

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24D-0534T

IN THE MATTER OF THE PETITION FILED BY BOULDER REGIONAL EMERGENCY TELEPHONE SERVICE AUTHORITY, THE DOUGLAS COUNTY EMERGENCY TELEPHONE SERVICE AUTHORITY, AND THE EL PASO-TELLER COUNTY E911 FOR A DECLARATORY ORDER, OR IN THE ALTERNATIVE PETITION FOR RULEMAKING OF 4 CODE OF COLORADO REGULATIONS 723-2-2148(A)(II)(B) REGARDING ESTABLISHMENT OF THE AMOUNT OF THE 9 1 1 SURCHARGE AND DISTRIBUTION OF PROCEEDS OF THE 9 1 1 SURCHARGE TO TARIFFED OPTIONAL COMPONENTS OF BASIC EMERGENCY SERVICE.

**COMMISSION DECISION GRANTING, IN PART,
JOINT PETITION**

Issued Date: March 3, 2025

Adopted Date: February 26, 2025

I. BY THE COMMISSION

A. Statement

1. Through this Decision we grant, in part, the Joint Petition for Declaratory Order, or in the Alternative Petition for Rulemaking (“Petition”) filed December 9, 2024, jointly by the Boulder Regional Emergency Telephone Service Authority, the Douglas County Emergency Telephone Service Authority, and the El Paso-Teller County Emergency Telephone Service Authority (the “Petitioning Authorities” or the “Petitioners”).

2. As discussed below, we clarify that optional services may be offered and tariffed. In addition, we direct Staff of the Colorado Public Utilities Commission (“Staff”) to initiate stakeholder processes regarding proposed rule updates with the expectation that it will bring forward a proposed Notice of Proposed Rulemaking (“NOPR”) for Commission consideration.

B. Background

3. Consistent with § 29-11-102.3(3), C.R.S., and as implemented annually in Commission rules, including Rule 2148, 4 *Code of Colorado Regulations* (“CCR”) 723-2, the 9-1-1 surcharge is set at a rate calculated to raise the amount of money necessary to meet the needs of local 9-1-1 governing bodies for the cost of purchasing tariffed Basic Emergency Service (“BES”), currently provided by Colorado’s sole operating Basic Emergency Service Provider (“BESP”), Qwest Corporation, doing business as CenturyLink QC (“CenturyLink”).

4. Petitioning Authorities represent that “[t]o date, application of the [] statutory and regulatory provisions has been straightforward.”¹ However, Petitioners note that late last year, CenturyLink filed an advice letter and tariff pages proposing to offer several new services, including some “optional services” that initiated Proceeding No. 24AL-0397T. The introduction of these “optional services” created added questions for the Petitioning Authorities, spurring the filing of the Petition, including that party positions in Proceeding No. 24AL-0397T “might well depend on whether and how the Commission would determine [if] optional services should be subsidized with proceeds of the surcharge pursuant to § 29-11-102.3(3), C.R.S. and [Rule 2148].”

5. Petitioning Authorities ask that the Commission address the issue either through a declaratory order, or by initiating a rulemaking.

6. Through Decision No. C25-0015-I, issued January 7, 2025, we accepted the Petition and set a 30-day notice and intervention period. Three timely interventions were filed by: (1) the Adams County E-911 Emergency Telephone Service Authority, the Arapahoe County 9-1-1 Authority, and the Jefferson County Emergency Communications Authority, filing jointly (“AAJ Authorities”); (2) the Petitioning Authorities, together with the Montrose Emergency Telephone

¹ Petition ¶ 3.

Service Authority, the Ouray County Emergency Telephone Service Authority, and the San Miguel Emergency Telephone Service Authority (jointly, the “Petitioning and West Authorities”); and (3) CenturyLink.

7. Comments were filed concurrent with the intervention pleadings by the Petitioning and West Authorities, and by CenturyLink. The Petitioning and West Authorities further refine and articulate proposed rule language. The filing includes detailed language and argument on the proposed services for consideration. While the language is proposed to initiate a permanent rulemaking, the comments further argue that emergency rules should be enacted. Within its filing, however, the Petitioning and West Authorities note that CenturyLink filed a motion to withdraw the advice letter and tariff filings in Proceeding No. 24AL-0397T on January 31, 2025.²

8. For its part, CenturyLink states that there is nothing in statute or Commission rules that prohibits optional services from being proposed in tariffs, and notes that optional services are in fact routinely included offerings. CenturyLink states that it “believes that the administration, purpose, and use of the funds collected through the 9-1-1 surcharge are established clearly by statute via §§29-11-100.2 [through] 108, C.R.S.”

C. Findings and Conclusions

9. Each of the intervention pleadings meets the requirements of Rule 1401, 4 CCR 723-1 regarding permissive intervention. We therefore grant intervention of the AAJ Authorities, the Petitioning and West Authorities, and CenturyLink.

10. With regard to the substance of the Petition, we find good cause to grant the Petition, in part. We agree with CenturyLink that the Commission’s rules and Title 40 do not

² This motion was subsequently granted by the assigned Administrative Law Judge. Decision No. R25-0090, Proceeding No. 24AL-0397T, issued February 10, 2025.

prohibit optional services from being offered in tariff. We therefore grant the declaratory order request of the Petitioning Authorities with regard to that aspect of their filing.

11. For the remaining considerations, we further agree with the Petitioning and West Authorities that rule updates regarding the 9-1-1 surcharge could benefit from review and update to potentially revise the formula or other annual processes with regard to consideration of “optional services.” We therefore grant, in part, the Petitioning Authorities’ request to initiate a rulemaking to consider the proposed rules and direct Commission Staff to engage stakeholders to bring forward proposed language for consideration.

12. Considering all comments presented, however, we do not find cause to initiate an emergency rulemaking at this time. Temporary or emergency rules may only be adopted “if the agency finds that immediate adoption of the rules is imperatively necessary to comply with a state or federal law or regulation or for the preservation of public health, safety, or welfare and compliance....” § 24-4-103(6)(a), C.R.S. Particularly given the withdrawal of the previously-pending advice letter and tariff sheets proposing “optional services,” there are no current BES offerings that warrant temporary or emergency rules. Immediate adoption of temporary rules is not “imperatively necessary.” Should circumstances change, the Commission will consider as appropriate whether temporary rules should be enacted.

II. ORDER

A. The Commission Orders That:

1. The Joint Petition for Declaratory Order, or in the Alternative Petition for Rulemaking filed December 9, 2024, jointly by the Boulder Regional Emergency Telephone Service Authority, the Douglas County Emergency Telephone Service Authority, and the

El Paso-Teller County Emergency Telephone Service Authority (“Petitioning Authorities”), is granted, in part, consistent with the discussion above.

2. The intervention pleading filed February 10, 2025, by the Adams County E-911 Emergency Telephone Service Authority, the Arapahoe County 9-1-1 Authority, and the Jefferson County Emergency Communications Authority, is granted.

3. The intervention pleading filed February 10, 2025, by the Petitioning Authorities together with the Montrose Emergency Telephone Service Authority, the Ouray County Emergency Telephone Service Authority, and the San Miguel Emergency Telephone Service Authority, is granted.

4. The intervention pleading filed February 10, 2025, by Qwest Corporation, doing business as CenturyLink QC, is granted.

5. Staff of the Colorado Public Utilities Commission is directed to engage stakeholders regarding potential rule language updates, as discussed above.

6. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

7. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 26, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners