

THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

RULES REGULATING APPLICATIONS
BY LOCAL EXCHANGE TELECOMMUNICATIONS PROVIDERS
FOR SPECIFIC FORMS OF PRICE REGULATION.

4 CODE OF COLORADO REGULATIONS (CCR) 723-38

RULE (4 CCR) 723-38-2. DEFINITIONS

723-38-2.8 Competitive Local Exchange Carrier (CLEC).

A telecommunications provider that has been granted a Certificate of Public Convenience and Necessity ("CPCN") to provide local exchange service in the State of Colorado on or after February 8, 1996, pursuant to the Rules Regulating the Authority to Offer Local Exchange Telecommunications Service, 4 CCR 723-35 and § 40-15-503(2)(f), C.R.S.

723-38-2.16 Cost Support. Data, information, methods, and analysis, conducted in accordance with, and subject to, the Rules Prescribing Principles for Costing and Pricing of Regulated Services of Telecommunications Service Providers, 4 CCR 723-30, and the Cost Allocation Rules for Telecommunication Service and Telephone Utilities Providers, 4 CCR 723-27, unless the applicability of these rules is modified or waived by the Commission.

723-38-2.17 Incumbent Telecommunications Provider or Incumbent Local Exchange Carrier [ILEC]. For purposes of this rule, the term incumbent local exchange carrier' means, with respect to an area, the local exchange carrier that-

(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and,

(B) (i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission's regulations (47 C.F.R. 69.601(b)); or,

(ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

The Commission also may, by rule, provide for the treatment of a comparable local exchange carrier (or class or category thereof) as an incumbent local exchange carrier for purposes of this section if-

(C) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1);

(D) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and,

(E) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section.

RULE (4 CCR) 723-38-3. SPECIFIC FORMS OF PRICE REGULATION.

723-38-3.2 DEFAULT FORMS OF REGULATION.

723-38-3.2.1 Part 2 Service . In the absence of a Commission-approved specific form of price regulation, an incumbent local exchange carrier (ILEC) shall be regulated pursuant to a traditional rate-of-return regulation methodology.

723-38-3.2.2 Part 3 Service . In the absence of any specific Commission-approved form of price regulation, a competitive local exchange carrier (CLEC) shall be regulated in the default form of relaxed regulatory treatment detailed herein.

723-38-3.2.2.1 Applicability. This default form of relaxed regulation shall apply to all products offered by competitive local exchange carriers (CLECs), with the exception of the rates, terms and conditions for 911 call delivery to a Basic Emergency Service Provider. Each LEC shall establish rates, terms and conditions governing 911 call delivery to a Basic Emergency Service Provider, as directed in Rule 4 CCR 723-29.

723-38-3.2.2.2 Filing of Initial Tariffs. In accordance with Commission rules, each CLEC shall file an initial tariff that contains the terms and conditions governing its services and products, as directed in 4 CCR 723-1-40.1. The tariff shall also contain the rates, terms, and conditions governing those services and products that are not subject to the specific form of relaxed regulation established by this rule.

723-38-3.2.2.3 Price Lists. In accordance with Commission rules, each CLEC shall file a price list that

contains the current rates it charges for its services and products, as directed in 4 CCR 723-1-40.2.

723-38-3.2.2.3.1 Price List Changes.

On or before 14 days prior to the desired effective date for a change in one or more prices contained in a price list, the CLEC shall file with the Commission, by transmittal letter, a price list that describes each proposed change. The CLEC may, but need not, provide notice to customers of any proposed price change.

723-38-3.2.2.3.2 Effective Date of Price Lists. Unless the Commission suspends the effective date of a new price list, or a change in an existing price list filed by a CLEC with the Commission, the new price list or changed price list shall become effective according to its terms.

723-38-3.2.2.4 Customer Specific Contracts. A [CLEC] may negotiate and enter into customer-specific contracts, with terms and conditions tailored to the specific customer's needs. The [CLEC] shall file a notice of the contract with the Commission prior to the expiration of 14 days after the date the contract is executed. If the Commission does not set the contract for hearing, the contract is effective according to its terms.

723-38-3.2.2.5 Promotional Offerings. CLECs shall file promotional offerings and volume discounts in its price list. No supporting information need be filed with the Commission.

723-38-3.2.2.6 Right to Investigate Tariffs and Prices. The Commission may suspend and investigate any tariff, tariff rate, price, or price list filed; and the Commission may set any customer-specific contract for hearing. Nothing in

this Rule shall be deemed in any way to limit or to abridge any right of the Commission.

723-38-3.2.2.7 Burden of Proof. In any proceeding before the Commission, the CLEC shall have the both the burden of going forward and the burden of persuasion that any price contained in a price list or customer-specific contract is just, reasonable, and non-discriminatory.. The CLEC shall carry the same burden of proof with respect to whether or not any term or condition, whether contained in a tariff, or in a customer specific contract, is discriminatory.

723-38-3.2.2.8 Reporting Requirements. To enable the Commission to track the progress of competition, and to monitor the delivery of basic and advanced services to all areas of the state, it is in the public interest for CLECS to provide the Commission with information, in annual reports and/or other special reports.

723-38-3.2.2.8.1 Annual Reports.

Annual reports, of both ILECs and CLECs, shall be filed in accordance with 723-1-25, with the exception of filing only one copy, instead of three, of the stockholder or certified public accountant report.

723-38-3.2.2.8.2 Further Reporting Requirements. The CLEC, as a requirement of this specific form of price regulation, ~~in consultation with the staff of the Commission,~~ shall file with the Commission periodic informational reports requested by the Commission. ~~to allow the Commission and staff, among other things, to monitor the intra-state telecommunications market in Colorado.~~ The CLEC and/or Commission staff may propose formats for such reports. The provider may file the periodic informational reports under seal. Interested persons have the right to challenge the

CLEC'S designation of a periodic information report, or any portion of it, as confidential and proprietary.~~to the Commission from time to time. The provider may file informational reports under seal. Interested persons have the right challenge the provider's designation of a periodic informational report, or any portion of it, as confidential and proprieta... .~~

723-38-3.2.2.9 Form of Financial Records.

Local exchange carriers shall use the system of accounts outlined in 723-1-25 (c) to maintain financial records and to map Colorado specific data.

723-38-3.2.2.10 Location of Records. Records

may be maintained in any location convenient for the utility, so long as the records are both readily and accurately accessible to Staff.

723-38-3.2.2.11 Cost Allocation Manual

(CAM). The CLEC, shall be exempt from the requirement to file a Cost Allocation Manual as directed in Rule 4 CCR 723-27-8 "Cost Allocation Rules for Telecommunications Service Providers and Telephone Utilities". Each provider shall be required to follow the methods, standards, and guidelines of the Cost Allocation Rule to produce Colorado intrastate specific information for the Commission.

723-38-3.2.2.12 Providers Previously

Granted Relaxed Regulation. Any provider, previously granted a form of price or relaxed regulation by the Commission, may elect to have the provisions of this Rule 38.3.2.2 supersede the provisions of the provider's form of price or relaxed regulation. The provider shall make that election by filing a notice with the Commission. That notice, signed by a duly authorized representative of the provider [CLEC], shall be

filed in the docket granting the provider a form of price or relaxed regulation which is to be superseded by the provisions of rule 723-38-3.2.2, and state that the provider is electing the form of relaxed regulation specified 723-38-3.2.2.