

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14M-0341T

IN THE MATTER OF THE FEDERAL COMMUNICATIONS COMMISSION PART 51
RULES 51.907 THROUGH 919 CONCERNING ORIGINATING VOIP-PSTN TRAFFIC
RATE TREATMENT AND THE THIRD PHASE OF MODIFYING THE INTRASTATE
TERMINATING SWITCHED ACCESS RATES.

**COMMISSION DECISION AMENDING
DECISION NO. C14-0412**

Mailed Date: May 2, 2014
Adopted Date: April 30, 2014

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On November 18, 2011, the Federal Communications Commission (FCC) issued its Report and Order and Further Notice of Proposed Rulemaking in WC Docket Nos. 10-90, *et. al.* FCC 11-161 (FCC Order) and associated orders.¹ The FCC Order set forth a multi-year transition path for terminating end office switching, transport, and reciprocal compensations charges.²

2. On April 24, 2012, the FCC revised the rules addressing intercarrier compensation for originating intrastate VoIP (Voice over Internet Protocol) –PSTN (Public Switched Telephone Network) toll traffic.³ The FCC amended Part 51 rules to permit Local Exchange Carriers (LECs)

¹ See the Second Order on Reconsiderations, Adopted April 24, 2012, Released April 25, 2012; Third Order on Reconsiderations, Adopted June 14, 2012, Released June 14, 2012; Fourth Order of Reconsideration, Adopted July 18, 2012, Released July 18, 2012; Fifth Order on Reconsideration, Adopted November 13, 2012, Released November 16, 2012; and Sixth Order on Reconsideration, Adopted January 31, 2013, Released February 27, 2013.

² See FCC Order, Figure 9 on page 272-273.

³ FCC 12-47 Adopted April 24, 2012, Released April 25, 2012.

to default to a tariff rate equal to their intrastate originating access rates when they originate intrastate toll VoIP-PSTN traffic until June 30, 2014. Effective July 1, 2014, LECs are required to tariff default rates for originating intrastate VoIP-PSTN traffic to their interstate originating access rates. This requires carriers to update their tariffs to include originating intrastate VoIP-PSTN traffic in the VoIP-PSTN sections that describe methodologies used to determine the percent of originating intrastate VoIP-PSTN traffic in total originating intrastate traffic and any related terms and conditions.

3. The third phase of the Intercarrier Compensation transition will be implemented on July 1, 2014. LECs, Competitive Local Exchange Carriers (CLECs), and Competitive Access Providers must calculate their 2014 Target Composite Interstate Terminating End Office Access Rate. Price Cap LECs and CLECs that benchmark access rates to Price Cap LECs must reduce their rates by one-third of the difference between their 2011 Baseline *Composite* Terminating End Office Access Rate and \$0.0007., Rate of Return LECs and CLECs that benchmark access rates to Rate of Return LECs must reduce their rates by one-third of the difference between their 2011 Baseline *Composite* Terminating End Office Access Rate and \$0.005.⁴ Local carriers may then develop *interstate* terminating end office access rates whose composite does not exceed the composite target rate. The *intrastate* terminating end office access rates are then capped at their comparable *interstate* terminating end office access individual rates. In addition, carriers may not increase any existing intrastate rate.

4. Pursuant to the FCC Report and Order, Decision No. C14-0412 issued April 18, 2014, set forth a requirement that Colorado LECs submit to the Commission an advice letter and tariff filing with an effective date of July 1, 2014.

⁴ DA 14-434 Adopted March 31, 2014, Released March 31, 2014.

5. CLECs are permitted by the FCC to tariff interstate access rates at a level no higher than the tariffed rate for each such service offered by the LEC serving the same geographic area, known as “the benchmarking rule.”⁵ Because the benchmarking rule is retained through the transition to bill and keep, the FCC allows CLECs that benchmark their interstate access tariffs an extra 15 days from the effective date of the tariff to which a CLEC is benchmarking to make its filing(s).

6. The Commission’s Decision No. C14-0412 did not make provisions for CLECs that benchmark their rates to the underlying LECs additional time to file their intrastate access tariffs. These CLECs are not going to be able to update their intrastate access tariffs with an effective date of July 1, 2014 because they may not know what the underlying LEC’s interstate access rates are until July 1, 2014.

7. The Commission finds that good cause exists to amend the Decision and mirror the FCC rules regarding CLECs that benchmark their rates to the underlying LECs and allow those CLECs an additional 15 days from the effective date of the tariff to which the CLEC is benchmarking to make its filings. If the underlying tariff is effective on July 1, 2014, then the CLEC would have until July 16, 2014 to file its intrastate access tariff.

8. Several CLECs also requested that, instead of showing an intrastate rate in their tariff, they provide a reference to their interstate access tariff instead when they file advice letters with their access tariff changes. Intrastate access rates were set to their corresponding intrastate rates in the last phase of the FCC transition order.

⁵ FCC 11-161 paragraph 807.

9. The Commission finds that good cause has been shown to amend the Decision and allow carriers the option of providing a web address where the specific interstate rates may be viewed and are easily identifiable and accessible instead of updating the intrastate access rates.

10. The Commission finds that no parties will be prejudiced by the amendment of the Decision, and we therefore waive response time on our own motion.

II. ORDER

A. The Commission Orders That:

1. Decision No. C14-0142 is amended to conform with the Federal Communications Commission benchmarking rules by permitting Competitive Local Exchange Carriers (CLECs) an extra 15 days from the effective date of the tariff to which a CLEC is benchmarking to make its filing.

2. The Decision is amended to allow carriers the option of providing a web address where the specific interstate rates may be viewed and are easily identifiable and accessible instead of updating the intrastate access rates.

3. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails or serves this Decision.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 30, 2014.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

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Commissioners