

**THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO**

**RULES PRESCRIBING THE PROCEDURES
FOR DESIGNATING TELECOMMUNICATIONS SERVICE PROVIDERS
AS PROVIDERS OF LAST RESORT
or as an
ELIGIBLE TELECOMMUNICATIONS CARRIER,
4 CCR 723-42**

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to establish regulations concerning the designation of providers of last resort and the obligations that attach with such a designation. These rules also establish regulations concerning the designation of providers eligible to receive federal universal service assistance.

These rules are clear and simple and can be understood by persons expected to comply with them. They do not conflict with any other provision of law. There are no duplicating or overlapping rules.

The Commission is authorized to promulgate rules generally by Section 40-2-108, C.R.S., and specifically for telecommunications services by Sections 40-15-201 and 40-15-301. The statutory authority for promulgating these rules is further found in Section 40-15-502(6), C.R.S.

Finally, these Rules are consistent with 47 U.S.C. 254.

RULE 4 CCR 723-42-1. APPLICABILITY. These rules are applicable to all telecommunications service providers: 1) designated as a Provider of Last Resort or Eligible Telecommunications Carrier, 2) seeking to be designated as a Provider of Last Resort or Eligible Telecommunications Carrier, or 3) seeking to remove a designation as a Provider of Last Resort or Eligible Telecommunications Carrier.

RULE 4 CCR 723-42-2. DEFINITIONS. The meaning of terms used within these rules shall be consistent with their general usage in the telecommunications industry unless specifically defined by Colorado statute or this rule. If the general usage of terms in the telecommunications industry or the definitions in this rule conflict with statutory definitions, the statutory definitions control. As used in these rules, unless the context indicates otherwise, the following definitions shall apply:

723-42-2.1 Common Carrier. For the purpose of the designation of an Eligible Telecommunications Carrier (ETC), a Common Carrier is a telecommunications provider that offers basic local exchange service to the public on a nondiscriminatory basis.

723-42-2.2 Eligible Telecommunications Carrier. A telecommunications provider that is authorized by this Commission, pursuant to Rule 7, to receive federal universal service support as required by 47 U.S.C 214(e)(2).

723-42-2.3 Geographic Area. A Commission-defined geographic unit usually smaller than an existing provider's wire center serving area.

723-42-2.4 Provider of Last Resort (POLR). A telecommunications provider that is designated by the Commission, pursuant to this Rule, to have the responsibility to offer basic

local exchange service to all consumers who request it within a Geographic Area.

723-42-2.5 Rural Telecommunications Provider. A telecommunications provider which meets one of the following five criteria:

723-42-2.5.1 serves only rural exchanges of ten thousand or fewer access lines; or

723-42-2.5.2 provides Common Carrier service to any local exchange carrier study area that does not include either: (a) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or (b) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993; or

723-42-2.5.3 provides telephone exchange service, including exchange access, to fewer than 50,000 access lines; or

723-42-2.5.4 provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

723-42-2.5.5 has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

RULE 4 CCR 723-42-3. DESIGNATION OF PROVIDERS OF LAST RESORT.

723-42-3.1 A telecommunications service provider who holds a certificate of public convenience and necessity (CPCN) to offer basic local exchange service in a Geographic Area on or before July 1, 1996 shall be considered a POLR in those Geographic Areas.

723-42-3.2 Upon application by a provider, the Commission: 1) may, in the case of an area served by a rural telecommunications

provider; and 2) shall, in the case of all other areas, permit more than one POLR in a Geographic Area.

723-42-3.3 The Commission shall, upon request by a person within an unserved Geographic Area, or upon its own motion, designate a POLR for that unserved Geographic Area, based upon a determination of the provider best able to provide basic local exchange service to the area.

RULE 4 CCR 723-42-4. APPLICATION FOR DESIGNATION AS AN ADDITIONAL PROVIDER OF LAST RESORT. A telecommunication provider seeking designation as a Provider of Last Resort shall file an application with the Commission requesting designation as a POLR for a specific Geographic Area.

723-42-4.1 Contents of Application. The application shall contain, in the following order and specifically identified, the following information, either in the application or in appropriately identified, attached exhibits:

723-42-4.1.1 Applicant's name and complete address (street, city, state, and zip code), and the name(s) under which the applicant is, or shall be, providing telecommunications service in Colorado;

723-42-4.1.2 A statement identifying the decision(s) of this Commission authorizing the applicant to provide basic local exchange service;

723-42-4.1.3 A statement describing the Geographic Area for which applicant seeks designation as a POLR. If designation for a specific Geographic Area, rather than a statewide designation, is sought, the application shall contain a description of such Geographic Area by metes and bounds and a map displaying the service area;

723-42-4.1.4 An affirmative statement that the applicant will accept the responsibilities identified in Rule 5;

723-42-4.1.5 A statement of the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it has the managerial, financial and technical ability to provide basic local exchange service throughout that relevant Geographic Area notwithstanding whether there are other providers in that area;

723-42-4.1.6 A statement of the facts (not in the form of conclusory statements) relied upon by the applicant to establish that the POLR designation for that Geographic Area serves the public interest by demonstrating that such designation is consistent with the legislative statements of intent in §§ 40-15-101, 40-15-501 and 40-15-502(7) C.R.S.;

723-42-4.1.7 A statement that the applicant agrees to: (a) answer all questions propounded by the Commission or any authorized member of its staff concerning the application, the subject matter of the application, or any information supplied in support of the application; and (b) permit the Commission or any authorized member of its staff to inspect the applicant's books and records as part of the investigation into the application, the subject matter of the application, or any information supplied in support of the application;

723-42-4.1.8 A statement indicating, if the application is assigned for hearing by the Commission, the town or city where the applicant prefers the hearing to be held and any alternative choices;

723-42-4.1.9 A statement that the applicant understands that the filing of the application does not, by itself, constitute designation as a POLR;

723-42-4.1.10 A statement that, if a designation is granted, applicant understands that such designation is conditional upon compliance with applicable Commission rules and any conditions established by Commission order; and

723-42-4.1.11 An affidavit signed by an officer, a partner, an owner, or an employee, as appropriate, who is authorized to act on behalf of the applicant, stating that the contents of the application are true, accurate, and correct.

723-42-4.2 Processing of Applications. The Commission will process applications in accordance with the Rules of Practice and Procedure found at 4 CCR 723-1.

RULE 4 CCR 723-42-5. OBLIGATIONS OF PROVIDERS OF LAST RESORT.

723-42-5.1A POLR has the obligation to:

723-42-5.1.1 Offer basic local exchange service to every customer who requests such service within a designated Geographic Area, regardless of the availability of facilities;

723-42-5.1.2 Be subject to the evolving definition of basic service developed by the Commission pursuant to §40-15-502(2); and

723-42-5.1.3 Advertise the availability of such service and the charges therefore using media of general distribution. At a minimum, a POLR must have customer guide pages in the "White Pages" Directory within the POLR's Geographic Area. Such customer guide pages shall indicate that the provider will offer basic local exchange service to all who request such service within that area.

RULE 4 CCR 723-42-6. REMOVAL OF PROVIDER OF LAST RESORT DESIGNATION.

723-42-6.1Application to be Filed with the Commission. When there are multiple POLRs in a Geographic Area, telecommunications service providers seeking to relinquish designation as a Provider of Last Resort shall file with the Commission, at least 30 days before the effective date of the proposed relinquishment, an application containing a complete explanation of the proposed relinquishment. The application shall contain an affidavit signed by an officer, a partner, an owner, or an employee, as appropriate, who is authorized to act on behalf of the applicant, stating that the contents of the application are true, accurate, and correct.

723-42-6.2If the POLR proposes to discontinue the provision of basic local exchange service, the POLR shall file a plan for transition of its customers to another provider.

723-42-6.2.1 The transition plan filed by the POLR shall include sufficient notice to permit the purchase or construction of adequate facilities by a remaining POLR or other provider.

723-42-6.2.2 The Commission shall establish a time, not to exceed one year after the approval of the discontinuance, within which such purchase or construction shall be completed.

723-42-6.2.3 During this transition period, the POLR must ensure that customers do not experience a break in service as a result of the POLR discontinuing service.

723-42-6.3Notice to Customers. In addition to filing an application with the Commission, the POLR shall prepare a written notice stating the proposed discontinuance, and its proposed effective date, and shall mail or deliver the notice at least 30 days before the effective date to all presently served customer or subscribers, including all interconnecting telecommunications providers. The POLR shall separately provide notice to all

potentially affected customers through publication for four consecutive weeks in a publication or publications which are distributed in the certificated area affected. A notice shall be mailed to the Board of County Commissioners of each affected county, and to the Mayor of each affected city, town or municipality.

723-42-6.3.1 Form of Notice. The notice required by Rule 6.4 above shall contain the information in Form A.

723-42-6.3.2 Proof of Public Notice. Within 15 days before the date of the proposed discontinuance, the POLR shall file with the Commission a written affidavit stating its compliance with this rule. The affidavit shall state the date notice was completed and the method used to give notice. A copy of the notice shall accompany the affidavit.

723-42-6.4 No hearing needs to be held if no objection, pro-test or intervention is filed. If a hearing is to be held on an application, the Commission shall endeavor, within its operating constraints, hold the hearing, or a portion thereof, at a location within the local calling area of the affected community.

723-42-6.5 No proposed discontinuance shall be effective until a Commission order approving it has been entered.

RULE 4 CCR 723-42-7. ELIGIBLE TELECOMMUNICATIONS CARRIER (ETC) DESIGNATION. Telecommunications providers seeking designation as an Eligible Telecommunications Carrier (ETC) shall file an application with the Commission requesting designation as an ETC for a Geographic Area.

723-42-7.1 Contents of Application. The application shall contain, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

723-42-7.1.1 A statement identifying the decision(s) of this Commission and/or the Federal Communications Commission (FCC) authorizing the applicant to provide telecommunications service.

723-42-7.1.2 A statement describing the Geographic Area for which applicant seeks designation as an ETC. If designation for a specific Geographic Area, rather than a statewide designation, is sought, the application shall contain a description of such Geographic Area by metes and bounds and a map displaying the service area;

723-42-7.1.3 A statement of the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it has the managerial, financial and technical ability to provide basic local exchange service throughout that relevant Geographic Area notwithstanding whether there are other providers in that area;

723-42-7.1.4 An affirmative statement that the applicant will offer the services that are supported by the Federal universal service support mechanisms under 47 U.S.C. 254(c);

723-42-7.1.5 An affirmative statement that the applicant is a Common Carrier; and,

723-42-7.1.6 An affirmative statement that the applicant will advertise the availability of such service and the charges therefore using media of general distribution. At a mini-mum, an ETC must have customer guide pages in the "White Pages" Directory within the ETC's Geographic Area. Such customer guide pages shall indicate that the provider will offer basic local exchange service to all who request such service within that area.

723-42-7.2 Processing of Applications. The Commission will process applications in accordance with the Rules of Practice and Procedure found at 4 CCR 723-1.

RULE 4 CCR 723-42-8. RELINQUISHMENT OF ETC DESIGNATION.

723-42-8.1 Application to be Filed with the Commission. When there are multiple ETCs in a Geographic Area, providers seeking to relinquish designation as an ETC shall file with the Commission, at least 30 days before the effective date of the proposed relinquishment, an application containing a complete explanation of the proposed relinquishment. The application shall contain the same information as required in Rule 6.1.

723-42-8.2 Processing of Applications. Applications to relinquish an ETC designation shall be processed in accordance with the Rules of Practice and Procedure found at 4 CCR 723-1.

723-42-8.3 The Commission shall permit an ETC to relinquish its designation as an ETC in any area served by more than one ETC when the Commission concludes that the requirements of Rule 8.1 have been met.

RULE 4 CCR 723-42-9. COMBINED APPLICATIONS. Applicants may file to be designated as a POLR and to be designated as an ETC in a combined application. Similarly, applicants may file to relinquish designation as a POLR and to relinquish designation as an ETC in a combined application. In a combined application, the applicant shall follow the application process and must provide all information required for each separate component of the combined application.

RULE 4 CCR 723-42-10. VARIANCE AND WAIVER. The Commission may permit variance or waiver from these rules, if not contrary to law, for good cause shown if it finds that compliance is impossible, impracticable or unreasonable.

4 CCR 723-42-FORM A - Notice of a discontinuance or curtailment of basic local exchange service by a POLR or discontinuance of POLR designation

NOTICE OF [NAME OF PROVIDER]'S INTENT TO [STOP OFFERING BASIC LOCAL TELEPHONE SERVICE IN YOUR AREA or REMOVE PROVIDER OF LAST RESORT DESIGNATION]

[Name of provider] has asked the Colorado Public Utilities Commission (PUC) for approval to [stop offering basic local telephone service or remove its provider of last resort designation] in your area effective on [date]. [Name of provider] proposes to [stop offering local telephone service or remove its provider of last resort designation] in your area as follows: [provide details of proposal here including the list of alternative providers]. Anyone may object to this proposal by sending a letter to the Colorado Public Utilities Commission, 1580 Logan St., OL2, Denver, CO 80203. You may also object to this proposal by calling the PUC at [phone numbers].

Your written objection by itself does not allow you to participate as a party in any proceeding before the PUC on this proposal. If you want to actively participate as a party to any proceeding, you must submit a written request to the PUC at the above address at least 10 calendar days before the proposed effective date of [date]. Your written request to intervene must follow Rules 20, 21, and 22 of the Commission's Rules of Practice and Procedure and any other rules that apply. You can request a copy of these rules from the Commission.

The PUC may hold hearings on [name of provider]'s proposed actions. If the Commission holds hearings, it will decide what actions, if any, are allowed. Members of the public may attend any hearing and make a statement under oath about the proposed action even if they did not submit a written objection or intervention.

If you want to know if and when hearings are held, please submit a written request to the PUC at the above address. Your written request for hearing notice must be submitted to the PUC at least 10 calendar days before the proposed effective date of [date]. Please be assured that basic local telephone service will still be available to you whatever the outcome of [name of provider]'s requested action. If [name of provider]'s request to stop offering local telephone service is granted, another telephone company will offer service to you.

by: [name, title and address of officer]