

Decision No. R24-0900

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24R-0338T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO 4 CODE OF COLORADO REGULATIONS 723-2 AMENDING THE COMMISSION RULES TO IMPLEMENT HOUSE BILLS (HB) 24-1234 AND 24-1336 AND SENATE BILL (SB) 24-139.

**RECOMMENDED DECISION ADOPTING RULES AND
CLOSING PROCEEDING**

Issued Date: December 10, 2024

I. STATEMENT

1. On August 14, 2024, by Decision No. C24-0576, the Colorado Public Utilities Commission (“Commission”) issued its Notice of Proposed Rulemaking (“NOPR”) to amend the Rules Regulating Telecommunications Services and Providers of Telecommunications Services contained in 4 *Code of Colorado Regulations* (“CCR”) 723-2, specifically Rules 2106, 2148, 2150, 2184, 2187, 2841, 2846, 2847, and 2850.¹

2. The NOPR proposed rule changes which were intended to codify various sections of state statute enacted through House Bills (“HB”) 24-1234 and 1336 as well as Senate Bill (“SB”) 24-139. Additionally, the proposed rule changes seek to update language in the Rules Regulating Telecommunications Services and Providers of Telecommunications Services regarding the methods by which telecommunications service providers can provide information to the Commission regarding their coverage areas. The NOPR established the deadlines of September 12, 2024, and September 19, 2024, for initial comments and response comments,

¹ The NOPR at ¶ 1 also referenced amendments to Rule 2842, however, the proposed amendments discussed within the NOPR, along with the proposed amendments shown in Attachments A and B do not reflect changes to this specific rule.

respectively, concerning the proposed rules, and scheduled a hearing for September 26, 2024, for oral comments regarding the proposed rules and referred this Proceeding to an Administrative Law Judge (“ALJ”). The proceeding was subsequently assigned to the undersigned ALJ. To the NOPR, the Commission attached the Rules in Legislative (*i.e.*, strikeout/underline) and clean formats.

3. On August 14, 2024, the Commission filed the confirmation page of its electronic filing of NOPR with the Office of Regulatory Reform for review and notice.

4. On August 14, 2024, the Commission filed the confirmation page of its electronic filing of the NOPR with the Secretary of State for publication of hearing.

5. No written comments have been filed in this Proceeding.

6. On September 26, 2024, at the noticed time and place, a public comment hearing was convened. No member of the public provided any oral comment.

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

II. DISCUSSION

8. Pursuant to § 24-4-103, C.R.S., Commission staff engaged with stakeholders from the Commission’s 9-1-1 Advisory Task Force and the Colorado Broadband Office regarding the proposed rule changes.² Feedback was received from one member of the Commission’s 9-1-1-Advisory Task Force which was incorporated into the Commission’s proposed rules.³

9. No written or oral comments have been received in this Proceeding.

² See NOPR at ¶ 9.

³ *Id.*

A. Changes Intended to Implement HB 24-1234.

10. The proposed changes to Rule 2846, 4 CCR 723-2, are intended to mirror the reequipments mandated by the enactment of HB 24-1234. More specifically, the proposed rule changes are intended to delete the September 1, 2024 expiration date⁴ of the CHCSM and remove outdated annual benchmarks for the amount of CHCSM that must be allocated by the Commission to the broadband deployment account.

1. Rule 2846. Support through the HCSM.

11. The proposed changes to Rule 2846(b), 2846(b)(I), 2846(b)(II), and 2846(d), 4 CCR 723-2 eliminate outdated annual benchmarks for the amount of CHCSM that must be directed to the broadband deployment account, reflect that rural telecommunications providers that received support as of January 1, 2017, will continue to receive the same level of support on a quarterly basis in each subsequent year, 100 percent of the total amount of HCSM money collected⁵ will be allocated to the broadband deployment account, and delete the September 1, 2024 expiration date, consistent with, §§ 40-15-208(4) and 40-15-208(2)(a)(IV), C.R.S. The proposed amendments to Rule 2846(b)(III), 4 CCR 723-2 delete this subsection in its entirety to reflect the fact that 100 percent of funds remaining after CHCSM recipients receive their payments would be deposited into the broadband deployment account pursuant to §40-15-208(2)(a)(IV), C.R.S., leaving no funds to be distributed to non-rural incumbent local exchange carriers.

B. Changes Intended to Implement HB 24-1336.

12. The proposed changes to Rules 2841 and 2850, 4 CCR 723-2 are amended to reflect changes mandated by the enactment of HB 24-1336 which sunsets the Colorado Deployment

⁴ HB 24-1234 removed the previous September 1, 2024 expiration date of the Colorado High Cost Support Mechanism (“CHCSM”).

⁵ Minus the Commission’s administrative costs and distributions to rural telecommunications providers. Rule 2846(b)(II), 4 CCR 723-2.

Board (“board”) and moved all of Deployment Board’s responsibilities to the Colorado Broadband Office (“office”).

1. Rule 2841. Definitions.

13. The proposed changes to Rule 2841(c), 4 CCR 723-2, which defined the “broadband deployment board” delete this subsection in its entirety.

14. The proposed amendments add a new subsection (d), to Rule 2841, 4 CCR 723-2 to include a definition for the “Colorado Broadband Office”.

2. Rule 2850. Net Neutrality Violation.

15. The proposed amendments to Rule 2850, 4 CCR 723-2, substitute references to the “board” with references to the “office.”

C. Changes Intended to Implement SB 24-139.

16. The proposed amendments to Rules 2148 and 2150, 4 CCR 723-2 are intended to reflect changes mandated by the enactment of SB 24-139 which created a 9-1-1 Services Enterprise (“Enterprise”) and made the Commission responsible for collecting the 9-1-1 enterprise fee established by the Enterprise.

1. Rule 2148. Process for the Establishment of Annual Emergency Telephone Charge Threshold, State 9-1-1 Surcharge Rate, Wireless Prepaid 9-1-1 Surcharge Rate, and Associated Fund Distribution Schedules.

17. The proposed changes to subsections (II)(B), (II)(C) and (IV) OF Rule 2148, 4 CCR 723-2, are intended to: clarify that the 9-1-1 surcharge will be calculated to meet the needs of the governing bodies to pay for basic emergency service and provide emergency telephone service, consistent with § 29-11-104, C.R.S.; reflect that the 9-1-1 surcharge shall include the amount of the 9-1-1 enterprise fee imposed by the 9-1-1 Service Enterprise pursuant to § 29-11-108(8)(a),

C.R.S., and an amount necessary to reimburse the governing bodies; and reflect that 9-1-1 enterprise fee funds to be transmitted to the 9-1-1 enterprise services cash fund created pursuant to § 29-11-108(10)(a), C.R.S. would be excluded from the distribution schedule for the funds raised by the state 9-1-1 surcharge for purposes of subsection (IV) of Rule 2148, 4 CCR 723-2.

2. Rule 2150. Administration of the 9-1-1 Surcharge Trust Cash Fund.

18. The proposed changes to subsections (f) and (g) of Rule 2150, 4 CCR 723-2 require the Commission to remit to the 9-1-1 services enterprise fund funds the Commission raised from the collection of the 9-1-1 services enterprise fees, and exclude funds raised by the Commission from the 9-1-1 services enterprise fees from being distributed to the local 9-1-1 governing bodies along with funds from the 9-1-1 surcharge.

D. Updates to Outdated and Incorrect Terminology.

19. The proposed changes to subsections (a)(II), (b)(II), and (d)(II) of Rules 2106, 2184, and 2187, 4 CCR 723-2, respectively, pertinently⁶ replace the outdated language of “metes and bounds” with the newer and more commonly accepted property boundary identification method, “GIS boundary file.” The proposed changes to Rule 2847, 4 CCR 723-2 replace the term “broadband deployment fund” with “broadband deployment account” for consistency with Rule 2841 which defines the term “broadband deployment account.”⁷

III. CONCLUSION

20. Attachment A to this Recommended Decision represents the amendments adopted by this Recommended Decision to Rules 2106, 2148, 2150, 2184, 2187, 2841, 2846, 2847, and

⁶ Other contextual, non-substantive changes are not discussed herein.

⁷ See Rule 2814(b), 4 CCR 723-2.

2850, 4 CCR 723-2, in legislative format (*i.e.*, strikeout/underline format, Attachment A to this Recommended Decision).

21. Attachment B to this Recommended Decision represents the amendments adopted by this Recommended Decision to Rules 2106, 2148, 2150, 2184, 2187, 2841, 2846, 2847, and 2850 in final/clean format.

22. Attachments A and B to this Recommended Decision are available through the Commission's E-Filings in this Proceeding (24R-0338T) at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0338T

23. It is found and concluded that the proposed rules as adopted by this Recommended Decision are consistent with the Commission's statutory authority, are reasonable, and should be adopted, as ordered below.

IV. RECOMMENDED DECISION

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

V. ORDER

A. The Commission Orders That:

1. The Rules Regulating Telecommunications Services and Providers of Telecommunications Services in 4 *Code of Colorado Regulations* (the Rules), 4 *Code of Colorado Regulations* 723-2 attached to this Recommended Decision as Attachments A and B are adopted.

2. The Rules in legislative format (showing the edits to, additions to, and deletions from current rules) and in final/clean formats are attached to this Recommended Decision as Attachments A and B, respectively. Attachments A and B are also available in the Commission's E-Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24R-0338T

3. Proceeding No. 24R-0338T is closed.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AVIV SEGEV

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director