

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RULES OF THE PUBLIC UTILITIES)
COMMISSION OF THE STATE OF COLORADO)
CONCERNING THE REGULATION OF) DOCKET NO. 91R-498T
OPERATOR SERVICES FOR)
TELECOMMUNICATIONS SERVICE)
PROVIDERS AND TELEPHONE UTILITIES.)

**COMMISSION ORDER GIVING RE-NOTICE OF PROPOSED RULEMAKING;
SETTING HEARINGS FOR TUESDAY NOVEMBER 26, 1991 AT 10 A.M.
BEFORE CHIEF ADMINISTRATIVE LAW JUDGE ROBERT E. TEMMER
CONCERNING ALTERNATIVE OPERATOR SERVICE RULES.**

Mailing date: October 4, 1991
Adopted date: September 25, 1991

This new alternative operator rulemaking docket is the successor to Docket No. 90R-505T, closed on July 26, 1991 by Decision No. C91-997. On August 30, 1991 the Commission set rulemaking hearing before the en banc Commission for October 17, 1991. Decision No. C91-1178 at 2, ¶ 3. Due to the Commission's crowded schedule, it will vacate the previous hearing date, and refer the matter to an administrative law judge. The proposed rules, which are the same as those mailed on August 30, 1991 in this Docket, Docket No. 91R-498T, and mailed on July 19, 1991 to all parties in Docket No. 90R-505T, are attached hereto.

THEREFORE THE COMMISSION ORDERS THAT:

1. The Commission hereby gives re-notice of rulemaking under the State Administrative Procedure Act, Colorado Revised Statutes § 24-4-103 (1988 Rep. Vol.10A). The new proposed rules are attached as Appendix "A" to this Decision.

2. The Director of the Commission shall file with the Secretary of State the necessary documents to allow for re-notice of the proposed Operator Service Rules. The Secretary of State shall receive the Re-Notice on or before September 30, 1991, for publication in the October 10, 1991 issue of the Colorado Register.

3. The Hearings set in this matter before the en banc Commission on October 17, 1991 in Decision No. C91-1178, are hereby vacated.

4. Chief Administrative Law Judge Robert E. Temmer will conduct public hearings on the proposed operator service rules as follows:

Date: Tuesday November 26, 1991
Time: 10:00 a.m.
Place: Colorado Public Utilities Commission
Logan Tower
1580 Logan Street, Office Level 2
Commission Hearing Room "A"
Denver, Colorado 80203

4. All parties to Docket No. 90R-505T are automatically parties to this new docket, Docket No. 91R-498T. Any other party who wishes to intervene in this Docket, shall file an entry of appearance on or before Friday November 8, 1991.

5. Initial comments on the proposed rules shall be filed on or before Monday November 18, 1991.

ADOPTED IN OPEN MEETING ON September 25, 1991.

(S E A L)



ATTEST: A TRUE COPY
Suzanne A. Fasing
Suzanne A. Fasing
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

CHRISTINE E. M. ALVAREZ

Commissioners

COMMISSIONER GARY L. NAKARADO ABSENT
BUT CONCURRING IN THE RESULT.

RULES REGULATING OPERATOR SERVICES FOR TELECOMMUNICATIONS
SERVICE PROVIDERS AND TELEPHONE UTILITIES

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for these rules is to identify nonoptional operator services which are subject to the Commission's jurisdiction. Under § 40-15-401(1)(j), C.R.S., operator services are declared to be exempt from Commission jurisdiction. However, the definition of operator services found at § 40-15-102(20), C.R.S., states that only certain operator services are exempt from Commission jurisdiction and provides as follows:

(20) "Operator services" means optional services provided by operators to customers which offer individualized and select call processing. (Emphasis supplied.)

Only optional operator services are deregulated. Nonoptional operator services which do not offer individualized and select call processing remain regulated. Thus, the purpose for these rules is to establish the regulatory treatment for nonoptional operator services and operator service providers that provide nonoptional operator services. The statutory authority for the Commission's rulemaking authority is found at § 40-2-108, C.R.S.

RULE 1 - APPLICABILITY

These rules apply to all public utilities and providers of telecommunications service which are regulated under Title 40, Article 15, Parts 2 and 3, C.R.S.

RULE 2 - DEFINITIONS

For purposes of these rules only, unless context otherwise requires:

- 2.1 Access code means a sequence of numbers that, when dialed, connects the caller to the provider of operator services associated with that sequence.
- 2.2 Aggregator means any person, that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises for intrastate telephone calls using a provider of operator services.
- 2.3 Call Splashing means the transfer of a telephone call from one provider of operator services to another provider of operator services in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.
- 2.4 Commission means the Colorado Public Utilities Commission.
- 2.5 Consumer means a person initiating any intrastate telephone call using nonoptional operator services.
- 2.6 Person means any individual, firm, partnership, corporation, company, association, joint stock association, and other legal entity.
- 2.7 Presubscribed provider of operator services means the provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.
- 2.8 Provider of operator services means any provider of nonoptional operator services as defined in Rule 3, or any other person determined by the Commission to be providing nonoptional operator services.
- 2.9 Public Utility is defined in § 40-1-103, C.R.S. and for purposes of these rules includes providers of telecommunications services which are regulated under Title 40, Article 15, Parts 2 and 3, C.R.S.

RULE 3 - NONOPTIONAL OPERATOR SERVICES

- 3.1 Nonoptional operator services include, but are not limited to:
- 3.1.1. Calls made at coin-operated or coinless telephones, both public and semipublic, which require operator intervention or a synthesized message to advise the party of coins to be deposited or when the time has expired.
 - 3.1.2. Calls made from telephone exchanges which do not allow for direct dialing, also described as Dial Station-to-Station calls, which require operator intervention to complete what would, otherwise be a direct-dialed call.
 - 3.1.3. Calls made by inmates at penal institutions or other correctional facilities who are not permitted to use coins when placing calls at coin operated or coinless telephones or who are required to use an operator's services to complete a call because of the rules or regulations of said institutions or facilities.
 - 3.1.4. Calls made by individuals who are disabled to the extent that they are unable functionally to complete a call (for example, unable to use rotary dial or Touch-Tone pad) without operator assistance. These calls also include calls made with telecommunications devices for the deaf if operator intervention is required to functionally complete the call.
 - 3.1.5. All operator-provided services in support the network, including operated-assisted call reconnection for disconnection or poor transmission, and operator-handled credit requests.
 - 3.1.6. Directory assistance, including calls to 1-411 or 1-555-1212.
 - 3.1.7. Basic emergency services, including calls made to operators by customers seeking emergency assistance from authorized emergency agencies.
 - 3.1.8. Credit card calls, also known as Customer-dialed, calling-card, station-to-station calls.

- 3.1.9 Collect local or long distance calls.
 - 3.1.10 Local or long distance third party billing calls.
 - 3.1.11 Person-to-person calls.
 - 3.1.12 Operator services provided to customers where the use of an operator is required in order to obtain a particular service or in order to complete a call and where no individualized and select call processing is provided.
- 3.2 Nonoptional operator services include the provision of those services through the use of synthesized voices rather than through a person commonly described as an operator.
- 3.3 Nonoptional operator services provided by or through hotels, motels, or other lodging-type entities which resell intrastate toll and wide area telephone services (WATS) to their lodging patrons, nonoptional operator services provided by or through any other entities which resell to the general public long distance telephone services by using the tariff services and facilities of regulated telephone utilities collectively known as "resellers", or nonoptional operator services provided by or through any customer-owned or leased pay telephone terminal equipment which resells local exchange and toll service by using the tariff services and facilities of regulated telephone utilities known as COCOTs are regulated by the Commission.

RULE 4 - OPTIONAL OPERATOR SERVICES

- 4.1 Optional operator services provided by operators to customers which offer individualized and select call processing include, but are not limited to:
 - 4.1.1 Foreign language operator services.
 - 4.1.2 Operator services provided for conference calling.
 - 4.1.3 Operator services provided for voice messaging or the taking of messages.
 - 4.1.4 Operator services provided for electronic mailing.
 - 4.1.5 Operator assisted credit card calls where a direct-dialed card call can be made.
- 4.2 Persons who provide optional operator services and who provide the nonoptional operator services described in Rules 3.1.4 through 3.1.7 at no additional cost to the user in order to support the public switched network, and incidental to the primary business of providing optional operator services, shall not be considered nonoptional operator service providers subject to the Commission's jurisdiction.

RULE 5 - MANNER OF REGULATION

- 5.1 Nonoptional operator services, the associated rates, and the provider of nonoptional operator services are regulated by the Commission.
- 5.2 Persons who provide nonoptional operator services shall obtain a certificate in accordance with § 40-15-302(2), C.R.S., and the Rules Regulating Emerging Competitive Telecommunications Service found at 4 CCR 723-24. Telecommunications service providers or telephone utilities which already have certificates or the authority to provide nonoptional operator services shall continue to have the authority without having to obtain a new certificate.
- 5.3 Persons who provide nonoptional operator services may seek a specific form of relaxed regulation or deregulation of nonoptional operator services in accordance with the Rules Regulating Emerging Competitive Telecommunications Service.
- 5.4 Persons who provide nonoptional operator services shall charge just and reasonable rates approved by the Commission. The rates shall be stated in tariffs on file with the Commission unless under Rule 5.3, the provider has been granted a specific form of relaxed regulation and is no longer required by the Commission to maintain tariffs or the Commission has deregulated a specific nonoptional operator service.

RULE 6 - REQUIREMENTS FOR OPERATOR SERVICE PROVIDERS

- 6.1 In connection with 0+ and 0- calls, an operator service provider shall:
- 6.1.1 Identify itself, audibly, and distinctly, to the customer at the beginning of each telephone call before the customer incurs any charges and also a second time prior to connecting the call before the customer incurs any charges; and
 - 6.1.2 Permit the customer to terminate the call at no charge before the call is connected; and
 - 6.1.3 Disclose immediately upon request without charge to the customer;
 - (A) The rates or charges for the customer's intended call;
 - (B) The methods by which such rates or charges will be collected; and
 - (C) The methods by which complaints concerning rates, charges, or collection practices will be resolved.
 - 6.1.4 Not bill for unanswered telephone calls in areas where equal access is available.
 - 6.1.5 Not knowingly bill for unanswered telephone calls where equal access is not available.
 - 6.1.6 Not engage in call splashing unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred.
 - 6.1.7 Except as provided in subparagraph 6.1.6, not bill for a call that does not reflect the location of the origination of the call.

- 6.1.8 Ensure by contract or tariff that each aggregator for which the provider is the presubscribed provider of operator services is in compliance with the requirements of Rule 7 and Rule 8.
- 6.1.9 Withhold payment of any compensation to aggregators if the provider reasonably believes that the aggregator is not in compliance with Rule 8
- 6.2 Upon receipt of any emergency telephone call, a provider of operator services shall immediately connect the call to the appropriate emergency service of the reported location of the emergency, if known, and, if not known, of the originating location of the call.
- 6.3 Providers of operator services shall regularly publish and make available at no cost to inquiring consumers written materials that describe any recent changes in operator services and in the choices available to consumers in that market.

RULE 7 - REQUIREMENTS FOR CALL AGGREGATORS

- 7.1 Except as provided in Rule 7.3, each call aggregator shall display plainly on or in close proximity to all telephones available for customer use printed documentation containing:
- 7.1.1 The name, address, and toll-free telephone number of the provider of operator services;
 - 7.1.2 A statement that the rates of the operator service provider will be quoted upon request; and
 - 7.1.3 A written disclosure that informs customers that they have a right to obtain access to the carrier of their choice, and that they may contact their preferred carrier for information on accessing that carrier's service using that telephone.
- 7.2 An aggregator shall ensure that no charge by the aggregator to the consumer for using an 800, a 950 or a 10XXX access code is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.
- 7.3 The provisions of Rules 7.1 and 7.2 shall not apply to nonoptional operator services as described in Rule 3.1.3.

RULE 8 - CALL BLOCKING PROHIBITED

- 8.1 Call blocking occurs when an end-user is prevented from accessing the preferred carrier through access codes 800, 950, and 10XXX.
- 8.2 Except as provided in Rule 8.3:
 - 8.2.1 Operator service providers shall neither require nor participate in the blocking of any customer's access to the customer's carrier of choice.
 - 8.2.2 Call aggregators shall neither require nor participate in the blocking of any customer's access to the customer's carrier of choice.
 - 8.2.3 Owners of pay telephones shall neither require nor participate in the blocking of any customer's access to the customer's carrier of choice.
 - 8.2.4 Applicable contracts or tariffs shall be modified so as to effectuate the provisions of Rules 8.2.1 through 8.2.3.
- 8.3 The provisions of Rule 8.2 shall not apply to nonoptional operator services as described in Rule 3.1.3.

RULE 9 - ACCESS CODES OF INTEREXCHANGE CARRIERS

- 9.1 All interexchange providers, as defined in § 40-15-102(11), C.R.S., shall establish within 6 months of the effective date of these rules an 800 or a 950 access code in addition to any 10XXX access code that they may have.
- 9.2 The provisions of Rules 9.1 shall not apply to nonoptional operator services as described in Rule 3.1.3.

RULE 10 - ACCESS FROM REGISTERED EQUIPMENT

Requirements that registered equipment allow access to common carriers.

- 10.1 Aggregators who provide payphones must unblock 10XXX access within six months of the effective date of these rules.
- 10.2 Aggregators who use non-payphone equipment must unblock 10XXX access according to the following schedule:
 - 10.2.1 Equipment that can now selectively process 10XXX dialing sequences must unblock within six months of the effective date of this rule or upon installation of such equipment, whichever comes first.
 - 10.2.2 Equipment that can be modified to selectively process 10XXX dialing sequences for no more than \$15.00 per line must unblock within 18 months of the effective date of this rule.
 - 10.2.3 Installed equipment, manufactured on or after April 17, 1992, must unblock 10XXX access upon installation of such equipment.
 - 10.2.4 All other equipment must unblock 10XXX access no later than April 17, 1997.
- 10.3 The provisions of Rules 10.1 and 10.2 shall not apply to nonoptional operator services as described in Rule 3..1.3.

RULE 11 - WAIVERS FROM RULES

The Commission may permit variance from these rules for good cause shown if it finds compliance to be impossible, impracticable, or unreasonable, if not otherwise contrary to law.