

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 16R-0497T

IN THE MATTER OF THE RULES IMPLEMENTING HB16-1414 CONCERNING
TELECOMMUNICATION RELAY SERVICES FOR TELEPHONE USERS WITH
DISABILITIES, 4 CODE OF COLORADO REGULATIONS 723-2-2820 THROUGH 2827.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: June 30, 2016

Adopted Date: June 29, 2016

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking (NOPR) to amend the Rules Regulating Telecommunications Relay Services contained in 4 *Code of Colorado Regulations* (CCR) 723-2 implementing House Bill 16-1414. The proposed rules implement amendments to §§ 40-17-101 to -104, C.R.S., made by HB 16-1414, which require voice service providers to assess customers a monthly surcharge to fund the Colorado Telephone Users with Disabilities Fund.

2. We welcome comments from interested participants. To the extent a participant disagrees with the proposed rules, comments should include suggested rules revisions, in legislative format.

B. Background

3. On May 4, 2016, the Governor signed HB 16-1414, which provides a monthly assessment on customers of voice service providers to fund telecommunications relay services for telephone users with disabilities and appropriates new funds to the Colorado Commission for the Deaf and Hard of Hearing. HB 16-1414 renames the Colorado Disabled Telephone Users

fund the Colorado Telephone Users with Disabilities Fund. HB 16-1414 adds § 29-11-102.7, C.R.S. and § 40-17-105, CRS, and amends § 24-75-402, C.R.S., § 26-21-106, C.R.S., and §§ 40-17-101 to-104, C.R.S. The statutory changes take effect September 1, 2016, and apply to surcharges assessed on or after that date.¹

4. A summary of the statutory changes are as follows:

a) *Telephone access line* is defined as each voice grade channel or its equivalent assigned to residential or commercial end user customer by a voice service provider, regardless of the technology used to provide the service. § 40-17-102(4), C.R.S.

b) *Voice service provider* is defined as a company that provides telephone access lines to members of the general public who are its customers for voice services. § 40-17-102(5), C.R.S.

c) Providers of prepaid wireless services must assess the prepaid wireless TRS charge . § 29-11-102.7, C.R.S.

d) The monthly surcharge, not to exceed fifteen cents, may be adjusted by the Commission and must be an amount sufficient to: (1) reimburse the commission for its costs in developing, implementing, and administering telecommunications relay services; (2) reimburse voice service providers for their administrative costs in imposing and collecting the surcharge; (3) cover the costs of providers in rendering the service; (4) cover annual appropriations pursuant to § 40-17-104, C.R.S.; and (5) reimburse the Department of Revenue for its administrative costs in collecting prepaid wireless TRS charges on prepaid wireless phones pursuant to § 29-11-102.7, C.R.S. § 40-17-103, C.R.S.

e) For the 2016-17 fiscal year, \$172,778 is appropriated to the Colorado Commission for the Deaf and Hard of Hearing cash fund created in § 26-21-107 (1), C.R.S. This appropriations is to be made from the Colorado telephone users with disabilities fund created in § 40-17-104, C.R.S. § 26-21-106, C.R.S.

C. Findings and Conclusions

5. The Commission, through the promulgation of rules, develops and implements a mechanism to recover its costs in implementing and administering the telecommunication relay services. For the reasons stated below, we find that the adoption of these proposed rules is

¹ The appropriation of \$172,778 to the Colorado Commission for the Deaf and Hard of Hearing for the 2016-2017 fiscal year set forth in § 26-21-106, C.R.S., takes effect on July 1, 2016.

imperatively necessary to provide for the public health, safety, and welfare of telephone users with disabilities.

6. Section 40-17-101(1) states: “[t]he general assembly hereby finds, determines, and declares that many of Colorado’s residents are unable to utilize telecommunication services without assistance and are therefore telephone users with disabilities.”

7. Through HB 16-1414, the General Assembly recognized that additional funds were needed to provide services to the deaf-blind community who were highly under served. Adoption of the proposed rules would fulfill the statutory requirement of assessing of the monthly surcharge on additional voice service customers to allow the Colorado Commission for the Deaf and Hard of Hearing to provide a variety of services to users who are deaf, deafblind, and hard of hearing and otherwise serve telephone users with disabilities.

8. We find that these matters require our immediate and continuing attention to protect public safety for telephone users with disabilities.

9. By this Decision, we propose rule amendments that accomplish the following:

a) adding a definition of *telephone access line* that includes the phrase “regardless of technology used to provide the service;”

b) adding a definition of *voice service provider* consistent with the statute;

c) assessing a monthly surcharge on all individual telephone access line provided by voice service providers, and requiring all voice service providers to file necessary information to determine and adjust the monthly surcharge appropriately;

d) allowing reimbursement for administrative costs to voice service providers, the Commission, and the Department of Revenue;

- e) setting the length of time voice service providers must maintain records for audit purposes;
- f) exempting certain providers or consumers who receive federally supported Lifeline service;
- g) changing the monthly remittance to quarterly remittance beginning January 1, 2017; and
- h) requiring voice service providers to provide contact information and any changes to such information within 15 days.

D. Conclusion

10. The statutory authority for the rules proposed here is found at §§ 24-4-101 *et seq.*; § 40-2-108; §§ 40-3-101, -110; and §§ 40-17-101 to -104, C.R.S.

11. The proposed rules in legislative (strikeout and underline) format (Attachment A) and final format (Attachment B), and a copy of House Bill 16-1414 are available through the Commission's E-Filings system² at:

https://www.dora.state.co.us/pls/efi/EFL.Show_Docket?p_session_id=&p_docket_id=16R-0497T.

12. The Commission encourages and invites public comment on all proposed rules. We request that commenters propose any changes in legislative redline format.

13. This matter is referred to Commissioner Frances A. Koncilja as Hearing Commissioner for the issuance of a recommended decision.

² From the *Electronic Filings* (E-Filings) system page (<https://www.dora.state.co.us/pls/efi/EFL.homepage>), the rules can also be accessed by selecting "Search" and entering this docket number (16R-0497T) in the "Proceeding Number" box and then selecting "Search".

14. Commissioner Koncilja will conduct a hearing on the proposed rules and related issues on August 15, 2016. Interested persons may submit written comments on the rules and present these orally at hearing, unless Commissioner Koncilja deems oral presentations unnecessary.

15. The Commission 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 comments be filed no later than July 25, 2016, and that any pre-filed comments responsive to the initial comments be submitted no later than August 8, 2016. The Commission prefers that comments be filed using its E-Filing System at <http://www.dora.state.co.us/pls/efi/EFI.homepage>.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) attached hereto, shall be filed with the Colorado Secretary of State for publication in the July 10, 2016, edition of *The Colorado Register*.

2. This matter is referred to Commissioner Frances A. Koncilja as Hearing Commissioner for the issuance of a recommended decision.

3. A hearing on the proposed rules and related matters shall be held as follows:

DATE August 15, 2016

TIME: 9:00 a.m. until not later than 5:00 p.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

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

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than July 25, 2016, and that any pre-filed comments responsive to the initial comments be submitted no later than August 8, 2016. The Commission will consider all submissions, whether oral or written.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 29, 2016.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

GLENN A. VAAD

FRANCES A. KONCILJA

Commissioners