

Decision No. C06-0293

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06R-162T

IN THE MATTER OF THE EMERGENCY REPEAL OF THE RULES CONCERNING
NOTICE WHEN INCUMBENT LOCAL EXCHANGE CARRIERS PROPOSE DECREASES
TO RATES OR CHANGES TO TERMS OR CONDITIONS OF SERVICE, 4 CCR 723-21.

**DECISION APPROVING EMERGENCY REPEAL
AND ADOPTING EMERGENCY RULES**

Mailed Date: March 30, 2006
Adopted Date: March 29, 2006

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for the emergency repeal of the Commission's Rules Concerning Notice When Incumbent Local Exchange Carriers Propose Decreases to Rates or Changes to Terms or Conditions of Service, 4 *Code of Colorado Regulations* (CCR) 723-21.

2. The Commission's Rules Regulating Telecommunications Providers, Services and Products, as found in 4 CCR 723-2, are scheduled to become effective on April 1, 2006. This emergency repeal is also intended to become effective on April 1, 2006.

3. For the reasons set forth in this decision, we now repeal on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth in § 24-4-103, C.R.S.) the rules appended to this order as Attachment A. We take this action in accordance with the provisions of § 24-4-103(6), C.R.S.

4. This Decision repeals, on an emergency basis, the current Rules Concerning Notice When Incumbent Local Exchange Carriers Propose Decreases to Rates or Changes to Terms or Conditions of Service, as found in 4 CCR 723-21. This rule was mistakenly excluded from the original notice in Docket No. 03R-524T that repealed and recodified all of the telecommunications rules. The substance of Rule 21, however, was captured in the recodified rules at 4 CCR 723-2-2122(a)(VII)(C). Therefore, the emergency repeal of Rule 21 is necessary to ensure that there is no conflict with the recodified rules becoming effective on April 1, 2006.

5. Generally, the purpose of the emergency repeal by this order is to avoid conflict in the rules and to repeal all rules still in the old format.

6. The emergency repeal of the rule attached to this order shall be effective on April 1, 2006, and shall remain in effect until the permanent repeal becomes effective or for 210 days, whichever period is less.

II. ORDER

A. The Commission Orders That:

1. The rules appended to this Decision as Attachment A are hereby repealed on an emergency basis, consistent with the above discussion.

2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 29, 2006.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

~~THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO~~

~~RULES CONCERNING NOTICE
WHEN INCUMBENT LOCAL EXCHANGE CARRIERS PROPOSE
DECREASES TO RATES, OR CHANGES TO TERMS OR CONDITIONS OF SERVICE~~

~~4 CCR 723-21~~

~~**BASIS, PURPOSE AND STATUTORY AUTHORITY**~~

~~These rules implement House Bill 02-1169 (codified at § 40-3-104(1)(c)(V), C.R.S.). In that bill, the Legislature established new provisions for public notice when incumbent local exchange carriers propose changes to the rates, terms, and conditions for service. Specifically, when incumbent local exchange carriers propose decreases to their regulated rates, public notice will be given by filing the proposed changes with the Commission fourteen days prior to the effective date; no additional notice is required. When an incumbent local exchange carrier proposes changes to the terms and conditions for services, public notice will be given again by filing those proposals with the Commission fourteen days prior to the effective date; however, the Commission may order additional notice if it determines that such additional notice is in the public interest.~~

~~House Bill 02-1169 does not affect existing notice requirements (§ 40-3-104(1)(a), (c)(I-IV), C.R.S.) for rate increases proposed by incumbent local exchange carriers. As such, these rules do not affect any existing Commission requirements regarding public notice of rate increases for telephone service. Additionally, these rules do not affect an incumbent local exchange carrier's right to propose changes to its tariff or price list under the notice provisions set forth in § 40-3-104(2), C.R.S.~~

~~The statutory authority for these amendments is found in §§ 40-2-108, and 40-3-104(1)(c)(V), C.R.S.~~

~~**723-21-1 APPLICABILITY**~~

~~These rules apply to incumbent local exchange carriers as defined below.~~

~~**723-21-2 Definitions**~~

~~**Advice Letter:** A letter, numbered sequentially, in the prescribed Commission format, which shall accompany each tariff filing with the Commission.~~

~~**Incumbent Local Exchange Carrier (ILEC),** as defined by the Federal Communications Commission, 47 CFR 51.5~~

~~With respect to an area, the local exchange carrier that:~~

- ~~(1) On February 8, 1996, provided telephone exchange service in such area; and~~
- ~~(2)(i) On February 8, 1996, was deemed to be a member of the Exchange Carrier Association pursuant to § 69.601(b) of this chapter; or~~

~~(ii) Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in paragraph (2)(i) of this section.~~

~~**Local Exchange Carrier:** Any person who holds a certificate of public convenience and necessity to provide basic local exchange service as that term is defined in § 40-15-102(3), C.R.S.~~

~~**723-21-3 Notice of Rate Decrease** An ILEC proposing only a decrease to any rate for regulated service shall give notice of the proposed decrease by filing with the Commission an Advice Letter or Transmittal Letter accompanied by the proposed tariff or price list sheets. The Advice Letter or Transmittal Letter shall be filed with the Commission at least fourteen days prior to the proposed effective date of the rate decrease. The date of filing with the Commission shall not be considered part of the fourteen day notice. And, the fourteenth day must expire prior to the effective date of the rate decrease. No additional public notice shall be required.~~

~~**723-21-4 Notice of Changes to Terms or Conditions of Service**~~

~~**723-21-4.1** An ILEC proposing a change to the terms or conditions of any regulated service shall give notice of such proposed change by filing with the Commission an Advice Letter or Transmittal Letter accompanied by the proposed tariff or price list sheets. The Advice Letter or Transmittal Letter shall be filed with the Commission at least fourteen days prior to the proposed effective date of the change to the terms or conditions of service. The date of filing with the Commission shall not be considered part of the fourteen day notice. And, the fourteenth day must expire prior to the effective date of the proposed change. No additional notice shall be required unless the Commission determines that additional notice is in the public interest in accordance with section 4.2 of this rule.~~

~~**723-21-4.2** Prior to the expiration of the fourteen day notice period, the Commission may determine that additional public notice of a proposed change to the terms or conditions of service is in the public interest, and may require the ILEC to provide additional notice as specified by the Commission. If the Commission determines that additional notice is required, the Commission shall reject without prejudice the Advice Letter and/or Transmittal Letter filing(s), unless the telephone utility voluntarily extends, the proposed effective date of its filing to accommodate the additional notice specified by the Commission.~~