

Decision No. C17-0490

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 16R-0453T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO TELECOMMUNICATIONS
RULES IMPLEMENTING HB14-1329, HB14-1330 AND HB14-1331, 4 CODE OF
COLORADO REGULATIONS 723-2.

**DECISION GRANTING EXCEPTIONS
AND ADOPTING RULES**

Mailed Date: June 13, 2017
Adopted Date: June 7, 2017

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I. BY THE COMMISSION**A. Statement**

1. The Colorado Public Utilities Commission (Commission) issues this Decision adopting Rules Regulating Telecommunications Providers, Services, and Products contained in 4 *Code of Colorado Regulations* (CCR) 723-2 implementing House Bills 14-1329, 14-1330, 14-1331 (2014 Telecom Reform Legislation).

2. The statutory authority for the rules revised here is found at §§ 24-4-101 through -108, C.R.S.; et seq.; §§ 40-1-101, -103, C.R.S.; §§ 40-2-108, -111, 112, -114, C.R.S.; §§ 40-3-101, -102, -103, -104, -107, -110, -111, C.R.S.; §§ 40-4-101; § 40-5-105, C.R.S.; §§ 40-7-113.5, -116.5; §§ 40-15-101, -102, -107, -108, -109(3), -112, -113, -201, -202, -203.5, -204, -205, -301, -302, -302.5, -303, -401, -402, -404, -501, -502, -503, -503.5, -509, C.R.S.; and § 40-17-103(2), C.R.S.

3. The adopted rules do not amend currently existing Rules 2130-2159 (Basic Emergency Service), Rules 2840-2855 (High Cost Support Mechanism), Rules 2820-2839 (Telecommunications Relay Services for Disabled Telephone Users), Rules 2890-2894 (Colorado No-Call List), or Rules 2400-2499 (Costing and Pricing) of the Rules Regulating Telecommunications Providers, Services, and Products, 4 CCR 723-2, because the rules either do not require modification or will be the subject of separate rulemaking proceedings.

4. In addition to changes based on the 2014 Telecom Reform Legislation, the adopted rules amend the currently existing rules consistent with applicable federal rules and the current telecommunications nomenclature and remove outdated rules. Numerous rules remain unchanged because they were not affected by the 2014 Telecom Reform Legislation.

B. Procedural History

5. On June 10, 2016, we issued a Notice of Proposed Rulemaking that opened this Proceeding. We appointed Commissioner Frances Koncilja as Hearing Commissioner, set a deadline for initial comments, and set a hearing for August 8-9, 2016.¹

6. Pursuant to written and oral requests by some or all of the interested participants in this rulemaking proceeding, the Hearing Commissioner continued the hearing several times and held a final hearing on December 19, 2016.² Also at the request of some or all of the interested participants, the Hearing Commissioner held four workshops with Staff of the Public Utilities Commission (Staff) and interested participants. The Hearing Commissioner also set multiple deadlines for interested participants to file additional comments and additional rule revisions. On September 22, 2016, the Hearing Commissioner issued a revised set of rules for the September 27, 2016, workshop.³

7. On April 14, 2017, the Hearing Commissioner issued her Recommended Decision.⁴

8. The Recommended Decision states that the adopted rules reflect the intent and scope of the 2014 Telecom Reform Legislation. The rules adopted in the Recommended Decision reflect general consensus among the participants to this rulemaking proceeding, and the Hearing Commissioner explains her decisions in areas of non-consensus.

¹ Decision No. C16-0508, issued June 10, 2016.

² See Decision No. R17-0295, issued April 14, 2017, ¶ 12.

³ Decision No. R16-0873-I, issued September 22, 2016.

⁴ Decision No. R17-0295, issued April 14, 2017.

C. Findings and Conclusions

9. By this Decision, we adopt the conclusions of the Recommended Decision as stated in paragraphs 99 and 100.⁵ After review of the record and the rationale put forth in the Recommended Decision, we conclude that the adopted rules conform with our understanding of the intent and public policy objectives set forth in the 2014 Telecom Reform Legislation. We do not make substantive changes to the rules adopted by the Recommended Decision. Rather, through this Decision, we address the limited exceptions filed by CenturyLink and explain how particular rules will be implemented.

1. Exceptions

10. On May 1, 2017, CenturyLink filed exceptions to the Recommended Decision. No responses to CenturyLink's exceptions were filed. No other participants filed exceptions.

11. CenturyLink's exceptions primarily identify administrative issues with the rules, such as the removal of the term "tariff" where it is no longer needed, or the replacement of the term "tariff" with the phrase "terms of service." Consistent with this theme, CenturyLink identified rules that required clarification, such as limiting the requirement to file tariffs to providers of part 2 and part 3 services. For example, CenturyLink suggests that, in Rule 2001 as adopted by the Recommended Decision, "tariff" be replaced with "terms of service" and the phrase "or terms of service document" should be added to the end of the first sentence in adopted Rule 2001(hh). CenturyLink suggests adding "if applicable" to adopted Rule 2103(a)(XVI)(B)(ii), because part 4 providers are not required to file tariffs.

⁵ See Decision No. R17-0295, issued April 14, 2017, ¶¶ 99-100:

99. These Recommended Telecom Reform Rules are within the Commission's jurisdiction and implement those portions of the 2014 Telecom Reform Legislation that were identified in the NOPR. These rules represent a repeal of approximately 75 pages of rules and many regulatory requirements.

100. Pursuant to the provisions of §40-6-109, C.R.S., I recommended that the Commission adopt the attached rules.

12. We find that CenturyLink's exceptions are not substantive changes to the rules adopted by the Recommended Decision. We agree with and adopt all of the exceptions filed by CenturyLink.

2. Guidance on Implementation of Adopted Rules

a. Rule 2006 Reports

13. By this Decision, the Commission has modified Rule 2006(b) from the version adopted by the Recommended Decision. The due date for the Statement of Information forms is now October 1, 2017, to coincide more closely with the expected effective date of these rules. Prior to October 1, 2017, the Commission will open a repository proceeding for the receipt of these forms. The proceeding number will be noticed on a Commissioners' Weekly Meeting agenda and will also be stated on the form available on the Commission's website. These forms shall be filed through the Commission's E-Filings System.

b. Rule 2122 Tariffs, Advice Letters and Terms of Service Documents

14. Under adopted Rule 2122, on the effective date of these rules, all tariffs currently on file with the Commission that contain only the rates, terms, and conditions for part 4 services no longer subject to tariffing requirements by the adopted rules are deemed null and void by operation of law. If a provider's currently effective tariff contains basic emergency services and/or switched access services in addition to part 4 services, that provider shall file an Advice Letter and tariff pages, on not less than 30 days' notice, that cancel in its entirety the existing effective tariff and replaces it with a new tariff and tariff number that includes only the rates, terms, and conditions for basic emergency services and/or switched access services.

15. Any tariffs currently on file with the Commission containing rates, terms, and conditions for only switched access services and/or only basic emergency services are not affected by these adopted rules, shall remain effective and on file with the Commission, and require no action by the providers.

II. ORDER

A. The Commission Orders That:

1. The exceptions to Decision No. R17-0295, filed by Qwest Corporation doing business as CenturyLink QC, CenturyTel of Eagle, Inc., CenturyTel of Colorado, Inc., and El Paso County Telephone Company on May 1, 2017, are granted consistent with the discussion above.

2. Rules Regulating Telecommunications Providers, Services, and Products contained in 4 *Code of Colorado Regulations* (CCR) 723-2, and addressed by this Proceeding, in redline and strikeout format attached to this Decision as Attachment A, and in final format attached as Attachment B, are adopted and are available through the Commission's Electronic Filings (E-Filings) system at:

https://www.dora.state.co.us/pls/efi/EFL.Show_Docket?p_session_id=&p_docket_id=16R-0453T.

3. Subject to a filing of an application for rehearing, reargument, or reconsideration, the opinion of the Attorney General of the State of Colorado shall be obtained regarding constitutionality and legality of the rules as finally adopted. A copy of the final, adopted rules shall be filed with the Office of the Secretary of State. The rules shall be effective 20 days after publication in the Colorado Register by the Office of the Secretary of State.

4. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
JUNE 7, 2017.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

WENDY M. MOSER

Commissioners