

Decision No. C02-196

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

DOCKET NO. 02R-041ALL

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IN THE MATTER OF THE PROPOSED REPEAL AND REENACTMENT OF THE RULES  
OF PRACTICE AND PROCEDURE, 4 CCR 723-1.

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**SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING**

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Mailed Date: February 27, 2002

Adopted Date: February 20, 2002

**I. BY THE COMMISSION:**

**Statement and Discussion**

1. The Colorado Public Utilities Commission hereby gives supplemental notice of proposed rulemaking regarding its Rules of Practice and Procedure, 4 CCR 723-1.

2. On January 29, 2002, the Commission issued Decision No. C02-94 giving notice of proposed rulemaking ("NOPR") in this docket. The proposed rules in the NOPR contain provisions regarding confidentiality. Those provisions are similar to, and, in fact, are intended to replace, the existing Rules Relating to the Claim of Confidentiality of Information Submitted to the Colorado Public Utilities Commission, 4 CCR 723-16 ("Confidentiality Rules"). However, the NOPR did not explicitly state that the Commission proposes to repeal its current Confidentiality Rules.

3. The proposed repeal of the Commission's Confidentiality Rules is an implicit part of the original NOPR. By this supplemental NOPR, we make explicit the proposed repeal of the Confidentiality Rules.

4. Additionally, this supplemental NOPR clarifies that the proposed rules attached to Decision No. C02-94 (*i.e.* proposed Rules 1004(p), 1103, and 1104) also incorporate certain provisions of the Commission's existing Rules Regulating the Collection and Disclosure of Personal Information, 4 CCR 723-7 ("Privacy Rules"). Some of the provisions in the current Privacy Rules apply to all regulated utilities; some of the provisions in those rules apply only to telecommunications service providers. To the extent provisions in the Privacy Rules now apply to all utilities generally, the Commission proposes to repeal those rules in this docket.<sup>1</sup>

5. This supplemental NOPR must be read in conjunction with the original NOPR, Decision No. C02-94. The Commission is still considering all proposals and issues from the original NOPR, including the draft rules attached to that order.

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<sup>1</sup> The provisions in the Privacy Rules that specifically apply to telecommunications service providers will likely be incorporated into the upcoming rulemaking to revise the Commission's telecommunications rules. The likely result of the instant docket, and the future docket concerning the telecommunications rules, will be that the entirety of the current Privacy Rules will be repealed and incorporated into new rules.

All the procedural directives of the original NOPR are still fully applicable.

## II. ORDER

### A. The Commission Orders That:

1. This Supplemental Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the March 10, 2002 edition of The Colorado Register.

2. Consistent with the Statement and Discussion, above, a hearing on the proposed rules, including those proposals incorporated into Decision No. C02-94, and related matters shall be held before an Administrative Law Judge as follows:

DATES: April 11 & 12, 2002;  
August 9, 2002

TIME: 9:00 a.m.

PLACE: Commission Hearing Room A  
Office Level 2 (OL2)  
Logan Tower  
1580 Logan Street  
Denver, Colorado

At the times set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Administrative Law Judge deems oral comments unnecessary. At the hearings referenced above, the Administrative Law Judge may set further hearing dates to continue the discussion and comment.

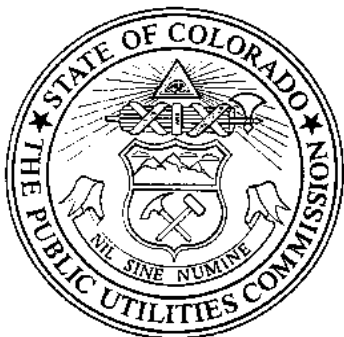
3. Interested persons may file written comments in this matter before the hearing. The Commission requests that such prefiled comments be submitted in both paper and electronic format no later than March 19, 2002. Reply comments should be submitted by May 8, 2002. The Commission will consider all submissions, whether oral or written.

4. This order is effective immediately on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
February 20, 2002.**

(S E A L)

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO



RAYMOND L. GIFFORD

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POLLY PAGE

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ATTEST: A TRUE COPY

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Bruce N. Smith  
Director

JIM DYER

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Commissioners

~~THE~~  
~~PUBLIC UTILITIES COMMISSION~~  
~~OF THE STATE OF COLORADO~~  
  
~~RULES RELATING TO THE CLAIM OF CONFIDENTIALITY~~  
~~OF INFORMATION SUBMITTED TO~~  
~~THE COLORADO PUBLIC UTILITIES COMMISSION~~  
  
~~4 CODE OF COLORADO REGULATIONS (CCR) 723-16~~

~~BASIS, PURPOSE, AND STATUTORY AUTHORITY.~~

~~These rules are issued under the authority of §§ 40-2-108, 40-3-102, and 40-15-107, C.R.S. They establish procedures consistent with the mandate of § 24-72-201, C.R.S., that all public records shall be open for inspection by any person at reasonable times, subject to restrictions specifically provided by law. The rules establish the procedures to be used by: (1) a party, in a formal docket, filing information with the Commission that the party claims is confidential and therefore should not be subject to public inspection; (2) a person, outside of an open formal Commission docket, filing information with the Commission that the person claims is confidential and therefore should not be subject to public inspection; and (3) the Director, in responding to requests to inspect information under Colorado's Public Records Law, §§ 24-72-201 et seq., C.R.S.~~

~~RULE (4 CCR) 723-16-1. APPLICABILITY.~~

~~These rules apply to all persons filing information with or seeking information from the Commission. They also apply to the~~

~~Commission, Director or a presiding officer to the extent they govern the Commission's responses to claims of confidentiality in a formal docket, requests to restrict public inspection of information outside of a formal docket, or for information under the Public Records Law.~~

~~**RULE (4 CCR) 723-16-2. DEFINITIONS.**~~

~~Terms defined in §§ 24 72 201 et seq., C.R.S., the Colorado Public Records Law, and Title 40, C.R.S., the Public Utilities Law, shall have the same meaning when used in these rules. In addition, the following terms mean:~~

~~—— 723-16-2.1 Filing Under Seal. The process of filing information with the Commission in a sealed, specially marked envelope to indicate that the filing party claims that the information is confidential.~~

~~—— 723-16-2.2 Presiding Officer. The Chair of the Commission, an Administrative Law Judge, or an individual selected by the Commission to preside in a formal Commission docket.~~

~~**RULE (4 CCR) 723-16-3. PROCEDURES RELATING TO INFORMATION PRODUCED IN A FORMAL COMMISSION DOCKET.**~~

~~—— 723-16-3.1 Confidential Information. All documents, data, information, studies, computer programs, and other matters filed with the Commission in any form in a proceeding, or produced in response to any interrogatories or requests for information, subpoenas, depositions, or other modes of discovery, and all notes taken or copies made thereof, that~~

[Omitted Material: All the current Rules Relating to the Claim of Confidentiality of Information Submitted to the Colorado Public Utilities Commission, 4 CCR 723-16, are proposed to be repealed and reenacted. Therefore, all the remaining pages are omitted.]