

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05R-537T

IN THE MATTER OF PROPOSED RULES REGARDING ANNUAL REPORTING
REQUIREMENTS FOR ELIGIBLE TELECOMMUNICATIONS CARRIERS TO BE
CERTIFIED TO RECEIVE FEDERAL UNIVERSAL SERVICE SUPPORT.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: December 21, 2005

Adopted Date: December 21, 2005

I. BY THE COMMISSION

A. STATEMENT

1. The Colorado Public Utilities Commission (Commission) gives notice of proposed rulemaking (NOPR) regarding implementation of rules prescribing the procedures for annual reporting requirements for telecommunications service providers that are Eligible Telecommunications Carrier (ETC) carriers. The intent of the proposed rules is to implement new procedures such as those described in this order and in the attached proposed rules.

2. 47 U.S.C. Section 214(e)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, provide state commissions with the primary responsibility for performing ETC designations. The proposed rules seek to implement annual reporting requirements for designated ETCs in Colorado pursuant to the guidelines set forth in 47 Code of Federal Regulations §§ 54.313 and 54.314. A copy of the proposed rules is attached to this NOPR.

3. On March 17, 2005, the Federal Communications Commission (FCC) released its Report and Order augmenting its rules requiring ETCs to submit certain information annually regarding its network and its use of universal service funds. The attached proposed rules adopts

the FCC's reporting requirements in determining whether an ETC has satisfied its burden of proof necessary to continue to receive universal service support each year.

4. Attachment A, attached hereto, sets forth the proposed rules. The proposed rules are intended to add provisions to the rules adopted in Docket No. 03R-524T, which will become effective on April 1, 2006. Specifically, the proposed rules add ETC reporting requirements to rule 2187(e) as adopted in Docket No. 03R-524T. To the extent that the proposed rules conflict with the rules approved in Docket No. 03R-524T, the proposed rules are intended to supersede the rules approved in that docket.

5. The statutory authority for proposed rules is found at §§ 40-2-108, C.R.S.; 40-4-101, C.R.S.; 40-15-108, C.R.S.; C.R.S.; 40-15-208, C.R.S.; 40-15-502, C.R.S.; and 40-15-503, C.R.S.

6. The Commission will conduct a hearing on the proposed rules at the below stated time and place. Interested persons may submit written comments on these proposed rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. The Commission also encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, such comments shall be filed no later than March 2, 2006. The Commission may post electronically submitted comments to its web site. The Commission will consider all submissions.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the February 2006 edition of *The Colorado Register*.

2. A hearing on the proposed rules shall be held as follows:

DATE: March 16, 2006
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

3. At the time set for hearing, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

4. The Commission requests that written comments be submitted no later than March 2, 2006. The Commission will consider all submissions.

5. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 21, 2005.**

(SEAL)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

2187. Eligible Telecommunications Carrier Designation.

* * *

- (e) State certification for federal support. As required by the FCC's universal service regulations found at 47 C.F.R. 54.313 and 54.314, 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 may 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 on a form supplied by the Commission as part of the carrier's annual report.
- (l) Annual reporting requirements. 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 by this subparagraph 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. Every ETC shall submit the following information in its report:
- (A) The number of requests for service from potential customers within the ETC's service areas that were unfulfilled during the past year and written explanation detailing how the ETC attempted to provide service to those potential customers, as set forth in 47 C.F.R. § 54.202(a)(1)(i).
- (B) The number of complaints per 1,000 access lines or handsets.
- (C) Detailed information on any outage lasting at least 30 minutes for any facilities that an ETC owns, operates, leases, or otherwise utilizes that potentially affects at least ten percent of the end users in a service area, or that could affect access to 9-1-1. An outage is defined as a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network. The ETC must report the following information regarding each outage: date and time of outage; description of the outage and resolution; specific service(s) affected; specific geographic area(s) affected; steps taken to prevent it from happening again; and number of customers affected by the outage.
- (D) 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.
- (E) Certification that the ETC is able to function in emergency situations as set forth in 47 C.F.R. § 54.202(a)(2).
- (F) Certification that the ETC acknowledges the Commission may require it to provide customers with equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.
- (G) The total amount of all federal high cost support received in the previous calendar year and year-to-date for the current calendar year.

- (H) For the previous two calendar years, a detailed schedule/exhibit showing the actual dollar amounts expended by the carrier in the provision, maintenance, upgrading, plant additions and associated infrastructure costs for local exchange service within the service areas in Colorado where the carrier has been designated an ETC. An explanation regarding any network improvement targets that have not been fulfilled. This information shall be submitted at the wire center level or at the authorized service area. If service improvements in a particular wire center is not needed, an explanation of why improvement is not need and how funding will otherwise be used to further the provision of supported services in that area.
- (I) Documentation the carrier 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.
- (J) Documentation that competitive ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas.
- (K) A map of the service areas where the carrier has ETC designation showing the locations of facilities or for wireless providers, maps showing the location of all cellular towers and the coverage area of these towers.
- (L) For the current calendar year, a detailed schedule/exhibit showing the actual dollar amounts expended by the carrier in the provision, maintenance, upgrading, plant additions and associated infrastructure costs for any universal service products within the service areas in Colorado where the carrier has been designated an ETC. This shall include the carrier's build-out plans and budgets for projects, upgrades or installations planned but not yet completed during the current calendar year applicable to any universal service products. This information shall be submitted at the wire center level or at the authorized service area.
- (M) A copy of filing made to National Exchange Carrier Association (NECA) for same year.
- (N) A copy of company's trial balance for previous year.
- (O) An affidavit attesting to the fact that the information reported on the annual report and information submitted under this rule are 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.
- (II) 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 suspend support disbursements to that carrier or revoke the carrier's designation as an ETC. In addition, carriers must submit their reports on a timely basis.