the following:
 - (I) Rates shall be cost-based, just, and reasonable, and may include a reasonable profit;
 - (II) Rates, charges, terms, and conditions shall be non-discriminatory and competitively neutral;
 - (III) Rates, charges, terms, and conditions shall be established to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality telecommunications service; and
 - (IV) Rates shall be designed so that products or services that are subject to regulation do not subsidize products and services that have been specifically deregulated by statute, rule, or Commission order.

2507. Exemption for Rural Telephone Companies.

- (a) Rules 2502, 2503, 2505, and 2506, and paragraphs 2504(d) through (j) and 2504(l) shall not apply to a rural telephone company until:
 - (I) such company has received a bona fide request for interconnection, services, or the purchase of an unbundled network element; and
 - (II) such request is deemed by the Commission to be technically feasible and not unduly economically burdensome.
- (b) A telecommunications carrier making such a bona fide request shall submit a notice of its request to the Commission.
 - (I) The Commission shall conduct a hearing for the purpose of determining whether to terminate the rural telecommunications carrier's exemption under paragraph (a).

- (II) The Commission shall determine within 120 days after it receives notice of the request if such termination of the exemption is technically feasible, is not unduly economically burdensome, and is consistent with the state and federal universal service requirements.
 - (III) Upon termination of an exemption, the Commission shall establish an implementation schedule for compliance with the request.
- (c) A LEC with fewer than two percent of the aggregate nationwide installed subscriber lines may file an application with the Commission for a suspension, modification, or specific exemption from paragraphs 2507 (a) and (b) . The Commission shall grant the application pursuant to 47 U.S.C. SEC. 251(f)(2).

2508. – 2529. [Reserved].

Interconnection Agreements

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process the Commission uses to review interconnection agreements and any amendments thereto; the criteria for Commission approval or rejection of such agreements; and the timelines for Commission action regarding both negotiated and arbitrated interconnection agreements.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; and 40-2-108, C.R.S., and at 47 U.S.C. §§ 252 and 271.

2530. Applicability.

Pursuant to 47 U.S.C. 252(a)(1), rules 2530 through 2549 apply to all agreements, and any amendments thereto, for interconnection, services, or network elements between ILECs and telecommunications carriers negotiated before or after February 8, 1996, the date of enactment of the Telecommunications Act of 1996. Pursuant to 47 U.S.C. 252(e)(1), any interconnection agreements adopted by negotiation or arbitration shall be submitted for approval to the Commission.

2531. Definitions.

The following definitions apply only in the context of rules 2530 through 2579.

- (a) "Arbitrated interconnection agreement" means an interconnection agreement or portion thereof, reached through compulsory arbitration.
- (b) "Interconnection agreement" (ICA) means, for purposes of § 252(e)(1) of the Telecommunications Act of 1996, a binding contractual agreement or amendment thereto, without regard to form, whether negotiated or arbitrated, between an ILEC and a telecommunications carrier or carriers that includes provisions concerning ongoing obligations pertaining to rates, charges, terms, and/or conditions for interconnection, network elements, resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, or collocation.
- (c) "Negotiated interconnection agreement" means an interconnection agreement, or portion thereof, reached through negotiation.
- (d) "Party to the agreement" means any telecommunications carrier that is a signatory to an interconnection agreement or any subsequent amendment submitted for approval to the Commission.

- (e) "Report of adoption" (report) means a filing with the Commission pursuant to rule 2533 made by a party seeking approval of an interconnection agreement or an amendment to an agreement previously approved by the Commission.
- (f) "Statement of generally available terms and conditions" (SGAT) means, pursuant to 47 U.S.C. § 252(f), a statement of the terms and conditions for wholesale products and services, including rates and charges, that an ILEC generally offers within Colorado.

2532. Incorporation by Reference.

References in these rules to Parts 51 and 69 are references to rules issued by the FCC and have been incorporated herein by reference, as identified in rule 2008.

2533. Submission of Agreement and Amendments for Approval.

- (a) Pursuant to 47 U.S.C. 252(a)(1) and 47 U.S.C. 252(e)(1), and within 30 days of execution of an interconnection agreement (ICA) or ICA amendment, by all parties, or one of the parties, shall submit the ICA, or ICA amendment, under a cover letter to the Commission for approval. The cover letter shall serve as notice to the Commission and shall include the following:
 - (I) the names and addresses of the parties;
 - (II) the name(s) under which the submitting party(ies) are or will be providing telecommunications service(s) in Colorado;
 - (III) the name(s) address, telephone number, facsimile number and e-mail address of the submitting party(ies) representative to whom all inquiries concerning the submission should be made;
 - (IV) the caption and proceeding number(s), if applicable,;
 - (V) the date of the submission of the ICA or ICA amendment;
 - (VI) a short description of the nature of the ICA, or ICA amendment;
 - (VII) a statement as to whether the ICA or ICA amendment was the result of negotiation or arbitration or whether it was an opt-in of a previously approved and effective SGAT or another previously approved and effective ICA or ICA amendment;
 - (VIII) in the case of a new ICA, the cover letter shall describe the primary source documents, if any, that served as the framework for the agreement. In the case of an amendment to an ICA, the cover letter shall list all sections of the ICA that have been amended;
 - (IX) a statement that intervention and public comment must be filed within ten days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within five days of the posting of the notice on the Commission's website for an arbitrated interconnection agreement or an amendment thereto. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules; and
 - (X) a statement that the Commission staff intervention shall be filed within 20 days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within 15 days of the posting of the notice on the Commission's website for an arbitrated ICA or ICA amendment. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules.

- (b) The Commission prefers that the parties jointly submit the ICA or ICA amendment. However, a single party may make the filing.
- (c) Unless filing through the Commission's E-Filings System, parties shall file an original plus two paper copies of the ICA or ICA amendment, an original plus two copies of the cover letter and a copy on disk in an electronic format acceptable to the Commission of the cover letter and the ICA or ICA amendment.
- (d) Upon initial receipt of an ICA the Commission will assign a proceeding number to the submission. Any subsequent amendment to the agreement submitted for approval to the Commission shall use the original proceeding number.

2534. Approval of Interconnection Agreements and Amendments to Interconnection Agreements.

- (a) Notice and opportunity for public comment.
 - (I) The cover letter submitted pursuant to paragraph 2533(a) shall serve as the notice and shall be submitted in an electronic format acceptable to the Commission. The Commission shall give notice of the filing of the ICA or ICA amendment by posting the cover letter on its website within two business days of the submission.
 - (II) Public review and comment.
 - (A) The ICA or ICA amendment shall be posted on the Commission's website within two business days of the filing and shall be available for review at the Commission during its normal business hours.
 - (B) Public comment on the submission seeking approval of a negotiated ICA or ICA amendment or an arbitrated ICA or ICA amendment shall be due within ten days of the posting of the required notice.
 - (C) The public comment shall include the following information at a minimum:
 - (i) A detailed statement of the person's interest in the ICA or ICA amendment, including a description of how approval of the agreement may adversely affect those interests.
 - (ii) Specific allegations that the ICA or ICA amendment, or specific portion(s) thereof:
 - (1) discriminates against a telecommunications carrier that is not a party to the agreement;
 - (2) is not consistent with the public interest, convenience and necessity; and/or
 - (3) is not consistent with other requirements of state law.
 - (iii) The specific facts upon which the allegations are based.
 - (III) Intervention.
 - (A) Interventions shall be filed within ten days from posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.

- (B) Interventions by Commission Staff shall be filed within 20 days from the posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.
- (IV) The Commission will review the ICA or ICA amendment using the standards for review set forth in 47 U.S.C. § 252. Pursuant to 47 U.S.C. § 252(e)(4), if the Commission does not act to approve or reject the ICA or ICA amendment within 90 days after submission by the parties of an ICA adopted by negotiation under 47 U.S.C. § 252(a), or within 30 days after submission by the parties of an ICA adopted by arbitration under 47 U.S.C. § 252(b), the ICA or ICA amendment shall be deemed approved.

2535. Confidentiality.

- (a) Information submitted to the Commission is subject to the provisions of §§ 24-72-201, C.R.S., et seq., and rules 1100 through 1102. Under those provisions it is generally presumed that information in Commission files is public information.
- (b) An agreement for interconnection services or network elements, including the detailed schedule of itemized charges, and any subsequent amendments shall not be considered confidential and shall, pursuant to the provisions of rule 2540, be made available for public inspection.

2536. – 2549. [Reserved].

Requests for Commission Participation in the Negotiation and Mediation of Interconnection Agreements

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process to be used and the information required by the Commission when an entity negotiating an interconnection agreement requests that the Commission participate in the negotiation and, mediate any differences arising in the course of the negotiation.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252(a)(1), (a)(2), and (e).

2550. Applicability.

Rules 2550 through 2559 apply to any negotiation of an ICA relating to telecommunications services in Colorado in which any party to the negotiations has requested that the Commission mediate any differences arising during the negotiations.

2551. Definitions.

The following definitions apply only in the context of rules 2550 through 2559:

- (a) "Negotiation/mediation request" (request) means a filing made by a telecommunications carrier with the Commission asking the Commission to participate in the negotiation of an interconnection agreement (ICA) and to mediate any differences.
- (b) "Party to the negotiation" (party) means a telecommunications carrier negotiating for an agreement with another telecommunications carrier pursuant to 47 U.S.C. § 252(a).
- (c) "Telecommunications mediator" (mediator) means the person assigned by the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

2552. Request Process.

- (a) Pursuant to 47 U.S.C. 252(a)(2), any party to the negotiation may, at any point in the negotiation, ask the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.
- (b) A party shall file a letter with the Director to request negotiation/mediation.
- (c) The negotiation/mediation request shall include the following information, either in the request or in appropriately identified, attached exhibits:
 - (I) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party to the negotiation making the request;
 - (II) the name(s), address(es), telephone number(s), facsimile number(s), and e-mail address(es), if applicable, of the other parties to the negotiation;
 - (III) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party's representative who is participating in the negotiations and to whom all inquiries should be made;
 - (IV) the negotiation history, meeting times, and locations;
 - (V) available schedule dates of party representatives; and
 - (VI) the issues on which the requestor seeks Commission participation and mediation.

2553. Negotiation/Mediation Process.

- (a) Pursuant to 47 U.S.C. 252(a)(2), the Commission shall participate in the ICA negotiations and mediate any differences arising in the course of the negotiation.
 - (I) Upon receipt of a request for Commission negotiation/mediation, the Commission shall assign a proceeding number to the matter.
 - (II) The Commission will respond to the request within ten days after receipt. The response shall identify the assigned mediator.
- (b) The mediator shall promptly schedule negotiation/mediation sessions. These sessions shall continue until:
 - (I) all outstanding issues are settled;
 - (II) a party makes a written declaration that the mediation proceedings are terminated; or
 - (III) the mediator makes a written declaration that further efforts at mediation are no longer worthwhile.

2554. Confidentiality.

The mediator shall not voluntarily disclose nor, through discovery, be required to disclose any oral or written communication prepared or expressed for the purposes of, in the course of, or pursuant to, any mediation or negotiation hereunder.

2555. – 2559. [Reserved].

Commission Arbitration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish a Commission process for arbitration of issues arising in the course of negotiation of interconnection agreements under 47 U.S.C. § 252.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and at 252(a)(1) and (e).

2560. Applicability.

Pursuant to 47 U.S.C. 252(b), rules 2560 through 2579 apply to any petition filed by any party to the negotiation of an interconnection agreement requesting that the Commission arbitrate any unresolved issues in the negotiations. These provisions apply only to petitions filed during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 251 and 47 U.S.C. § 252.

2561. Definitions.

The following definitions apply only in the context of rules 2560 through 2579.

- (a) "Agreement being negotiated" means an interconnection agreement (ICA) being negotiated between or among telecommunications carriers, following a request for negotiation made by a telecommunications carrier to an ILEC.
- (b) "Petition for arbitration" means the petition requesting arbitration of any unresolved issues in the interconnection agreement being negotiated.
- (c) "Petitioner" means the party to the interconnection agreement being negotiated that files the petition for arbitration.
- (d) "Respondent" means a non-petitioning party to the agreement being negotiated.

2562. Petition Process.

- (a) Pursuant to 47 U.S.C. § 252(b), any party to an ICA being negotiated may, during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 252, petition the Commission to arbitrate any unresolved issues in the negotiation.
- (b) To request Commission arbitration, a party shall file a petition with the Commission. The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified, attached exhibits:
 - (I) Identifying information:
 - (A) the name, address, telephone number, facsimile number, and e-mail address, if applicable of the party to the negotiation making the request;
 - (B) the names, addresses, telephone number(s), facsimile number(s), and e-mail addresses, if applicable, of the other parties to the negotiation;
 - (C) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the petitioner's representative who is participating in the negotiations and to whom all inquiries should be made;

- (D) the negotiation history, meeting times, and locations; and
- (E) available schedule dates of party representatives.
- (F) All other relevant documentation and arguments concerning:
 - (i) the unresolved issues;
 - (ii) the position of each of the parties with respect to those issues;
 - (iii) the specific relief requested by the petitioner with respect to each issue; and
 - (iv) any other issues discussed and resolved by the parties.

2563. Notice.

- (a) Pursuant to 47 U.S.C. § 252(b)(2)(B), a party petitioning the Commission to arbitrate shall deliver a copy of the petition and any documentation to the other party or parties no later than the day on which the Commission receives the petition.
- (b) The petitioner shall also furnish written notice to:
 - (I) any telecommunications carrier known to be negotiating an ICA, as included on a list maintained by the Commission; and
 - (II) any telecommunications carrier with an effective ICA with any of the parties to the petition.
- (c) The written notice shall include a statement that a petition for arbitration has been filed with the Commission; the names of the parties; the date that the request for negotiation with the ILEC was made; a summary of the issues; and that interventions must be filed with the Commission within ten days of the filing date. The notice shall be delivered by first- class mail, by express mail, or by hand delivery not later than the day on which the petition for arbitration is filed with the Commission.
- (d) The petition shall include a certificate of service showing that notice was given in accordance with this rule.

2564. Opportunity to Respond to Petition.

- (a) Other parties. A respondent shall respond to the petition for arbitration within 25 days after the petition is filed with the Commission. If a respondent seeks to have issues arbitrated that are not set out in the petition, the respondent shall state those issues, the position of each of the parties with respect to those issues, and the specific relief requested with respect to those issues. The respondent to a petition for arbitration shall become a party to arbitration proceedings upon service of the petition in accordance with paragraph 2563(a).
- (b) Intervention and public comment or intervention. A person seeking to intervene on the petition shall file a motion to intervene within ten days of the date that the petition for arbitration was filed with the Commission. A person may submit public comment on the petition within 25 days of the date that the petition for arbitration was filed with the Commission.

2565. Role of Commission during Arbitration.

- (a) The Commission shall:
 - (I) review all submitted documentation and written arguments; and

- (II) hold a hearing on the petition.
- (b) The Commission may require the petitioning and responding parties to provide additional information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any request from the Commission, the Commission may proceed on the basis of the best information available.
- (c) The Commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement rule 2566 upon the parties to the arbitrated agreement.
- (d) The Commission shall conclude the resolution of any unresolved issues no later than nine months after the date on which the ILEC received the request for negotiation for interconnection under 47 U.S.C. § 252 in accordance with the Commission's own procedures and specified statutes or rules.
- (e) The Commission may order the parties to the arbitration to pay for a transcript of the arbitration proceedings. In such case, the Commission will apportion the cost among the parties in an equitable fashion.

2566. Standards for Arbitration.

Pursuant to 47 U.S.C. § 252(c), in resolving any unresolved issues by arbitration under 47 U.S.C. § 252(b) and imposing conditions upon the parties to the agreement, the Commission shall:

- (a) ensure that such resolution and conditions meet the requirements of 47 U.S.C. § 251, including the regulations prescribed by the FCC pursuant to 47 U.S.C. § 251;
- (b) establish any rates for interconnection, services, or network elements according to 47 U.S.C. § 252(d); and
- (c) provide a schedule for implementation of the rates, charges, terms, and conditions of the agreement by the parties.

2567. Duty to Negotiate in Good Faith during Arbitration.

Pursuant to 47 U.S.C. § 251(c)(1), each ILEC has, among other duties, the duty to negotiate in good faith, in accordance with 47 U.S.C. § 252, the particular rates, charges, terms, and conditions of agreements to fulfill the duties described in 47 U.S.C. § 251(b)(1) through (5), and 47 U.S.C. § 251(c). The requesting telecommunications carrier also has the duty to negotiate in good faith the rates, charges, terms, and conditions of such agreements.

2568. Refusals to Negotiate.

Pursuant to 47 U.S.C. § 252(b)(5), the refusal of any party to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a breach of the duty to negotiate in good faith.

2569. – 2579. [Reserved].

Rules for the Resale of Telecommunications Exchange Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish regulations: for the resale of retail telecommunications exchange services; to ensure the non-discriminatory availability of services for resale; and to ensure that retail telecommunications services are available for resale in a manner that enhances competition.

The statutory authority for promulgation of these rules is found at §§ 40-15-108(2); 40-15-502(1), (3)(b)(V), and (5)(b); and 40-2-108, C.R.S.

2580. Applicability.

Rules 2580 through 2699 are applicable to facilities based telecommunications providers that provide telecommunications exchange service in geographic areas in which they receive HCSM support.

2581. Definitions.

The following definitions apply only in the context of rules 2580 through 2699:

- (a) "Facilities-based telecommunications provider" means a provider of telecommunications exchange service that owns telecommunications facilities.
- (b) "Telecommunications exchange service" means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area, operated to furnish subscribers with service of the character ordinarily provided by a single exchange, and which is covered by the exchange service charge.
- (c) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

2582. Regulation of Facilities-Based Telecommunications Providers.

- (a) Facilities-based telecommunications providers shall neither prohibit nor impose unreasonable or discriminatory conditions or limitations on the resale of their retail telecommunications services.
- (b) Facilities-based telecommunications providers shall not be required to modify their Commission-established local calling areas for the purpose of accommodating a reseller.
- (c) Operational support:
 - (I) Each facilities-based telecommunications provider shall offer, in a non-discriminatory manner, pursuant to contract or tariff, the operational support necessary to enable each reseller, certified within the facilities-based telecommunications provider's service territory, the opportunity to provide the reseller's end users the same quality of service, consistent with rules 2330 through 2359 that is available to the facilities-based telecommunications provider's end users.
 - (II) Such contracts shall be approved by the Commission and available for review pursuant to Commission order.
- (d) A facilities-based telecommunications provider may require a deposit from a reseller, pursuant to an effective tariff on file with the Commission. The tariff shall specify, at a minimum, the amount of the deposit, the circumstances under which the deposit shall be required, when the deposit shall be returned, and the terms and conditions of the forfeiture of the deposit. Such deposit shall be in an

amount sufficient to recover the reasonable costs borne by the facilities-based telecommunications provider in the event the reseller:

- (I) discontinues telecommunications exchange service without Commission approval; or
 - (II) fails to pay the facilities-based telecommunications provider for services rendered.
- (e) In the event a reseller discontinues telecommunications exchange service without Commission approval, the facilities-based telecommunications provider shall notify the Commission of the reseller's discontinuance of service.
- (f) Subject to Commission approval, an ILEC shall charge resellers a price equal to the retail price the ILEC charges end users adjusted for any marketing, billing, collection, and other costs that will be avoided by the ILEC. For purposes of this rule, the price charged to resellers shall also reflect any package discounts the ILEC offers to its end users for a package of retail telecommunications services if the resold combination of products purchased is identical.

2583. Service Quality.

- (a) For purposes of compliance with rules 2330 through 2359, the reseller is a customer of the facilities-based telecommunications provider.
- (b) All local exchange service providers, including resellers, shall comply with all Commission rules applicable to LECs.
- (c) The provider of local exchange services that directly interfaces with the end user is obligated to serve that end user according to the Commission's rules.
- (d) Services offered for resale by the facilities-based telecommunications provider must be provisioned at the same standard of quality as the services offered to its end users.

2584. Confidentiality.

- (a) Each facilities-based telecommunications provider shall establish procedures to ensure that its personnel, including, but not limited to, those personnel who are involved in the provision of resold service and operational support to resellers, hold as confidential all information about the reseller and its end users obtained solely from providing services to a reseller, and do not use that information to compete against the reseller.
- (b) Each facilities-based telecommunications provider shall establish procedures to ensure that specific or summarized information about a provider of telecommunications service or a reseller or their end users obtained solely from providing services is not used to develop any marketing strategy to compete, or develop, market, or sell services.
- (c) Each facilities-based telecommunications provider and each reseller of its services shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

2585. Negotiation, Mediation, and Arbitration.

- (a) Nothing in rule 2585 shall be construed to limit a telecommunications service provider's ability to reach a negotiated, mediated, or arbitrated agreement with respect to the rates, charges, terms, and conditions associated with the resale of retail telecommunications services.
- (b) All agreements for resale of retail telecommunications services shall be submitted to the Commission for approval.

2586. Dispute Resolutions.

The Commission shall resolve disputes arising out of any provision of resold retail telecommunications services pursuant to these rules.

2587. - 2699. [Reserved].

NUMBERING ADMINISTRATION

Efficient Use of Telephone Numbers

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify procedures to ensure the efficient use and assignment of telephone numbers.

The statutory authority for the promulgation of these rules is found at §§ 40-2-108, C.R.S. Relevant federal law exists at 47 U.S.C. § 251 (e)(1), 47 C.F.R., Part 52.15 (January 11, 2016) and Part 52.19 (October 1, 2002).

2700. Applicability.

Rules 2700 through 2719 are applicable to all providers of telecommunications service, who request telephone numbers directly from the numbering administrators and have accepted or make use of numbering resources in the Numbering Plan Areas (NPAs) assigned to Colorado or who assign numbering resources in any NPA assigned to Colorado.

2701. Definitions.

The following definitions apply only in the context of rules 2700 through 2719:

- (a) "Central office code" means the second three digits (NXX) of a ten-digit telephone number in the form NPA-NXX-XXXX. A central office code is also called an NXX code. The "N" denotes numbers 2 through 9 and X denotes numbers 0 through 9.
- (b) "Central office code administrator" means the entity responsible for the administration of the NXXs within an NPA. The central office code administrator is also known as the North American Numbering Plan Administrator (NANPA).
- (c) "Contaminated block" means any thousand block of telephone numbers where at least one telephone number is not available for assignment to end users.
- (d) "Numbering Plan Area" (NPA) means the first three digits of a ten-digit telephone number in the North American Numbering Plan. This is also called an area code. NPAs are classified as either geographic or non-geographic.
- (e) "NXX code holder" means any telecommunications service provider that has been assigned at least one central office code by the central office code administrator.
- (f) "Pooling administrator" means the entity responsible for the administration and assignment of the thousand blocks in a pooling environment.
- (g) "Thousand block" means a range of a thousand consecutive telephone numbers within a single NXX code, e.g., numbers NXX-1000 through NXX-1999 constitute a thousand block.

2702. Assignment of Telephone Numbers in Colorado.

- (a) All providers of telecommunications service with numbers assigned from the NPAs in the Colorado (303, 719, 970, 720, or any future NPAs assigned to Colorado) shall assign numbers from a single opened thousand block within an NXX before assigning telephone numbers from an uncontaminated thousand block.
- (b) Notwithstanding paragraph (a), a provider of telecommunications service may assign telephone numbers in a thousand block different from the thousand block described in paragraph (a) if the available numbers in the opened thousand block are not sufficient to meet a specific customer request.
- (c) The Central Office Code Administrator and Pooling Administrator must perform their central office code administration and thousand block administration functions in such a manner as to support these rules.
- (d) Upon implementation of any number pooling between providers of telecommunications service in Colorado, telecommunications service providers of telecommunications service participating in pooling must make uncontaminated thousand blocks and thousand blocks with less than ten percent contamination available to the Pooling Administrator for possible reassignment to other providers of telecommunications service in a number pooling process.
- (e) All providers of telecommunications service that are required to be local number portability (LNP) capable pursuant to paragraph 2724(c) shall participate in number pooling for a particular geographic area when implemented by the Pooling Administrator.
- (f) All providers of telecommunications service shall provide services in such a manner as not to encourage the inefficient use or depletion of telephone numbers in any Colorado NPA.
- (g) All Interconnected VoIP providers authorized to request numbering resources directly from the Numbering Administrators must file a notice with the Commission at least 30 days before requesting numbers from the Numbering Administrators on a form provided by the Commission on its website.
- (h) All Interconnected VoIP providers must maintain accuracy of all contact information and certification. If any contact information and certification is no longer accurate, the Interconnected VoIP provider must file a correction with the Commission within 30 days of the change.

2703. Variance.

Any provider of telecommunications service seeking relief from the requirements of rules 2700 through 2719 or pursuant to 47 C.F.R. 52.15(g) shall request a variance by request to Commission staff. The request shall demonstrate and provide (1) a request from an end-user customer detailing the specific need for telephone numbers; and (2) the carrier's inability to meet the customer's request from the carrier's current inventory of numbers. The designated Commission staff shall act on the request within 14 days of receiving the required information. If the provider disagrees with Commission staff's determination, the provider may formally file a petition requesting a Commission ruling.

2704. – 2719. [Reserved].

Local Number Portability and Administration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish local number portability (LNP) regulations so that end users can choose between authorized telecommunications providers without losing their telephone numbers; to establish mechanisms supporting LNP; and to identify LNP database network architecture.

The statutory authority for the promulgation of these rules is found at §§ 40-2-108 C.R.S. and 47 C.F.R. § 52 Subpart C.(November 30, 2015)

2720. Applicability.

Rules 2720 through 2739 shall apply to all providers of telecommunications services who request telephone numbers directly from the numbering administrators.

2721. Definitions.

The following definitions apply only in the context of rules 2720 through 2739:

- (a) "Limited Liability Company" (LLC) means the legal entity given the responsibility of selecting and managing the Number Portability Administration Center (NPAC) in Colorado. This entity is made up of representatives of providers of telecommunications service that are or will be porting numbers.
- (b) "Number portability administration center" (NPAC) means the independent third-party administrator of the Service Management System (SMS) and LNP database.
- (c) "Portable NXX" means an NXX that the public switched telephone network, in doing call routing, recognizes as an address that may require routing on the basis of something other than the dialed digits, and that the telephone company billing system, in determining which provider of telecommunications service serves the billed telephone number, recognizes may involve a provider of telecommunications services other than the one to which the NXX is assigned.
- (d) "Ported telephone number" means a telephone number (TN) that is served (receives dial tone) from a switch other than the one to which the NXX is assigned.

2722. Incorporation by Reference.

The FCC's LNP First Report and Order, Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996, is incorporated by reference, as identified in rule 2008.

2723. Local Number Portability.

If a customer changes basic local exchange providers and remains within the same rate center, the customer shall have the option to retain the customer's telephone number(s).

2724. Telecommunications Service Provider Number Portability.

- (a) Telecommunications service provider number portability, as described in rule 2723, shall be attained by means of a database network architecture.
- (b) The database network architecture employed shall meet the following performance criteria:
 - (I) supports network services, features, and capabilities existing at the time number portability is implemented, including emergency services, Custom Local Area Signaling System (CLASS) features, operator and directory assistance services, and intercept capabilities;
 - (II) efficiently uses numbering resources;
 - (III) does not require customers to change their telephone numbers;
 - (IV) does not result in unreasonable degradation in service quality or network reliability;

- (V) does not result in any degradation in service quality or network reliability when customers switch carriers;
 - (VI) does not result in a carrier having a proprietary interest in the network architecture;
 - (VII) is able to migrate to location and service portability; and
 - (VIII) has no significant adverse impact outside the areas where number portability is deployed.
- (c) Implementation. All telecommunications providers offering service in the top 100 Metropolitan Statistical Areas (MSAs) as defined by the U.S. Bureau of Census, including those listed in the FCC's LNP First Report and Order, Decision No. FCC 96-286 in CC Docket No. 95-116, Appendix D, must provide a long-term database method for number portability upon entry. All telecommunications providers offering service in areas outside the top 100 MSAs must make number portability available six months after a request from a competing carrier.
- (d) NPAC.
- (I) The long-term service provider portability database shall be administered by an NPAC. The NPAC shall be the exclusive source of LNP database information for facilities-based Colorado service providers.
 - (II) The NPAC shall be selected and contracted to perform its duties by the LLC.

2725. – 2739. [Reserved].

N-1-1 Abbreviated Dialing Codes

Basis, Purpose, and Statutory Authority

The basis and purpose for these rules is to establish 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 (June 22, 2010).

2740. Applicability.

Rules 2740 through 2799 are applicable to all telecommunications providers who request telephone numbers directly from the numbering administrators.

2741. Definitions.

- (a) "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.
- (b) "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.
- (c) "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.

- (d) "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 1. N-1-1 codes "0-1-1" and "1-1-1" are unavailable because "0" and "1" are used for switching and routing purposes.

2742. Abbreviated Dialing Codes.

- (a) 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;
 - (V) 8-1-1 - Advanced Notice of Excavation Activities; and
 - (VI) 9-1-1 - Emergency Service.
- (b) 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.
- (c) A provider of telecommunications service in Colorado may assign or use N-1-1 dialing codes only as directed by the Commission.
- (d) The following limitations apply to a telecommunications service provider's use of N-1-1 dialing codes for internal business and testing purposes:
 - (I) the telecommunications service 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 telecommunications service 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 telecommunications service provider's use is discontinued in order to allow sufficient time for customer education regarding the discontinuance and reassignment of the dialing code.
- (e) An entity submitting a petition for use of an 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 N-1-1 access shall comply with this rule and any provisions set out in the Commission decision granting such authority.
 - (I) Assignment of N-1-1 abbreviated dialing code. The assignment of N-1-1 abbreviated dialing code will be considered by the Commission upon:
 - (A) the Commission's own motion; or

- (B) the petition of an information and referral organization, governmental organization or other entity, as applicable.
- (II) An entity filing a petition to request assignment of a N-1-1 abbreviated dialing code shall present evidence that a public benefit exists. The petition shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:
 - (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 relevant information;
 - (E) a description of the affected 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 or support mechanisms;
 - (H) letters of support from stakeholders (e.g., community members, government agencies, non-profit organizations);
 - (I) a statement that the entity agrees to answer all questions propounded by the Commission or its Staff concerning the petition;
 - (J) proposed plan for community notification and outreach; and
 - (K) other information demonstrating a public benefit.
- (III) Additional requirements for entities filing a petition for 3-1-1 abbreviated dialing code for non-emergency governmental police and other governmental service information:
 - (A) The proposed method for routing the 3-1-1 calls to the call center.
 - (B) Estimated cost of implementation and the on-going provisioning of the 3-1-1 abbreviated dialing code. If two or more entities file a petition with the Commission to use the same N-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (f)(II) to establish one assignee, except petitions for 3-1-1 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.
- (IV) When a petition is granted by the Commission under subparagraph (f)(II), all providers of telecommunications service that provide service in the geographic area outlined in the petition shall complete the following tasks:
 - (A) If an affected provider of telecommunications service is using N-1-1 code for purposes other than stated in subparagraph 2741(b), that provider shall discontinue use for that non-compliant purpose.

- (B) If the affected provider of telecommunications service plans to seek recovery of its costs associated with N-1-1 implementation, the affected provider of telecommunications service shall calculate the cost for the necessary translations and facilities work and shall file with the Commission.
 - (C) The affected provider of telecommunications service shall estimate the time required to perform the necessary translation and/or facilities work to allow N-1-1 call completion from its subscribers as requested in the petition.
 - (V) Upon a showing that the public will benefit from the assignment of N-1-1 to a petitioner and factoring in the telecommunications service provider filed information, the Commission will establish a timeline for assignment and use of the N-1-1 abbreviated dialing code in the affected geographic area. All providers of telecommunications service serving customers in the affected area shall comply with this assignment date unless a variance is sought and granted.
- (f) Discontinuance of offering of N-1-1 access.
- (I) Any entity that has been granted the authority to offer N-1-1 access and wishes to discontinue providing the N-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.
 - (II) 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; and
 - (F) the notice to the affected users of the discontinuance of N-1-1 service and a list of all the newspapers of general circulation in which the notice of discontinuance will be published.
- (g) Neither an entity granted the use of a N-1-1 abbreviated dialing code nor a provider of telecommunications service 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.
- (h) Sale or transfer of N-1-1 codes through private transactions is not allowed.

PROGRAMS

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[indicates omission of unaffected rules - TRS]

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[indicates omission of unaffected rules - HCSM]

Discount Rate for Eligible Intrastate Services Purchased by Eligible Colorado Schools and Libraries

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the discount rate for specific telecommunications services that are available to elementary schools, secondary schools, and libraries consistent with 47 U.S.C. § 254(h).

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-3-103, and 40-2-108, C.R.S.

2870. Applicability.

The discounts included in rules 2870 through 2889 shall apply to the rates for all eligible intrastate services.

2871. Definitions.

The meaning of terms used within rules 2870 through 2889 shall be consistent with the definitions in the FCC's Universal Service Support for Schools and Libraries Rules found at 47 C.F.R., Part 54, Subpart F. The following definitions apply only in the context of rules 2870 through 2879:

- (a) "Eligible intrastate services" means services eligible for discounts including all commercially available and offered intrastate telecommunications services. In addition to intrastate telecommunications services, special services eligible for discounts include Internet access and installation and maintenance of internal connections.
- (b) "Rural or urban schools or libraries" means, pursuant to 47 C.F.R. § 54.505(b)(3)(i), the Administrator shall designate a school or library as urban if the school or library is located in an urbanized area or urban cluster area with a population equal to or greater than 25,000, as determined by the most recent rural-urban classification by the Bureau of the Census. The Administrator shall designate all other schools and libraries as rural.

2872. Incorporation by Reference.

References in rules 2870 through 2879 to Part 54 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2873. Discount for Eligible Intrastate Services for Eligible Schools and Libraries.

After receiving a *bona fide* request from such schools or libraries, a provider of telecommunications service shall apply the specified discount rate to eligible intrastate services. The following matrix shall be used to set a discount rate to be applied to eligible intrastate services purchased by eligible schools, school districts, libraries, or library consortia based upon the institution's level of disadvantage or eligibility and the location in either an "urban" or "rural" area.

Schools & Libraries Discount

Percentage of Students Eligible for National School Lunch Program	Urban Discount Percent	Rural Discount Percent
<1%	20%	25%
1 – 19%	40%	50%
20 – 34%	50%	60%
35 – 49%	60%	70%
50 – 74%	80%	80%
75 – 100%	90%	90%

2874. Rate Disputes.

Pursuant to 47 C.F.R. § 54.504(c), schools, libraries, and consortia including those entities, and providers of telecommunications service may seek a determination from the Commission regarding intrastate rates if they believe that the lowest corresponding price is unfairly high or low.

2875. Discount Administration.

The FCC or its designee, pursuant to 47 C.F.R. § 54.707, shall determine the resolution of disputes dealing with the authority, practice, discount and fund accounting, and administration of the Schools and Libraries Discount Fund.

2876. Response to Request for Services.

A provider of telecommunications service shall respond in writing to a written request for eligible intrastate services within four weeks of the receipt of the request.

2877. – 2889. [Reserved].

* * *

[indicates omission of unaffected rules – No Call]

2895. – 2899. [Reserved].

GLOSSARY OF ACRONYMS

ABS	Alternate Billing Service
ALI	Automatic Location Identification
AMA	Automatic Message Accounting
AML	Actual Measured Loss
ANI	Automatic Number Identification
ANSI	American National Standards Institute

BER	Bit Error Rate
BESP	Basic Emergency Service Provider
BRI	Basic Rate Interface
BSA	Basic Serving Arrangement
BSE	Basic Service Element
CASB	Cost Accounting Standards Board
CCR	Code of Colorado Regulations
CEI	Comparably Efficient Interconnection
CFR	Code of Federal Regulations
CLASS	Custom Local Area Signaling System
CLEC	Competitive Local Exchange Carrier
CMRS	Commercial Mobile Radio Service
CNS	Complementary Network Service
CPCN	Certificate of Public Convenience and Necessity
CPNI	Customer Proprietary Network Information
CRCP	Colorado Rules of Civil Procedure
CRS	Colorado Revised Statutes
CSR	Customer Service Record
dB	Decibel
dBrnC	Decibel above Reference Noise level using C-message weighting
DEM	Dial Equipment Minutes of Use
DMS	Data Management System
DS0,DS1,DS3	Digital Signaling levels 0, 1 and 3
E9-1-1	Enhanced 911
e-mail	Electronic mail
ENS	Emergency Notification Service
EP	Eligible Provider
ESP	Enhanced Service Provider
ETC	Eligible Telecommunications Carrier
ETS	Emergency Telephone Service
FCC	Federal Communications Commission
FDC	Fully Distributed Cost
FOC	Firm Order Confirmation
GAAP	Generally Accepted Accounting Principles
HCSM	High Cost Surcharge Mechanism
Hz	Hertz
ICB	Individual Case Basis
IEEE	Institute of Electrical and Electronics Engineers
ILEC	Incumbent Local Exchange Carrier
ISDN	Integrated Services Digital Network
kbit/sec	kilobit per second (1,000 bits per second)
LATA	Local Access Transport Area
LCA	Local Calling Area
LEC	Local Exchange Carrier
LIDB	Line Identification Database
LLC	Limited Liability Company
LNP	Local Number Portability
LOR	Letter of Registration
LRIC	Long Run Incremental Cost
LSR	Local Service Request ma milliamps
Mbps	Megabits per second
MLTS	Multi-line Telephone System
MSA	Metropolitan Statistical Area
MSAG	Master Street Address Guide
MTB	Minimum Transport Bandwidth
MTE	Multi-Tenant Environment

NANP North American Numbering Plan
NANPA North American Numbering Plan Administrator
NECA National Exchange Carrier Association
NENA National Emergency Number Association
NID Network Interface Device
NIIF Network Interconnection Interoperability Forum
NPA Numbering Plan Area
NPAC Number Portability Administration Center
OC1 Optical Carrier-Level 1 Signal
OCC Office of Consumer Counsel
ONA Open Network Architecture
OSS Operational Support Systems
PBX Private Branch Exchange
PCS Personal Communications Service
PIN Personal Account Identification Number
POLR Provider of Last Resort
PRI Primary Rate Interface
PSAP Public Safety Answering Point
RBOC Regional Bell Operating Company
RTEZ Rural Technology Enterprise Zone
RTF Rich Text Format RUS Rural Utility Service
SCP Service Control Point
SGAT Statement of Generally Available Terms and Conditions
SLU Subscriber Line Usage
SS7 Signaling System #7
STP Signal Transfer Point
TDD Telecommunications Device for the Deaf
TRS Telecommunications Relay Services
TSLRIC Total Service Long Run Incremental Cost
UNE Unbundled Network Element
USF Universal Service Fund
USOA Uniform System of Accounts
WATS Wide Area Telephone Service
