

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23R-0246T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO 4 CODE OF COLORADO REGULATIONS 723-2 MODIFYING THE COMMISSION RULES REGARDING REMITTANCE PROCEDURES FOR THE 911 SURCHARGE, THE 988 SURCHARGE, AND THE TELECOM RELAY SERVICE SURCHARGE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
AMENDING RULES**

Mailed Date: August 1, 2023

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I. STATEMENT

1. On May 19, 2023, the Colorado Public Utilities Commission (the Commission) issued the Notice of Proposed Rulemaking (NOPR) that commenced this proceeding to amend the Rules Regulating Telecommunications Services and Providers of Telecommunications Services contained in 4 *Code of Colorado Regulations* (CCR) 723-2-2150, 2802, and 2823 (Surcharge Remittance Rules). *See* Decision No. C23-0330. The Commission referred this matter to an administrative law judge (ALJ) and scheduled a hearing for July 17, 2023.

2. The purpose of this rulemaking is to eliminate the existing requirement that telecommunications service providers complete and file a remittance form for the 9-1-1 surcharge, the 9-8-8 surcharge, and the telecommunications relay service (TRS) surcharge with the Commission, and to instead require that the providers complete a return and submit payment as directed by Commission Staff. This will allow providers to submit their return and submit payment in one step, in most cases. Changes made to Rule 2150, which prescribes the procedures for remittance of 9-1-1 surcharges, are repeated in Rules 2802 and 2827 for the 9-8-8 surcharge and the TRS surcharge, respectively.

3. These changes are being proposed to streamline the remittance process for the telecommunications service providers, eliminate unnecessary paperwork, and enhance the ability of Commission Staff to track remittances and ensure accountability. Additionally, the rulemaking proposes limited updates regarding remittance timelines requiring remittances from telecommunications service providers to be completed by the last day of the month following the month in which the surcharge was collected from the consumer, even if the last day of the month is on a weekend or holiday.

4. On May 19, 2023, the Commission filed the Confirmation of the E-filing of the NOPR with the Secretary of State for publication of hearing.

5. On May 19, 2023, the Commission filed the Confirmation of the E-filing of the NOPR with the office of Regulatory Reform for review notice.

6. Being fully advised in this matter and consistent with the discussion below, in accordance with § 40-6-109, C.R.S., the Administrative Law Judge now transmits to the Commission the record in this proceeding along with a written recommended decision.

Findings, discussion, and conclusions

II. DISCUSSION

7. The proposed rules, provided with Decision No. C23-0330 in legislative (*i.e.*, *strikeout/underline*) format and in final format, were made available to the public through the Commission's Electronic Filings (E-Filings) system.

8. No written comments have been filed in this proceeding.

9. At the noticed time and place, a public comment hearing was convened on July 17, 2023. No member of the public appeared to provide oral comment. During the course of the hearing, Daryl Branson, Telecom Programs Section Chief for the Public Utilities Commission, briefly reviewed the proposed modifications to the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 CCR 723-2.

1. Rule 2150(c). Administration of the 9-1-1 Surcharge Trust Cash Fund.

10. Rule 2150(c) is amended to remove references to the combined Colorado telecommunications relay service and 9-1-1 surcharge registration form and replaces it with a form available from the Commission for the purpose of registering for telecommunication surcharge

contributions. It requires that all telecommunications surcharge registration forms, including any updates, be filed in the Commission proceeding opened annually for such purpose.

2. Rule 2150(d). 9-1-1 Surcharge.

11. Rule 2150(d)(I) is amended to remove references to the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.

12. Rule 2150(d)(VI) is amended to include that the amount the originating service provider collected for the previous month, less the applicable vendor fee, shall be remit no later than the last calendar day of the following month, even if that day falls on a holiday or weekend, rather than the next business day.

3. Rule 2150(e). Remittance Procedure.

13. The title of Rule 2150(e) is amended to be titled solely as “Remittance procedure.”

14. Original Rule 2150(e)(I), including its subsections (A) and (B) are deleted in their entirety. Rule 2150(e)(I) is amended to state that originating service providers shall submit a return and remit payment as instructions by Commission Staff.

15. The rule requiring originating service providers to submit all surcharge remittances to the custodial receiver directly is amended to become Rule 2150(e)(II).

16. Rule 2150(e)(D) is amended to become Rule 2150(e)(III). This rule is amended to require payments made by physical check to also include a printed copy of the completed return described in subparagraph (I), rather than the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, enclosed with the check.

4. Rule 2802(c). 9-8-8 Surcharge.

17. Rule 2802(c)(I) is amended to remove the reference to the combined surcharge remittance form, instead requiring originating service providers to follow a process described in paragraph (d).

18. Rule 2802(c)(VI) is amended to include that the amount of the 9-8-8 surcharges the originating service provider collected for the previous month, less the applicable vendor fee, shall be remit no later than the last calendar day of the following month, even if that day falls on a holiday or weekend, rather than the next business day.

5. Rule 2802(d). Remittance Procedure.

19. Rule 2802(d) is amended to be titled solely as “Remittance procedure.”

20. Rule 2802(d)(I) including its subsections (A) and (B) are deleted in their entirety. Rule 2802(d)(I) is amended to state that originating service providers shall submit a return and remit payment as instructed by Commission Staff.

21. Rule 2802(d)(II) is amended to remove the reference to 9-8-8 originating service providers, referring to originating service providers generally.

22. Rule 2802(d)(I)(D) is amended to become Rule 2802(d)(III). This rule is amended to require payments made by physical check to also include a printed copy of the completed remittance form described in subparagraph (I), rather than the completed combined Colorado telecommunications surcharge remittance form, enclosed with the check.

23. Rule 2802(d)(I)(E) is amended to become Rule 2802(d)(IV).

6. Rule 2827(a). Administration of the Colorado Telephone Users with Disabilities Fund.

24. Rule 2827(a)(III) is amended to remove the reference to the combined Colorado telecommunications relay service and 9-1-1 registration form, replacing it with a form available from the Commission for the purpose of registering for telecommunication surcharge contributions. It requires Colorado telecommunications surcharge registration forms, including any updates, be filed in the Commission proceeding opened annually for such purpose.

7. Rule 2827(b). Uniform charge.

25. Rule 2827(b)(I) is amended to remove the reference to the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.

26. Rule 2827(b)(VII) is amended to include that the amount the originating service provider collected for the previous month, less the applicable vendor fee, shall be remit no later than the last calendar day of the following month, even if that day falls on a holiday or weekend, rather than the next business day.

8. Rule 2827(c). Remittance Procedure.

27. Rule 2827(c) is amended to be titled solely as “Remittance procedure.”

28. Rule 2827(c)(I), including its subsections (A) and (B), are deleted in their entirety. Rule 2827(c)(I) is amended to state that voice service providers shall submit a return and remit payment as instructed by Commission Staff.

29. Rule 2827(c)(II) is amended to state that voice service providers shall submit all surcharge remittances to the TRS custodial receiver directly.

30. Rule 2827(c)(I)(D) is amended to become Rule 2827(c)(III). This rule is amended to require payments made by physical check to also include a printed copy of the completed remittance form described in subparagraph (I), rather than the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, enclosed with the check.

III. CONCLUSION

31. Attachment A to this Decision represents the rule amendments adopted by this Recommended Decision with modifications to the prior Rules 2150, 2802, and 2827 being indicated in redline and strikeout format.

32. Attachment B to this Decision represents the rules amendments adopted by this Decision to the prior Rules 2150, 2802, and 2827 in final form.

33. The adopted rules in legislative format (*i.e.*, strikeout/underline Attachment A) and final format (Attachment B) are available through the Commission's E-Filings in this proceeding (23R-0246T) at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=23R-0246T

34. It is found and concluded that the proposed rules as modified by this Recommended Decision are reasonable and should be adopted.

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

IV. ORDER**A. The Commission Orders That:**

1. Rules 2150, 2802, and 2827 (Surcharge Remittance Rules) of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations*, 723-2, contained in redline and strikeout format attached to this Recommended Decision as Attachment A, and in final form as Attachment B, are adopted.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(SEAL)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director