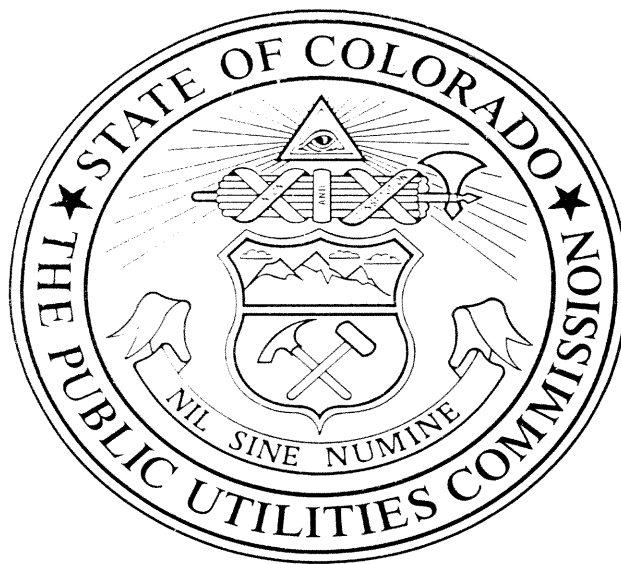


**Investigation of Revising the
Definition of Basic Local Exchange
Telephone Service**

Final Report of the Colorado Public Utilities Commission

Docket 06I-084T



August 16, 2006

Report of the Colorado Public Utilities Commission
Docket 06I-084T
Review of the Definition of Basic Local Exchange Telephone Service

Background

§40-15-502(2), C.R.S. states "...the Commission shall conduct a proceeding...no less frequently than every three years to consider the revision of the definition of basic service, with the goal that every citizen of this state shall have access to a wider range of services at rates that are reasonably comparable as between urban and rural areas."

The last proceeding was completed in February 2003. At that time the Commission invited any interested persons to submit written initial and reply comments. The Commission reviewed the resulting comments and concluded that the definition of basic service should remain the same.

Discussion

In Decision No. C06-0163, the Commission opened Docket 06I-084T to review the existing definition of basic service found at 4 CCR 723-2-2308 and consider revising that definition. Interested persons were to submit their initial written comments on or before April 3, 2006. Reply comments were to be submitted on or before April 17, 2006.

In the order, the Commission sought comments on any changes or modifications that should be made to the definition of basic service. In particular, the Commission sought comments on whether the following modifications should be made to the definition:

- A. The addition of the capability to initiate caller identification (caller ID) blocking per call using *67 at no additional charge;
- B. The addition of caller ID blocking per line at no additional charge;
- C. Whether providers that bundle or package basic local exchange service with other features and offerings should be required to furnish basic local exchange service in the package such that it meets the Commission's definition;
- D. Whether the Commission's prescribed local calling areas should be expanded to include an entire LATA or the entire state;
- E. Whether the definition of basic service should apply only to the first access line in a residence or business, to the first and second access lines thereof, or to some other limited number or combination of lines, rather than to every access line as is currently the case;

- F. Whether the performance characteristics of basic service should be expanded beyond, or made more restrictive than, the standard performance characteristics for customer access lines as found in 4 CCR 723-2-2337;
- G. Whether basic service should be expanded to include additional elements or features, for example but not limited to, caller ID, call waiting, etc.

In addition, the order stated: “while the goal of § 40-15-502(2), C.R.S., is that every citizen have access to a wider range of services, while maintaining the affordability and quality of basic local exchange service, our review of the basic service definition is not necessarily a ratchet toward either a more expansive or more restrictive basic service offering. We therefore, also seek comment on whether the basic service definition should be contracted and, if so, the specific manner of such contraction. We are particularly interested in whether § 40-15-502(3)(b)(I), C.R.S., when read in conjunction with the Telecommunications Act of 1996 – including but not limited to 47 U.S.C. § 253 – suggests either a particular outcome or general direction for the exercise in the instant manner pursuant to § 40-15-502(2), C.R.S.”

Qwest Corporation (Qwest), MCIMetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (Verizon Business), the Colorado Office of Consumer Counsel (OCC) and the Colorado Telecommunications Association (TCA) representing the rural incumbent local exchange carriers filed initial comments. Qwest and the OCC filed reply comments. Attached is Exhibit A, which summarizes these comments.

No commenter favored the expansion of the definition of basic service. Similarly, no commenter stated specifically that they favored a contracted or restricted definition, although Qwest opined that requiring carriers to offer residential basic service pursuant to the definition creates a barrier to competition, as the statutory rate cap prevents carriers from offering and pricing the product in accordance with the marketplace. No commenter suggested that the current performance characteristics, features or other elements of basic service should change.

The commenters had differing opinions as to whether providers combining access lines with other features into bundled packages should be required to make the access line portion of such packages meet the basic service definition. Qwest and Verizon Business essentially agreed that the marketplace should determine whether or not basic service should be an element of such packages. However, the CTA and the OCC disagreed, stating that the access line portion of such packages should be required to meet the basic service definition.

The commenters also diverged as to whether the definition should apply only to the first residential or business access line, to the first and second lines thereof, or to some other limited number or combination of lines. Qwest stated that the definition

should only apply to the first residential or business line, while Verizon Business stated that it should be limited to the first residential line only. The CTA stated that the definition should apply to all access lines, while the OCC recommended that all local exchange carriers be required to offer additional lines that meet the basic service definition.

The issue of which lines must meet the basic service definition appears to be closely linked to material issues currently under examination in Docket No. 05I-431T, the investigation of the Colorado High Cost Support Mechanism (CHCSM). In Decision No. C05-1239 of that Docket, the Commission identified as a predominant issue, that of the determination of which regulated telecommunications services are to be supported through the CHCSM. The appendix to Decision No. C05-1239 included the following additional comments in that vein:

“What access lines should be supported, if any? If access lines are to be supported, is it appropriate to support all residential and all business lines? Alternatively, is it appropriate, all things considered, to support only the first residence and/or business lines?”

And;

“If the Commission determines that only first access lines are to be supported, then describe, in detail and with proper documentation, the implementation process for this alteration.”

The issue of which lines should be required to meet the definition of basic service is the most material one in the instant docket, and appears to be inextricably linked to the issue of which access lines should be supported by the CHCSM.

Conclusion

Based on the comments received in this docket, the Colorado Public Utilities Commission now decides that no change to the current definition of basic local exchange service as outlined in 4 CCR 723-2-2308 be made at this time. However, the PUC may reopen this docket, or reexamine the definition of basic local exchange service in a different docket, as it relates to issues currently under examination in the investigation of the Colorado High Cost Support Mechanism.

061-084T Investigation of Revising the Definition of Basic Local Exchange Telephone Service				
Issue	Qwest Corporation (Qwest)	MCIMetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (Verizon Business)	Colorado Telecommunications Association (CTA)	Colorado Office of Consumer Counsel (OCC)
General Comments:	No general comments. All Qwest comments are in response to the specific suggestions contained in Decision No. C06-0163, the initial Decision opening the docket in this matter.	Opposes any expansion of the current definition of basic service. An expansion is unnecessary as the current definition provides access to a wide range of services. Because of the statutory residential rate cap, the Commission must balance desire to expand the definition with insuring that the rate remains affordable. Changing the definition impacts the service provided to lifeline customers. There is no factual or cost data to assess the impact of adding additional features to the definition. Expanding the definition would create a competitive disadvantage for traditional wireline carriers relative to wireless and VoIP providers. Expansion could result in a rate increase for residential customers due to increased cost as allowed per 40-15-502(3)(b)(III), C.R.S.	Currently, in rural areas competition is affording greater access to a wider range of services at rates comparable to those paid by urban customers. A change in the definition of basic service will not afford greater access to a wider range of services at comparable rates. No change in the definition of basic service is warranted at this time. A restricted definition would make it easier for competing carriers to claim support from the state high cost support mechanism, increasing the size of the fund and jeopardizing investment by rural ILECs, minimizing rural Colorado's range of services and increasing rates for remaining services.	The OCC does not recommend any changes to the definition of basic service at this time. Should the Commission consider additions to the definition, however, the OCC recommends that the Commission proceed as it has in past dockets considering an expansion of the definition. In that event, this should include the provision of estimates of the cost of any such additions from facilities-based providers of basic local service, followed by a statistically valid survey of customers throughout the state, and a series of public meetings.
Should the definition be contracted, and specifically how? Does 40-15-502(3)(b)(I), C.R.S., when read in conjunction with the Telecommunications Act of 1996 - including but not limited to 47 U.S.C. Sec. 253 - suggest a particular outcome or a general direction pursuant to 40-15-502(2), C.R.S.?	Reply Comment to CTA Initial Comment: The CTA posed and answered the question as to whether a restricted basic service definition will <i>foster</i> competition in rural Colorado, while the Commission asked whether a restricted definition would <i>inhibit</i> such competition. Requiring carriers to offer a basic local service offering pursuant to state law and the definition creates an economic barrier to competition, due to the statutory rate cap. Businesses in a competitive environment must respond to demand, tailoring their products and prices to the marketplace. When required to offer and price their products pursuant to regulatory directives they experience increased risk and uncertainty, as the product and price established by regulators may not reflect the market rate or the mix of features customers demand. Barriers to competition and reduced incentives to enter the marketplace result.	Not specifically addressed.	A restricted definition of basic service will not foster competition in rural Colorado, and will only make it easier for competing carriers to claim support from the Colorado High Cost Support Mechanism, increasing the size of that fund and jeopardizing investment by rural ILECs where others have refused to provide service. A narrowing of the definition of basic service will minimize rural Colorado's available range of services and increase rates for the remaining services, the exact opposite of the result intended in the legislative standard applicable to 40-15-502(2), C.R.S.	If the question is whether the statutory rate cap is a barrier to entry under the Federal Act, the OCC believes that this issue is outside the scope of the procedure contemplated in 40-15-502(2), C.R.S. Section 253(a) of the Federal Act generally provides that the states cannot prohibit the ability of providers to enter the telecommunications market, but also states that nothing affects the ability of the states to impose requirements that advance and preserve universal service. The only reason the OCC can imagine for contracting the definition would be to reduce the price of such an offering. The OCC does not oppose a carrier offering, for example, a smaller optional calling area as a feature, with a correspondingly lower price. This, however, can be done without changing the definition of basic service. If the cost of basic service is reduced, the Commission should consider whether the rate cap price should also be reduced.

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Include the ability to Initiate Caller ID blocking per call using *67 at no additional charge?	No. The FCC already prohibits common carriers delivering calling party number from imposing call blocking charges on connecting carriers or the calling party. Reply Comment to OCC Initial Comment: Citing to the Commission's rules for default regulation for CLECs, the OCC states that caller ID blocking is a service under modified existing regulation (4 CCR 723-2-2203(d)(VIII)(C)). Qwest agrees with the OCC's ultimate conclusion but notes that no CLEC has opted into the plan described in the Rule, so it cannot be said that for CLECs caller ID blocking is a service actually regulated under modified existing regulation per Commission rules.	No.	No. In rural Colorado the demand for caller ID, or caller ID blocking, is not as high as in urban areas. As a result, some rural ILECs do not provide caller ID as a feature. For those carriers, addition of this feature to the definition will immediately increase the cost of basic service.	On a per call basis, caller ID blocking is currently available at no charge, is defined as a public interest feature, and is subject to Modified existing regulation. Effective April 1, 2006, the Commission's rules no longer require that this service be offered free of charge, but the FCC still requires per-call caller ID blocking without charge. As this feature is still available free of charge, it is not necessary to add it to the definition of basic service at this time.
Include the ability to Initiate Caller ID blocking per line at no additional charge?	No. See above.	No.	No. Same position as stated above.	Qwest currently provides this feature at no monthly charge and without a non-recurring charge, if ordered with the installation of basic service; Qwest imposes an \$ non-recurring charge if ordered after the 90-day free period following initial installation of service. It is not necessary to add it to the definition of basis service at this time.

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Should the definition of basic service apply only to the first residential and business line or to additional lines as it currently does?	<p>The definition should only apply to the first residential or business access line. Further expansion of the definition will not promote competition. Reply Comment to OCC Initial Comment: The OCC invited LECs to comment on whether they perceive a demand for additional lines that do not meet the definition and whether they might utilize a rule permitting such additional, optional lines. Such a purchase is discretionary; thus, additional lines should not be required to meet the definition. Further, the additional lines market includes competition from wireless and VoIP providers and the marketplace should be allowed to meet consumer demand. Reply Comment to CTA Initial Comment: CTA undermines its own argument that the definition should apply to all lines by admitting that it is concerned with protecting the support its member companies receive from the CHCSM. Reply Comment to Verizon Business Initial Comment: Qwest agrees that restricting the definition to the first line meets the statutory goal of providing a wide range of services at just, affordable rates.</p>	<p>Yes. Specifically, basic service should be limited to the first access line for residential customers only. This meets the objective of providing residential customers access to a wide range of services at affordable rates. For business customers the marketplace should establish what comprises basic service.</p>	<p>No, the definition should be applicable to all access lines. Limiting the definition to the first access line would reduce the state high cost support mechanism support, reducing affordability.</p>	<p>The OCC is not making a recommendation at this time. There are both advantages and disadvantages. However, the OCC recommends that all LECs be required to have a service offering of additional lines that meet the basic service definition, giving customers the choice of obtaining sub-basic service lines at presumably lower cost.</p>
Should the performance characteristics of basic service be expanded beyond, or made more restrictive than, those found at 4 CCR 723-2-2337?	<p>The performance characteristics of basic service should remain the same as the standard characteristics for customer access lines currently found in the Rule.</p>	<p>No.</p>	<p>It does not appear to be in the public interest to either expand or restrict the performance characteristics of basic service at present. Expansion would increase the expense of basic service. Restriction would pave the way for deterioration of service quality.</p>	<p>No. Existing performance characteristics are sufficient.</p>
Should basic service be expanded to include additional elements or features, for example but not limited to, Caller ID, Call Waiting, etc?	<p>No. Basic local exchange service should be defined as the availability of minimum elements of telecommunications services, as necessary to provide access to the public switched telephone network.</p>	<p>No.</p>	<p>No. In rural Colorado the demand for additional vertical features is not as high as in urban areas. For rural ILECs who do not currently provide such features, addition of these features to the definition will immediately increase the cost of basic service.</p>	<p>No. These bells and whistles of phone service are available <i>a la carte</i> and in bundles, and including them in the basic service definition would likely decrease affordability and limit customer choice. A recent Ciruli Associates survey shows that 36% of customers purchase only basic service or basic service with long distance, and that 42% of residential customers strongly agree that they prefer basic inexpensive service without additional features.</p>

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Should providers bundling basic service with other features/offers be required to furnish the basic service package portion such that it meets the definition of basic service?	<p>No. Customers should be able to assess their individual needs and make that choice themselves. Imposing this requirement would be an unreasonable and unjustified interference with the workings of the marketplace. Reply Comment to OCC Initial Comment: The OCC states that if the definition of basic service applies to all access lines as is now the case, it could apply to all lines in bundles or packages, as well. The CTA agrees with the OCC. Qwest disagrees with the OCC and the CTA and agrees with Verizon Business that customers should have the ability to choose an alternative to basic service. Package purchases are entirely discretionary and independent of the purchase of basic service. Customers can select basic service and add additional features a la carte. Therefore, bundled or package service providers should not be required to furnish basic local exchange service within the package per the definition.</p>	<p>No. Providers should be free to let the marketplace determine what bundles and packages should be offered, including whether the basic service element of a package should meet the definition of basic service. As providers must offer stand-alone basic service to all who request it, it is unnecessary to mandate that basic service be a requirement of service packages/bundles.</p>	<p>Yes. Such a requirement would be consistent with the underlying purpose of C.R.S. 40-15-502 to ensure that basic service is affordable.</p>	<p>The definition currently applies to all access lines and should for bundles and packages as well. If the definition is limited to first residential access lines, then it would only apply to the first line in bundles or packages. Reply Comment to Qwest and Verizon Business Initial Comments: They stated that it should not be required that the access line portion of bundles or packages meet the definition. The OCC disagrees. Firstly, Rule 2308 requires POLRs to separately offer basic service, while stating that it does not preclude POLRs from packaging it with other services, implying a <i>status quo</i> requirement that the access line portion meet the definition. Otherwise bundles and packages without access to emergency services, without defined calling areas, etc., might exist. The definition is also tied to consumer protection rules, e.g., held service orders and denial or discontinuance of service. Finally, there is a CHCSM implication. This mechanism supports basic service, and presumably, such packages would be ineligible for high cost support.</p>
Should the local calling areas be expanded to include an entire LATA, or the entire state?	<p>No. The Commission would thereby be interposing itself into the decisions of carriers operating in a deregulated toll marketplace. Further, Commission rules already include a mechanism for expanding local calling areas. No evidence exists at present to form the basis for expansion of current local calling areas. Additionally, Qwest Corporation does not currently have the ability to transport calls across LATA boundaries, a Qwest affiliate does.</p>	<p>No. Established criteria already exist for expansion of local calling areas in the state. Further, the Commission has determined the toll market is competitive and has established a process allowing providers to deregulate instate toll services. Finally, expanded local calling areas as an element of basic service would likely increase rates for residential and business basic local exchange service.</p>	<p>No. An expansion of local calling areas would result in the loss of access revenues, from the change in classification of services from toll to local. Total access revenues can often account for 20 to 25 percent of a rural carrier's revenue stream. This would place pressure on rural ILECs to raise local rates pursuant to CRS 4-15-502(3)(b)(V), <i>supra</i>, or additional support from the Colorado High Cost Support Mechanism. Rural ILECs will be further disadvantaged relative to the rates charged by rural VoIP and cellular competitors.</p>	<p>No. Firstly, customer choice would be reduced, because customers can currently choose to pay for calls outside the local calling area on a per-call basis, sign up for an 'unlimited toll calling' plan, subscribe to a wireless carrier that has a state-wide or national 'calling area', etc. If the local calling area is expanded, customers will have less choice and will have to pay for LATA-wide or state-wide local calling. Secondly, competition would be reduced. Current long distance providers must compete with each other and with wireless and internet competitors. If the local calling areas are expanded, this vigorous competition will be curtailed, to the benefit of the LECs. Finally, LECs currently have the ability to offer optional, expanded local calling areas, which give customers the choice of whether or not to participate and pay a higher price.</p>