

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25R-0428T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO 4 CODE OF COLORADO REGULATIONS 723-2 MODIFYING THE COMMISSION RULES REGARDING TELECOMMUNICATIONS RELAY SERVICE AND IMPLEMENTING HOUSE BILL (HB) 25-1154.

**RECOMMENDED DECISION ADOPTING RULES AND
CLOSING PROCEEDING**

Issued Date: December 11, 2025

I. STATEMENT

A. Background

1. On October 15, 2025, the Colorado Public Utilities Commission (“Commission”) issued a Notice of Public Rulemaking (“NOPR”), commencing this proceeding to amend the Commission’s Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (“CCR”) 723-2. Specifically, through the NOPR, the Commission seeks to amend Rules 723-2-2001, 2011, 2122, 2138, 2150, 2803, the preamble to Rules 2820-2837, 2821, 2823, 2824, 2825, 2826, and 2827 (collectively, the “Telecommunications Rules”). The Commission initiated this rulemaking to reflect the statutory changes the General Assembly enacted through House Bill 25-1154 (“HB 1154”). Specifically, HB 1154 moved the administration of Colorado’s Telecommunications Relay Services (“TRS”) program from the Commission to a newly formed Communications Services for People with Disabilities Enterprise (“Enterprise”) housed within the Colorado Department of Human Services

(“DHS”). In addition, HB 1154 changed the name of the TRS Surcharge to the Telephone Disability Access Surcharge (“TDAS”) and removed certain authorities previously granted to the Commission regarding regulatory enforcement of the Americans with Disabilities Act of 1990 (“ADA”).

2. Being fully advised in this matter, and consistent with the discussion below, in accordance with § 40-6-109, C.R.S., the Administrative Law Judge (“ALJ”) now transmits to the Commission the record in this proceeding, along with a written recommended decision.

3. The recommended amendments to the Telecommunications Rules are set forth in legislative (*i.e.*, strikethrough/redline) format in Attachment A to this Decision, and in final format in Attachment B to this Decision.

B. Procedural History

4. Commission Staff engaged in pre-rulemaking stakeholder engagement by circulating advanced drafts of the proposed amendment to 378 email contacts that the Enterprise administrator provided to Commission Staff.¹ The Commission also shared draft rules with participants in the Commission’s email distribution for individuals interested in equity issues related to the Commission’s ongoing implementation of Senate Bill 21-272². Those on the distribution list represent individual citizens, advocacy groups, telecommunications service providers, and others.³

5. The Commission Staff distributed the draft rules on August 26 and 27, 2025. Commission Staff requested comment on the draft rules by September 19, 2025.⁴

¹ NOPR at p. 3.

² *Id.*

³ *Id.*

⁴ *Id.*

C. Comments

6. Although the Commission would equally consider written comments in this Proceeding that were filed at any time, the Commission encouraged any interested person to file initial written comments by September 19, 2025.⁵ No written comments were filed in the Proceeding.

7. The Colorado Cable Telecommunications Association (“CCTA”) filed written comments on September 19, 2025, before the Commission issued the NOPR. The CCTA recommended modifying the definition of “Service Supplier” in the draft rules from what is in the relevant statute. This comment is discussed in the analysis of Rule 2821: Definitions below in Section II(a) at paragraph 21.

8. On December 1, 2025, the undersigned ALJ conducted a virtual public comment hearing on the proposed rules. No member of the public offered oral comment.

II. DISCUSSION, FINDINGS, AND CONCLUSIONS

9. In rendering this Decision, the ALJ has reviewed the record in this proceeding and has evaluated all comments submitted by the participants.

10. The Commission’s statutory authority to adopt the proposed rules is found generally at § 40-2-108, C.R.S. (authorizing the Commission to promulgate rules necessary to administer and enforce Title 40). In addition, § 26-21-106(g)(1.5)(a), C.R.S., transfers the rights, powers, duties, and functions regarding the TRS from the Commission to DHS, thereby necessitating these Rule amendments. Section 40-17-102(3)(a), C.R.S., which requires the Commission to establish surcharge remittance procedures, also provides authority for the rules, as does § 40-17-103(4)(e), C.R.S., which authorizes the Commission to adopt rules relating to

⁵ NOPR at p. 3.

auditing a service supplier's books and records concerning the collection and remittance of certain charges.

11. Based on the above-described authorities, the undersigned concludes that the Commission has authority to promulgate the rules that this Decision adopts.

12. When the Commission exercises any authority the General Assembly grants it, it must give the public interest "first and paramount consideration."⁶ In assessing the proposed rules, the undersigned is mindful of the impact of the modifications of the rules on the public interest.

A. Proposed Rules

13. **Rule 2011: Definitions.** HB 1154 included an update to the definition of TRS. Staff proposes to update the definition to comport with the requirements of § 26-21-103(11), C.R.S., which defines TRS as "any telecommunications services through a third party that allow an individual who is deaf, hard of hearing, or deafblind or who has a speech disability to communicate by any compatible telecommunications service with one or more individuals in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability." Staff also proposes to amend Rule 2011 to remove references that are no longer relevant following the enactment of HB 1154. In particular, the proposed rules: (a) eliminate the reference in the schedule to Rule 2823, which required conformity with the ADA; Rule 2824, which required conformity by the TRS provider to conform with the Commission's quality of service rules; and (c) Rule 2827, which applied potential penalties for telecommunications service providers failing to remit TRS surcharges in a timely and appropriate manner. These rules are no

⁶ *Pub. Serv. Co. of Colo. V. Pub. Utilis. Comm'n*, 350 P.3d 543, 549 (Colo. 1960), *cert. denied*, 364 U.S. 820 (1960).

longer applicable to the Commission's role with the TRS, which is now administered by the Enterprise.⁷

14. In addition, Staff recommends a non-substantive change in the penalty schedule found in Rule 2011. One rule is identified in the schedule as "Rule (TBD)." Staff recommends amending this reference to the correct rule, which is Rule 2845.

15. **Rule 2122: Tariffs, Advice Letters and Terms of Service Documents.** Staff proposes one change to this rule, which is to update the term "TRS" to "Telephone Disability Access," as the latter term is consistent with the new statutory language.⁸

16. **Rule 2138: Obligations of Payphone Providers.** Staff proposes changing the language of this rule to more accurately reflect the types of calls it governs. Specifically, Staff recommends stating "9-1-1" instead of "emergency calls," and "7-1-1" instead of referencing "TRS."

17. **Rule 2150: Administration of the 9-1-1 Surcharge Trust Cash Fund.** Staff proposes to update this rule to comport with new statutory language. In particular, the name of the TRS Surcharge is changed to the TDAS and statutory references in the rule are updated.⁹

18. Staff also recommends correcting a typo in paragraph (e)(III) of the rule.

19. **Rule 2803: Audit of 9-8-8 Originating Service Providers Regarding 9-8-8 Surcharge Practices.** Staff recommends amending this rule by updating the name of the TRS Surcharge to TDAS.

⁷ See §§ 26-21-206(9)(b) and 40-17-103(4)(b), C.R.S.

⁸ See, e.g., § 26-21-103.5, C.R.S.

⁹ For example, the statutory provision imposing the TDAS is changed from § 29-11-102.7, C.R.S., to § 40-17-104, C.R.S.

20. **Preamble to Rules 2820 through 2827.** Staff recommends updates to the preamble to reflect that the rules now include the administration of the TDAS, simply the statement of basis and purpose, and update the statutory references.

21. **Rule 2821: Definitions.** Staff proposes changes to definitions to comport with the requirements in HB 1154 and to more accurately define terms. One definition in particular warrants further analysis. Specifically, with regard to Rule 2821(b), CCTA recommended in pre-rulemaking comments that the definition of “voice service provider” be replaced with “service supplier,” and that the definition be: “a person providing voice telephone access lines to any service user in the state.” The relevant statutory provision, § 40-17-101(8), C.R.S., includes the following words at the end of the definition: “either directly or by resale.” CCTA suggested omission of the words because the inclusion of the phrase “either directly or by resale” may create confusion and seems contradictory to the meaning of the definition as it is used in the relevant statute as only entities that sell service to an end user are expected to assess the TDAS and remit surcharges to the Commission.¹⁰ While the ALJ appreciates CCTA’s concerns, the ALJ finds that deviating from the statutory definition in rule could potentially cause greater confusion than that statutory language might itself. Moreover, removing statutory language in an administrative rule has the potential of being an improper modification of a statute.¹¹ Accordingly, the ALJ recommends including the full statutory definition in Rule 2821.

22. **Rules 2823 through 2825.** Staff recommends deleting the following rules: Rule 2823: Conformity with the ADA, because the Commission’s statutory authority to regulate this

¹⁰ NOPR at p. 7.

¹¹ See *Colorado Consumer Health Initiative v. Colorado Bd. of Health*, 240 P.3d 535 (Colo. App. 2010) (An administrative rule may not modify or contravene an existing statute, and any rule that is inconsistent with or contrary to a statute is void.).

was removed by HB 1154; Rule 2824: Conformity with the Commission’s Quality of Service Rules, to avoid overlapping or conflicting regulation with the Enterprise’s efforts; and Rule 2825: Rates – Calls Included as Telecommunications Relay Calls, to avoid overlapping or conflicting regulations with the Enterprise.

23. **Rule 2826 (2823): Commission Powers and Duties.** Staff recommends rewriting this rule with language that mirrors rules already in place for the collection and remittance of the 9-1-1 surcharge (Rule 2150) and the 9-8-8 surcharge (Rule 2802). Staff also recommends renumbering this rule to 2823.

24. **Rule 2827: Administration of the Colorado Telephone Users with Disabilities Fund (“TUD Fund”).** The TUD Fund previously funded TRS in the state and served as a passthrough to other programs. After HB 1154 was enacted, the portions of the rule prescribing the processes for setting the TRS rate and the processes for collection and remittance of the TRS surcharge are no longer relevant. Accordingly, Staff proposes to rewrite Rule 2827 to describe the process for the auditing of service suppliers regarding the collection and remittance of TDAS, with such language largely mirroring similar rules. In addition, Staff proposes to renumber this Rule to 2824.

B. Public Comments

25. CCTA filed the only written comment related to this Proceeding (prior to the NOPR), and that comment is addressed above in Section II(a) at paragraph 21.

26. No individual offered oral comment at the December 1, 2025 hearing.

III. CONCLUSION

27. Attachment A to this Decision represents the rule amendments adopted by this Recommended Decision with modifications to the prior Rules Regulating Telecommunications Services and Providers of Telecommunications Services indicated in redline and strikeout format.

28. Attachment B to this Decision represents the rule amendments adopted by this Decision to the prior Rules Regulating Telecommunications Services and Providers of Telecommunications Services in final form.

29. The adopted rules in legislative (*i.e.*, strikethrough/redline Attachment A) format and final format (Attachment B) are available through the Commission's E-Filings in this proceeding (25R-0428T) at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=25R-0428T

30. It is found and concluded that the proposed rules as modified by this Recommended Decision are reasonable and should be adopted.

31. Pursuant to the provisions of § 40-6-109, C.R.S., the ALJ recommends that the Commission adopt the attached rules.

IV. ORDER

A. The Commission Orders That:

1. The Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* ("CCR") 723-2, contained in redlined and strikethrough format, attached to this Recommended Decision as Attachment A, and in final format, attached as Attachment B, are adopted.

2. Proceeding No. 25R-0428T is closed.

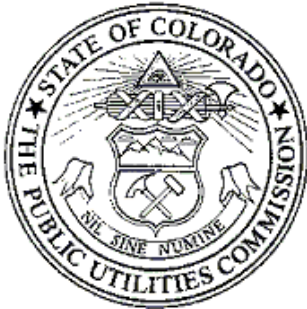
3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

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

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

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

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director