

Decision No. R03-1110

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-303T

IN THE MATTER OF PROPOSED AMENDMENTS TO THE RULES REGULATING
OPERATOR SERVICES FOR TELECOMMUNICATIONS SERVICE PROVIDERS AND
TELEPHONE UTILITIES, 4 CCR 723-18.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
ADOPTING AMENDMENTS**

Mailed Date: September 29, 2003

I. STATEMENT

1. On July 16, 2003, by Decision No. C03-0771, the Commission commenced this rulemaking proceeding and gave public notice of a proposal to amend the Rules Regulating Operator Services for Telecommunications Service Providers and Telephone Utilities, 4 *Code of Colorado Regulations* (CCR) 723-18. The purpose of the amendments is to implement Senate Bill 03-303, which amended or otherwise changed §§ 40-15-102(19.5), 40-15-102(20.6), 40-15-107(3), and 40-1-103(1)(b)(VI), C.R.S., and removed from the Commission's jurisdiction operator services provided to inmates in correctional facilities in Colorado. The proposed amendments implement, on a permanent basis, the statutory changes.

2. In addition to providing public notice of the proposed amendments, Decision No. C03-0771 scheduled a public hearing on the proposed rules for September 5, 2003.

3. Notice of the proposed rulemaking was published in the August 11, 2003, edition of *The Colorado Register*.

4. No written comments were received in advance of the hearing.

5. At the assigned place and time, the undersigned Administrative Law Judge (ALJ) called the matter for hearing. Qwest Corporation (Qwest) and the Staff of the Public Utilities Commission (Staff) provided oral comments on the proposed rules.

II. FINDINGS, CONCLUSIONS, AND DISCUSSION

6. Staff provided comment on the proposed amendments. Staff explained that, on June 18, 2003, by Decision No. C03-0671, the Commission promulgated the proposed amendments as emergency rules. Staff further explained that the amendments, if adopted, will: (a) remove inmate calls from the definition of non-optional operator services (*see* deletion of Rule 4 CCR 723-18-3.1.3); (b) add inmate calls to the definition of optional operator services (*see* addition of Rule 4 CCR 723-18-4.1.7); (c) add a requirement that providers of telecommunications services who have tariffs for inmate service on file as of June 18, 2003, make an appropriate filing to remove inmate services from the providers' rates, terms, and conditions on file with the Commission (*see* addition of Rule 4 CCR 723-18-4.1.7.1); (d) amend Rule 4 CCR 723-18-Appendix A by deleting line 14, thus removing inmate services from the benchmark rate table; and (e) delete, as a housekeeping matter, Rule 4 CCR 723-18-Exhibit 1 in its entirety.

7. Qwest generally supported the proposed amendments. It suggested, however, that Rule 4 CCR 723-18-4.1.7.1 was unnecessary because the requirement to amend tariffs and price lists exists now in the emergency rules and, as a result, all providers have filed the required advice letters and letters of transmittal to change their tariffs and price lists. When asked, Qwest acknowledged that it did not know whether, in fact, all providers of telecommunications services

have made the filings necessary to change their tariffs and price lists concerning operator services. The ALJ will not adopt Qwest's suggested change. First, there is no record to establish that, in fact, all tariffs and price lists have been changed. Second, assuming that not all providers have amended their tariffs and price lists, the requirement established in Rule 4 CCR 723-18-4.1.7.1 will place that obligation on those providers. Third, and finally, the ALJ sees no harm in continuing the requirement as it imposes no additional burden or duty on any provider which has filed to amend its tariffs and prices lists.

8. The rules attached to this Decision as Attachment A are necessary and sufficient to implement the provisions of Senate Bill 03-303; are clear and understandable; are necessary to protect the public health, safety, and welfare; do not conflict with other provisions of law; and do not duplicate other rules. The rules are in the public interest, and they should be adopted.

9. In accordance with § 40-6-109, C.R.S., the Administrative Law Judge recommends that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The amendments to the Rules Regulating Operator Services for Telecommunications Service Providers and Telephone Utilities, 4 *Code of Colorado Regulations* (CCR) 723-18, set out in the Appendix to this Order are adopted.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

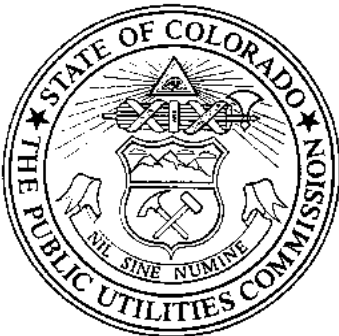
3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RULES REGULATING OPERATOR SERVICES FOR
TELECOMMUNICATIONS SERVICE PROVIDERS
AND TELEPHONE UTILITIES

4 CODE OF COLORADO REGULATIONS 723-18

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RULE (4 CCR) 723-18-3. NONOPTIONAL OPERATOR SERVICES.

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723-18-3.1.3 [REPEALED - RESERVED FOR FUTURE USE.]

723-18-3.1.4 Calls made by individuals who identify themselves as disabled to the extent that they are functionally unable to complete a call (for example, unable to use rotary dial or Touch-Tone pad) without operator assistance. These calls include those made with telecommunications devices for the deaf.

723-18-3.1.5 Operator-assisted call reconnection for disconnection or poor transmission, and operator-handled credit requests.

723-18-3.1.6 [REPEALED - RESERVED FOR FUTURE USE.]

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RULE (4 CCR) 723-18-4. OPTIONAL OPERATOR SERVICES.

723-18-4.1 Optional operator services provided by operators to customers which offer individualized and select call processing include, but are not limited to:

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723-18-4.1.7 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.

723.18.4.1.7.1 Providers who have tariffs for inmate services on file with the Colorado Public Utilities Commission as of June 18, 2003, shall file an advice letter and/or a transmittal letter, as appropriate, which removes from existing tariff and/or price list any and all rates, terms, and conditions related to inmate service. These filings may be allowed to become effective on not less than 1 day notice to the Commission.

723-18-4.2 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.

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**RULE (4 CCR) 723-18-APPENDIX A -
BENCHMARK MAXIMUM OPERATOR SERVICES RATES**

<u>No.</u>	<u>Operator Service</u>	<u>Rate</u>
	Usage Rates	
1.	Flat (Message) Rate per call	.11
	Flat (Measured) Rate per minute	
2.	Day	.20
3.	Evening/Night/Weekend	.11
	Calling Card Station Rates	
	Customer Dialed	
4.	Automated (Mechanized)	.30
5.	Operator Assisted	.58
6.	Operator Dialed	1.13
7.	Operator Assistance	.75
	Operator (Assisted)	
8.	Station-to-Station	1.25
9.	Collect	1.85
10.	Billed to Third Party	1.51
11.	Person-to-Person	3.00
	Busy Line	
12.	Verification	1.25
13.	Interrupt	2.00
14.	[RESERVED FOR FUTURE USE]	
15.	Pay Telephone Charge	.26
	(Facilities based providers only)	