

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is generally to: regulate jurisdictional telecommunications providers, services, and products; administer and enforce the telecommunications provisions of Title 40 of the Colorado Revised Statutes; and regulate telecommunications proceedings before the Commission. These rules address a wide variety of subject areas. Therefore, specific statements of Basis, Purpose, and Statutory Authority are found at the beginning of each subchapter of these rules.

The statutory authority for the promulgation of these rules is found at §§ 29-11-106(3); 39-32-104; 40-2-108; 40-3-101; 40-3-102; 40-3-103; 40-3-107; 40-3-110; 40-3.4-106; 40-4-101; 40-7-113.5; 40-7-116.5; 40-15-101; 40-15-108(2); 40-15-109(3); 40-15-201; 40-15-203.5; 40-15-208(2)(a); 40-15-301; 40-15-302(1)(a) and (2); 40-15-302.5; 40-15-305; 40-15-404; 40-15-502(1), (3)(a), and (5)(b); 40-15-503; 40-17-103(2) and (3), C.R.S.

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[indicates omission of unaffected rules]

[new rule follows]

CIVIL PENALTIES

2009. Definitions.

The following definitions apply to rules 2009, 2010, and 2895, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Civil penalty" means any monetary penalty levied against a public utility because of intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission regulations, rules, or Commission orders~~decisions~~.
- (b) "Civil penalty assessment" means the act by the Commission of imposing a civil penalty against a public utility after the public utility has admitted liability or has been adjudicated by the Commission to be liable for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.
- (c) "Civil penalty assessment notice" means the written document by which a public utility is given notice of an alleged intentional ~~notified of a~~ violation of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders and of a proposed civil penalty.

- (d) "Intentional violation." A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute, rule, or order defining the violation.

2010. Regulated Telecommunications Utility Violations, Civil Enforcement, and Enhancement of Civil Penalties.

- (a) The Commission may impose a civil penalty in accordance with the requirements and procedures contained in § 40-7-113.5, C.R.S., § 40-7-116.5, C.R.S., and paragraph 1302(b), 4 Code of Colorado Regulations 723-1, for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders as specified in §§ 40-7-113.5 and 40-7-116.5, C.R.S., and in these rules.
- (b) The director of the commission or his or her designee shall have the authority to issue civil penalty assessments for the violations enumerated in § 40-7-113.5, C.R.S., subject to hearing before the Commission. When a public utility is cited for an alleged intentional violation, the public utility shall be given notice of the alleged violation in the form of a civil penalty assessment notice.
- (c) The public utility cited for an alleged intentional violation may either admit liability for the violation pursuant to § 40-7-116.5(1)(c) or the public utility may contest the alleged violation pursuant to § 40-7-116.5(1)(d), C.R.S. At any hearing contesting an alleged violation, trial staff shall have the burden of demonstrating a violation by a preponderance of the evidence.
- (d) In any written decision entered by the Commission pursuant to § 40-6-109, C.R.S., adjudicating a public utility liable for an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order, the Commission may impose a civil penalty of not more than two thousand dollars, pursuant to § 40-7-113.5(1), C.R.S. In imposing any civil penalty pursuant to § 40-7-113.5(1), C.R.S., the Commission shall consider the factors set forth in Rule 1302(b).
- (e) The Commission may assess doubled or tripled civil penalties against any public utility, as provided by § 40-7-113.5(3), C.R.S., § 40-7-113.5(4), C.R.S., and this rule.
- (f) The Commission may assess any public utility a civil penalty containing doubled penalties only if:
- (I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;
 - (II) the conduct for which doubled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable; and
 - (III) the conduct for which doubled civil penalties are sought occurred within one year after conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable.

- (g) The Commission may assess any public utility a civil penalty containing tripled penalties only if:
- (I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted two or more prior intentional violations of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;
 - (II) the conduct for which tripled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has either admitted liability by paying the civil penalty assessment or been adjudicated by the Commission in an administratively final written decision to be liable, in at least two prior instances; and
 - (III) the conduct for which tripled civil penalties are sought occurred within one year after the two most recent prior instances of conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable.
- (h) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the date of such alleged conduct for which tripled civil penalties are sought.
- (i) Nothing in this rule shall preclude the assessment of tripled penalties when doubled and tripled penalties are sought in the same civil penalty assessment notice.
- (j) The Commission shall not issue a decision on doubled or tripled penalties until after the effective date of the administratively final Commission decision upon which the single civil penalty was based.
- (k) The civil penalty assessment notice shall contain the maximum penalty amount provided by rule for each individual violation noted, with a separate provision for a reduced penalty of 50 percent of the penalty amount sought if paid within ten days of the public utility's receipt of the civil penalty assessment notice.
- (l) The civil penalty assessment notice shall contain the maximum amount of the penalty surcharge pursuant to § 24-34-108(2), C.R.S., if any.
- (m) A penalty surcharge referred to in paragraph (l) of this rule shall be equal to the percentage set by the Department of Regulatory Agencies on an annual basis. The surcharge shall not be included in the calculation of the statutory limits set in § 40-7-113.5(5), C.R.S.
- (n) Nothing in these rules shall affect the Commission's ability to pursue other remedies in lieu of issuing civil penalties.

2011. – 2099. [Reserved].

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[indicates omission of unaffected rules]

[new rule follows]

2895.— Regulated Telecommunications Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

<u>Citation</u>	<u>Description</u>	<u>Maximum Penalty Per Violation</u>
	<u>Articles 1-7 and 15 of Title 40, C.R.S.</u>	<u>\$2000</u>
	<u>Commission Order</u>	<u>\$2000</u>
<u>Rule 2005</u>	<u>Records and Record Retention</u>	<u>\$2000</u>
<u>Rule 2108(b),(e)-(g); text preceding (a)</u>	<u>Discontinuance of Regulated Services</u>	<u>\$2000</u>
<u>Rule 2109, text preceding (a) only</u>	<u>Applications to Transfer or Encumber</u>	<u>\$2000</u>
<u>Rule 2110(a) and (b)</u>	<u>Toll Reseller Restrictions and Obligations</u>	<u>\$2000</u>
<u>Rule 2122</u>	<u>Keeping a Current Tariff on File with the Commission</u>	<u>\$2000</u>
<u>Rule 2133(a)</u>	<u>Service Components and Requirements</u>	<u>\$2000</u>
<u>Rule 2135</u>	<u>Uniform System of Accounts, Cost Segregation and Collection</u>	<u>\$2000</u>
<u>Rule 2136</u>	<u>Obligations of Basic Emergency Service Providers</u>	<u>\$2000</u>
<u>Rule 2137</u>	<u>Obligations of ALI Database Providers</u>	<u>\$2000</u>
<u>Rule 2138</u>	<u>Obligations of Basic Local Exchange Carriers</u>	<u>\$2000</u>
<u>Rule 2139</u>	<u>Obligations of Resellers of Basic Local Exchange Service</u>	<u>\$2000</u>
<u>Rule 2141(b) and (c)</u>	<u>Obligations of Multi-line Telephone Systems</u>	<u>\$2000</u>
<u>Rule 2142</u>	<u>Nondisclosure of Name/Number/Address Information</u>	<u>\$2000</u>
<u>Rule 2143</u>	<u>Diverse Routing and Priority Service Restoration</u>	<u>\$2000</u>

Rule 2164(b),(c)(V),(e),(f),(k), and (l)	Regulation of Non-optional Operator Services	\$2000
Rule 2165(b)-(e)	Requirements for Non-optional Operator Service Providers	\$2000
Rule 2185	Obligations of Providers of Last Resort	\$2000
Rule 2186(a),(d), and (e)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2187(c) and (f)	Eligible Telecommunications Carrier Designation	\$2000
Rule 2202(e)-(g)	Default Form of Regulation for ILECs	\$2000
Rule 2203	Default Forms of Regulation for CLECs	\$2000
Rule 2204(c)-(e)	General Requirements	\$2000
Rule 2205(a) and (f)	Application for Alternative Form of Regulation	\$2000
Rule 2206(b),(c),(e)-(g)	Simplified Regulatory Treatment for Rural ILECs	\$2000
Rule 2209(e)	Deregulation of Part III Emerging Competitive Services	\$2000
Rule 2304	Billing Information, Procedures, and Requirements	\$2000
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2310(a),(c),(d)-(f)	Line Extensions	\$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2403(a)	Specific Types of Services	\$2000
Rule 2404(a),(d)	Uniform System of Accounts	\$2000
Rule 2405(a),(c)	State-Interstate Separation of Costs	\$2000
Rule 2410	Reporting and Record Keeping	\$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2414	Affiliate Transactions for Interexchange Providers	\$2000
Rule 2415	Separation of Colorado Intrastate Access Costs	\$2000

Rule 2416	Intrastate Access Charge Elements	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2702(a),(d),(e),(f)	Assignment of Telephone Numbers in Colorado	\$2000
Rule 2723	Local Number Portability	\$2000
Rule 2724(b),(c)	Long-Term Service Provider Number Portability	\$2000
Rule 2741(d),(e),(f)(IV-V),(g)(X),(h)(III-IV),(i)(III-IV),(l)	Abbreviated Dialing Codes	\$2000
Rule 2803	LITAP Plan Implementation	\$2000

Citation	Description	Maximum Penalty Per Violation
Rule 2004	Disputes	\$1000
Rule 2123	Price Lists and Transmittal Letters	\$1000
Rule 2144	Reports	\$1000
Rule 2168	Access Codes of Non-Optional Operator Service Providers	\$1000
Rule 2169	Access From Registered Equipment and Access to Common Carriers	\$1000
Rule 2311(b)-(g)	Changing Providers and Carrier Presubscription	\$1000
Rule 2312(b)-(e)	IntraLATA Equal Access	\$1000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000
Rule 2336(a),(b)	Adequacy of Service	\$1000
Rule 2337(b),(d)-(h)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2338	Interexchange Trunk Connections	\$1000
Rule 2339	PBX and Multiline Channels	\$1000
Rule 2340	Network Call Completion Requirements	\$1000

Rule 2341(a),(b),(d)-(f)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 2502	Interconnection	\$1000
Rule 2503(c)-(e)	Compensation for Terminating Local Traffic	\$1000
Rule 2504	Other Intercompany Arrangements	\$1000
Rule 2505(c)	Unbundling	\$1000
Rule 2506	Process and Imputation	\$1000
Rule 2582(a),(c)-(f)	Regulation of Facilities-Based Telecommunications Providers	\$1000
Rule 2583(b)-(d)	Service Quality	\$1000
Rule 2584	Confidentiality	\$1000
Rule 2585	Tariff Filings	\$1000
Rule 2586(b)	Negotiation, Mediation and Arbitration	\$1000
Rule 2587	Regulation of Resellers	\$1000
Rule 2894	Local Exchange Carriers' Responsibilities – Notification of Designated Agent	\$1000

Citation	Description	Maximum Penalty Per Violation
Rule 2302(a)-(c):(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 2307	Directories for Basic Local Exchange Service	\$500
Rule 2308	Local Exchange Service Standards	\$500

Citation	Description	Maximum Penalty Per Violation
Rule 2006(a)-(e); (l)	Reports	\$100
Rule 2303	Denial or Discontinuance of Service	\$100
Rule 2306	Public Information	\$100

Rule 2804(b)	LITAP Fund Administration	\$100
Rule 2805(a)-(d)	Timely or Completely Filing or Making Appropriate Payments to the LITAP Fund	\$100
Rule 2806(a)	Prohibition of Disconnection of LITAP Customers	\$100
Rule 2807(a)	Offering of Toll Limitation for LITAP	\$100
Rule 2808	LITAP Service Deposit	\$100
Rule 2809	LITAP Federal Reporting Requirements	\$100
Rule 2823(a),(c)-(e)	Conformity with the Federal Americans with Disabilities Act of 1990	\$100
Rule 2824	Conformity with the Commission's Quality of Service Rules	\$100
Rule 2827(b)	Timely or Completely Filing or Making Appropriate Payments to the TRS Fund	\$100
Rule 2846	Timely or Completely Filing or Making Appropriate Payments to the CHCSM Fund	\$100

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Rule 2202(e)-(g)	Default Form of Regulation for ILECs	\$2000

Rule 2203	Default Forms of Regulation for CLECs	\$2000
Rule 2204(c)-(e)	General Requirements	\$2000
Rule 2205(a) and (f)	Application for Alternative Form of Regulation	\$2000
Rule 2206(b),(c),(e)-(g)	Simplified Regulatory Treatment for Rural HLECs	\$2000
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Rule 2416	Intrastate Access Charge Elements	\$2000
Rule 2533	Submission of Agreement and	\$2000

<u>Amendments for Approval</u>		
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Rule 2724(b),(c)	Long-Term Service Provider Number Portability	\$2000
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<u>Rule 2341(a),(b),(d)-(f)</u>	<u>Trouble Report Response, Interruptions and Curtailments of Service</u>	<u>\$1000</u>
<u>Rule 2502</u>	<u>Interconnection</u>	<u>\$1000</u>
<u>Rule 2503(c)-(e)</u>	<u>Compensation for Terminating Local Traffic</u>	<u>\$1000</u>
<u>Rule 2504</u>	<u>Other Intercompany Arrangements</u>	<u>\$1000</u>
<u>Rule 2505(c)</u>	<u>Unbundling</u>	<u>\$1000</u>
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<u>Rule 2582(a),(c)-(f)</u>	<u>Regulation of Facilities-Based Telecommunications Providers</u>	<u>\$1000</u>
<u>Rule 2583(b)-(d)</u>	<u>Service Quality</u>	<u>\$1000</u>
<u>Rule 2584</u>	<u>Confidentiality</u>	<u>\$1000</u>
<u>Rule 2585</u>	<u>Tariff Filings</u>	<u>\$1000</u>
<u>Rule 2586(b)</u>	<u>Negotiation, Mediation and Arbitration</u>	<u>\$1000</u>
<u>Rule 2587</u>	<u>Regulation of Resellers</u>	<u>\$1000</u>
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Rule 2846	Timely or Completely Filing or Making Appropriate Payments to the CHCSM Fund	\$100

2896. – 2899. [Reserved].

* * *

[indicates omission of unaffected rules]