

Decision No. C04-0149

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04R-057T

IN THE MATTER OF PROPOSED RULES RELATING TO THE PROVISIONING OF
THE ABBREVIATED DIALING CODE 5-1-1 FOR TRAFFIC AND TRANSPORTATION
INFORMATION.

NOTICE OF PROPOSED RULE MAKING

Mailed Date: February 18, 2004

Adopted Date: February 18, 2004

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) gives notice of proposed rulemaking regarding new Rules pertaining to the provisioning of the abbreviated dialing code 5-1-1 to be used by a government entity to provide transportation and traffic information to the citizens of Colorado. These rules are enacted within the authority granted to the Commission by the Federal Communications Commission (FCC) pursuant to, *In the Matter of Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide*, NSD-L-99-24, *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Third Report and Order and Order on Reconsideration, Adopted July 21, 2000, Released July 31, 2000. FCC 00-256 (*Third Report and Order*). In that order, the FCC determined that the U.S. Department of Transportation had demonstrated that assignment of an N11 dialing code for nationwide access to travel and traffic information services was in the public interest, and therefore assigned 5-1-1 for that purpose.

2. These rules also further the FCC's directive that government entities may request 5-1-1 and that state transportation agencies may have the discretion to determine the deployment schedule and the type of transportation information that will be provided using 5-1-1. These rules also follow the FCC's mandate that state public utilities commissions continue their jurisdiction over 5-1-1 codes to ensure, among other things, that carriers comply with transportation agencies' requests to deploy 5-1-1 expeditiously.

3. In Decision No. C03-1429, effective on December 22, 2003, we adopted these rules as emergency rules because we found their immediate adoption imperative and necessary to provide a process for implementation of the 5-1-1 dialing code in Colorado in a timely manner. We now issue this Notice of Proposed Rulemaking in order to make those emergency rules permanent.

4. A copy of the new Rules is attached to this notice of proposed rulemaking. The statutory authority for the proposed Rules is found within §§ 24-4-101, *et. seq.*, 40-2-108, 40-3-101, and 40-15-101, *et. seq.*, C.R.S.

5. The Commission will conduct a hearing on the proposed rules and related issues at the below stated time and place. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. The Commission also encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that such comments be filed ten days prior to the hearing date. The Commission will consider all submissions.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the March 10, 2004 edition of *The Colorado Register*.

2. A Hearing on the proposed rules and related matters shall be held before an Administrative Law Judge of the Commission as follows:

DATE: April 9, 2004
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

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

3. Interested persons may file written comments in this matter before hearing. The Commission requests that such pre-filed comments be submitted at least ten days before the scheduled hearing. All submissions, whether oral or written, will be considered by the Commission.

4. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 18, 2004.**

(SEAL)



ATTEST: A TRUE COPY

A handwritten signature in black ink that reads "Bruce N. Smith".

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

RULES RELATING TO THE PROVISIONING OF THE ABBREVIATED DIALING CODE 5-1-1 FOR TRAFFIC AND TRANSPORTATION INFORMATION (to be inserted in rule 723-24-6 “reserved for future use”)

723-24-6 A government entity submitting a Petition for use of the 5-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any petitioner that is granted the authority to offer 5-1-1 access to intelligent transportation systems or other transportation information shall comply with this rule and any provisions set out in the Commission’s decision granting such authority.

723-24-6.1 Process for Assignment of 5-1-1 Abbreviated Dialing Code. The assignment of the 5-1-1 abbreviated dialing code will be considered by the Commission upon: 1) the Commission’s own motion; or 2) the Petition of a government entity.

723-24-6.2 Petition for Consideration of the Assignment of 5-1-1. A government entity filing a Petition to request consideration of the assignment of the 5-1-1 abbreviated dialing code for intelligent transportation systems or other transportation information, must present clear and convincing evidence that a public benefit exists. The Commission will evaluate the Petition based upon this evidence.

723-24-6.2.1 Contents of the Petition. The Petition shall contain the following information and documentation:

- 723-24-6.2.1(a) Background of the Petitioner, including composition of any governing board or agency;
- 723-24-6.2.1(b) Demonstration of public need;
- 723-24-6.2.1(c) Historic volume of calls seeking transportation information;
- 723-24-6.2.1(d) Proposed affected geographic area, including a list of cities/towns and counties or central offices, if known, and any plans for expansion of that initial geographic area;
- 723-24-6.2.1(e) Proposed cost recovery solution, including funding mechanisms;
- 723-24-6.2.1(f) Letters of support from stakeholders;
- 723-24-6.2.1(g) Proposed plan for community outreach and notification; and

723-24-6.2.1(h) Other pertinent factors that the Commission deems relevant.

723-24-6.3 If two or more entities petition the Commission to provide access to intelligent transportation systems or other transportation information using 5-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in rule 24.6.2 to establish one assignee.

723-24-6.4 When a Petition is granted by the Commission under rule 24.6.2, any jurisdictional telecommunications provider that provides service in the geographic area outlined in the Petition, shall complete the following tasks:

723-24-6.4.1 If an affected jurisdictional telecommunications service provider is using 5-1-1 for purposes other than access to intelligent transportation systems or other transportation information, that provider shall discontinue use for that non-compliant purpose.

723-24-6.4.2 If the affected jurisdictional telecommunications service provider plans to seek recovery of internal costs associated with 5-1-1 call completion, the affected provider shall perform all analyses required to quantify the cost to its individual company for the necessary translations and/or facilities work.

723-24-6.4.3 The affected jurisdictional telecommunications service provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 5-1-1 call completion from its subscribers as requested in the Petition.

723-24-6.5 Within 30 days of the granting of a Petition, the affected jurisdictional telecommunications service providers shall file with the Commission, the information requested in rules 24-6.4.2 and 24-6.4.3.

723-24-6.6 Upon a showing that the public will benefit from the assignment of 5-1-1 to a petitioner and factoring in the jurisdictional telecommunications service providers' filed information, the Commission will set a time line for assignment and implementation of the 5-1-1 abbreviated dialing code in the affected geographic area. All jurisdictional telecommunications service providers serving customers in the affected area will comply with this assignment date unless a waiver is sought and granted.