

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 10M-565T

IN THE MATTER OF THE CREATION OF A TELECOM ADVISORY GROUP FOR THE PURPOSE OF INFORMING THE COMMISSION ON CURRENT ADVANCEMENTS IN TELECOMMUNICATIONS TECHNOLOGY AND THE TELECOMMUNICATIONS MARKETPLACE PURSUANT TO § 40-15-101, C.R.S.

**COMMISSION DECISION REQUIRING RESPONSES
TO AUDIT REQUESTS REGARDING RETAIL
SERVICES DEREGULATION, INTRASTATE
ACCESS CHARGES, AND UNIVERSAL SERVICE**

Mailed Date: October 12, 2011
Adopted Date: October 5, 2011

I. BY THE COMMISSION

A. Statement

1. This matter came before the Commission for discussion at its Weekly Meeting on October 5, 2011.

2. The Commission convened a Commissioner Information Meeting on September 1, 2011 to address and discuss specific telecommunications issues that were identified through the Telecommunications Advisory Group and legislative efforts.

3. The Commission specifically requested that participants in the Commissioner Information Meeting address questions concerning: 1) Retail Services Deregulation; 2) Intrastate Access Charges; and 3) Universal Service. The Commission has determined that telecommunications reform is most needed in these three areas.

4. Participants concurred that telecommunications reform is necessary, but their positions on solutions varied greatly. Little data was provided that will allow Commission Staff

to make a recommendation or the Commission to make a decision on specific rule changes. Several participants were asked if they would provide additional information when requested and all agreed to do so.

5. Section 40-15-107, C.R.S., and Rule 4 *Code of Colorado Regulations* (CCR) 723-2-2005, Rules Regulating Telecommunications Providers, Services, and Products, allow the Commission to inspect the books and documents of providers and require providers to make such information available to the Commission. These rules grant the Commission the authority to request information needed to determine the most appropriate reform changes. Audit responses are held confidential pursuant to 4 CCR 723-1-1101, Rules of Practice and Procedure.

6. The Commission has developed guiding principles for this telecommunications reform effort. The principles are as follows:

- a) Access to modern communications technologies, including broadband, is a foundation for economic development and innovation.
 - I. The concept of universal service must be updated to encompass voice, broadband data access, and mobility.
 - II. Subsidies to support consumer broadband access should be focused on capital investment only and be based on actual and prudent costs.
 - III. The legacy of the Colorado High Cost Support Mechanism shall be transitioned in a manner that is fair and equitable.
- b) Competitive markets provide choices for consumers in telecommunications prices and services in most regions of the state.
 - I. Where there is adequate competition, there will be no company subsidies.
- c) Intrastate access charges shall move toward unified rates for all providers.
 - I. Any subsidies provided to offset revenue loss of intrastate access rates need to be explicit and not contained in access rates.

7. Using these guiding principles, we have developed the questions attached to this Decision. The data expected in response to these questions are necessary to perform the analysis to inform the appropriate regulatory modifications in each of the three areas: 1) Retail Services Deregulation; 2) Intrastate Access Charges;, and 3) Universal Service.

8. The providers served with this Decision are directed to respond to all applicable questions set forth in the attached documents (Appendix A and Appendix B) by October 28, 2011. At their option, other interested stakeholders may file responses or other comments to any of the areas identified. We also encourage providers and other stakeholders to submit further information that they believe would be helpful in this endeavor.

9. For all continuing proceedings in this docket, Commissioner Matt Baker is assigned the role of Hearing Commissioner.

II. ORDER

A. The Commission Orders That:

1. Providers served with this Decision shall respond to all applicable questions set forth in the attached documents (Appendix A and Appendix B) by October 28, 2011. Any confidential or highly confidential material will adhere to Rule 4 *Code of Colorado Regulations* 723-1 1101.

2. Commissioner Matt Baker is the Hearing Commissioner assigned to this docket.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 5, 2011.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

MATT BAKER

Commissioners

ACCESS REQUESTS

PUC 1-1: Rural Local Exchange Carriers (RLECs), provide:

- a. The Colorado 2010 intrastate switched access revenues, separately, for the following:
 - i. Carrier Common Line Charge (CCLC);
 - ii. Local switching;
 - iii. Direct trunk transport;
 - iv. Tandem transport; and,
 - v. Other (*e.g.*, Nonrecurring).
- b. For cost companies, provide the Colorado 2010 FCC Part 36 and intrastate Part 69 cost studies' summary sheets.
- c. The Colorado 2010 interstate switched access revenues (*i.e.*, switching and transport) excluding Interstate High Cost Loop (HCL), Interstate Common Line Support (ICLS), Local Switching Support (LSS), Safety Net Additive (SNA) support, and National Exchange Carrier Association (NECA) adjustments.

PUC 1-2: Qwest and its affiliates, provide:

- a. The Colorado 2010, interstate switched access revenues for local switching, Direct Trunk, and tandem transport, excluding Interstate Access Support (IAS).
- b. The Colorado 2010 intrastate switched access revenues identify separately for Direct Trunk and tandem transport revenues.
- c. Colorado intrastate Minutes of Use (MOU) for local switching for each year for 2003-2007.
- d. The Colorado 2010 intrastate switched access charges, including Direct Trunk and Tandem transport, *paid* to other carriers.

PUC 1-3: Competitive Local Exchange Carrier (CLEC) and its affiliates, separately provide by, CLEC and its affiliates:

- a. The Colorado 2010 intrastate switched access revenue for:
 - i. Carrier Common Line Charge (CCLC);
 - ii. Local switching;
 - iii. Direct trunk transport;
 - iv. Tandem transport;
 - v. Other (*e.g.*, Nonrecurring); and,

- vi. If a composite intrastate rate (*i.e.*, a weighted rate for CCLC, Local Switching, Transport) is charged, provide the 2010 intrastate switched access revenues.
- b. The Colorado 2010 Minutes of Use (MOU) for local switching.
- c. The Colorado 2010 intrastate switched access charges, including Direct Trunk and Tandem transport, *paid* to other carriers.

PUC 1-4: **Facility-based Interexchange Carriers (IXCs) only:**

- a. Provide the Colorado 2010 intrastate switched access charges, including Direct Trunk and Tandem transport, *paid* to other carriers.

PUC 1-5: **Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs), provide:**

- a. Copies of all current switched access contracts.

**RETAIL DEREGULATION AND
HIGH COST SUPPORT MECHANISM AUDIT REQUESTS**

PUC 2-1: **Qwest (dba CenturyLink - QC) provide:**

- a. Provide the most recent:
 - i. Studies that have been conducted or utilized by your company to assess local service competition, market product or geographic definition, trends, opportunities, barriers, supply and demand cross-elasticity, or other information that would inform the Commission on the extent of regulated local service market competition in Colorado. If the Studies include the data requested in subparts ii. through vi., skip to b, if not, provide data for subparts ii. through vi.
 - ii. Identify by exchange/CLLI separately for residential and business for end of year 2010:
 - a. Total number of living units;
 - b. Total number of broadband qualified living units;
 - c. Total number of working broadband living units; and,
 - d. Total number of Voice over Internet Protocol (VoIP) lines.
 - iii. For each of Qwest's service offerings that is or includes any regulated service that Qwest believes has a competitive alternative (including but not limited to wireless and VoIP services);
 - a. Identify the service offering, the equivalent competitive offering and Qwest's and competitor's current price for each; and,
 - b. The change in price of the Qwest service offering from 2009 to the present.
 - iv. For each exchange/CLLI for year end 2010:
 - a. Number of residential standalone 1FR lines;
 - b. Number of residential message service lines;
 - c. Number of residential measured service lines; and,
 - d. Number of unserved voice customers and reason why.
 - v. Identify by exchange/CLLI for year end 2010:
 - a. Provider name and number of Collocations;
 - b. Provider name, number of loops by capacity (DS0, DS1, and DS3) for each collocation;
 - c. Provider name, number of EELs by capacity (DS0, DS1, and DS3);
 - d. Provider name and number of CLSP lines; and,
 - e. Provider name and number of resale lines.
 - vi. Identify by exchange/CLLI for year end 2010:
 - a. Estimated number of local service competitors;
 - b. Name of known companies offering competitive alternatives;

- c. Type of technology each known competitor uses (*i.e.*, VoIP, wireless, broadband, etc.; and,
 - d. For each known competitor provide estimated market share, homes/businesses passed and what percentages of their customer base are business and/or residential.
- b. Provide a copy of any recent Herfindahl-Hirschman Index analyses for local service in Colorado.
- c. Identify any barriers at a state and disaggregated level to market competition that exist for local service in Colorado.
- d. Identify whether the telecommunications market at a state and disaggregated level in Colorado is:
 - i. Perfect competition
 - ii. Monopolistic
 - iii. Oligopoly
 - iv. Monopoly
 - v. Duopoly
- e. Using the Wireless Code of Conduct as a guide (attached), what would you recommend be included in a Wireline Code of Conduct if wireline services are no longer regulated? Include recommendations for quality of service and consumer protection at a minimum.

PUC 2-2: Rural Local Exchange Carriers (RLECs) (Including CenturyTel of Eagle and CenturyTel of Colorado) provide:

- a. Provide the most recent:
 - i. Studies that have been conducted or utilized by your company to assess local service competition, market product or geographic definition, trends, opportunities, barriers, supply and demand cross-elasticity, or other information that would inform the Commission on the extent of regulated local service market competition in Colorado. If the Studies include the data requested in subparts ii. through vi., skip to b, if not, provide data for subparts ii. through vi.
 - ii. Identify by exchange/CLLI separately for residential and business for end of year 2010:
 - a. Total number of living units;
 - b. Total number of broadband qualified living units;
 - c. Total number of working broadband living units; and,
 - d. Total number of VoIP lines.

- iii. For each of the RLEC's service offerings that is or includes any regulated service that RLEC believes has a competitive alternative (including but not limited to wireless and VoIP services);
 - a. Identify the service offering, the equivalent competitive offering and the RLEC's and competitor's current price for each; and,
 - b. The change in price of the RLEC service offering from 2009 to the present.
- iv. For each exchange/CLLI for year end 2010:
 - a. Number of residential standalone lines;
 - b. Number of residential message service lines; and,
 - c. Number of residential measured service lines.
- v. If applicable, identify by exchange/CLLI for year end 2010:
 - a. Provider name and number of Collocations;
 - b. Provider name, number of loops by capacity (DS0, DS1, and DS3) for each collocation;
 - c. Provider name, number of EELs by capacity (DS0, DS1, and DS3);
 - d. Provider name and number of CLSP lines; and,
 - e. Provider name and number of resale lines.
- vi. Identify by exchange/CLLI for year end 2010:
 - a. Estimated number of local service competitors;
 - b. Name of known companies offering competitive alternatives;
 - c. Type of technology each known competitor uses (*i.e.*, VoIP, wireless, broadband, etc.); and,
 - d. For each known competitor provide estimated market share, homes/businesses passed and what percentages of their customer base are business and/or residential.
- b. The amount, purpose, and terms of any existing loans and grants.
- c. Provide a copy of any recent Herfindahl-Hirschman Index analyses for local service in Colorado.
- d. Identify any barriers at a state and disaggregated level to market competition that exist for local service in Colorado.
- e. Identify whether the telecommunications market at a state and disaggregated level in Colorado is:
 - i. Perfect competition
 - ii. Monopolistic
 - iii. Oligopoly
 - iv. Monopoly
 - v. Duopoly

- f. Using the Wireless Code of Conduct as a guide (attached), what would you recommend be included in a Wireline Code of Conduct if wireline services are no longer regulated? Include recommendations for quality of service and consumer protection at a minimum.

PUC 2-3: **CLECs provide:**

- a. Provide the most recent:
- i. Studies that have been conducted or utilized by your company to assess local service competition, market product or geographic definition, trends, opportunities, barriers, supply and demand cross-elasticity, or other information that would inform the Commission on the extent of regulated local service market competition in Colorado. If the Studies include the data requested in subparts ii. through vi., skip to b, if not, provide data for subparts ii. through vi.
 - ii. Identify by exchange/CLLI separately for residential and business for end of year 2010:
 - a. Total number of living units;
 - b. Total number of broadband qualified living units;
 - c. Total number of working broadband living units; and,
 - d. Total number of VoIP lines.
 - iii. For each of the Company's service offerings that is or includes any regulated service that the Company believes has a competitive alternative;
 - a. Identify the service offering, the equivalent competitive offering and the Company's and competitor's current price for each; and,
 - b. The change in the price of the Company service offering from 2009 to the present.
 - iv. Identify and provide a definition of your business market segments (*e.g.*, small, mid-size, enterprise).
 - v. Number of lines by exchange
 - a. Number of residential lines; and,
 - b. Number of DS0, DS1, and DS3 business lines identified separately for each market segment identified in question iv. Above.
 - vi. Identify by the Company's exchange maps or the lowest level of disaggregation possible for your service area;
 - a. Estimated number of local service competitors (including competitive offerings from the incumbent carrier itself, *e.g.*, VoIP);
 - b. Name of companies offering competitive alternatives;
 - c. Type of technology each competitor uses (*i.e.*, VoIP, wireless, broadband, etc.); and,
 - d. For each competitor provide estimated market share, homes/businesses passed and what percentages of their customer base are business or residential.

- b. Provide a copy of the Company's exchange map of the service area.
- c. Provide a copy of any recent Herfindahl-Hirschman Index analyses for local service in Colorado.
- d. Identify any barriers at a state and disaggregated level to market competition that exist for local service in Colorado
- e. Identify whether and explain why the telecommunications market at a state and disaggregated level in Colorado is:
 - i. Perfect competition
 - ii. Monopolistic
 - iii. Oligopoly
 - iv. Monopoly
 - v. Duopoly
- f. Using the Wireless Code of Conduct (attached) as a guide, what would you recommend be included in a Wireline Code of Conduct if wireline services are no longer regulated? Include recommendations for quality of service and consumer protection at a minimum.

PUC 2-4: **Wireless carriers provide:**

- a. Provide the most recent:
 - i. Studies that have been conducted or utilized by your company to assess local service competition with the regulated local service market, market product or geographic definition, trends, opportunities, barriers, supply and demand cross-elasticity, or other information that would inform the Commission on the extent of local service market competition in Colorado or if no such studies exist.
- b. Provide the most current map showing the service coverage (not including roaming) at the lowest level of disaggregation possible for your service area (*e.g.*, counties, metes and bounds, Incumbent Local Exchange Carrier (ILEC) exchange areas).
- c. Provide a copy of any recent Herfindahl-Hirschman Index analyses for local service in Colorado.
- d. Identify any barriers at a state and disaggregated level to market competition that exist for local service in Colorado.

- e. Identify whether the telecommunications market at a state and disaggregated level in Colorado is:
 - i. Perfect competition
 - ii. Monopolistic
 - iii. Oligopoly
 - iv. Monopoly
 - v. Duopoly

CTIA

Consumer Code *for* Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers, including voice, messaging, and data services sold either on a postpaid or prepaid basis.

THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

ONE

DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

For each service plan offered to new consumers, wireless carriers will disclose to consumers at point of sale and on their web sites, at least the following information, as applicable: (a) the coverage area for the service; (b) any activation or initiation fee; (c) the monthly access fee or base charge; (d) the amount and nature of any voice, messaging, or data allowances included in the plan (such as night and weekend minutes); (e) the charges for domestic usage in excess of any included allowances or outside of the coverage area; (f) for prepaid service plans, the period of time during which any balance is available for use; (g) whether there are prohibitions on data service usage and whether there are network management practices that will have a material impact on the customer's wireless data experience; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) the amount or nature of any late payment fee; (k) whether a fixed-term contract is required and its duration; (l) the amount and nature of any early termination fee that may apply; and (m) the trial period during which a consumer may cancel service without any early termination fee, as long as the consumer complies with any applicable return policy.

TWO

MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate domestic coverage applicable to each of their service plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted

methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain or link to an appropriate legend concerning limitations and/or variations in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

THREE

PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE

When a customer initiates new service or a change in existing service, the carrier will provide or confirm any new material terms and conditions of the ongoing service with the customer.

FOUR

ALLOW A TRIAL PERIOD FOR NEW SERVICE

When a customer initiates postpaid service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including usage charges, may still apply.

FIVE

PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING

In advertising of prices for wireless service plans or devices, wireless carriers will disclose material charges and conditions related to the advertised prices and services, including if applicable and to the extent the advertising medium reasonably allows: (a) whether activation or initiation fees apply; (b) monthly access fees or base charges; (c) the amount and nature of any voice, messaging, or data service allowances included in the plan; (d) the charges for any domestic usage in excess of any included allowances or outside of the coverage area; (e) for prepaid service plans, the period of time during which any balance is available for use; (f) whether there are network management practices that will have a material impact on the customer's wireless data experience; (g) whether any additional taxes, fees or surcharges apply; (h) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (i) whether a fixed-term contract is required and its duration; (j) early termination fees; (k) the terms and conditions related to receiving a product or service for "free;" (l) for any service plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; and (i) whether prices or benefits apply only for a limited time or promotional period and, if so, whether any different fees or charges will apply for the remainder of the contract term.

SIX

SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS

On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

SEVEN

PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE FOR CHANGES TO CONTRACT
TERMS

Carriers will not modify the material terms of their postpaid customers' contracts in a manner that is materially adverse to those customers without providing a reasonable advance notice of a proposed modification and allowing those customers a time period of not less than 14 days to cancel their contracts with no early termination fee.

EIGHT

PROVIDE READY ACCESS TO CUSTOMER SERVICE

Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

NINE

PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS RECEIVED FROM
GOVERNMENT AGENCIES

Wireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

TEN

ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY

Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online. Each wireless carrier will abide by the CTIA Best Practices and Guidelines for Location-Based Services.