

(Decision No. C93-1496)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF PROPOSED)	DOCKET NO. 93R-689T
REVISIONS TO THE RULES)	
REGULATING TELECOMMUNICATIONS)	NOTICE OF PROPOSED
SERVICE PROVIDERS AND)	RULEMAKING
TELEPHONE UTILITIES (4 CCR)	
723-2))	

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Mailed Date: November 30, 1993
Adopted Date: November 24, 1993
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STATEMENT

BY THE COMMISSION:

The Colorado Public Utilities Commission hereby gives notice of proposed rulemaking regarding revisions to the current rules regulating telecommunications service providers and telephone utilities (4 CCR 723-2). The intent of the proposed changes to the rule is to provide more comprehensive guidelines for the Commission determination of local communities of interest and local calling areas.

In particular, the proposed rules would modify, amend, or add requirements relating to:

- (1) Various definitions associated with local calling areas and communities of interest (Rule 2);
- (2) Procedures for expanding local calling areas and extended area service.

In addition to the above mentioned specific proposed changes, the Commission may consider other modifications or additions to these rules to provide an appropriate structure for the determination of local calling areas and extended area service.

A copy of proposed amendments to the rules (i.e., 4 CCR 723-2) is attached to this notice of proposed rulemaking. The statutory authority for the proposed rulemaking is found at §§ 40-2-108, 40-3-111, 40-4-101, 40-15-201 and 40-15-206, C.R.S.

The Commission will conduct a hearing before an administrative law judge on the proposed rules and related issues beginning at 9:00 a.m. on February 11, 1994. The hearing will be conducted in a Commission Hearing Room, Office Level 2, Logan Tower, 1580 Logan Street, Denver, Colorado. Interested persons may submit written comments up to and including the hearing date on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. In order to adequately consider written comments in the hearing, the Commission respectfully requests that written comments be filed at least one week prior to the hearing date. All submissions will be considered by the Commission.

THEREFORE THE COMMISSION ORDERS THAT:

1. This Notice of Proposed Rulemaking shall be filed with the Secretary of State for publication in the December 10, 1993 copy of *The Colorado Register*. At the time of filing with the Secretary of State, this notice shall also be filed with the Office of Regulatory Reform.

2. Hearing on the proposed rules and related matters shall be held beginning at:

DATE: February 11, 1994
TIME: 9:00 am
PLACE: Commission Hearing Room
Office Level 2
Logan Tower
1580 Logan Street
Denver, Colorado

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

3. Interested persons may prefile written comments before hearing consistent with the above discussion.

This order is effective on its Mailed Date.

ADOPTED IN OPEN MEETING November 24, 1993.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Robert E. Temmer

Christine E. M. Alvarez

Vincent Majkowski

Commissioners

ATTEST: A TRUE COPY

Bruce N. Smith

Bruce N. Smith
Director

**RULES REGULATING TELECOMMUNICATIONS SERVICE PROVIDERS
AND TELEPHONE UTILITIES**

Rule 1 - Application of Rules

1.1 Basic, Purpose and Statutory Authority of Rules

Statutory authority for these amendments to the existing rules is found in Sections 40-1-103, 40-3-101(2), 40-3-102, 40-3-1-6 (1) (A) and 40-4-101, C.R.S. which empower the Commission to establish standards for the adequacy of public utility services, including basic telephone service and regulated telecommunications services, and requires the Commission to prescribe rules and regulations for the performance of any service or the furnishing of any commodity by a public utility and to enforce those rules and regulations. In addition, the Commission is authorized to promulgate rules generally by Section 40-2-108, C.R.S., and specifically for telecommunications services by 40-15-201 and 40-15-301, C.R.S., in order to implement the provisions of Title 40, Article 15, part 2 and 3, C.R.S.

The basis and purpose of these amendments is to update and revise certain rules within the Rules Regulating Telecommunications Service Providers and Telephone Utilities to ensure an adequate level of basic telephone service and regulated telecommunications service is available to the public throughout the state. The update and revision of these rules is necessary to reflect the present and continuing evolution of an adequate service standard for basic telephone service and regulated telecommunications service which is expected by the public and is available through the changing technology being deployed in the telecommunications industry. The rules establish standards for basic telephone service and regulated telecommunications services in light of current technology and public expectations. These amendments prescribe requirements for provision of certain capabilities and services by Local Exchange Carriers.

The principal amendment repeals the existing Rule 17 - Grades of Service within the existing Rules Regulating Telecommunications Service Providers and Telephone Utilities and replaces it with a new Rule 17 - Basic Telephone Service Standard. This and the other amendments to the rules are clear and simple and can be understood by any persons expected to comply with them. They do not conflict with any other provision of law and there are no duplicating or overlapping rules with the exception of the requirement under amended Rule 17.2 (B) that E911 service provisioning by a LEC be mandatory upon request of a qualified customer rather than permissive as currently allowed under Rules Prescribing the Provision of Emergency Reporting Services for Emergency Telecommunications Service Providers and Telephone Utilities, 4 CCR 723-29. In this instance Rule 17.2 (B) extends the service requirements of a LEC pursuant to 4 CCR 723-29. However, 4 CCR 723-29 requires, under Rule 3 (7), that basic emergency service is to be provided in accordance with the quality of service rules and regulations as may be later adopted by the Commission. Therefore, this extension of the requirements of 4 CCR 723-29 is consistent with intent and allowable within the context of those rules.

The basis and purpose of this amendment is to provide criteria and methods for the commission to determine local communities of interest, local calling areas, and extended area service, and to prohibit the use of basic local services to provide interexchange service.

1.2 Applicability of Rules

These rules and regulations govern the furnishing of intrastate telecommunications services and facilities to the public and shall apply to providers of telecommunications services and telephone services subject to the jurisdiction of the Commission.

1.3 Exceptions to Rules

The adoption of these rules shall in no way preclude the Commission from altering or amending them in whole or in part, or from requiring any other or additional service equipment, facilities, or standards, either upon complaint or upon the Commission's own motion, or upon the application of any entity under its jurisdiction. In special cases for good cause shown, not contrary to law, the Commission may permit deviation from these rules insofar as it may find compliance to be impossible, impractical or unnecessary.

Rule 2 - Interpretational Definitions For Rules

Definitions of terms used within these rules shall be consistent with the general understanding of the terms as used in the telecommunications industry unless specifically defined under this Rule 2. In the interpretation of these rules, the following definitions shall be used:

- 2.1 Base Rate Area means the developed portion or portions within an exchange service area as stated in the LEC's tariffs. Service within this area is generally furnished at uniform rates without charges that vary with distance from the central office.
- 2.2 Basic Local Exchange Service means the telecommunications service which provides a local dial tone, access line and local usage necessary to place or receive a call within an exchange area regulated pursuant to Part 2 of Article 40-15-C.R.S.
- 2.3 Basic telephone service means those capabilities and services listed in Rule 17.1 (A through F).
- 2.34 Busy Hour means the uninterrupted period of 60 minutes during the day when the traffic offered is at a maximum.
- 2.45 Busy Season means a month or several months, which may be nonconsecutive, within a consecutive 12 month interval when the maximum busy hour requirements are experienced. The number of days within the busy season used for estimation of busy hour requirements should exclude days with abnormal traffic volume, such as Christmas or Mother's Day, and preferably should be limited to 30 but not exceed 60 days.

- 2.56 Calls means customers' telecommunications messages.
- 2.67 Central Office means the inside plant of the telecommunications service provider as an operating unit, including the switch or other facilities used to establish connections between customer lines or between customers' lines and trunk or toll lines to other central offices within the same or at other exchanges.
- 2.78 Channel means a transmission path for telecommunications between two points. It may refer to a one-way path or, when paths in the two directions are always associated, a two-way path. Generally a channel is the smallest subdivision of a transmission system by means of which a single type of communication service is provided. A voice grade transmission channel has a nominal bandwidth of 4000 HZ.
- 2.89 Class of Service means a description of telecommunications service furnished a customer, which denotes such characteristics as nature of use (business or residence) or type of rate (flat rate, measured rate, or message rate). Classes of service are usually subdivided in grades, such as individual line, two-party or four-party.
- 2.9 Commission means the Public Utilities Commission of the State of Colorado.
- 2.10 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 meeting the criteria of Rule 17.3. ~~A preliminary indication of a community of interest between exchanges exists, sufficient to allow further consideration by the Commission, when the combined calling rate between the exchanges under consideration of extended area service equals or exceeds two calls per local access line per month. However, when one exchange has less than one half the number of local access lines than the other exchange then a calling rate of three calls per local access line per month from the smaller exchange would provide a preliminary showing of interest sufficient to allow investigation of the appropriateness of extended area service for the involved exchanges.~~

- ~~2.11~~ 12 Customer Trouble Report means any oral or written report from a customer or user of telecommunications services relating to a physical defect or to difficulty or dissatisfaction with the operation of the service provider's facilities. Only one report per day shall be counted for each oral or written report received from a customer in the same day, when and only if it duplicates a previous report or merely involves an inquiry concerning progress on a previous report.
- ~~2.123~~ Customer means any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity which has applied for, been accepted, and is currently receiving telecommunications service. A residential customer's use of telecommunications service is primarily of a social or domestic nature while a commercial customer's use is primarily of a business, professional, institutional or other occupational nature.
- ~~2.134~~ Decibel is the unit of measurement for the logarithmic ratio to the base 10 of two power signals. The abbreviation dB is commonly used for the term decibel.
- ~~2.145~~ Decibel above Reference Noise Level using C-Message Weighting is the meaning of the abbreviation dBrnC. The reference noise level of one picowatt is defined as 0 dBrnC. C-message weighting is used to account for the frequency characteristics of a typical telephone set by specific weighting of the noise signal at various frequencies to determine the composite average noise signal value.
- ~~2.16~~ Dual tone multifrequency signaling means a method of signaling used on a local access line which uses a simultaneous combination of one of a lower group of frequencies and one of a higher group of frequencies to represent each digit or character transmitted from the customer's station to the central office.
- ~~2.17~~ Enhanced 911 (E911) means a telephone system which includes such features as automatic number identification, automatic location identification and call routing features to facilitate public safety response. This system and its requirements are further described within the Rules Prescribing the Provision of Emergency Reporting Services for Emergency Telecommunications Service Providers and Telephone Utilities (4 CCR 723-29).
- ~~2.158~~ Exchange Area means a geographical area established by the Commission, which consists of one or more central offices together with associated facilities which are used in providing basic local exchange service. Calls within an exchange area are considered local calls.

- 2.169 Exchange means the entire telecommunications plant and facilities used in providing telecommunication service to customers located in a geographic area defined by tariff area such as an exchange area. An exchange may contain more than one central office switch location or wire center.
- 2.17 Extended Area Service (EAS) is an LOCAL exchange service in which the local calling area i.e., the area in which customers may call without the payment of a toll charge, includes one or more other exchange areas in addition to the normal serving exchange, as specified in the local exchange tariff. EAS generally recognizes community of interest, which all customers in an exchange may call an area including one or more other exchange areas in addition to the normal local calling area, without payment of a toll charge. EAS service is in addition to basic local service. EAS cost recovery is assessed directly to the customers in the exchanges having the EAS.
- 2.18 Flat Rate Service means telecommunications service furnished at a fixed monthly recurring charge without separate billing for the number, time of day, distance, or duration of calls.
- 2.19 Governing body means a board of county commissioners, the governing body of a city or town, the board of directors of a special district, etc. responsible for reception of E911 calls as further described within the Rules Prescribing the Provision of Emergency Reporting Services for Emergency Telecommunications Service Providers and Telephone Utilities (4 CCR 723-29).
- 2.20 Grade of Service means the number of customers served on a telecommunications channel such as one-party, two-party, four-party, etc.
- 2.20 Held Service Order means an application under the rules and regulations of the LEC for establishment or regrade of service in the franchised service territory of the LEC which is not filled because of the inability of the LEC to supply service within 30 days after the customer has made application, except where the customer requests a later date. The application shall be notice to the LEC that the customer desires service. Oral or written requests shall be considered application for this purpose.
- 2.21 Hertz is the unit measurement for frequency and is equal to one cycle per second. The abbreviation HZ is commonly used for the term Hertz.

- 2.22 Individual Line Service means a grade of exchange service which provides that only one customer shall be served by the channel connecting the customer's service location with the serving central office.
- 2.23 Intercept Service means a service arrangement provided by the service provider so that calls placed to a disconnected or discontinued telephone number are intercepted and the calling party is informed that the called telephone number has been disconnected, or discontinued, or changed to another number, or that calls are being received by another telephone number, etc.
- 2.24 Jurisdictional Service means any telecommunications service subject to the authority of this Commission under the statutes of the State of Colorado.
- 2.25 Local Access Line means a facility, totally within one exchange, providing a telecommunications channel between a customer's service location and the serving central office or remote switch.
- 2.26 Local Access and Transport Area (LATA) means each local access and transport area which has been designated in this state. A LATA may encompass more than one contiguous local exchange service area in this state which serves common social, economic, or other purposes, even when that area transcends municipal or other local government boundaries.
- 2.31 Local Calling Area means the area in which all customers may call without payment of a toll charge. The local calling area may include exchanges in addition to the serving exchange. Calling within the local calling area is a necessary part of the LEC's basic service.
- 2.27 Local Exchange Carrier (LEC) means any person, firm, partnership, cooperative organization, corporation, or other legal entity engaged in the business of furnishing telecommunications service to the public under the jurisdiction of this Commission, and when all or part of these services are defined by this Commission to fall within the provisions of Section 40-15-201(2) C.R.S. Pursuant to C.R.S. 40-15-201(1), a provider of basic local exchange service is a local exchange carrier.
- 2.28 Measured Rate Service means a basic local exchange service that depends on measurement of actual usage (i.e. number, duration, time of day, or length of haul) to compute the local usage charges which apply for outgoing calls completed on a local basis.
- 2.29 Message Rate Service means a basic exchange service that charges for each outgoing completed local call in excess of a specified allowance of those calls during the billing period.

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- 2.30 Outside Plant means the telecommunications equipment and
35 facilities installed on, along, or under streets, alleys,
highways, or on private rights-of-way between central office and
customers' locations or between central office channel.
- 2.31 Party Line Service means a grade of Basic Local Exchange Service
36 which provides for a number of customers to be served by the same
central office channel.
- 2.32 Private Line Service means any point-to-point or point-to-multi-
37 point service dedicated to the exclusive use of an end-user for
the transmission of any telecommunications service.
- 2.33 Public Telephone Service means an individual line service equipped
38 with a coin collecting telephone instrument installed for the use
of the general public in locations where the general public has
access to these telephones.
- 2.34 Station means a device and any other necessary equipment at the
39 customer's premises which allows the customer to establish and
continue communication.
- 2.35 Switched Access means the services or facilities furnished by a
40 local exchange company or carrier, to interexchange providers or
carriers, which allows them to use the basic exchange network or
the public switched network for origination or termination of
interexchange telecommunications services.
- 2.36 Tariff means the entire body of rates, tolls, rentals, charges,
41 classifications, maps and rules adopted and filed with the
Commission by a LEC or any other service provider as required by
the Commission. Tariff Sheet means an individual page of the
tariff.
- 2.37 Telecommunications Service Provider (Provider) means any firm,
42 partnership, cooperative organization, corporation, or other legal
entity engaged in the business of furnishing telecommunications
service to the public under the jurisdiction of this Commission.
This term also includes telephone utilities and telephone
corporations as described in § 40-1-103(1), C.R.S.
- 2.38 Telecommunications Service means the electronic or optical
43 transmission of information between separate points by prearranged
means.

- 2.39 Toll Service means the furnishing of telecommunications service between stations of different customers in different exchange areas, as defined by the Commission, or, where available, different extended service areas. This jurisdictional service is provided by either intra- or interLATA carriers and is also referred to as message telecommunication service (MTS), message toll or interexchange telecommunications service.
- 2.40 Transmission Insertion Loss means the ratio, expressed in decibels, of the power delivered to the load, station, in the case of an access line or channel, before and after activation of the channel. For the purpose of these rules, insertion loss will 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.
- ~~2.41~~ ~~Dual tone multifrequency signaling~~ means a method of signaling used on a local access line which uses a simultaneous combination of one of a lower group of frequencies and one of a higher group of frequencies to represent each digit or character transmitted from the customer's station to the central office.
- ~~2.42~~ ~~Enhanced 911 (E911)~~ means a telephone system which includes such features as automatic number identification, automatic location identification and call routing features to facilitate public safety response. This system and its requirements are further described within the Rules Prescribing the Provision of Emergency Reporting Services for Emergency Telecommunications Service Providers and Telephone Utilities.
- ~~2.43~~ ~~Governing body~~ means a board of county commissioners, the governing body of a city or town, the board of directors of a special district, etc. responsible for reception of E911 calls as further described within the Rules Prescribing the Provision of Emergency Reporting Services for Emergency Telecommunications Service Providers and Telephone Utilities.
- ~~2.44~~ ~~Basic telephone service~~ means those capabilities and services listed in Rule 17.1 (A through F).
- 2.46 Wire Center means the entire telecommunications plant and facilities used in providing telecommunication services to customers for a given geographic area located exclusively in a defined exchange area.

Rule 17 - Basic Telephone Service Standard

17.1 Basic Service Standard

As part of its obligation to provide adequate basic telephone service, each LEC 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 each customer within its jurisdictional service area with the following services or capabilities:

- (A) Individual line service on the local access line;
- (B) Dual tone multifrequency signaling capability on the local access line;
- (C) Facsimile and data transmission capability of at least 2400 bits per second on analog access lines served from the public switched network when the customer uses modulation/demodulation devices rated for such capability;
- (D) A local calling area that reflects the community of interest of the area in which the customer is located;
- (E) Access to toll services;
- (F) Customer billing, public information assistance, directory listing, directory assistance and intercept to the extent described in rules 10, 11, 12 of these RULES REGULATING TELECOMMUNICATIONS SERVICE PROVIDERS AND TELEPHONE UTILITIES (4 CCR 723-2).

17.2 Universal Service Availability Standard

In order to maintain a reasonable uniformity between all localities in the state for adequate basic telephone service in the ordinary course of its business pursuant to its certificate of public convenience and necessity, each LEC 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 jurisdictional serving area:

- (A) The basic service standard defined in rule 17.1 (A through F); and
- (B) E911 service, either by providing the necessary facilities and identification (name/number, etc.) information to a basic emergency service provider or as provided by the LEC under Rules Prescribing the Provisions of Emergency Reporting Services for Emergency Telecommunications Service Providers and Telephone Utilities, 4 CCR 723-29 shall be available to any governing body upon request;

This requirement is mandatory within the service limitations and within 24 months of the adoption of this amended rule unless the LEC proposes an alternative schedule which is adopted by the Commission under the provisions of Rule 1.3 or as specified by other order of the Commission. Any LEC incapable of providing the capabilities and services listed under Rule 17.1 (A through F) at the date of adoption of these amended rules shall begin immediate efforts to attain compliance with this rule and shall demonstrate to the Commission continuous progress in meeting the implementation date of the rule.

17.3 Local Calling Area Standards

17.3.1 Community of Interest Standards for Establishment of Local Calling Areas.

17.3.1.1 A indication of a community of interest between exchanges exists, sufficient to allow further consideration by the Commission, when the following conditions exist:

17.3.1.1.1 the calling rate from the smaller exchange under consideration of local calling area service equals or exceeds an average of four calls per local access line per month and at least two calls per local access line per month are made by at least 50% of the access lines. However, when the exchanges under consideration of local calling area service is the Denver Metro Exchange, Colorado Springs Exchange, or the Pueblo Exchange then a calling rate of twenty-four calls per local access line per month and at least ten calls per month per access line are made by at least 50% of the access lines from the smaller exchange would provide a showing of interest sufficient to allow investigation of the appropriateness of local calling area service for the involved exchanges; and

17.3.1.1.2 a statistically valid survey of the customers in all affected exchanges indicating at least a 50% positive acceptance of the calling area and the resultant rate levels.

17.3.1.2 The local calling area for an exchange, to the extent possible, should include its county seat, school districts, and essential medical and emergency services.

17.3.1.3 Local calling shall always be provided in both directions between two exchanges.

17.3.1.4 No local calling area shall exhibit any discontinuities; i.e. the local calling area for an exchange shall contain all intervening exchanges.

17.3.1.5 The local calling area for an exchange shall not contain exchanges whose wire centers are greater than 50 airline miles distant, as measured by standard toll mileage measurements between exchanges.

17.3.2 Process for Expanding Local Calling Areas. The expansion of a local calling area will be considered by the Commission, upon the demonstration of satisfying the criteria of Rule 17.3.1.1.1; upon petition of at least 15% or 500, whichever is less, of the customers in the petitioning exchange; or upon application of a local exchange provider.

17.3.2.1 The local exchange provider(s) that provides service in the exchanges being considered for inclusion in the local calling area shall perform all necessary revenue and cost analyses to quantify the rate increment per customer. The rate increment shall be determined by apportioning the cost between all the exchanges of the provider.

17.3.2.2 A statistically valid survey of all customers in the exchanges being considered for local calling shall then be performed by the affected local exchange provider(s), wherein the survey must exhibit the proposed local calling area and the resultant increase in local rate.

17.3.2.3 Upon a showing of the required positive acceptance rate the Commission will conduct the required public hearings. If the matter was initiated by petition, the petitioner shall have the burden of proof. If the matter was initiated by application, the Commission will only deem the application complete after the showing of the required positive acceptance.

17.3.3 Local exchange carriers shall offer a lower cost alternative to full flat rate service, such as measured rate service and message rate service.

17.4 Extended Area Service

17.4.1 Standards for Establishment of Extended Area Service. An indication of sufficient interest to allow further consideration by the Commission exists when a statistically valid survey of the customers in all affected exchanges indicates at least a 50% positive acceptance of the EAS and the accompanying rate increment.

17.4.1.1 Exchanges being considered for EAS must be contiguous to each other or all intervening exchanges must have local calling or EAS to both exchanges requesting EAS.

17.4.2 Process for Establishing Extended Area Service. The Commission shall consider the establishment of extended area service upon petition of at least 15% or 500, whichever is less, of the customers in the petitioning exchange.

17.4.2.1 The local exchange provider(s) that provides service in the exchanges being considered for EAS shall perform all necessary revenue and cost analyses to quantify the rate increment per customer. The rate increment shall be determined by apportioning the cost between the two exchanges being considered for EAS based upon the relative traffic volume (number of messages) in each direction;

17.4.2.2 A statistically valid survey of all customers in the exchanges being considered for EAS shall then be performed by the affected local exchange provider(s), wherein the survey must exhibit the proposed EAS and the resultant increase in local rate.

17.4.2.3 Upon a showing of the required positive acceptance rate, the Commission will conduct the required public hearings. The petitioner shall have the burden of proof.

17.4.2 The EAS rate increment shall be separately shown on the bill.

17.5 Use of the Basic Exchange Network for the provision of interexchange service without proper compensation to the serving LEC is prohibited. The provision of basic service by a LEC is an exclusive grant of monopoly (see § 40-15-203(1) C.R.S. (1993)). Basic local service is strictly limited to service within the local calling area and the arrangement of local service to provide interexchange service is prohibited. Any person desiring to provide emerging competitive telecommunications services as defined in §§ 40-15-301(2) and 40-15-305(2), C.R.S., shall file an application with the Commission to seek a certificate of public convenience and necessity to provide emerging competitive telecommunications services, unless not required under § 40-15-302(4), C.R.S. or as otherwise provided by statute, pursuant to the Rules Regulating Emerging Competitive Telecommunications Service (4 CCR 723-24).

