Effective February 23, 2015, Temporary E9-1-1 Automatic Location Identity Rules in Docket No. 15R-0110T
Effective March 17, 2014, Telephone Directories rules amended in Docket No. 12R-1248T
Effective December 15, 2013, Low-Income Rules repealed in Docket No. 13R-0801T
Effective April 14, 2013, revisions in response to Technology & Markets adopted in Docket No. 12R-862T
Effective December 30, 2011, HCSM - ETC Rules amended in Docket No. 10R-191T,
Effective September 14, 2010, Fining Rules adopted in Docket No. 09R-845T,

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-2

PART 2
RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS

BASIS, PURPOSE, AND STATUTORY AUTHORITY 13

GENERAL PROVISIONS 14

2000. Scope and Applicability. 14

2001. Definitions. 14

2002. Applications. 24

2003. Petitions. 28

2004. Disputes. 31

2005. Records. 31

2006. Reports. 34

2007. [Reserved]. 35

2008. Incorporations by Reference. 35

CIVIL PENALTIES 36

2009. Definitions. 36

2010. Regulated Telecommunications Utility Violations, Civil Enforcement, and Enhancement of Civil Penalties. 36

2011. – 2099. [Reserved]. 38

OPERATING AUTHORITY 38

Authority to Offer Local Exchange or Emerging Competitive Telecommunications Services – Discontinuances – Transfers – Toll Reseller Registration 38

Basis, Purpose, and Statutory Authority 38

2100. Applicability. 39

2101. Definitions. 39

2102. Application Procedures. 39

2103. Application for CPCN or LOR. 40

2104. Application to Amend a CPCN or LOR. 42

2105. Application to Change Exchange Area Boundaries. 43

2106. Declaration of Intent to Serve within Territory of Rural Telecommunications Provider. 44

2107. CPCN or LOR Deemed Null and Void. 45

2108. Discontinuance of Regulated Services. 45

2109. Application to Transfer or Encumber. 49

2110. Toll Reseller Registration and Obligations. 50

2111. – 2119. [Reserved]. 50

Advice Letters, Tariffs, Transmittal Letters, Price Lists, Promotional and Discount Offerings, and Promotional Letters 51

Basis, Purpose, and Statutory Authority 51

2120. Applicability. 51

2121. Definitions [Reserved]. 51

2122. Tariffs and Advice Letters. 51

2123. Price Lists and Transmittal Letters. 53

2124. Promotional and/or Discount Offerings. 57

2125. – 2129. [Reserved]. 57

Emergency 9-1-1 Services for Emergency Telecommunications Service Providers and Basic Local Exchange Carriers 58

Basis, Purpose, and Statutory Authority 58

2130. Applicability. 58

2131. Definitions. 58

2132. [Reserved]. 61

2133. Service Components and Requirements. 61

2134. Process for Certification of Basic Emergency Service Providers (BESPs). 62

2135. Uniform System of Accounts, Cost Segregation and Collection. 63

2136. Obligations of Basic Emergency Service Providers. 63

2137. Obligations of ALI Database Providers. 65

2138. Obligations of Basic Local Exchange Carriers. 65

2139. Obligations of Resellers Of Basic Local Exchange Service. 66

2140. Obligations of Wireless Providers. 67

2141. Obligations of Multi-line Telephone Systems (MLTS). 67

2142. Nondisclosure of Name/Number/Address Information. 68

2143. Diverse Routing and Priority Service Restoration. 69

2144. Reports. 70

2145. 9-1-1 Advisory Task Force. 71

2146. National Emergency Number Association (NENA) Data Standards. 71

2147. Applications by the Governing Body for Approval of a 9-1-1 Charge in Excess of Seventy Cents per Month. 72

2148. ALI Service. 73

2149. – 2159. [Reserved]. 73

Operator Services. 74

Basis, Purpose, and Statutory Authority. 74

2160. Applicability. 74

2161. Definitions. 74

2162. Non-optional Operator Services. 76

2163. Optional Operator Services. 77

2164. Regulation of Non-optional Operator Services. 77

2165. Requirements for Non-Optional Operator Service Providers. 81

2166. Arrangements with Call Aggregators. 82

2167. Call Blocking Prohibited. 82

2168. Access Codes of Non-Optional Operator Service Providers. 83

2169. Access from Registered Equipment – Access to Common Carriers. 83

2170. – 2179. [Reserved]. 83

Designation of Providers of Last Resort and Eligible Telecommunications Carriers 83

2180. Applicability. 83

2181. Definitions. 84

2182. Incorporation by Reference. 84

2183. Designation of Providers of Last Resort. 84

2184. Application for Designation as an Additional Provider of Last Resort. 84

2185. Obligations of Providers of Last Resort. 85

2186. Relinquishment of Designation as a Provider of Last Resort. 86

2187. Eligible Telecommunications Carrier Designation. 87

2188. Relinquishment and Cancellation of EP or ETC Designation. 91

2189. Combined Applications. 92

2190. Disaggregation and Targeting of Support by Rural ILECs. 92

2191. Uses of Disaggregation Paths. 94

2192. – 2199. [Reserved]. 95

Default, Alternative, and Simplified Forms of Regulation; Refraining from Regulation; and Reclassification of Parts II and III Services 95

Basis, Purpose, and Statutory Authority 95

2200. Applicability. 95

2201. Definitions. 95

2202. Default Form of Regulation for ILECs. 96

2203. Default Forms of Regulation for CLECs. 97

2204. General Requirements. 101

2205. Application for Alternative Form of Regulation. 102

2206. Simplified Regulatory Treatment for Rural ILECs. 103

2207. Refraining from Regulation of a Part II Service. 106

2208. Reclassification of a Part II Service to a Part III Service. 106

2209. Deregulation of Part III Emerging Competitive Services. 106

2210. Deregulation of IntraLATA Interexchange Telecommunications Services. 107

2211. Deregulation of interLATA Interexchange Telecommunications Services. 108

2212. Combined Applications. 108

2213. Adjudicatory Proceedings for Reclassification of Basic Local Exchange Services 109

2214. Regulation in Effective Competition Areas. 109

2215. Distribution of HCSM Funds in Effective Competition Areas. 110

2216. – 2299. [Reserved]. 110

RELATIONSHIPS BETWEEN CUSTOMERS AND TELECOMMUNICATIONS SERVICE PROVIDERS 110

Services Provided to the Public. 110

Basis, Purpose, and Statutory Authority 110

2300. Applicability. 110

2301. Definitions [Reserved]. 111

2302. Customer Deposits. 111

2303. Denial or Discontinuance of Service. 112

2304. Customer-Billing Requirements. 116

2305. Refund Plans. 118

2306. Public Information. 119

2307. Directories for Basic Local Exchange Service. 119

2308. Local Exchange Service Standards. 123

2309. Expanding a Local Calling Area. 125

2310. Availability of Service -- Adequacy of Facilities. 129

2311. Changing Provider/Carrier Presubscription. 133

2312. IntraLATA Equal Access. 138

2313. – 2329. [Reserved]. 139

Quality of Services Provided to the Public 139

2330. Applicability. 139

2331. Definitions [Reserved]. 139

2332. Incorporation by Reference. 139

2333. Construction and Maintenance of Plant and Equipment -- Generally. 140

2334. Construction and Maintenance Practices. 140

2335. The Provision of Service During Maintenance or Emergencies. 141

2336. Adequacy of Service. 142

2337. Standard Performance Characteristics for Customer Access Lines. 143

2338. Interexchange Trunk Connections. 147

2339. PBX and Multiline Channels. 147

2340. Network Call Completion Requirements. 147

2341. Trouble Report Response. 149

2342. – 2359. [Reserved]. 150

Collection and Disclosure of Personal Information 150

Basis, Purpose, and Statutory Authority 150
2360. Applicability. 150
2361. Definitions. 151
2362. Incorporation by Reference. 151
2363. – 2399. [Reserved]. 151
COSTING AND RATES 151
Cost Allocation 151
Basis, Purpose, and Statutory Authority 151
2400. Applicability. 151
2401. Definitions. 152
2402. Incorporation by Reference. 152
2403. Applicability to Specific Types of Services. 152
2404. Uniform System of Accounts. 153
2405. State-Interstate Separation of Costs. 153
2406. Cost Segregation Standards Generally. 154
2407. Specific Cost-Segregation Standards and Guidelines. 155
2408. Implementation and Enforcement. 156
2409. Informational Requirements. 156
2410. Reporting and Record Keeping. 157
2411. Auditing. 157
2412. Confidential Information. 157
2413. Affiliate Transactions - Local Exchange Providers. 157
2414. Affiliate Transactions - Interexchange Providers. 159
2415. Separation of Colorado Intrastate Access Costs. 159
2416. Colorado Intrastate Access Charge Elements. 160

2417. – 2459. [Reserved]....160
Costing and Pricing of Regulated Telecommunications Services....160
Basis, Purpose, and Statutory Authority....160
2460. Applicability....161
2461. Definitions....161
2462. Service Applicability....166
2463. Fully Regulated Telecommunications Services....166
2464. Part III Emerging Competitive Services Subject to an Alternative Form of Regulation....169
2465. Cost Studies to be provided to the Commission....170
2466. Exceptions....172
2467. – 2499. [Reserved]....172
PROVIDER OBLIGATIONS TO OTHER PROVIDERS....172
Interconnection and Unbundling....172
Basis, Purpose, and Statutory Authority....172
2500. Applicability....172
2501. Definitions....172
2502. Interconnection....174
2503. Compensation for Terminating Local Traffic....175
2504. Other Intercompany Arrangements....176
2505. Unbundling....178
2506. Process and Imputation....179
2507. Exemption for Rural Telephone Companies....180
2508. – 2529. [Reserved]....180
Interconnection Agreements....180
Basis, Purpose, and Statutory Authority....180

2530. Applicability. 181

2531. Definitions. 181

2532. Incorporation by Reference. 181

2533. Submission of Agreement and Amendments for Approval. 182

2534. Approval of Interconnection Agreements and Amendments to Interconnection Agreements. 183

2535. Confidentiality. 184

2536. – 2549. [Reserved]. 184

Requests for Commission Participation in the Negotiation and Mediation of Interconnection Agreements 184

Basis, Purpose, and Statutory Authority 184

2550. Applicability. 184

2551. Definitions. 185

2552. Request Process. 185

2553. Negotiation/Mediation Process. 185

2554. Confidentiality. 186

2555. – 2559. [Reserved]. 186

Commission Arbitration 186

Basis, Purpose, and Statutory Authority 186

2560. Applicability. 186

2561. Definitions. 186

2562. Petition Process. 187

2563. Notice. 188

2564. Opportunity to Respond to Petition. 188

2565. Role of Commission during Arbitration. 188

2566. Standards for Arbitration. 189

2567. Duty to Negotiate in Good Faith during Arbitration. 189

2568. Refusals to Negotiate. 189

2569. – 2579. [Reserved]. 189

Rules for the Resale of Telecommunications Exchange Services 190

Basis, Purpose, and Statutory Authority 190

2580. Applicability. 190

2581. Definitions. 190

2582. Regulation of Facilities-Based Telecommunications Providers. 190

2583. Service Quality. 191

2584. Confidentiality. 191

2585. Tariff Filings. 192

2586. Negotiation, Mediation, and Arbitration. 192

2587. Regulation of Resellers. 192

2588. Dispute Resolutions. 192

2589. - 2699. [Reserved]. 193

NUMBERING ADMINISTRATION 193

Efficient Use of Telephone Numbers 193

Basis, Purpose, and Statutory Authority 193

2700. Applicability. 193

2701. Definitions. 193

2702. Assignment of Telephone Numbers in Colorado. 194

2703. Variance. 194

2704. – 2719. [Reserved]. 194

Local Number Portability and Administration 194

Basis, Purpose, and Statutory Authority 194

2720. Applicability. 195

2721. Definitions. 195

2722. Incorporation by Reference. 195

2723. Local Number Portability. 195

2724. Long-Term Service Provider Number Portability. 195

2725. – 2739. [Reserved]. 196

N-1-1 Abbreviated Dialing Codes 196

Basis, Purpose, and Statutory Authority 196

2740. Applicability. 196

2741. Abbreviated Dialing Codes. 196

2742. – 2799. [Reserved]. 207

PROGRAMS 207

2800. – 2819. [Reserved]. 207

Telecommunications Relay Services for Disabled Telephone Users 207

Basis, Purpose, and Statutory Authority 207

2820. Applicability. 207

2821. Definitions [Reserved]. 207

2822. Incorporation by Reference. 207

2823. Conformity with the Federal Americans with Disabilities Act of 1990. 208

2824. Conformity with the Commission's Quality of Service Rules. 208

2825. Rates – Calls Included as Telecommunications Relay Calls. 208

2826. Commission Powers and Duties. 209

2827. Administration of the Colorado Disabled Telephone Users Fund. 209

2828. – 2839. [Reserved]. 210

High Cost Support Mechanism and High Cost Administration Fund 210

Basis, Purpose, and Statutory Authority 210

2840. Applicability. 210

2841. Definitions. 211

2842. Incorporation by Reference. 213

2843. General. 213

2844. Specific Services and Features Supported by the HCSM. 214

2845. Affordable Price Standard for Basic Service. 214

2846. Contributors; Reporting Requirements; Rate Element Calculation; Application of Rate Element to Customer Billings; and Remittance of Contributions. 214

2847. Eligible Provider. 216

2848. Support through the HCSM. 219

2849. Administration. 222

2850. Review of the HCSM. 224

2851. [Reserved]. 225

2852. Enforcement. 225

2853. Other. 225

2854. Calculation of Average Loop, Local Switching, and Exchange Trunk Costs for Fund Support for Rural Telecommunications Service Providers. 225

2855. Calculation of Support per Access Line for Rural ILECs. 226

2856. – 2869. [Reserved]. 231

Discount Rate for Eligible Intrastate Services Purchased by Eligible Colorado Schools and Libraries 231

Basis, Purpose, and Statutory Authority 231

2870. Applicability. 231

2871. Definitions. 232

2872. Incorporation by Reference. 232

2873. Discount for Eligible Intrastate Services for Eligible Schools and Libraries. 232

Schools & Libraries Discount 233

2874. Rate Disputes. 233

2875. Discount Administration. 233

2876. Response to Request for Services. 233

2877. – 2879. [Reserved]. 233

2880. – 2889. [Reserved]. 233

Colorado No-Call List 233

Basis, Purpose, and Statutory Authority 233

2890. Applicability. 234

2891. Definitions. 234

2892. Administrative Procedures. 236

2893. Designated Agent's Responsibilities. 236

2894. Local Exchange Carriers' Responsibilities — Notification of Designated Agent. 239

2895. Regulated Telecommunications Utility Rule Violations, Civil Enforcement, and Civil Penalties. 239

2896. – 2899. [Reserved]. 244

GLOSSARY OF ACRONYMS 244

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is generally to: regulate jurisdictional telecommunications providers, services, and products; administer and enforce the telecommunications provisions of Title 40 of the Colorado Revised Statutes; and regulate telecommunications proceedings before the Commission. These rules address a wide variety of subject areas. Therefore, specific statements of Basis, Purpose, and Statutory Authority are found at the beginning of each subchapter of these rules.

The statutory authority for the promulgation of these rules is found at §§ 29-11-106(3); 39-32-104; 40-2-108; 40-3-101; 40-3-102; 40-3-103; 40-3-107; 40-3-110; 40-3.4-106; 40-4-101; 40-7-113.5; 40-7-116.5; 40-15-101; 40-15-108(2); 40-15-109(3); 40-15-201; 40-15-203.5; 40-15-208(2)(a); 40-15-301; 40-15-302(1)(a) and (2); 40-15-302.5; 40-15-305; 40-15-404; 40-15-502(1), (3)(a), and (5)(b); 40-15-503; 40-17-103(2) and (3), C.R.S.

GENERAL PROVISIONS

2000. Scope and Applicability.

All rules in this Part 2, the "2000" series, shall apply to all telecommunications service providers, and to all Commission proceedings and operations concerning providers, unless a specific statute or rule provides otherwise. Other applicability provisions are found in the various subchapters of this Part 2.

2001. Definitions.

The meaning of terms in Part 2 shall be consistent with general usage in the telecommunications industry unless specifically defined by Colorado statute or a more specific rule. In the event the general usage of terms in the telecommunications industry or the definitions anywhere in Part 2 conflict with statutory definitions, the statutory definitions control. In the event the general usage of terms in the telecommunications industry conflict with definitions anywhere within Part 2, the Part 2 definitions control. In the event another Commission rule of general applicability (such as in the Commission's Rules of Practice and Procedure) conflicts with Part 2 rules, the Part 2 rules control. Except as may be provided by applicable statute or more specifically applicable rule, the following definitions apply throughout this Part 2:

(a) "Access line" means the connection of a customer's premises to the public switched telephone network regardless of the type of technology used to connect the customer to the network.

(b) "Access to emergency services" means access to services, such as 9-1-1 and enhanced 9-1-1, provided by local governments or other public safety organizations to the extent the local government or the public safety organization in a LEC's service area has implemented 9-1-1 or enhanced 9-1-1 systems.

(c) "Access to operator service" means access to a mechanized system or access through a real person to arrange for billing and/or completion of a telephone call.

(d) "Access to toll service" means the use of the network elements, including but not limited to loop, circuit, and switch facilities or their functional equivalents, necessary to access an interexchange carrier's network.

(e) [Reserved].

(f) "Base rate area" means the geographic area within an exchange service area, as defined in the tariff of a local exchange provider, wherein uniform rates that do not vary with distance from the central office apply to each class or grade of service.

(g) "Basic local exchange service" (basic service) means the telecommunications service that provides a local access line, and local usage necessary to place or receive a call within a local calling area and any other services or features that may be added by the Commission under § 40-15-502(2), C.R.S. Basic service is comprised of those capabilities, services, and features listed in paragraph 2308(a).

(h) "Busy hour" means the uninterrupted period of 60 minutes during the day when the traffic load offered to a particular switch, trunk, or network component is at its designed maximum load. The 60-minute periods are generally measured from hour-to-hour or from half-hour to half-hour.

(i) "Busy line interrupt service" means operator interrupt service.

(j) "Busy line verify service" means operator verification service.

(k) "Busy season" means a month or several months that may be non-consecutive, within a consecutive 12-month interval, when the maximum busy hour requirements are experienced excluding days with abnormal traffic volume, such as Christmas or Mother's Day. The busy season generally is at least 30 days in length and generally does not exceed 60 days in length.

(l) "Calls" means customers' telecommunications messages.

(m) "Carrier" means provider.

(n) "Central office" means the plant, facilities, and equipment, including, but not limited to, the switch, located inside a structure of a provider that functions as an operating unit to establish connections between customer lines, between customer lines and trunks to other central offices within the same or other exchanges, and between customer lines and the facilities of other providers.

(o) "Certificate of Public Convenience and Necessity" (CPCN) means the Commission-granted authority to provide Part II regulated telecommunications services, subject to terms and conditions established by the Commission in its decision granting the authority.

(p) "Channel" means a transmission path for telecommunications between two points. It may refer to a one-way path that permits the completion of traffic from the first point to the second point, or from the second point to the first point. Alternatively, it may refer to a two-way path that permits the completion of traffic in either direction. Generally a channel is the smallest subdivision of a transmission system by means of which a single type of communication service is provided.

(q) "Class of service" means a classification of a telecommunication service provided to a customer or group of customers, which denotes characteristics such as its nature of use (business or residence) or type of rate (flat rate, measured rate, or message rate).

(r) "Collocation" means the following:

(I) Physical collocation occurs when one telecommunications provider owns interconnection facilities physically located within another telecommunications provider’s physical premises; or

(II) Virtual collocation occurs when one telecommunications provider extends its facilities to a point of interconnection within a reasonably close proximity to, but not physically located within, another telecommunications provider’s physical premises. In virtual collocation, the provider requesting collocation (lessee) may request the type of equipment to be used from another provider who owns the space (lesser). In such case, the lessee may own or may lease and maintain the equipment.

(s) "Common carrier" means a telecommunications services provider that offers telecommunications services to the public, or to such classes of users as to be effectively available to the public, on a non-discriminatory basis.

(t) "Community of interest" means an area consisting of one or more exchanges in which the general population has similar governmental, health, public safety, business, or educational interests.

(u) "Competitive local exchange carrier" (CLEC) means a provider that has been granted a CPCN to provide Part II regulated telecommunications services in the State of Colorado on or after February 8, 1996, pursuant to § 40-15-503(2)(f), C.R.S.

(v) "Customer" means a person who is currently receiving a jurisdictional telecommunications service.

(I) "Business customer" means a customer whose use of telecommunications service is primarily of a commercial, professional, institutional, or other occupational nature.

(II) "Residential customer" means a customer whose use of telecommunications service is primarily of a social or domestic nature.

(III) “Small business customer” means a business customer with five or fewer voice-grade or voice-grade equivalent access lines at a single location.

(w) "Customer trouble report" means any oral or written report from a customer or from a user of telecommunications services relating to a physical defect with or relating to difficulty or dissatisfaction with the operation of the provider's facilities. Any subsequent report received from the same customer or user of telecommunications services in the same day shall be counted as a separate report, unless it duplicates a previous report or unless it merely involves an inquiry concerning progress on a previous report.

(x) “Day” means a calendar day, consistent with the definition found in rule 1004(i).

(y) "Decibel" means the unit of measurement for the logarithmic ratio to the base ten of two power signals. The abbreviation dB is commonly used for the term decibel.

(z) "Decibel above reference noise level using C-message weighting" (dBrnC) means the reference noise level of one Pico watt that is defined as 0 dBrnC. C-message weighting accounts for the frequency characteristics of a typical telephone set by weighting the noise signal at various frequencies to calculate the composite average noise signal value.

(aa) "Declaration of Intent to Serve" means a filing with the Commission in which a provider that holds a CPCN states its intent to provide local exchange telecommunications services within the service territory of a rural telecommunications provider.

(bb) "Dedicated transport facility" means a transmission path between locations used to transport traffic to which the end user is granted exclusive use, and which operates at DS1 or higher transmission speeds (high-bandwidth facility).

(cc) "Deregulated telecommunications services" (Part IV services or deregulated services) means services and products exempted from regulation pursuant to Title 40, Article 15, Part 4, C.R.S., or by the Commission in accordance with § 40-15-305(1), C.R.S.

(dd) "Dial equipment minutes of use" (DEM) means the minutes of holding time of originating and terminating local switching equipment, as defined in 47 C.F.R., Part 36.

(ee) "Dial tone or its equivalent" means:

(I) The signal placed on a local access line by the wireline provider signaling that the network is ready to receive a call from the subscriber; or

(II) The receipt by a wireless provider of the caller's dialed digits without a 'system busy' response.

(ff) "Dual tone multifrequency signaling" (Touchtone) means a method of signaling used on a local access line that uses a combination of one of a lower group of frequencies and one of a higher group of frequencies to represent each digit or character transmitted from the customer's station to the central office.

(gg) "Effective competition area" (ECA) means a wire center serving area in which the Commission has reclassified basic local exchange service pursuant to § 40-15-207, C.R.S.

(hh) "Electronic mail" (e-mail) means an electronic message that is transmitted between two or more computers or electronic terminals. Electronic mail includes electronic messages that are transmitted within or between computer networks.

(ii) "Eligible telecommunications carrier" (ETC) means a common carrier that is authorized by the Commission to receive federal universal service support as required by 47 U.S.C. 214(e)(2).

(jj) "Eligible Provider" (EP) means a provider who offers basic local exchange services and has been designated by the Commission as qualified to receive disbursements from the Colorado High Cost Support Mechanism.

(kk) "Emerging competitive telecommunications services" (Part III services) means services and products regulated by the Commission in accordance with Title 40, Article 15, Part III, C.R.S.

(ll) "End user" means a person, other than another telecommunications provider, who purchases a jurisdictional telecommunications service from a telecommunications provider.

(mm) "Enhanced 9-1-1" (E9-1-1) means a telephone system which includes such features as Automatic Number Identification (ANI), Automatic Location Identification (ALI), and call routing features to facilitate public safety response as described within rules 2130 through 2159.

(nn) "Exchange" means the totality of the telecommunications plant, facilities, and equipment including plant, facilities and equipment located inside and outside of buildings, used in providing telecommunication service to customers located in a geographic area defined by a provider's tariff. An exchange may include more than one central office location or more than one wire center.

(oo) "Exchange area" means a geographic area established by the Commission for the purpose of establishing a local calling area that consists of one or more central offices together with associated facilities and plant located outside the central office, used in providing basic local exchange service.

(pp) "FCC" means the Federal Communications Commission.

(qq) "Flat rate service" means telecommunications service provided at a fixed, recurring charge without separate billing for the number, time of day, distance, or duration of calls placed or received during the month.

(rr) "Governing body" means the board of county commissioners of a county; the city council or other governing body of a city, city and county, or town; or the board of directors of a special district.

(ss) "Held service order":

(I) For all LECs, except rural telecommunications providers, "held service order" means an application by a customer for basic local exchange service in the LEC's service territory that the LEC is unable to provide within ten days of the customer's application, except when the customer requests a later service date. The application shall be notice to the LEC that the customer desires service. Oral or written requests, as well as requests made by secure website, shall all be considered applications.

(II) For rural telecommunications providers, "held service order" means an application by a customer for basic local exchange service in the rural telecommunications provider's service territory that the rural telecommunications provider is unable to provide within 30 days after the date of the customer's application, except when the customer requests a later service date. The application shall be notice to the LEC that the customer desires service. Oral or written requests shall both be considered applications.

(tt) "Incumbent local exchange carrier" (ILEC) means either:

(I) With respect to a geographic area, the LEC that, on the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), provided telephone exchange service in such geographic area and that either:

(A) On such date of enactment, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R., 69.601(b) of the FCC's regulations; or

(B) Is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in subparagraph (I)(A) of this paragraph; or

(II) Any comparable LEC that the Commission has, by rule or order, deemed to be an ILEC after finding that:

(A) Such carrier occupies a position in the market for telephone exchange service within a geographic area that is comparable to the position occupied by a carrier described in subparagraph (I) of this paragraph;

(B) Such carrier has substantially replaced an ILEC described in subparagraph (I) of this paragraph; and

(C) Such treatment is consistent with the public interest, convenience, and necessity.

(uu) "Individual line service or its functional equivalent" means a grade of basic local exchange service that permits a user to have exclusive use of a dedicated message path for the length of the user's particular transmission.

(vv) "Intercept service" means a service arrangement provided by the LEC that routes calls placed to a disconnected or discontinued telephone number to a recording or to an operator that:

(I) Informs the calling party that the called telephone number has been disconnected, discontinued, or changed to another number; or

(II) Informs the calling party that another telephone number is receiving calls.

(ww) "Interexchange carrier" (IXC) or "Interexchange provider" means a person who provides telecommunications services between exchange areas.

(xx) "Jurisdictional service" means any telecommunications service subject to the authority of the Commission under the statutes of the State of Colorado included in Title 40, Article 15, Part 2, Part 3, or Part 5, C.R.S.

(yy) "Letter of Registration" (LOR) means Commission-granted authority to provide Part III emerging competitive telecommunications services, subject to terms and conditions established in the Commission decision granting the authority.

(zz) "Local Access and Transport Area" (LATA) means a geographic area designated at the time of the 1984 divestiture of the American Telephone and Telegraph System. A LATA may encompass more than one contiguous local exchange area that serves common social, economic, or other purposes, even where such area transcends municipal or other local government boundaries.

(aaa) "Local access line" means a telecommunications channel or message path between a customer's service location and the serving central office switch that is used to provide local exchange service to a customer.

(bbb) "Local call" means any call originating and terminating within the same local calling area.

(ccc) "Local calling area" (LCA) means the geographic area approved by the Commission in which customers may make calls without payment of a toll charge for each call. The local calling area may include exchange areas in addition to the serving exchange area.

(ddd) "Local exchange carrier" (LEC) means any person authorized by the Commission to provide basic local exchange service.

(eee) "Local exchange telecommunications service" means basic local exchange service and other such services identified in § 40-15-201, C.R.S., or defined by the Commission pursuant to

§ 40-15-502(2), C.R.S., regulated advanced features, premium services, and switched access as defined in § 40-15-301(2)(a), (b), and (e), C.R.S.; or any of the above singly or in combination.

(fff) "Local usage" means the usage necessary to place and receive calls within a local calling area in which the customer is located.

(ggg) "Master Street Address Guide" (MSAG) means the file of street names and ranges used to define emergency service agencies particular to a telephone number.

(hhh) "Measured rate service" means a service that depends on the measurement of actual usage (i.e., number, duration, time of day, or length of haul) to compute the charges that apply for outgoing completed calls.

(iii) "Message rate service" means a service that charges for each outgoing completed call in excess of a specified allowance of calls during the billing period.

(jjj) "Network element" means a facility or equipment used in the provision of a telecommunications service including features, functions, and capabilities that are provided by means of such a facility or equipment, including subscriber numbers, databases, signaling systems, including information sufficient for billing and collection of such elements, and including facilities used in the transmission, routing, or other provision of a telecommunications service.

(kkk) "Non-listed service" means an optional service in which the customer's telephone number is not published in the telephone directory but is available through directory assistance.

(lll) "Non-optional operator services" means operator services requiring an operator for individualized call processing or specialized or alternative billing, including without limitation, credit card calls, calls billed to a third number, collect calls, and person-to-person calls.

(mmm) "Non-published service" means an optional service in which the customer's telephone number is neither published in the telephone directory nor available through directory assistance.

(nnn) "Operations support systems" (OSS) means the mechanisms and systems used to mutually exchange information between local exchange providers in order to efficiently transfer customers between the providers in a manner consistent with federal and Colorado statutes. These mechanisms and systems include, but are not limited to, the taking and receipt of service and repair orders, and the exchange of billing data and customer account data. This information is exchanged in a variety of ways that includes, but is not limited to, electronic interfaces, technical interfaces, and access to databases.

(ooo) "Operator interrupt service" means a service provided at the request of a customer to interrupt a conversation on another customer's line.

(ppp) "Operator services" means services, other than directory assistance, provided either by live operators or by the use of recordings or computer-voice interaction, to enable customers to receive individualized and select telephone call processing or specialized or alternative billing functions. Operator services include non-optional operator services, optional operator services, and operator services necessary for the provision of basic local exchange service.

(qqq) "Operator service provider" means a person that sells optional and/or non-optional operator services.

(rrr) "Operator verification service" means a service provided at the request of a customer to determine if another customer's line is busy or not in service.

(sss) "Optional operator services" means operator services other than non-optional operator services and operator services necessary for the provision of basic local exchange service including, without limitation, operator services provided in connection with conference calling, foreign language translation, and voice messaging.

(ttt) "Out-of-service trouble report" means a report by the customer of:

(I) No dial tone, inability to make calls, or inability to receive calls on the customer's local access line; or

(II) Service quality deterioration to such an extent that the customer is incapable of sending or receiving a facsimile or data transmission at voicegrade transmission levels using the local access line.

(uuu) "Outside plant" means the telecommunications plant, equipment, and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between a central office and customers' locations or between central offices.

(vvv) "Part II service" means a service subject to regulation pursuant to Title 40, Article 15, Part 2, C.R.S.

(www) "Plain old telephone service" (POTS) means single-line, basic telephone service provided to a customer’s premises.

(xxx) "Price list" means a provider's rate schedule, filed with the Commission by transmittal letter, listing current rates for regulated telecommunications services and products and does not include rate bands, ceilings, or floors.

(yyy) "Private branch exchange" (PBX) means a private switchboard or switching system usually on the premises of customers such as campuses, large business offices, apartment buildings, or hotels, which, over a common group of lines from the central office, can receive calls, place outgoing calls, and interconnect intra-office extensions.

(zzz) "Private line service" means any point-to-point or point-to-multipoint service dedicated to the exclusive use of an end user for the transmission of any telecommunications services.

(aaaa) "Provider" means any person under the jurisdiction of the Commission engaged in the business of providing telecommunications services to the public. "Provider" includes telephone utilities and telephone corporations as described in § 40-1-103(1), C.R.S.

(bbbb) "Provider of last resort" (POLR) means a Commission-designated telecommunications provider that has the responsibility to offer basic local exchange service to all customers who request it within a geographic area.

(cccc) "Public agency" means any city, city and county, town, county, municipal corporation, public district, or public authority located, in whole or in part, within this state that provides, or has the authority to provide, fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

(dddd) "Rate area" means the surrounding geographic area determined by wire center boundaries for which a particular rate center's vertical and horizontal coordinates apply when calculating long distance charges. A rate area may be comprised of a single wire center or multiple wire centers.

(eeee) "Rate center" means a geographic point which is defined by specific vertical and horizontal coordinates on a map used by telecommunication companies to determine interexchange mileage when calculating toll charges.

(ffff) "Regional Bell Operating Company" (RBOC) means an ILEC that was, or is a successor to, one of the seven bell operating companies created at the time of divestiture.

(gggg) "Reseller of basic local exchange service" means a certified provider of telecommunications services who purchases, pursuant to a Commission-approved contract or an interconnection agreement, or an effective tariff, local telecommunications services from a facilities-based telecommunications provider and then offers the services, either by themselves as a separate tariff offering, or in combination with other services, to an end user.

(hhhh) "Rural telecommunications provider" or "rural provider" means a local exchange provider that meets one or more of the following conditions:

(I) Provides common carrier service to any LEC study area, as defined by the Commission, that does not include either:

(A) Any incorporated place of 10,000 inhabitants or more or any part thereof, based on the most recent available population statistics of the United States Bureau of the Census; or

(B) Any territory, incorporated or unincorporated, included in an urbanized area as defined by the United States Bureau of the Census as of August 10, 1993;

(II) Provides telephone exchange service, including exchange access to fewer than 50,000 access lines;

(III) Provides telephone exchange service to any LEC study area, as defined by the Commission, with fewer than 100,000 access lines; or

(IV) Has less than 15 percent of its access lines in communities of more than 50,000 inhabitants.

(iiii) "Service" means any intrastate telecommunications product or service offered by providers.

(jjjj) "Service affecting trouble report" means a report by the customer of:

(I) Impairment of the quality of the call such as noise, crosstalk, ringing, echo or diminished volume; or

(II) Service quality deterioration such that the performance characteristics of the customer's local access line fall within the substandard range as defined in rule 2337.

(kkkk) "Service territory" means a geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to provide such services.

(llll) "Station" means a device and any other necessary equipment at the customer's premises that allows the customer to establish and continue communication.

(mmmm) "Switched access" means the service or facilities provided by a local exchange provider to interexchange providers, which allows them to use the local exchange network or the public switched network to originate, terminate, or both originate and terminate interexchange telecommunications services.

(nnnn) "Telecommunications" means the transmission, using optical or electronic media, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received regardless of the technology used to transmit the information.

(oooo) "Telecommunications relay service" means any telecommunications transmission service that allows a person who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability. Such term includes any service that enables two-way communication between a person who uses a telecommunications device or other nonvoice terminal device and an individual who does not use such a device.

(pppp) "Telecommunications service" means the electronic or optical transmission of information between separate points by prearranged means.

(qqqq) "Toll blocking" means a service that permits customers to disallow the completion of outgoing 1+ toll calls from a customer's local access line.

(rrrr) "Toll control" means a service that allows a customer to specify a certain volume or dollar value of toll usage per month or billing cycle that may be incurred on a customer's access line.

(ssss) "Toll limitation" means the blocking or controlling of toll service.

(tttt) "Toll reseller" means any person who provides toll services to customers by using the transmission facilities, including without limitation wire, cable, optical fiber, or satellite or terrestrial radio signals of another person. A toll reseller may possess its own switching facilities.

(uuuu) "Toll service" (interexchange telecommunications service) means a type of telecommunications service, commonly known as long-distance service, that is provided on an intrastate basis between LATAs and within LATAs and that:

(I) Is not included as part of basic local exchange service;

(II) Originates and terminates in different local calling areas; and

(III) Is traditionally billed to the customer separately from basic local exchange service.

(vvvv) "Transmission insertion loss" means the ratio, expressed in decibels, of the power delivered to the load or station, in the case of an access line or channel, before and after activation of the channel. For the purposes of this Part 2, insertion loss shall be considered equivalent to transducer loss which is the ratio of available power from a power source connected to one end of a channel or access line to the delivered power at the load, station or standard impedance, connected to the other end of the channel.

(wwww) "Transmittal letter" means a letter, from a provider to the Director that accompanies each request by the provider to modify its price list for Colorado services.

(xxxx) "Unbundling" means the disaggregation of facilities and functions into network products or services so that they can be separately offered to other telecommunications providers in a manner that allows requesting providers to combine such elements in order to provide telecommunications services.

(yyyy) "Universal service", "Universal basic service", or "Universal basic local exchange service" means the availability of basic local exchange service to all citizens of Colorado at affordable rates.

(zzzz) "USOA" means Uniform System of Accounts.

(aaaaa) "Voicegrade access" to the public switched network means the functionality than enables a user of telecommunications services to transmit voice communications within the frequency range of approximately 300 Hertz and 3,000 Hertz, for a bandwidth of approximately 2,700 Hertz. It also includes signaling the network that: the caller wishes to place a call; there is an incoming call; and the called party is ready to receive voice communications.

(bbbbb) "Wire center" means the structure that houses the equipment used for providing telecommunications services and that terminates outside cable plant and other facilities for a designated serving area.

(ccccc) "Wire center serving area" means the geographic area of an exchange area served by a single wire center.

(ddddd) "Wireless carrier" means a cellular licensee, a personal communications services licensee, or certain specialized mobile radio providers designated as covered carriers by the FCC in 47 C.F.R. § 20.18.

2002. Applications.

(a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application:

(I) For a CPCN to provide Part II regulated telecommunications service, as provided in rule 2103;

(II) For the issuance of a LOR for Part III emerging competitive telecommunications services, as provided in rule 2103;

(III) To amend a CPCN or LOR, as provided in rule 2104;

(IV) To change exchange area boundaries, as provided in rule 2105;

(V) To discontinue the provisioning of basic local exchange service, as provided in rule 2108;

(VI) To transfer a CPCN or assets or to merge a provider with another entity, as provided in rule 2109;

(VII) To amend a tariff on less than statutory notice, as provided in subparagraph 2122(c)(IV);

(VIII) For certification as a basic emergency service provider, as provided in rule 2134;

(IX) For designation as a POLR, as provided in rules 2183 and 2184;

(X) For relinquishment of the designation as a POLR, as provided in rule 2186;

(XI) For designation as an ETC, as provided in rule 2187;

(XII) For relinquishment of designation as an EP or ETC, as provided in rule 2188;

(XIII) For approval of Path 2 disaggregation and targeting of federal high cost support, as provided in rule 2190(b);

(XIV) For an alternative form of regulation, as provided in rule 2205;

(XV) To refrain from regulation of a Part II service, as provided in rule 2207;

(XVI) For reclassification of a service offering, as provided in rule 2208;

(XVII) For deregulation of Part III Emerging Competitive Services, as provided in rule 2209;

(XVIII) For approval of a refund plan, as provided in rule 2305;

(XIX) For the expansion of a local calling area, as provided in subparagraph 2309(a)(III) and paragraph 2309(b)(IV);

(XX) For designation as an Eligible Provider (EP), as provided in rule 2847; or

(XXI) For any other authority or relief provided for in these rules, or for any other relief not inconsistent with statute or rule and not specifically described in this rule.

(b) Unless otherwise noted in specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The name and address of the applicant;

(II) The name(s) under which the applicant is, or will be, providing telecommunications service in Colorado;

(III) The name, address, telephone number, facsimile number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;

(IV) The name, address, telephone number, facsimile number, and e-mail address of the applicant's contact person for customer inquiries concerning the application, if that contact person is different from the person listed in subparagraph (III);

(V) A statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held;

(VI) A statement that the applicant agrees to respond to all questions propounded by the Commission or its Staff concerning the application;

(VII) A statement that the applicant shall permit the Commission or any member of its Staff to inspect the applicant's books and records as part of the investigation into the application;

(VIII) A statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;

(IX) Acknowledgment that, by signing the application, the applying utility understands that:

(A) The filing of the application does not by itself constitute approval of the application.

(B) If the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and with any conditions established by Commission order granting the application.

(C) If a hearing is held, the applying utility shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action.

(D) In lieu of the statements contained in subparagraphs (b)(IX)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IX)(A) through (C) of this rule.

(X) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant.

(XI) A copy of the company's proposed notice to the public and its customers, if such notice is required.

(c) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure.

(d) Customer notice. Except as required or permitted by § 40-3-104, C.R.S., if the applicant is required by statute, Commission rule, or order to provide notice to its customers of the application, the applicant shall, within seven days after filing an application with the Commission, cause to have published notice of the filing of the application in each newspaper of general circulation in the municipalities impacted by the application. The applicant shall provide proof of such customer notice within 14 days of the publication in the newspaper. Failure to provide such notice or failure to provide the Commission with proof of notice may cause the Commission to deem the application incomplete. The applicant may also be required by statute, Commission rule, or order to provide additional notice to its customers of the application by first-class mailing or by hand-delivery. Both the newspaper notice and any additional customer notice(s) shall include the following:

(I) The title “Notice of Application by [Name of the Utility] to [Purpose of Application]”.

(II) State that [Name of Utility] has applied to the Colorado Public Utilities Commission for approval to [Purpose of Application]. If the utility commonly uses another name when conducting business with its customers, the “also known as” name should also be identified in the notice to customers.

(III) Provide a brief description of the proposal and the scope of the proposal, including an explanation of the possible impact, including rate impact, if applicable, upon persons receiving the notice.

(IV) Identify which customers will be affected and identify the affected product or service.

(V) Identify the proposed effective date of the application.

(VI) Identify that the application was filed on less than statutory notice or if the applicant requests an expedited Commission decision, as applicable.

(VII) State that the filing is available for inspection in each local office of the applicant and at the Colorado Public Utilities Commission.

(VIII) Identify the docket number of the proceeding, if known at the time the customer notice is provided.

(IX) State that any person may file written comment(s) or objection(s) concerning the application with the Commission. As part of this statement, the notice shall identify both the address and e-mail address of the Commission and shall state that the Commission will consider all written comments and objections submitted prior to the evidentiary hearing on the application.

(X) State that if a person desires to participate as a party in any proceeding before the Commission regarding the filing, such person shall file an intervention in accordance with the rule 1401 of the Commission's Rules of Practice and Procedure or any applicable Commission order.

(XI) State that the Commission may hold a public hearing in addition to an evidentiary hearing on the application and that if such a hearing is held members of the public may attend and make statements even if they did not file comments, objections or an intervention. State that if the application is uncontested or unopposed, the Commission may determine the matter without a hearing and without further notice.

(XII) State that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission or shall alternatively contact the External Affairs section of the Commission at its local or toll-free phone number. Such statement shall also identify both the local and toll-free phone numbers of the Commission's External Affairs section.

(e) Unless otherwise noted in a specific rule, an original plus ten copies of the application shall be filed.

2003. Petitions.

(a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate petition:

(I) For variance from a Commission rule, as provided in rule 1003;

(II) For issuance of a declaratory order, as provided in paragraph 1304(i);

(III) For the Declaration of Intent to Serve within the territory of a rural telecommunications provider, as provided in rule 2106;

(IV) For expansion of a local calling area, as provided in paragraph 2309(c);

(V) For arbitration of an interconnection agreement, as provided in rules 2562 through 2579; or

(VI) For use of N-1-1 abbreviated dialing codes, as provided in rules 2740 through 2799.

(b) Unless otherwise noted in specific rules, all petitions shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified attached exhibits:

(I) The name and address of the petitioner;

(II) The name(s) under which the petitioner is providing telecommunications service in Colorado;

(III) The name, address, telephone number, facsimile number, and e-mail address of the petitioner's representative to whom all inquiries concerning the petition should be made;

(IV) The name, address, telephone number, facsimile number and e-mail address of the petitioner's contact person for customer inquiries concerning the petition, if that contact person is different from the person listed in subparagraph (III) above.

(V) A statement indicating the town or city, and any alternate town or city, where the petitioner prefers any hearings be held;

(VI) A statement that the petitioner agrees to respond to all questions propounded by the Commission or its Staff concerning the petition;

(VII) A statement that the petitioner shall permit the Commission or any member of its Staff to inspect the petitioner's books and records as part of the investigation into the petition;

(VIII) A statement that the petitioner understands that if any portion of the petition is found to be false or to contain material misrepresentations, any relief granted may be revoked upon Commission order;

(IX) Acknowledgment that, by signing the petition, the petitioner understands that:

(A) The filing of the petition does not by itself constitute approval of the petition.

(B) If the petition is granted, the petitioner shall not commence the requested action until the petitioner complies with applicable Commission rules and with any conditions established by Commission order granting the petition.

(C) If a hearing is held, the petitioner shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action.

(D) In lieu of the statements contained in subparagraphs (b)(IX)(A) through (C) of this rule, a petitioner may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IX)(A) through (C) of this rule.

(X) A statement which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the petitioner; and which states that the contents of the petition are true, accurate, and correct. The petition shall contain the title and the complete address of the affiant. (XI) A copy of the petitioner's proposed notice to the public and its customers, if such notice is required.

(c) Contents of notice to customers. If the petitioner is required by statute, Commission rule or order to provide additional notice to its customers of the petition, such notice shall include the following:

(I) The title "Notice of Petition by [Name of the Utility] to [Purpose of Petition]".

(II) State that [Name of Utility] has petitioned to the Colorado Public Utilities Commission for approval to [Purpose of Petition]. If the utility commonly uses another name when conducting business with its customers, the "also known as" name should also be identified in the notice to customers.

(III) Provide a brief description of the proposal and the scope of the proposal, including an explanation of the possible impact upon persons receiving the notice.

(IV) Identify which customer class(es) will be affected and the monthly customer rate impact by customer class, if customers' rates are affected by the petition.

(V) Identify the proposed effective date of the petition.

(VI) Identify that the petition was filed on less than statutory notice or if the petitioner requests an expedited Commission decision, as applicable.

(VII) State that the filing is available for inspection in each local office of the petitioner and at the Colorado Public Utilities Commission.

(VIII) Identify the docket number of the proceeding, if known at the time the customer notice is provided.

(IX) State that any person may file written comment(s) or objection(s) concerning the petition with the Commission. As part of this statement, the notice shall identify both the address and e-mail address of the Commission and shall state that the Commission will consider all written comments and objections submitted prior to the evidentiary hearing on the petition.

(X) State that if a person desires to participate as a party in any proceeding before the Commission regarding the filing, such person shall file an intervention in accordance with the rule 1401 of the Commission's Rules of Practice and Procedure or any applicable Commission order.

(XI) State that the Commission may hold a public hearing in addition to an evidentiary hearing on the petition and that if such a hearing is held members of the public may attend and make statements even if they did not file comments, objections or an intervention. State that if the petition is uncontested or unopposed, the Commission may determine the matter without a hearing and without further notice.

(XII) State that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission or shall alternatively contact the External Affairs section of the Commission at its local or toll-free phone number. Such statement shall also identify both the local and toll-free phone numbers of the Commission's External Affairs section.

(d) Unless otherwise noted in a specific rule, an original plus ten copies of the petition shall be filed.

2004. Disputes.

For purposes of this rule, a dispute is a concern, difficulty, or problem needing resolution that a customer brings directly to the attention of the provider without involvement of the Commission staff. In any dispute that a customer initiates directly with a provider, and that concerns jurisdictional services, the provider shall give to the customer the current address and phone numbers (local and toll free) of the External Affairs Section of the Commission if the customer and provider are unable to resolve the dispute.

2005. Records.

(a) Location of records. Unless otherwise authorized by the Commission, all required records shall be made available to the Commission or its authorized representatives at any time upon request.

(b) Retention of records. Providers shall preserve and retain all required records for not less than:

(I) Two years after the date of entry of the record; or

(II) For any longer period of time enumerated by a specific FCC or Commission rule, whichever is longer.

(c) Records to be maintained include:

(I) Service interruptions. Each LEC shall keep a record showing all interruptions affecting service in an entire exchange area or any major portion of the exchange area that affects the lesser of 25 percent or 1,000 of the exchange's local access lines for one or more hours during the day. This record shall identify the date, time, duration, extent, and cause of the interruption. Each LEC shall also keep a record or all customers eligible for credits related to such interruptions, pursuant to subparagraph 2304(b)(IV).

(II) Test equipment. Each provider shall keep records concerning testing of test equipment under paragraph 2334(f).

(III) Customer billing and dispute records. Each provider shall keep customer billing and dispute records for a minimum period of two years.

(IV) Carrier change authorization records. Submitting carriers shall maintain and preserve records of verification of subscriber authorization of service for a minimum period of two years after obtaining such verification.

(V) Deposits. This rule applies only with respect to a LEC’s residential and small business customers. Each provider shall keep a record of each deposit received from a customer until two years after the deposit is returned to the customer. The record shall identify the following:

(A) The name of each customer making a deposit;

(B) The amount and date of the deposit;

(C) Each premises occupied by the customer while the deposit is retained by the provider; and

(D) Each accounting transaction related to the deposit, such as the date the deposit was refunded and the amount of interest paid on the deposit.

(VI) Held service orders.

(A) Applicability. This rule applies only with respect to a LEC's residential and small business customers.

(B) During periods of time when the provider is not able to establish new primary line service to customers in areas of an exchange currently served by the provider within the time frames set forth in the applicable definition of held service order in rule 2001 of this Part, or by Commission order, the provider shall keep a record, by wire center serving area, identifying the following:

(i) The name and address of each applicant for service;

(ii) The date of the application;

(iii) The class of service (e.g., residence, business);

(iv) The order number assigned to the application for service;

(v) The reason for the delay in providing service to the applicant;

(vi) The expected in-service date; and

(vii) A record of all provider contacts, whether written or oral, with the applicant.

(C) During periods of time when the provider is not able to supply service to customers within the time frames established by the applicable definitions of held service order in rule 2001 of this Part or by Commission order, the provider shall keep a record identifying:

(i) All expenses incurred in providing bill credits as a result of failure to timely provide service; and

(ii) All installation fees waived and credits issued in compliance with subparagraphs 2310(f)(III) and (IV).

(D) When the number of held service orders to establish new primary line service exceeds 50 access lines at a wire center providing service to 2,000 or more access lines, or the number of held service orders to establish primary line service exceeds 20 access lines at a wire center serving fewer than 2,000 access lines, the provider shall maintain records including information on each held service order showing the application date, the cause(s) for the delay and

number of days for installation beyond ten days or the customer's requested installation date, if later.

(VII) Each provider shall maintain records showing the monthly and annual performance of the provider to determine the level of service for each item included in rules 2330 through 2399.

(VIII) Maintenance and operations records. Each provider shall maintain records of the various tests and inspections, including but not limited to, non-routine corrective maintenance actions and monthly traffic analysis summaries for network administration. Corrective maintenance records shall show the line or facility, such as a specific trunk, that was tested or inspected. The records shall also include the reason for the test, the general conditions under which the test was made, the results of the test, and any corrections made as a result of the test and inspection.

(IX) Plant facilities. Each provider shall keep complete maps and records showing the location and description of its plant and facilities, including, but not limited to, the number of interexchange circuits, the nature and amount of plant and equipment used in providing telecommunications services, and the areas served by the provider.

(X) Other records as required by this Part 2, but not specifically enumerated by this rule.

(XI) Other records as the Commission may require.

(d) Accounting Records.

(I) Except as specifically provided by Commission rule, each provider shall maintain its books of accounts and records using Generally Accepted Accounting Principles (GAAP).

(II) Unless otherwise approved by the Commission, depreciation for book purposes shall be determined by applying the straight-line method of depreciation.

(III) ILECs shall use the Uniform System of Accounts (USOA) prescribed for Common Carriers, Classes A and B by the FCC, pursuant to 47 C.F.R. Part 32.

(IV) For all providers exempt from USOA requirements, the system for keeping the books of account and associated records shall be capable of generating Colorado intrastate-specific information upon request. The books of account and records shall be maintained in sufficient detail to allow for a determination by the Commission that the provider complies with standards relating to cross-subsidization, affiliate transactions, separations, and other standards set forth by Commission order, rules, or applicable statutes.

2006. Reports.

Each provider shall submit reports to the Commission as follows:

(a) Annual reports of Colorado jurisdictional operations. Each provider shall file with the Commission, on or before April 30 of each year, an annual report for the preceding calendar year. The provider shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; and shall ensure the forms are verified and signed by a person authorized to act on behalf of the provider. All providers shall use the forms prescribed and supplied by the Commission and shall file the required number of copies pursuant to subparagraph 1204(a)(IV) of the Commission's Rules of Practice and Procedure. If the Commission grants the provider an extension of time to file the annual report, the provider shall nevertheless file with the Commission, on or before April 30, the provider's total gross operating revenue from intrastate telecommunications business transacted in Colorado for the preceding calendar year.

(b) If a certified public accountant prepares an annual report for a provider, the provider shall file two copies of the report with the Commission within 30 days after publication.

(c) Report of held local exchange service orders exceeding 90 days (90-day held orders) and not subject to any applicable exceptions in rule 2310. This paragraph only applies with respect to a LEC's residential and small business customers. Consistent with subparagraph 2310(f), when a LEC does not supply basic local exchange service to any customer in an exchange area currently served by the LEC within 90 days, the LEC shall file a report with the Director of the Commission, stating the circumstances causing the delay, explaining if such circumstances are beyond the LEC's control, and providing an estimate of the time necessary to provide service. This report shall identify: the name and address of each applicant; the date of application for service; the class type applied for (e.g., residence or business); the date the application became a 90-day held order; the wire center from which the customer will receive service; and the order number assigned by the LEC to the application for service. This report shall be filed with the Director by the last business day of the following month and shall identify all customers where the period to provide local exchange service exceeds 90 days.

(d) Report of service orders exceeding thresholds. This paragraph only applies with respect to a LEC's residential and small business customers. When the lesser of 50 or five percent of the total number of service applications in a wire center in a consecutive three-month period are held orders, the provider shall, within five days of the close of the three-month period, submit to the Commission a report identifying the information required by subparagraph 2005(c)(V)(D) and identifying the number of days service has been delayed for each held order. The provider shall further submit to the Commission, within 14 days of the close of the three-month period, a plan of its proposed action to reduce the number of these held service orders to fewer than the lesser of 50 or five percent of the total number of service applications in that wire center.

(e) Costs incurred and revenue foregone for failure to meet service requirements. This paragraph only applies with respect to a LEC's residential and small business customers. In compliance with subparagraphs 2310(e)(III) and (IV), a LEC shall report, on a monthly basis, all costs incurred and revenues foregone in providing bill credits and installation fee waivers. Such expenses, revenues foregone, bill credits and installation fee waivers shall be identified by class

and type of service and duration. This report shall be filed with the Director by the last day of the following month.

(f) Reports related to E9-1-1 and 9-1-1 services, as required by paragraph 2143(h) and rule 2144.

(g) Reports related to Telecommunications Relay Services for Disabled Telephone Users, as required by subparagraph 2827(b)(IV).

(h) Reports related to administration of the Colorado High Cost Support Mechanism, as required by rule 2846.

(i) Reports from the Commission's designated agent who administers the No-call list, as required by rule 2893.

(j) Other reports as required by this Part 2, but not specifically enumerated by this rule.

(k) Other reports as the Commission may require.

2007. [Reserved].

2008. Incorporations by Reference.

(a) The Commission incorporates by reference the following standards issued by the National Emergency Number Association: the Recommended Formats & Protocols For Data Exchange (NENA-02-010), revised as of February 25, 2006; NENA Recommended Data Standards for Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdictions (NENA-02-011), revised as of November 9, 2004; NENA Network Quality Assurance (NENA-03-001), original as of June 12, 1995; NENA Recommendation for the implementation of Enhanced MF Signaling, E9-1-1 tandem to PSAP (NENA-03-002), recommended June 21, 1998; and NENA Recommended Standards for Local Service Provider Interconnection Information Sharing (NENA-06-001), revised as of August 2004. No later amendments to or editions of these standards are incorporated into these rules.

(b) The Commission incorporates by reference 47 C.F.R., Parts 32, 36, 54, 68, 69 and Part 64 Subparts I and K (as published October 1, 2006). No later amendments to or editions of these regulations are incorporated in these rules.

(c) Except as provided in paragraph (a) of rule 2361, the Commission incorporates by reference the regulations published in 47 C.F.R. §§ 64.2003, 64.2005, 64.2007, 64.2008, and 64.2009 as revised on October 1, 2006. No later amendments to or editions of the C.F.R. are incorporated into these rules.

(d) The Commission incorporates by reference the National Electrical Safety Code, C2-2007 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.

(e) The Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319, as revised on October 1, 2006. No later amendments to or editions of these regulations are incorporated into these rules.

(f) The Commission incorporates by reference the rule promulgated by the FCC's *LNP First Report and Order,* Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996. No later amendments to or editions of these requirements are incorporated into these rules.

(g) The Commission incorporates by reference the FCC's Truth in Billing Rules found at 47 C.F.R. § 64.2401, et seq. revised on October 1, 2006. No later amendments to or editions of the C.F.R. are incorporated into these rules.

(h) The standards and regulations incorporated by reference may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library.

CIVIL PENALTIES

2009. Definitions.

The following definitions apply to rules 2009, 2010, and 2895, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Civil penalty" means any monetary penalty levied against a public utility because of intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.

(b) "Civil penalty assessment" means the act by the Commission of imposing a civil penalty against a public utility after the public utility has admitted liability or has been adjudicated by the Commission to be liable for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.

(c) "Civil penalty assessment notice" means the written document by which a public utility is given notice of an alleged intentional violation of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders and of a proposed civil penalty.

(d) "Intentional violation." A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute, rule, or order defining the violation.

2010. Regulated Telecommunications Utility Violations, Civil Enforcement, and Enhancement of Civil Penalties.

(a) The Commission may impose a civil penalty in accordance with the requirements and procedures contained in § 40-7-113.5, C.R.S., § 40-7-116.5, C.R.S., and paragraph 1302(b), 4 Code of Colorado Regulations 723-1, for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders as specified in §§ 40-7-113.5 and 40-7-116.5, C.R.S., and in these rules.

(b) The director of the commission or his or her designee shall have the authority to issue civil penalty assessments for the violations enumerated in § 40-7-113.5, C.R.S., subject to hearing before the Commission. When a public utility is cited for an alleged intentional violation, the public utility shall be given notice of the alleged violation in the form of a civil penalty assessment notice.

(c) The public utility cited for an alleged intentional violation may either admit liability for the violation pursuant to § 40-7-116.5(1)(c) or the public utility may contest the alleged violation pursuant to § 40-7-116.5(1)(d), C.R.S. At any hearing contesting an alleged violation, trial staff shall have the burden of demonstrating a violation by a preponderance of the evidence.

(d) In any written decision entered by the Commission pursuant to § 40-6-109, C.R.S., adjudicating a public utility liable for an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order, the Commission may impose a civil penalty of not more than two thousand dollars, pursuant to § 40-7-113.5(1), C.R.S. In imposing any civil penalty pursuant to § 40-7-113.5(1), C.R.S., the Commission shall consider the factors set forth in Rule 1302(b).

(e) The Commission may assess doubled or tripled civil penalties against any public utility, as provided by § 40-7-113.5(3), C.R.S., § 40-7-113.5(4), C.R.S., and this rule.

(f) The Commission may assess any public utility a civil penalty containing doubled penalties only if:

(I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;

(II) the conduct for which doubled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable; and

(III) the conduct for which doubled civil penalties are sought occurred within one year after conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable.

(g) The Commission may assess any public utility a civil penalty containing tripled penalties only if:

(I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted two or more prior intentional violations of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;

(II) the conduct for which tripled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has either admitted liability by paying the civil

penalty assessment or been adjudicated by the Commission in an administratively final written decision to be liable, in at least two prior instances; and

(III) the conduct for which tripled civil penalties are sought occurred within one year after the two most recent prior instances of conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable.

(h) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the date of such alleged conduct for which tripled civil penalties are sought.

(i) Nothing in this rule shall preclude the assessment of tripled penalties when doubled and tripled penalties are sought in the same civil penalty assessment notice.

(j) The Commission shall not issue a decision on doubled or tripled penalties until after the effective date of the administratively final Commission decision upon which the single civil penalty was based.

(k) The civil penalty assessment notice shall contain the maximum penalty amount provided by rule for each individual violation noted, with a separate provision for a reduced penalty of 50 percent of the penalty amount sought if paid within ten days of the public utility's receipt of the civil penalty assessment notice.

(l) The civil penalty assessment notice shall contain the maximum amount of the penalty surcharge pursuant to § 24-34-108(2), C.R.S., if any.

(m) A penalty surcharge referred to in paragraph (l) of this rule shall be equal to the percentage set by the Department of Regulatory Agencies on an annual basis. The surcharge shall not be included in the calculation of the statutory limits set in § 40-7-113.5(5), C.R.S.

(n) Nothing in these rules shall affect the Commission's ability to pursue other remedies in lieu of issuing civil penalties.

2011. – 2099. [Reserved].

OPERATING AUTHORITY

Authority to Offer Local Exchange or Emerging Competitive Telecommunications Services – Discontinuances – Transfers – Toll Reseller Registration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish regulations regarding: applications for a Certificate of Public Convenience and Necessity (CPCN) to provide Part II regulated telecommunications services; applications for Letters of Registration (LOR) to provide Part III emerging competitive telecommunications services; petitions to offer local exchange telecommunications service within the territory of a rural telecommunications provider; applications to discontinue any telecommunications services or authorities; applications to execute a merger, encumbrance or transfer; and registration as a toll reseller.

The statutory authority for promulgation of these rules is found at §§ 24-4-103, 40-2-108, 40-15-204, 40-15-301(2), 40-15-302(2), 40-15-302.5, 40-15-303, 40-15-305(2), 40-15-501, 40-15-502, 40-15-503(2), and 40-15-509, C.R.S.

2100. Applicability.

Rules 2100 through 2119 apply to all telecommunications providers applying for a CPCN to provide Part II regulated telecommunications services, a LOR to provide Part III emerging competitive telecommunications services, authority to offer local exchange telecommunications service within the territory of rural telecommunications provider, authority to discontinue any Part II or Part III telecommunications service or Part II or Part III authorities, and authority to execute a transfer, or any combination of these. Rule 2110 shall apply to providers required to register as toll resellers.

2101. Definitions.

The following definitions apply only in the context of rules 2100 through 2119:

(a) "Alternate provider" means any telecommunications carrier certified by the Commission that has an effective tariff on file to provide local exchange telecommunications service.

(b) "Encumbrance" means any liability, lien, claim or restriction placed on a regulated telecommunications provider's CPCN or LOR.

(c) "Transfer" means any or all of the following:

(I) A transaction to convey, by sale, assignment, or lease: a CPCN; a certificate to provide local exchange telecommunications services in existence on July 30, 2001; a LOR; or any combination of these;

(II) A transaction to obtain, whether by conveyance of assets or shares, controlling interest in a provider defined as a public utility;

(III) A conveyance of assets not in the ordinary course of business; or

(IV) An execution of a merger of a telecommunications provider defined as a public utility.

2102. Application Procedures.

(a) The applicant shall submit a verified original and four copies of an application and any supporting documentation.

(b) Commission notice. Rule 1206 shall apply to applications made pursuant to this rule, except that the Commission need only give notice by electronic posting on its website within seven days of receipt of an application for a CPCN, a LOR, or a combined CPCN/LOR. Unless otherwise ordered by the Commission, the notice period will expire 30 days after the notice is posted on the Commission's website.

(c) No CPCN, LOR, authority to discontinue service, or authority to execute a transfer or encumbrance shall become effective until the Commission issues an order approving such application.

2103. Application for CPCN or LOR.

To request a CPCN to provide Part II regulated telecommunications services, a LOR to provide Part III emerging competitive services, or both, an applicant shall submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

(a) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b);

(II) Name, mailing address, toll free telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to customer disputes;

(III) Name, mailing address, telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to the Commission concerning customer informal complaints;

(IV) A copy of the applicant’s applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;

(V) If the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;

(VI) Name and address of applicant’s Colorado agent for service of process;

(VII) A description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;

(VIII) A copy of the applicant’s most recent audited balance sheet, income statement, and statement of retained earnings;

(IX) If the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph (VIII): detailed information on the sources of capital funds that will be used to provide telecommunications services, including the amount of any loans, lines of credit, or equity infusions that have been received or requested, and the names of each source of capital funds;

(X) The names, business addresses, and titles of all officers, directors, partners, agents and managers who will be responsible for the provisioning of jurisdictional telecommunications services in Colorado;

(XI) A copy of any management contracts, service agreements, marketing agreements or any other agreements between the applicant and any other entity, including affiliates of the

applicant, that relate to the provisioning of jurisdictional telecommunications services in Colorado;

(XII) Identification of any of the following actions by any court or regulatory body within the last five years regarding the provisioning of regulated telecommunications services by the applicant, by any of applicant's agents, officers, board members, managers, partners, or management company personnel, or by any of applicant's affiliates that resulted in:

(A) Assessment of fines or civil penalties;

(B) Assessment of criminal penalties;

(C) Injunctive relief;

(D) Corrective action;

(E) Reparations;

(F) A formal complaint proceeding brought by any regulatory body;

(G) Initiation of or notification of a possible initiation of a disciplinary action by any regulatory body, including, but not limited to, any proceeding to limit or to place restrictions on any authority to operate, any CPCN, or any service offered;

(H) Refusal to grant authority to operate or to provide a service;

(I) Limitation, de-certification, or revocation of authority to operate or to provide a service; or

(J) Any combination of the above;

(XIII) For each item identified in subparagraph (XII) of this paragraph: an identification of the jurisdiction, summary of any applicable notification of a possible initiation or pending procedure, including the docket, case, or file number, and, upon the request of the Commission or its Staff, a copy of any written decision;

(XIV) A list of the Part III emerging competitive telecommunications services to be provided in conjunction with its LOR; and

(XV) Acknowledgment that by signing the application, the applicant:

(A) Certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the telecommunications services for which it is applying;

(B) Understands that:

(i) The filing of the application does not by itself constitute authority to operate;

(ii) If the application is granted, the applicant shall not provide service until: (a) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application; (b) has an effective tariff on file with the Commission; and (c) the Commission approves its Declaration of Intent to Serve, if seeking to provide local exchange service in the service territory of a rural telecommunications provider;

(C) Agrees to respond in writing, within ten days, to all customer informal complaints made to the Commission;

(D) Agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:

(i) The Fixed Utility Fund;

(ii) The Colorado High Cost Support Mechanism;

(iii) The Colorado Disabled Telephone Users Fund;

(iv) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and

(v) Any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2)(b)(V), C.R.S.; and

(E) Certifies that, pursuant to its tariff, it will not unjustly discriminate among customers in the same class of service.

(F) Certifies that the applicant will not permit any other person or entity to operate under its Commission-granted authority without explicit Commission approval.

(b) If an applicant is requesting only a LOR for Part III emerging competitive services, its application shall include the information required by subparagraphs (a)(I) - (VII) and (XII) – (XV).

2104. Application to Amend a CPCN or LOR.

To amend a CPCN or LOR, an applicant shall submit the required information by filing an application with the Commission.

(a) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits, to the extent that information has changed since the original grant of authority:

(I) The information required for a CPCN or for a LOR by subparagraphs 2103(a)(I) – (III) and (XV);

(II) A list of services affected by the proposed amendment;

(III) The reason for requesting the proposed amendment;

(IV) Acknowledgment that by signing the application, the applicant:

(A) Certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the telecommunications services for which it is applying;

(B) Understands that:

(i) The filing of the application does not by itself constitute approval to amend its authority;

(ii) If the application is granted, the applicant shall not provide the proposed service until: (a) the Commission approves the application; (b) the applicant has an effective tariff reflecting the amended authority on file with the Commission; and (c) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application;

(C) Agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:

(i) The Fixed Utility Fund;

(ii) The Colorado High Cost Support Mechanism;

(iii) The Colorado Disabled Telephone Users Fund;

(iv) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and

(v) Any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2)(b)(V), C.R.S.; and

(D) Certifies that, pursuant to its tariff, it will not unjustly discriminate among customers in the same class of service.

(b) Combined applications. An applicant may file a combined application for amending the applicant's CPCN and LOR.

2105. Application to Change Exchange Area Boundaries.

To change exchange area boundaries, an applicant shall submit the required information by filing an application with the Commission. If the exchange area boundary change affects more than one provider, the affected providers shall file a joint application containing the information applicable to each provider.

(a) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b);

(II) The specific boundaries described by metes and bounds that the applicant proposes to change;

(III) A copy of the proposed advice letter and exchange area maps;

(IV) The proposed effective date of the change;

(V) The facts (not in the form of conclusory statements) relied upon to show that the proposed change is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-111(2), 40-15-501, and 40-15-502, C.R.S.; and

(VI) Acknowledgment that by signing the application, the applicant understands and agrees that:

(A) The filing of the application does not, by itself, constitute authority to implement the change;

(B) The applicant shall not implement the change unless and until a Commission decision granting the application is issued; and

(C) If the application is granted, the grant is conditional upon:

(i) The existence of an applicable, effective tariff;

(ii) Compliance with all conditions established by Commission order; and

(iii) Filing of the approved advice letter and tariff pages upon not less than two business days' notice.

(c) Customer notice. If a grant of the application will result in changing a customer's service provider, phone number, local calling area, or rates, the applicant shall provide customer notice to affected customers as follows:

(I) Concurrent with the filing of the application, the applicant shall mail the notice by a separate first-class mailing, or by hand delivery.

(II) In addition to the information required by paragraph 2002(d), the notice shall provide details of the proposed change, including a description of changes in service provider, rates, phone numbers, and local calling areas.

2106. Declaration of Intent to Serve within Territory of Rural Telecommunications Provider.

A provider that has been granted a CPCN to provide Part II regulated telecommunications services, and that wishes to provide such services in the service territory of an incumbent rural telecommunications provider, shall file with the Commission, a petition stating its Declaration of Intent to Serve at least 45 days prior to offering such services.

(a) Contents. The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified attached exhibits:

(I) The information required by paragraph 2003(b);

(II) Identification of the rural telecommunications provider(s) operating in the service territory proposed to be served;

(III) A description of the service territory proposed to be served including lists of exchange areas and local calling areas, and a copy of the exchange maps for the proposed service territory;

(IV) A description of the local telecommunications services to be provided; (V) The method of providing each of the telecommunications services, i.e., resale, unbundled network elements, facilities-based, or a combination thereof; and,

(VI) A copy of the notice provided to the affected rural telecommunications provider(s) as required by paragraph (c) below.

(b) Commission notice. Within seven days of the receipt of the petition, the Commission shall provide notice by electronic posting on the Commission's website.

(c) Petitioner notice. Concurrent with the filing of the petition with the Commission, the petitioner shall send by first-class mail written notice to the affected rural telecommunications provider(s) within the proposed service territory. Such notice shall state that an intervention must be filed in accordance with the timelines and form specified by rule 1401 of the Commission's Rules of Practice and Procedure or any applicable Commission order.(d) The Declaration shall become effective only upon order of the Commission.

(e) Once the Declaration becomes effective, the petitioner shall file an advice letter and proposed tariff, or modification of an existing tariff, which shall identify the exchanges, local calling areas, and service offerings. This filing shall be on not less than 30-days notice. The provider shall not offer or provide services until the tariff or tariff change, as applicable, is effective.

2107. CPCN or LOR Deemed Null and Void.

A CPCN or a LOR shall be deemed null and void without further action of the Commission, if the provider fails to file an applicable tariff and optional price list within one year after the effective date of the Commission order granting the CPCN and/or LOR. For good cause shown, the provider may file a motion to extend the one-year filing deadline.

2108. Discontinuance of Regulated Services.

To discontinue regulated basic local exchange telecommunications service, any service required for the provisioning of regulated basic local exchange telecommunications service, or any basic local exchange service in a selected service territory or portion(s) thereof, a provider shall file an application with the Commission not less than 45 days prior to the effective date of the proposed discontinuance. The applicant may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

(a) Exemptions. An application to discontinue service is not required if any of the following apply:

(I) The provider has no customers in Colorado and has notified the Commission under paragraph 2108(f) of this rule.

(II) The provider is discontinuing toll resale service and has notified the Commission under subparagraph 2110(b)(III).

(III) The provider is discontinuing facilities-based long distance service and has notified the Commission and the provider's customers under subparagraph (g).

(IV) The discontinuance is the result of a transfer, no interruption or change of service will occur, and the provider has filed an application to transfer under rule 2109.

(V) The discontinuance is neither basic local exchange service nor a bundle nor a package that includes basic local exchange service.

(b) Compliance with reporting and regulatory funding requirements.

(I) If the application is for a discontinuance of all telecommunications services in Colorado the provider shall:

(A) Cancel its tariffs and price lists;

(B) Submit its annual reports and remit payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;

(C) Identify the name, title, address, phone number, facsimile number, and e-mail address of the officer or officers or agent responsible for completion of all subsequent reports and payments required by the Commission and an affidavit from the officers acknowledging their responsibility under this rule; and

(D) Make all necessary and appropriate arrangements with underlying facilities-based provider regarding the discontinuation of services provided.

(II) If the application is for a discontinuance of all facilities-based local exchange telecommunications services in Colorado the provider shall notify NANPA and/or the Number Pooling Administrator of the pending return of numbers if the applicant has been assigned numbering resources.

(c) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b);

(II) Identification of the service territory or portion thereof proposed for discontinuance.

(III) A statement as to whether the granting of the application will result in the cancellation of its tariff and/or price list in part or in its entirety, CPCN, and LOR.

(IV) A statement that the applicant has notified NANPA and/or the Number Pooling Administrator of the pending return of numbers, if applicable.

(V) The proposed effective date, which shall not be sooner than 45 days after the date on which the provider files the application with the Commission.

(VI) A copy of the notice that will be provided to customers in accordance with paragraph (e) of this rule.

(VII) Acknowledgment that by signing the application, the applicant and its successors understand and agree that:

(A) Filing of the application does not, by itself, constitute authority to discontinue any service;

(B) If the application is granted, any discontinuance is conditional upon fulfillment of conditions established by Commission order;

(C) If the application is granted, any discontinuance is conditional upon fulfillment of relevant statutory and regulatory obligations, including filing annual reports and remitting payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;

(D) Acknowledgement that the officer or officers or agent named in its application may be held personally liable if reports are not completed and submitted and if payments are not submitted to the appropriate regulatory agency, in accordance with § 40-7-106, C.R.S., and that the officer or officers may be punished as provided in § 18-1-106, C.R.S.; and

(E) If the application is granted, the provider shall, on not less than two business days' notice, make a compliance filing citing the applicable Commission decision number that includes, as necessary:

(i) An advice letter to cancel part or all of its tariffs; and

(ii) A Transmittal Letter to cancel all or part of its price list.

(d) Provider of last resort. If the applicant has been designated as a POLR, it shall supplement its application by providing the information required by the Commission's rule relating to relinquishment of the POLR designation, in accordance with rule 2186.

(e) Customer notice. The applicant shall work with Commission Staff on the content of the notice and shall provide such customer notice of the application to discontinue service, as follows:

(I) At least 30 days prior to the effective date of the proposed discontinuance, the applicant shall mail by a separate first-class mailing, or by hand delivery, the notice to each of the

applicant's affected customers. A list of alternate providers to include in the notice pursuant to subparagraph (L) of this rule shall be obtained from the Commission.

(II) Except as may otherwise be ordered by the Commission, the notice shall:

(A) Include the information required by paragraph 2002(d)(I) – (XII);

(B) Provide details of the proposed discontinuance, including a description of the services affected;

(C) State the specific time period during which customers must select an alternate provider;

(D) Notify customers of their option to select another local exchange provider and that a list of alternate local providers is attached and is available from the Commission;

(E) Notify customers that if a customer does not select an alternate local provider within the specified time period, the customer's basic local exchange service will be disconnected, the customer will be without dialtone and the customer may not be able to retain his telephone number; and

(F) State that an alternate provider may refuse service to a customer if that customer owes an outstanding balance for jurisdictional services.

(III) The applicant shall file with the Commission an affidavit attesting to its compliance with this paragraph regarding notice not less than 15 days before the date of the proposed discontinuance. The affidavit shall state the date on which notice was completed and the method used to give notice. A copy of each notice given shall accompany the affidavit.

(f) Discontinuance when no customers are affected. If no customers are affected by the proposed discontinuance, the provider is not required to file an application. However, at least 30 days prior to the proposed date of discontinuance, the provider shall file with the Commission a written notification of discontinuance and an affidavit in the prescribed Commission format attesting that no customers will be affected.

(g) Discontinuance of regulated emerging competitive telecommunications (Part III) service(s). If the provider is discontinuing regulated emerging competitive telecommunications service(s), the provider is not required to file an application. However, at least 30 days prior to the proposed date of discontinuance, the provider shall file with the Commission a written notification of discontinuance of the specific service(s) to be discontinued and an affidavit in the prescribed Commission format attesting that its customers were notified of the planned discontinuance.

(h) Amendment of tariff or price list. If the proposed discontinuance requires an amendment of the provider's tariff or price list, nothing in this rule shall be construed as a waiver or variance from statute or Commission rules regarding the provider's obligation to file an appropriate advice letter or transmittal letter.

2109. Application to Transfer or Encumber.

To request authority to execute a transfer or encumbrance, the transferor and the transferee or lender for an encumbrance shall file a joint application with the Commission not less than 45 days prior to the effective date of the proposed transfer or encumbrance. If the transferee does not hold a Commission-issued CPCN and/or LOR, the transferee shall provide the Commission with the information required pursuant to rule 2103, and must receive an appropriate Commission grant of authority to assume the transferor's CPCN and/or LOR. The joint applicants may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

(a) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b);

(II) Name under which the transferee or encumberer is, or will be, providing service in Colorado if the transfer or encumbrance is approved;

(III) The specific assets, including any operating authority or rights obtained under such operating authority that the applicants propose to transfer or encumber;

(IV) A statement of the facts (not in the form of conclusory statements) relied upon to show that the proposed transfer or encumbrance is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.; and

(V) Acknowledgment that by signing the application, the joint applicants understand and agree that:

(A) The filing of the application does not, by itself, constitute authority to execute the transfer or encumbrance;

(B) The applicants shall not undertake the proposed transfer or encumbrance unless and until a Commission decision granting the application is issued;

(C) The granting of the application does not constitute execution of the transfer or encumbrance, but only represents the Commission's approval of the request for authority to transfer or encumber;

(D) If a transfer is granted, such transfer is conditional upon:

(i) The existence of applicable, effective tariffs or price lists for relevant services, including any required adoption notices;

(ii) Compliance with the statutes and all applicable Commission rules, including the transferor's filing an annual report and remitting payment for all amounts due to all applicable funds or support mechanisms for the period up to the effective date of the transfer; and

(iii) Compliance with all conditions established by Commission order; and

(E) If the application to transfer or encumber is granted, the joint applicants shall notify the Commission if the transfer is not consummated within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. This notice shall include the docket and decision number(s) which granted the authority to execute the transfer or encumbrance.

(b) Provider of last resort. If the Commission has designated either the transferor or the transferee as a POLR, the application shall also include the information required by Commission rule 2186 relating to relinquishment of POLR designation.

2110. Toll Reseller Registration and Obligations.

Toll resellers shall be regulated in the following manner:

(a) Registration. All toll resellers shall register using the form provided by the Commission on its website.

(b) Obligations. A toll reseller shall:

(I) Submit an annual report and other reports required by Commission rules;

(II) Agree to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the:

(A) Fixed Utility Fund;

(B) Colorado High Cost Support Mechanism; and

(C) Any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2)(b)(V), C.R.S.

(III) File an updated registration form within 15 days of any change in the information previously provided to the Commission, including any discontinuance of service.

(c) Remedies for misconduct by toll resellers. For the purposes of enforcing § 40-15-112, C.R.S., the Commission may invoke all lawful remedies available under Title 40, Articles 1 through 7, C.R.S. Failure to comply with applicable statutes or Commission rules is cause for revocation of the registration, an order to cease and desist, an order to the appropriate local exchange providers to disconnect a toll reseller's service, or any other remedy deemed appropriate by the Commission.

2111. – 2119. [Reserved].

Advice Letters, Tariffs, Transmittal Letters, Price Lists, Promotional and Discount Offerings, and Promotional Letters

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to describe the process by which a provider produces and files tariffs, price lists, advice letters, and transmittal letters enabling the Commission to ensure that jurisdictional rates, charges, terms, and conditions are just, reasonable, and not unduly discriminatory.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101(1), 40-3-102, 40-3-103, 40-3-104, 40-3-104(1)(c)(V), and 40-2-108, C.R.S.

2120. Applicability.

Rules 2120 through 2129 are applicable to all providers, except toll resellers, regulated under Parts II or III or Article 15, Title 40, C.R.S.

2121. Definitions [Reserved].

2122. Tariffs and Advice Letters.

(a) All tariffs and advice letters shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.

(b) Filing and contents of tariff. In addition to the requirements and contents in rule 1210, the following shall be included in a provider's tariff, as applicable:

(I) A description of the provider's local calling areas, which shall include the exchange area and all other exchanges which are included in its local calling area.

(II) Exchange maps. Each LEC shall have on file with the Commission, as part of its tariff, a currently applicable exchange area boundary map for each of its exchanges within the state in which the LEC has been granted authority to provide service. Each map shall identify clearly the boundary lines of the exchange area and shall include a map scale. Exchange boundary lines shall identify, by appropriate measurement, the boundary line if the boundary line is not otherwise located on section lines, waterways, railroads, or roads. Maps shall include detail equivalent to the detail provided on county highway maps. In lieu of filing a separate set of exchange area boundary maps, the tariff of a CLEC may incorporate by reference the exchange area boundary maps of a LEC or LECs , provided the CLEC's service territory mirrors the exchange area of the other LEC or LECs. This incorporation by reference shall be a listing of the exchange boundary area(s) in which the CLEC will provide service.

(III) The provider's rates and charges for Colorado jurisdictional services or alternatively, the provider's maximum rates or range of rates if the provider is also filing a price list.

(IV) A description of subscribers' options regarding freezing their authorized local, intraLATA toll, and interLATA toll carriers consistent with subparagraph 2311(d), except that

providers who are registered solely as toll resellers shall not be subject to this requirement.

(V) The rates, charges, terms, and conditions for interconnection, consistent with rules 2500 through 2529.

(VI) A description of the Colorado High Cost Support Mechanism (CHCSM) surcharge, consistent with paragraphs 2847(f) and (g).

(VII) A description of the Telecommunications Relay Services (TRS) surcharge, consistent with rule 2827.

(VIII) A description of all other state-mandated surcharges.

(IX) Initial Tariff. Each provider shall file an initial Tariff accompanied by an initial Advice Letter, in compliance with this rule and any relevant Commission order, on not less than 30-days notice to the Commission. If the provider chooses to also file a Price List, the Tariff shall state the provider's maximum or range of rates whereas the Price List shall identify the actual prices that will be charged to its customers.(XI)Changing existing tariffs.

(A) Introducing a new regulated service. Any ILEC proposing to introduce any new regulated service shall file an advice letter and proposed tariff pages on not less than 30-days notice to the Commission and to the public. The Commission may order the ILEC to give additional notice of the proposed new service. A new regulated service does not include new package offerings of existing services; adding new term periods and rates to existing services; or adding different configuration and rates to an existing service.

(B) Changing tariffs on 14-days notice. A provider that has been granted an alternative form of regulation for Part III emerging competitive services or that has been granted a form of price regulation other than rate-of-return regulation, or a CLEC that is providing service pursuant to a default form of regulation may propose a change in its tariff by filing an advice letter and tariff pages on not less than 14-days notice.

(C) ILEC notice requirements for tariff changes.

(i) Changing tariffs on not less than 30-days notice. Any ILEC proposing to change any rate, or to change any rule, regulation, classification, term, or condition in a tariff that will result in an increase in rates or charges shall give notice in accordance with § 40-3-104, C.R.S.

(ii) Changing tariffs to decrease rates. Any ILEC proposing to change any rate in a tariff that will result in a decrease in rates or charges shall file an advice letter and tariff pages on not less than 14-days notice to the Commission. No additional public notice shall be required.

(iii) Changing tariff terms or conditions on not less than 14-days notice. Any ILEC proposing a change in its tariff terms or conditions shall file an advice letter and tariff pages on not less than 14-days notice to the Commission. No additional notice is required, unless the Commission finds that it is in the public interest to order additional notice. If the Commission so orders, and to avoid rejection of the advice letter filing, the provider shall extend the effective date of such advice letter to accommodate the additional notice.

(D) Changing tariffs upon less than 30-days or 14-days notice. A provider may file an application for permission to change a tariff on less than 30-days or 14-days notice, as applicable. The Commission, for good cause shown, under § 40-3-104(2), C.R.S., may grant permission to change a tariff without formal oral hearing on less than 30-days or 14-days notice. No tariff change shall become effective unless the Commission orders: a change in the manner in which the tariff shall be filed and published; the change to be made to the tariff; and the date when the change shall take effect. In providing notice of the application, the provider shall comply with paragraph 1206(f) concerning less-than-statutory notice. The following shall be included in the application: details of the proposed change to the provider's tariff; the tariff pages that the provider proposes to change; justification for the proposed change becoming effective on less than 14-days or 30-days notice, as applicable; any prior Commission action, in any proceeding, pertaining to the present or proposed tariff; and financial data supporting the proposed change, if appropriate.

(c) Customer notice. If the utility is required by statute, Commission rule or order to provide additional notice to customers of the advice letter filing, such customer notice shall include, without limitation, the following:

(I) Information required by paragraph 2002(d)(I) – (XII); and

(II) Identification of the advice letter number, if known at the time the customer notice is provided.

2123. Price Lists and Transmittal Letters.

Optional price list. Unless otherwise ordered by the Commission, a provider may file, in addition to its tariff, a price list for Part II regulated telecommunications service and Part III emerging competitive telecommunications services. A price list shall include only the current rates for services.

(a) General.

(I) Filing. A provider may file, in addition to its tariff, a price list for Part II regulated telecommunications service and Part III emerging competitive telecommunications services. A price list includes only the current rates for services.(II) Public inspection. The provider shall have its current price list available for public inspection at its principal place of business during normal business hours. The provider may also have its price list available on the provider’s website.

(III) Number of copies.

(A) Unless otherwise ordered by the Commission, the provider shall file with the Commission:

(i) An original and ten copies of each transmittal letter;

(ii) An original and three copies of each price list page; and

(iii) An original and three copies of any supporting documentation, if applicable.

(B) If the provider desires a file-stamped copy of a price list or transmittal letter, such provider shall file one additional copy of the filing, and shall include a self-addressed envelope with adequate postage affixed thereto.

(IV) Format, required contents and processing. Providers shall file price lists using the form available from the Commission or from its website. Filings that do not conform to the Commission's format, do not comply with the required number of copies to be filed, or do not contain the required information may not be processed. If the Commission does not process the filing, the filing party will be notified within five days. Date stamping a filing does require the Commission to process the filing.

(V) Rejection. The Commission may reject any proposed price list that is not in the prescribed format or does not include the information required by statutes, rules, regulations, orders, or decisions of the Commission. Any price list rejected by the Commission shall be void and shall not be used. However, the Commission may, in lieu of rejection, suspend the effective date of the price list and set the matter for hearing.

(VI) Notice. Commission will provide notice by electronic posting on its website within seven days of the receipt of a transmittal letter and proposed price list.

(VII) Effective date calculation. In calculating the proposed effective date of a price list, the date filed with the Commission shall not be counted. The entire notice period must expire prior to the proposed effective date of the price list.

(VIII) Suspension and hearing. When a provider files a proposed price list, the Commission may suspend the proposed price list's effective date and, upon reasonable notice, set the matter for hearing. Pending hearing and decision, the price list shall not go into effect. The period of suspension shall not extend more than 120 days beyond the proposed effective date of the price list, unless the Commission, by separate decision, extends the period of suspension for an additional period not exceeding 90 days.

(b) Price lists.

(I) Contents. All of the following shall be included in the price list:

(A) A title page including:

(i) The provider's name, address, website address, and telephone number, including a toll free customer service telephone number;

(ii) The name and title of the provider's employee responsible for regulatory contacts with the Commission; and

(iii) A statement of the services to which the price list applies.

(B) A table of contents.

(C) A list explaining price list change symbols, in the format available from the Commission or from its website. At a minimum, the following symbols shall be used:

Symbol	Signifying
D	Discontinued service or deleted material.
I	Rate increase.
R	Rate reduction.
M	Material moved from or to another part of the provider's price list; a footnote indicating where the material was moved from and where the material was moved to shall accompany all "M" classified changes.
N	New product, rate, or material.
T	Change in text, but no change in a rate or charge in the price list.

(D) The provider's actual rates and charges for Colorado jurisdictional services.

(E) Return check charges consistent with § 13-21-109, C.R.S., if applicable.

(F) The following information shall be included on each price list page:

(i) Provider's name;

(ii) An identification of the document as a price list, by labeling it as a "Price List" and identifying the price list number ("Colorado PUC Price List No. xx");

(iii) The price list page numbers (e.g., "Original Sheet No. 34"); or, if the page cancels another page, a listing of the cancelled page number shall be included (e.g., "First Revised Sheet No. 34", "Cancels Original Sheet No. 34");

(iv) Relevant section or heading captions;

(v) An identification of the corresponding the transmittal letter number implementing the price list change and an identification of the corresponding Commission decision number, if applicable; and

(vi) The price list's effective date.

(II) Initial price list. The initial price list shall be filed upon 30-days notice to the Commission attached to an advice letter.

(III) Changing existing price lists. Changes to an existing price list shall be proposed by filing a transmittal letter on not less than 14-days notice. However, any ILEC proposing to change any rate in a price list that will result in an increase in rates or charges shall give notice that includes the requirements of paragraph 2002(d) and is in accordance with § 40-3-104, C.R.S., or Commission order.

(c) Transmittal letters.

(I) Filing with price list. A transmittal letter shall accompany each price list filed with the Commission.

(II) The transmittal letter shall be filed using the form available from the Commission or its website, and shall include, at a minimum:

(A) The provider's name and address;

(B) The sequentially numbered identification of the transmittal letter

(C) An identification of the corresponding price list number;

(D) A brief description of the proposed price list, including;

(i) The affected service;

(ii) The affected class of customers;

(iii) Whether the proposed price list contains an increase in rates, a decrease in rates, or both;

(iv) Whether the proposed price list changes terms or conditions; and

(v) Whether the proposed price list makes textual changes;

(E) An identification of price list page numbers included in the filing. The provider also has the option of including the identification of the price list page number on a separate sheet attached to the transmittal letter;

(F) The price list's proposed effective date;

(G) The name, telephone number, facsimile number, and e-mail address, of the person to contact regarding the filing; and

(H) The signature of the authorized agent of the provider.

(III) If the provider proposes to revise or to cancel existing price list pages, the transmittal letter shall also include:

(A) A listing of the revised sheet numbers;

(B) A listing of the cancelled sheet numbers;

(C) A listing of the titles of the revised sheets;

(D) The purpose and brief description of each proposed change;

(E) A statement of how customers will be notified of the changes; and

(F) The proposed effective date.

(IV) If there is a change in any information on the title page of the price list, the provider shall file a transmittal letter with the new information and the new title page. The transmittal letter and title page may be filed on not less than one-day notice if the only revision to the price list is to provide the new information on the title page.

2124. Promotional and/or Discount Offerings.

Promotional and/or discount offerings may be offered by a provider. Providers shall not file these offerings with the Commission. However, all ILECs are required to comply with FCC 96-325 *First Report and Order* at ¶ 950 where it states, “To preclude the potential for abuse of promotional discounts, any *benefit* of the promotion must be realized within the time period of the promotion, *e.g.*, no benefit can be realized more than ninety days after the promotional offering is taken by the customer if the promotional offering was for ninety days. In addition, an incumbent LEC may not use promotional offerings to evade the wholesale obligation, for example by consecutively offering a series of 90-day promotions.” A LEC foregoing revenues because of a promotional or discount offering will not be made whole for this loss.

2125. – 2129. [Reserved].

Emergency 9-1-1 Services for Emergency Telecommunications Service Providers and Basic Local Exchange Carriers

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) recognize Enhanced 9-1-1 (E9-1-1) as a service regulated by § 40-15-201; (2) prescribe multi-line telephone system (MLTS) operator requirements regarding disclosure to end users of the proper method for accessing 9-1-1 service, and regarding the capability of the MLTS to transmit end users' telephone numbers and location information; (3) prescribe the interconnection environment and relationships between basic emergency service providers (BESPs) and wireless carriers, BESPs and LECs, and BESPs and other telecommunications providers; (4) permit use of 9-1-1 databases for outbound wide area notifications in times of emergency; (5) prescribe reporting times of 9-1-1 outages and interruptions; and (6) explicitly recognize the potential for multiple BESPs in Colorado.

The statutory authority for the promulgation of these rules is found at §§ 29-11-102(2)(b); 29-11-106(3); 40-3-102; 40-3-103; 40-4-101(1) and (2); 40-15-201; 40-15-301; 40-15-503(2)(a), (b), and (g); and 40-2-108, C.R.S.

2130. Applicability.

(a) Rules 2130 through 2159 apply to all basic local exchange carriers and BESPs.

(b) To the extent these rules specifically refer to wireless carriers as a condition of interconnection with any BESP, such rules apply to wireless carriers who agree to comply with them.

(c) Some of the provisions in these rules apply to MLTS operators whose systems do not have automatic number and automatic location identification capability, or whose systems require the dialing of an additional digit(s) to access the public switched network.

2131. Definitions.

The following definitions apply only in the context of rules 2130 through 2159:

(a) "9-1-1" means a three-digit abbreviated dialing code used to report an emergency situation requiring a response by a public agency such as a fire department or police department.

(b) "9-1-1 facilities" means the facilities (e.g., trunks or transmission paths) that connect from the central office serving the individual telephone that originates a 9-1-1 call to the 9-1-1 tandem and subsequently connect the tandem to a Public Safety Answering Point (PSAP). These may include, but are not limited to, point-to-point private line facilities and E9-1-1 facilities owned, leased or otherwise acquired by a BESP. Common or shared facilities also may be used. These facilities may include private network facilities and governmental facilities (if available) obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions.

(c) "9-1-1 failure" or "9-1-1 outage" means a situation in which 9-1-1 calls cannot be transported from the end users to the PSAP responsible for answering the 9-1-1 emergency calls. 9-1-1 failures also include the inability to deliver location information to the PSAP from the 9-1-1 Automatic Location Identification (ALI) database or a loss of the 9-1-1 ALI functionality.

(d) "9-1-1 tandem" or "9-1-1 tandem switch" means the telecommunications switch dedicated to aggregation of 9-1-1 call traffic from public networks and proper routing of 9-1-1 call traffic to PSAPs.

(e) "ALI database provider" means any person or entity that, on a for-profit or not-for-profit basis, provides ALI to basic emergency service providers and the governing body for a specific geographic area.

(f) “ALI service” means all the services, features, and functionalities of elements and components used to provide ALI, including the applications, databases, management processes and services, selective routing, aggregation, and transport, without regard to the technology used.

(g) "Automatic Location Identification" (ALI) means the automatic display, on equipment at the PSAP, of the telephone number and other information concerning the location of the caller. The ALI database includes non-listed and non-published numbers and addresses, and other information about the caller’s location.

(h) "Automatic Number Identification" (ANI) means the process used on customer-dialed calls to automatically identify the calling station, and the automatic display of the caller’s telephone number on telephone answering equipment used by operators at the PSAP.

(i) "Basic emergency service" means the Part II telecommunications service (§ 40-15-201(2), C.R.S.) permitting the use of the basic local exchange network and the 9-1-1 abbreviated dialing code for reporting police, fire, medical, or other emergency situations to a PSAP and referral to a public agency. The offering or providing of ALI service to a PSAP or governing body by any person is a basic emergency service.

(j) "Basic Emergency Service Provider" (BESP) means any person certificated by the Commission to aggregate and transport 9-1-1 calls from the basic LEC, wireless carrier, or other telecommunications provider to a PSAP.

(k) "E9-1-1 facilities" means the facilities provided by a BESP that interconnects to basic local exchange carriers, wireless carriers, and other telecommunications providers that are used to transport 9-1-1 calls to the PSAP. The facilities may include the use of 9-1-1 tandem switches or direct trunks connecting 9-1-1 calls to the PSAPs and E9-1-1 facilities owned, leased, or otherwise acquired by a BESP. These facilities may include private network facilities and governmental facilities (if available) obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions.

(l) "E9-1-1 features" means the ANI, ALI database and selective routing capabilities and all other components of an E9-1-1 system, not including the transport and switching facilities.

(m) "E9-1-1 tandem" means the switch that receives E9-1-1 calls from the originating local exchange central offices, wireless switch, or any other telecommunications provider's switch, employs the ANI information associated with such calls, determines the correct destination of the call, and forwards the call and the ANI information to that destination.

(n) "Emergency notification service" (ENS) means a service in which, upon activation by a public safety agency:

(I) The 9-1-1 database or database derived from the 9-1-1 database is searched to identify all stations located within a geographic area;

(II) A call is placed to all such stations or all of a certain class of stations within the geographic area (e.g., to exclude calls to facsimile machines, Internet/data access lines, etc.); and

(III) A recorded message is played upon answer to alert the public to a hazardous condition or emergency event in the area (e.g., flood, fire, hazardous material incident, etc.).

(o) "Emergency telephone charge" means a charge to pay for the equipment costs, the installation costs, and the directly-related costs of the continued operation of an emergency telephone service according to the rates and schedules filed with the Colorado Public Utilities Commission.

(p) "Emergency telephone service" (ETS) means a telephone system using the abbreviated dialing code 9-1-1 to report police, fire, medical, or other emergency situations.

(q) "Enhanced 9-1-1" (E9-1-1) means a basic emergency telephone service that includes the association of information such as ANI and ALI (including non-listed and non-published numbers and addresses), and (optionally) selective routing, to facilitate public safety response.

(r) "Geographic area" means the area such as a city, municipality, county, multiple counties or other areas defined by a governing body or other governmental entity for the purpose of providing public agency response to 9-1-1 calls.

(s) "Governing body" means a representative organization responsible for the oversight of 9-1-1 response activities in a specific geographic area. A governing body may be comprised of a board of county commissioners, a board of directors of a special district, a city council or other governing body of a city and/or county, or a separate legal entity established under § 29-1-201,, C.R.S., et seq.

(t) "Multi-line telephone system" (MLTS) means a system comprised of common control units, telephones, and control hardware and software providing local telephone service to multiple customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures. Multi-line telephone system includes:

(I) Network and premises-based systems such as Centrex, PBX, and hybrid-key telephone systems; and

(II) Systems owned or leased by governmental agencies, nonprofit entities, and for-profit businesses.

(u) "Multiple-line telephone system operator" means the person that operates an MLTS from which an end user may place a 9-1-1 call through the public switched network.

(v) "National Emergency Number Association" (NENA) means the international not-for-profit organization whose purpose is to lead, assist, and provide for the development, availability,

implementation and enhancement of a universal emergency telephone number or system common to all jurisdictions through research, planning, publications, training and education.

(w) "Other telecommunications providers" means any provider of exchange service, regardless of the types of technology used.

(x) "Public Safety Answering Point" (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP on a 24-hour basis. PSAPs are responsible to direct the disposition of 9-1-1 calls.

(y) "Routing" means the central office programming required to transport a 9-1-1 call to the correct 9-1-1 tandem.

(z) "Selective routing" means the capability of routing a 9-1-1 call to a designated PSAP based upon the seven digit or ten-digit telephone number of the subscriber dialing 9-1-1.

(aa) "Telecommunications device for the deaf" (TDD) or "text phone" means an instrument defined by the Communications Act of 1934 as a device that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

(bb) "Telecommunications device for the deaf emergency access" or "text phone access" mean the provision of 9-1-1 access to individuals that use TDDs and computer modems.

2132. [Reserved].

2133. Service Components and Requirements.

(a) Basic emergency service is the telecommunications service that aggregates and transports 9-1-1 calls to a PSAP. The aggregation of calls is the process of collecting 9-1-1 calls from one or more local exchange, wireless carrier, or other telecommunications provider switches that serve a geographic area for the purpose of determining and transporting 9-1-1 calls to the PSAP designated to receive such calls. Basic emergency service may be provided using connections between the PSAP and a local exchange central office switch, using connections to a 9-1-1 tandem, using connections between a wireless carrier switch and the 9-1-1 tandem, or by using other technology. Basic emergency service includes, but is not limited to, the provision of a 9-1-1 tandem switch, connections to each local exchange carrier, wireless carrier, or other telecommunications provider switch (excluding the trunk units on the switches to the 9-1-1 tandem switch), transport between the 9-1-1 tandem switch and the PSAP, and connections to the PSAP (excluding trunk units at the PSAP). E9-1-1 also includes the provision of transport facilities from the ALI database to the PSAP. In many instances an ALI database also may be interconnected with the other components of the service.

(b) ALI database service is integral to the provision of E9-1-1 services. On a timely basis, all basic local exchange carriers shall provide the ALI database provider with access to all telephone numbers, including non-published and non-listed numbers, that are maintained by the services of the basic local exchange carrier, wireless carrier, reseller of a basic local exchange, or other telecommunications provider. E9-1-1 service is distinguished from 9-1-1 service in the ability of the BESP to provide greater routing flexibility for 9-1-1 calls based on information that is placed in a computer database. The ALI database also provides the means for the PSAP to display the

address as well as the telephone number for incoming 9-1-1 calls and additional customer-provided information about the 9-1-1 caller's location.

(c) The PSAP(s) is responsible for receiving the 9-1-1 calls from a BESP and, if applicable, ALI database information. The PSAP(s) forwards the 9-1-1 call, and where applicable, the ALI database information to the proper public agency such as the fire department, emergency medical services, sheriff, or police.

2134. Process for Certification of Basic Emergency Service Providers (BESPs).

(a) The Commission finds and declares that the public convenience and necessity require the availability, and, when requested, the provision of basic emergency service within each local exchange area in Colorado, and further that such basic emergency service is vital to the public health and safety and shall be provided solely by properly certificated BESPs.

(b) The Commission may certify additional or different BESPs to offer basic emergency service if such certification is in the public interest. Each application for certification shall be considered on a case-by-case basis.

(c) An application for authority to provide basic emergency service shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2103(a);

(II) The geographic area the BESP intends to serve;

(III) The name, address, and telephone number of each provider offering local exchange services in the geographic area that is the subject of the application;

(IV) If the applicant has previously filed with the Commission current reports or material that include the information required in subparagraph (I) and (II), it may confirm this by filing an attestation of completeness and accuracy with proper citation of title and date of the other filed material; and

(V) A detailed statement describing the means by which it will provide basic emergency service. This statement shall include, but is not be limited to:

(A) The technical specifications for the system that will be used to provide the basic emergency services, including information on emergency restoration of the system;

(B) All inter-company agreements used to implement and operate the service;

(C) All agreements with ALI database providers;

(D) All inter-governmental agreements regarding governing bodies or PSAPs;

(E) All interconnection agreements between the BESP and: basic local exchange carriers, wireless carriers, other BESPs, and other telecommunications providers; and

(F) Proposed tariffs.

(d) A current, audited financial statement showing that the applicant's assets, liabilities, and net worth are sufficient to provide emergency services.

(e) An acknowledgment that the applicant will provide basic emergency service in accordance with these rules and all applicable quality of service rules.

2135. Uniform System of Accounts, Cost Segregation and Collection.

All BESPs shall maintain their books and records and perform separation of costs as prescribed by rules 2400 through 2459, or as otherwise prescribed by the Commission.

2136. Obligations of Basic Emergency Service Providers.

(a) A BESP certificated by the Commission, shall obtain facilities from or interconnect with all basic local exchange carriers, rule-compliant wireless carriers, and other telecommunications providers who have customers in areas designated by governing bodies for the aggregation and transmission of 9-1-1 calls or E9-1-1 calls in the area served by the BESP. BESPs shall interconnect with all other BESPs with facilities in the serving area. A BESP shall create, or amend as necessary, provisions in its interconnection agreements with all basic local exchange carriers, wireless carriers, other BESPs, and other telecommunications providers to require compliance with rule 2130 through 2159.

(b) At the request of a basic local exchange carrier, wireless carrier, other BESP, or other telecommunications provider within the area specified by a governing body, a BESP shall provide and/or arrange for the necessary facilities to interconnect, switch and transport 9-1-1 calls from the basic local exchange carriers, wireless carriers, other BESPs, or other telecommunications providers to the PSAP that is responsible for answering the 9-1-1 calls. Interconnection shall be accomplished in a timely manner, generally not more than 30 days from the time the BESP receives a written order. Interconnection facilities shall generally be engineered as follows:

(I) Dedicated facilities for connecting each basic local exchange, wireless carrier, or other telecommunications provider switch to a BESP shall be based on the requirements established by the BESP to serve the customers within that local exchange; or

(II) If shared or common facility groups are used to transport calls from the basic local exchange carrier, wireless, or other telecommunications provider switch to a BESP, they shall be sized to carry the additional call volume requirements. Additionally, common or shared groups shall be arranged to provide 9-1-1 calls on a priority basis where economically and technically feasible.

(c) A BESP shall develop and file with the Commission tariffs that establish cost-based rates for basic emergency services. These rates shall be averaged over the entire geographic area it serves. The costs shall include an aggregation of all costs to the BESP of E9-1-1 related facilities

provided to it by all basic local exchange carriers, wireless carriers, resellers, or other telecommunications providers in the geographic area as well as the costs of the E9-1-1 related facilities provided by the BESP itself.

(d) A BESP shall render a single monthly bill for its tariff services provided to the appropriate governing body. The monthly bill shall identify the total number of lines billed to the governing body and shall also separately identify the wireless communications access and wireline access quantities used to compute the monthly bill.

(e) On a quarterly basis, 30 days after the end of each quarter, each LEC shall report to the BESP the local exchange access line quantities and each wireless provider shall report to the BESP the wireless communications quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to the each governing body for the tariff services provided by the BESP. On a quarterly basis, 60-days after the end of each quarter, the BESP shall re-compute the monthly billing to the governing body and shall furnish to the governing body the detailed quantities, by LEC and wireless provider, that will be used in the computation of the subsequent monthly billing by the BESP to the governing body. A BESP shall not be required to interconnect with a LEC or wireless provider for the provision of E9-1-1 related facilities that will not identify to the BESP on a quarterly basis, 30 days after the end of each quarter, the quantities of exchange access lines for the LEC and the wireless communications quantities by geographical area in the manner specified by the BESP.

(f) BESPs shall ensure, to the extent possible and in the most efficient manner, that telecommunication services are available for transmitting 9-1-1 calls from hearing and speech impaired persons to the appropriate PSAP.

(g) A BESP shall ensure that all E9-1-1 facilities, including interconnections between it and the basic local exchange carriers, wireless carriers, and other telecommunications providers are engineered, installed, maintained and monitored in order to provide a minimum of two circuits and a minimum grade of service that has 1 percent (P.01) or less blocking during the busy hour.

(h) To expedite the restoration of service following 9-1-1 failures or outages, each BESP shall designate a telephone number for PSAPs, wireless carriers, LECs, or other telecommunications providers to report trouble. Such telephone number shall be staffed seven days a week, 24 hours a day, by personnel capable of processing calls to initiate immediate corrective action.

(i) A BESP shall keep on file with the Commission its contingency plan and include in its contingency plan designated phone numbers of the LECs, CLECs, resellers, wireless carriers, other telecommunications providers, PSAPs, and governing bodies to expedite the restoration of service as described in rule 2143. These telephones shall be staffed seven days a week, 24 hours a day, by personnel capable of processing calls to initiate immediate corrective action. It shall be the responsibility of the individual LECs, resellers, wireless carriers, other telecommunications providers, PSAPs, and governing bodies to convey this information, and any updates or changes, to the Commission and to the BESP for inclusion in the contingency plan.

(j) BESPs and ALI database providers may request access to line counts and wireless customer counts by geographic area from the LECs, resellers, wireless carriers, and other telecommunications providers who are, pursuant to the request of a governing body, providing 9-1-1 service. Such information allows a BESP and/or ALI database provider to properly bill its

appropriate 9-1-1 services to the governing bodies; however, line counts shall be treated as confidential and not improperly disclosed by the BESP or ALI database provider to any person or entity other than the PSAPs for exclusive use in billing purposes. The BESP or ALI Database Provider shall gain agreement from the PSAPs that, as a condition of receiving this information, the PSAPs shall not disclose confidential access line and wireless customer counts, nor use this information for any purpose other than to verify BESP or ALI database provider billing to the PSAP or to verify the accuracy of the emergency telephone charge billing by the carriers to their end users.

2137. Obligations of ALI Database Providers.

(a) The ALI database provider shall provide sufficient facilities to interconnect its database to the PSAPs to meet the requirements of the PSAPs or the governing body.

(b) If the ALI database provider is not the BESP, it shall provide to BESPs, for the geographic areas served, all information required by the BESPs to ensure that calls are routed from the end users to the correct PSAP.

(c) No BESP, LEC, wireless carrier, or other telecommunications provider shall interconnect with an ALI database provider unless the ALI database provider provides sufficient facilities to interconnect its database to the PSAPs so that it can meet the requirements of the governing body or PSAP and comply with paragraphs 2137(a) and (b) and the relevant provisions of rule 2141 of these rules.

(d) If the ALI database provider is also a BESP, basic local exchange carrier, wireless carrier, or other telecommunications provider, the ALI database provider shall interconnect in the manner prescribed for BESPs in paragraph 2136(b).

2138. Obligations of Basic Local Exchange Carriers.

(a) All basic local exchange carriers in a geographic area for which a governing body has requested the provision of 9-1-1 service shall deliver 9-1-1 calls, at an agreed point of interconnection within that geographic area, to a certificated BESP at rates in an approved tariff applicable to BESPs. If the BESP and the basic local exchange carrier or reseller agree, direct trunks, tandem switched trunks, common or joint circuits may be used to transport calls from the basic local exchange carrier or reseller to the PSAP.

(b) All basic local exchange carriers shall furnish name, address and telephone number information for all customers of the basic local exchange carrier, including non-published or non-listed customers, to the ALI database providers for the provision of 9-1-1 services and emergency notification services. All basic local exchange carriers shall furnish such information within 24 hours and in accordance with rule 2144 only after each recipient has stated formally in writing that the recipient has complied with rule 2142 of these rules. All costs for providing this customer information and updates to this information shall be considered as part of basic local exchange service and shall be recovered through the non-recurring basic local exchange rates, unless provided for in a separate tariff approved by the Commission.

(c) All local exchange carriers and resellers of local exchange services shall collect and remit the emergency telephone charge as required by § 29-11-100.5, C.R.S., et seq., to the appropriate governing body.

(d) The basic local exchange carrier shall ensure that all E9-1-1 facilities and interconnections between it and a BESP are engineered, installed, maintained and monitored to provide a minimum of two circuits and a grade of service that has one percent (P.01) or less blocking.

(e) To expedite the restoration of service following 9-1-1 failures or outages, each basic local exchange carrier shall designate a telephone number that PSAPs or BESPs can use to report trouble. Such telephone number shall be staffed seven days a week, 24 hours a day by personnel capable of processing the call to initiate immediate corrective action.

(f) On a quarterly basis and no later than 30 days after the end of each quarter, each LEC shall report, to the BESP, the local exchange access line quantities by geographical area, in the manner specified by the BESP, so that the BESP may compute the monthly billing to each governing body for the tariff services provided by the BESP.

(g) All basic local exchange carriers shall give formal written notice of intent to provide dial tone within an exchange to the governing body responsible for the PSAP within that exchange prior to activating service. This notice is for purposes of the governing body arranging the appropriate connections to a BESP, exchange of seven days per week, 24 hours per day telephone contact information, and arrangements for the collection and remittance of the 9-1-1 emergency telephone charge.

(h) Interconnections with payphone providers.

(I) A basic local exchange carrier shall not interconnect with a payphone provider unless that provider:

(A) Allows customers to place a 9-1-1 call without requiring a coin deposit or other charges; and

(B) Furnishes the ALI database provider(s), the LEC that provides the dial tone connection, the PSAP, the governing body, and the BESP, the Commission-required name and location information.

(II) The prohibition in this paragraph (g) shall not apply to payphones provided to inmates in penal institutions where access to 9-1-1 is not required.

2139. Obligations of Resellers Of Basic Local Exchange Service.

(a) All resellers of basic local exchange service shall ensure that the underlying basic local exchange carrier has sufficient facilities to transport the 9-1-1 calls from the reseller's customers to a BESP.

(b) If the reseller is using a switch, for example a PBX, to aggregate or switch calls before the calls are in the facilities of a basic local exchange carrier, the reseller shall ensure that its switch is capable of delivering ANI for each telephone extension connected to the switch.

(c) On a quarterly basis, and no later than 30 days after the end of each quarter, each reseller shall report to the BESP the local exchange access line quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to each governing body for the tariff services provided by the BESP.

2140. Obligations of Wireless Providers.

All wireless providers interconnecting to the facilities of the BESP for the provision of Enhanced 9-1-1 services shall on a quarterly basis, 30 days after the end of each quarter, provide a report to the BESP the wireless communications quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to each governing body for the tariff services provided by the BESP.

2141. Obligations of Multi-line Telephone Systems (MLTS).

(a) For purposes of this rule:

(I) "End user" means the person making telephone calls, including 9-1-1 calls, from the MLTS that provides telephone service to the person's place of employment, school, or to the person's permanent or temporary residence.

(II) "Residence" or "residence facility" shall be interpreted broadly to mean single family and multi-family facilities including apartments, townhouses, condominiums, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures.

(III) "Written information" means information provided by electronic mail, facsimile, letter, memorandum, postcard, or other forms of printed communication.

(b) When the method of dialing a local call from an MLTS telephone requires the end user to dial an additional number to access the public switched network, MLTS operators shall provide written information to each of their end users describing the proper method of accessing emergency telephone service (ETS), or 9-1-1, in an emergency.

(I) Such written information shall be provided to each end user by placing stickers or cards including the appropriate method to access ETS on each MLTS telephone. Additionally, such written information shall be provided to each individual end user annually and at the time of hiring in the case of an employer, at the time of registration in the case of a school, and at the time of occupancy in the case of a residence facility.

(II) At a minimum, such written information that is attached to the telephone and provided annually, shall include the following words: "To dial 9-1-1 in an emergency, you must dial #-9-1-1." [# = Insert proper dialing sequence].

(c) When calls to access ETS from an MLTS do not give one distinctive ANI and one distinctive ALI, or both, for each end user, the MLTS operator shall instruct, in writing, that the end user must stay on the telephone and tell the ETS operator the telephone number and exact location.

(I) Such written information shall be provided to each individual end user annually and at the time of hiring in the case of an employer, at the time of registration in the case of a

school, and at the time of occupancy in the case of a residence facility. Whenever possible, such information also shall be placed on cards or stickers on or next to the MLTS telephone.

(II) At a minimum, such written information shall include the following words: "When calling 9-1-1 from this telephone in an emergency, you must stay on the telephone and tell the 9-1-1 operator your phone number and exact location. This telephone does not automatically give the 9-1-1 operator your phone number and exact location. This information is critical for a quick response by police, fire, or ambulance."

(III) If an MLTS operator provides telephones that are not assigned to a particular end user, but that may be used by members of the public, the MLTS operator shall place a sticker or card on or next to the pertinent telephone either identifying the method for dialing 9-1-1 from that telephone or stating there is no 9-1-1 access from that telephone.

(d) Exemption from rules. The disclosure requirements of this rule shall not apply to MLTS provided to inmates in penal institutions, jails, or correctional facilities, to residents of mental health facilities, or to residents of privately contracted community correctional facilities, including substance abuse and mental health treatment facilities, or other such facilities where access to ETS is not required.

2142. Nondisclosure of Name/Number/Address Information.

(a) ALI database providers, governing bodies and PSAPs shall sign non-disclosure agreements consistent with this rule. If an ALI database provider, governing body or PSAP does not execute a non-disclosure agreement, LECs, wireless carriers, other telecommunications providers, and BESPs shall not be required to provide telephone numbers, including non-published and non-listed telephone numbers.

(b) Pursuant to rules 1103, 1104, and 2360 through 2399, no basic local exchange carrier shall disclose personal information of any person to any BESP, ALI database provider, governing body, or PSAP unless each potential recipient of personal information has stated formally in writing to the basic local exchange carrier or reseller of basic local exchange service that it has agreed to non-disclosure of personal information consistent with this rule.

(c) ALI database information shall not be used for purposes other than for responding to requests for 9-1-1 emergency assistance, initiating delivery of emergency warnings using an emergency notification service, or periodic testing of these services. For example, the ALI database includes listed as well as non-listed and non-published telephone numbers. Use of the ALI database to obtain non-listed or non-published numbers for purposes other than responding to requests for 9-1-1 emergency assistance or emergency notification service is prohibited. However, a query, or reverse search of the ALI database, initiated at the PSAP to electronically obtain the ALI data associated with a known telephone for purposes of handling an 9-1-1 emergency call is permitted.

(d) If personal information is improperly disclosed by the BESP, the provider responsible for disclosing it shall pay the applicable tariff rates of the basic local exchange carrier, wireless carrier, reseller, or other telecommunications provider for changing a customer's telephone number, unless the customer declines such number change.

2143. Diverse Routing and Priority Service Restoration.

(a) Facilities for 9-1-1 service shall be diversely routed, using different circuit routes wherever feasible. When the governing body requests diverse routing, the BESP shall develop cost-based tariff rates for diverse routing of 9-1-1 circuits. Basic local exchange carriers shall ensure that current 9-1-1 circuit routing profiles are maintained and that circuits are individually tagged where possible to prevent inadvertent disruption. Upon request by the governing body for priority service restoration, basic local exchange carriers and BESP shall develop and implement cost-based tariff rates for priority service restoration of 9-1-1 services.

(b) BESPs, wireless carriers, basic local exchange carriers, and other telecommunications providers shall work cooperatively with the PSAPs to ensure an effective way of tracking the report of a 9-1-1 failure or outage (e.g., issuance of a trouble ticket number in order to track such a failure or outage).

(c) A BESP shall notify a person, agency, or responsible party designated by the governing body regarding a present or potential 9-1-1 failure or outage. A BESP shall notify the designee of the governing body immediately of the nature, extent, and actions being taken to correct the present or potential 9-1-1 failure or outage to the extent known by the BESP. In the event the PSAP detects a failure in the 9-1-1 system, the PSAP shall immediately notify the BESP in that geographic area of the failure.

(d) 9-1-1 contingency plans.

(I) Basic local exchange carriers, wireless carriers, other telecommunications providers, and BESPs, in cooperation with the governing bodies, shall develop 9-1-1 contingency plans. The plan shall detail the actions to be taken in the event of a 9-1-1 failure or outage. A BESP shall maintain a copy of each of these plans. BESPs are required to provide a copy of the plan to the Commission by April 30 each year. The basic local exchange carriers and BESP shall notify the PSAPs of any changes in the network which may require a change to the previously agreed upon 9-1-1 contingency plan. Nothing in this rule shall preclude the BESP or the basic local exchange carrier from developing and seeking rate recovery for permanent equipment or alternate route solutions to mitigate 9-1-1 failures or outages.

(II) A 9-1-1 contingency plan shall:

(A) Include the designated telephone number of the LEC, CLEC, reseller, wireless carrier, other telecommunications provider, PSAP, or governing body, as required in rule 2136(h);

(B) Arrange to temporarily re-route 9-1-1 calls to another PSAP;

(C) Arrange, with the cooperation of the basic local exchange carrier, wireless carrier, or other telecommunications provider to route 9-1-1 calls to a local telephone number; or

(D) Provide another mutually agreed upon temporary solution so that 9-1-1 calls can be answered until 9-1-1 service is restored.

(e) If a 9-1-1 failure or outage exceeds or is anticipated to exceed 15 minutes from the time a BESP becomes aware of the outage and after notification to the PSAP, the BESP shall implement the contingency plan of rule 2143(d) and shall perform the following actions, if applicable:

(I) Arrange to temporarily re-route 9-1-1 calls to another PSAP;

(II) Arrange, with the cooperation of the basic local exchange carrier, to route 9-1-1 calls to a local telephone number;

(III) Use facilities obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions, such as private network facilities and governmental facilities; or

(IV) Provide other mutually agreed upon temporary solutions so that 9-1-1 calls can be answered until 9-1-1 service is restored.

(f) In the event that the anticipated failure in the provision of 9-1-1 service is in the facilities of the basic local exchange carrier, wireless carrier, or other telecommunications provider, such provider shall notify the BESP that is responsible for delivering 9-1-1 calls to the PSAP for its customers. In the event that the anticipated failure in the provision of 9-1-1 Service is in the facilities of the BESP, it shall be responsible for notification of all basic local exchange carriers, wireless carriers, other telecommunications providers, and PSAPs that will be affected by the failure.

(g) A BESP and the basic local exchange carrier shall have qualified service technicians on site, when necessary, within two hours or their best effort, after being notified by the PSAP of a failure of the 9-1-1 system.

(h) If a 9-1-1 failure or outage exceeds 30 minutes, the responsible BESP or the responsible basic local exchange carrier shall verbally inform the Commission, in compliance with the policies adopted by the Commission to implement this paragraph, within two hours outlining the nature and extent of the outage, and shall file a written report with the Commission following Commission reporting format and guidelines within 30 days of such outage. As an alternative to the 30-day written report, the Director, or the Director's designee, may request, on a case-by-case basis, a separate written report within five days from the time of the request, outlining the nature, cause, extent, and corrective action taken.

2144. Reports.

(a) Each BESP and basic local exchange carrier shall furnish to the Commission at such time and in such form as the Commission may require, a report in which the provider shall specifically answer all questions propounded regarding the implementation, usage, availability, 9-1-1 failures or outages, cost of providing, and such other information relevant to the provision of this service. These reports shall be provided at regular intervals, to be determined by the Commission, and on a form approved by the Commission.

(b) Periodic or special reports concerning any matter about which the Commission is concerned relative to the provision of 9-1-1 services, such as the failure or outages of 9-1-1 services, shall be provided in a manner determined by the Commission, and on a form approved by the Commission.

(c) Each basic local exchange service carrier and BESP shall report to the Commission its progress in the implementation of basic emergency service in each local exchange area of the state. Such report shall be filed with its Annual Report.

2145. 9-1-1 Advisory Task Force.

(a) The Commission shall establish a 9-1-1 Advisory Task Force. The purpose of the Advisory Task Force is to provide oversight of the statewide implementation of basic emergency service. The Advisory Task Force shall include, but is not limited to, the following representative parties directly interested in 9-1-1 services: customer groups, governing bodies, basic local exchange service providers, wireless service providers, providers of basic emergency services, customers of basic emergency service, ALI database providers, and other telecommunications providers. The Commission Staff shall be responsible for administering the Advisory Task Force and facilitating its meetings and agenda. The Advisory Task Force shall evaluate alternate technologies, service, and pricing issues related to implementing statewide 9-1-1 services in a cost effective fashion. The Commission Staff shall provide periodic reports to the Commission on the implementation of 9-1-1 services statewide.

(b) The Advisory Task Force shall:

(I) Make future recommendations and report to the Commission concerning, but not limited to the development of database formatting standards, processes to facilitate the transfer of ALI data, and the implementation of 9-1-1 services in Colorado;

(II) Consider 9-1-1 service quality and the cost of 9-1-1 service to the PSAPs, both urban and rural, and to end-use customers of 9-1-1 service in developing its report and recommendations;

(III) Investigate and report to the Commission the impact of wireless carriers on PSAPs;

(IV) Investigate and report to the Commission the development of new 9-1-1 technologies;

(V) Study and report to the Commission on the overall costing, funding and billing issues of providing 9-1-1 service, including the 9-1-1 surcharge, tariffs, and PSAP equipment costs; and

(VI) Monitor and report to the Commission on FCC proceedings that may affect 9-1-1 services in Colorado.

2146. National Emergency Number Association (NENA) Data Standards.

The NENA standards incorporated by reference as identified in rule 2008 shall be used for the purpose of defining standard formats for ALI data exchange between basic local exchange carriers, ALI database providers, governing bodies, and BESPs.

2147. Applications by the Governing Body for Approval of a 9-1-1 Charge in Excess of Seventy Cents per Month.

(a) A governing body requesting approval pursuant to § 29-11-102(2)(b), C.R.S., for a charge in excess of seventy cents per month shall file an application with this Commission pursuant to 4 CCR 723-2-2002. Included in the application shall be supporting attachments or exhibits of budget information, cost information and such other information the Commission may rely upon for justification of the proposed increase in surcharge. The attached information should include present and proposed surcharge remittance estimates, all other revenue sources and amounts, and any other information such as audit reports that may be used to justify the proposed increase in the 9-1-1 charge above $0.70 per month.

(b) Notice. The governing body filing an application for approval of a 9-1-1 charge in excess of $0.70 per month shall:

(I) Within three days after filing the application, publish one notice of the application in at least one newspaper of general circulation in the area of applicability for at least two weeks.

(II) Ensure that newspaper notice contains:

(A) The name, address and telephone number of the requesting governing body and the Colorado Public Utilities Commission;

B) A statement that the governing body has filed with the Colorado Public Utilities Commission an application to change its currently effective surcharge to a charge in excess of $0.70 per month;

(C) The date the application was filed with the Commission and the assigned docket number;

(D) The proposed effective date of the new charge;

(E) A statement of the purpose of the application, including an explanation of the proposed changes;

(F) A statement that the application is available for inspection at the office of the governing body utility and at the Colorado Public Utilities Commission;

(G) A statement that any person may file with the Commission a written objection to the application, or an intervention to participate as a party, and an explanation that a mere objection without an intervention shall not be adequate to permit participation as a party;

(H) A statement that any person filing a written objection within 60 days of the date the application was filed or a person may file an intervention within 30 days of the date the application was filed; and

(l) A statement that any person may attend the hearing, if any, and may make a statement under oath about the application, even if such person has not filed a written objection or intervention.

(c) All persons other than the Commission who are required to provide notice shall, within 15 days of providing notice, file an affidavit with the Commission stating the date notice was completed, and the method used to provide it. This affidavit shall be accompanied by a copy of the notice or notices provided.

2148. ALI Service.

If any person provides an ALI service to a PSAP or governing body as a separate service or in combination with other components or functionalities of a 9-1-1 service, or if any BESP transitions to or uses an ALI database system or ALI service, including self-provisioning, different from any ALI database system or ALI service used by the BESP in the providing of 9-1-1 services to any PSAP or governing body as of June 1, 2014, then that person or BESP must file an application for and obtain prior authorization from the Commission. The authorization may be subject to terms and conditions as the Commission may prescribe to promote the public interest and will be based upon the following criteria:

(a) accuracy of the ALI database during the provisioning of the ALI service;

(b) reliability of the ALI service, including, without limitation, compliance with the obligations placed upon BESPs in rule 2143;

(c) non-discriminatory, statewide averaged, and affordable pricing of 9-1-1 services;

(d) processes and mechanisms required by service providers for the furnishing and management of the names, addresses, telephone numbers, and other necessary information for all customers for the ALI database;

(e) adequacy of information exchanged with the PSAP or governing body;

(f) adequacy of information exchanged and sufficient testing with other service providers to ensure the accuracy and reliability of the ALI service;

(g) adequacy of the testing of the ALI service, including testing of the delivery of ALI service to each subscribing PSAP; and

(h) any other matter affecting public safety, reliability, pricing, and the public interest.

Commission authorization under this rule is not required for a BESP to continue providing a PSAP or governing body the same ALI service, database, database management service, connectivity, and functionality, and using the same subcontractors as part of an integrated E9-1-1 service as of June 1, 2014, or for the updating of the ALI database in the normal course of business.

2149. – 2159. [Reserved].

Operator Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify and describe operator services that are subject to Commission regulation; to distinguish operator services subject to the Commission's jurisdiction from those not subject to the Commission's jurisdiction; to prescribe the regulatory treatment of jurisdictional services; and to identify alternative forms of regulatory treatment for such services and providers when appropriate.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101; 40-15-112; 40-15-113; 40-15-201; 40-15-301(1) and (2)(g); 40-15-302(1)(a) and (5); 40-15-305; and 40-2-108, C.R.S.

2160. Applicability.

Rules 2160 through 2179 apply to all providers of telecommunications service that are regulated under Title 40, Article 15, Parts 2 and 3, C.R.S. Any provider of local exchange services that also provides non-optional operator services by contracting with a regulated interexchange carrier, that concurs in the tariff rates, charges, terms, and conditions of that carrier, and that notifies the Commission of that concurrence, shall be exempt from these rules.

2161. Definitions.

In addition to the statutory definitions, the following definitions apply only in the context of rules 2160 through 2179:

(a) "Access code" means a sequence of numbers that, when dialed, connects the caller to the provider of operator services associated with that sequence.

(b) "Aggregator" means any person that, in the ordinary course of operations, makes telephones available to the public or to transient users of its premises for telephone calls using a provider of operator services.

(c) "Billed party" means the person who is billed or charged by a provider for a call, regardless of whether such person is the calling party or the called party.

(d) "Call splashing" means the transfer of a telephone call from one provider of operator services to another provider of operator services in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

(e) "Called party" means the person receiving a call.

(f) "Calling card" means a card issued by an operator service provider that allows a customer to place calls using that card. A calling card may be used on either the card-issuer's network or billing system or on the network or billing system of another operator service provider.

(g) "Calling-card call" means a non-optional operator service where a call is placed using a calling card. The call accesses the public switched network by dialing an 800/888, 950, 10XXX, 1010XXX, or another form of access dialing arrangement.

(h) "Calling party" means the person initiating a call.

(i) "Collect call" means a non-optional operator service call in which:

(I) The called party may accept the charges for the call;

(II) The called party is permitted to inquire as to the rates, charges, terms, and conditions prior to accepting the charges for the call;

(III) No charge is levied against either the calling or called party if the called party refuses the charges;

(IV) The provider need not complete the call if the called party refuses to accept the charges; and

(V) The called party is responsible for payment of the charges if the called party affirmatively accepts the charges for the call.

(j) "Credit-card call" means any call that is billed to a credit card and that accesses the public switched network by dialing an 800/888, 950, 10XXX, 1010XXX, or another form of access dialing arrangement.

(k) "Customer" means a person paying for, initiating, or receiving any intrastate telephone call.

(l) "Debit-card call" means a call paid for by the use of a debit card issued to a customer after the customer establishes an account and places a deposit in that account or purchases a card with a predetermined balance. A debit card call is usually completed when the customer dials an access number or code, a personal account identification number (PIN), and the desired destination telephone number. The charge for the call is deducted in real time. A positive account balance may be maintained through additional payments to the account or may be exhausted after the prearranged balance has been fully consumed.

(m) "Direct dialing" means placing a telephone call using station equipment without the assistance or intervention of an operator, live or otherwise. Direct-dialed calls are often termed "dial station-to-station calls".

(n) "Foreign language translation" means an optional operator service used for the translation of one language to another, whether provided by a live operator, or otherwise.

(o) "Operator service provider" means a person that sells operator services without regard to the means of service provision. An operator service provider may sell all operator services as defined herein.

(p) "Payphone" means a telephone installed for public or semipublic use that may accept coins, credit cards, or similar methods of payment. "Payphone" includes, without limitation, both coin-operated and coinless telephones.

(q) "Person-to-person call" means a call, completed with the use of an operator, live or otherwise, where the calling party requests to speak with a specific individual at a specified number. If the called party is unable or unwilling to accept the call, no charges are incurred.

(r) "Presubscribed provider of operator services" means the provider of operator services to which the call is automatically connected when a customer places a call requiring the service of an operator, live or otherwise, without dialing an access code.

(s) "Travel card service" means a method of placing a call using a interexchange service provider that issues the account rather than using the operator service provider at the originating location. The call is usually completed when the customer dials an access number or code, a PIN, and the desired destination telephone number. The customer must have a prearranged account with the service provider. Standard telephone calling cards and commercial credit cards that may be accepted and billed by providers other than the desired interexchange service provider do not qualify as travel cards. Travel cards are also referred to as proprietary calling cards, as they can be used only with the presubscribed provider of the operator service.

2162. Non-optional Operator Services.

(a) Non-optional operator services include, but are not limited to:

(I) Calls placed from payphones that require operator intervention, live or otherwise;

(II) Calls placed from a telephone that does not allow for direct dialing and that requires operator intervention, live or otherwise, to complete what would otherwise have been a direct-dialed call;

(III) Calls placed by individuals who identify themselves as disabled to the extent that they are functionally unable to complete a call (for example, unable to use rotary dial or touch-tone pad) without operator assistance. These calls include those made with telecommunications devices for the deaf;

(IV) Operator-assisted call reconnection for disconnection or poor transmission, and operator-handled credit requests.

(V) Emergency services, including calls made to operators by customers seeking emergency assistance from authorized emergency agencies;

(VI) Credit-card calls;

(VII) Collect local or long distance calls;

(VIII) Local or long distance third-party billed calls;

(IX) Person-to person calls; and

(X) Operator services provided to customers where the use of an operator is required in order to obtain a particular service or in order to complete a call.

(b) The Commission regulates non-optional operator services provided by or through:

(I) Hotels, motels, or other lodging-type entities that resell intrastate toll and wide area telephone services (WATS) to their lodging patrons;

(II) Any entities that resell long distance telephone services to the general public by using the tariff services and facilities of regulated providers; and

(III) Any customer-owned or leased payphone terminal equipment providers that resell local exchange and toll service by using the tariff services and facilities of regulated providers.

2163. Optional Operator Services.

(a) Optional operator services, which are not regulated by the Commission, include, but are not limited to:

(I) Services provided by an operator, live or otherwise, for foreign language translation;

(II) Services provided by an operator, live or otherwise, to connect customers for the purpose of an audio conference or videoconference;

(III) Services provided by an operator, live or otherwise, for voice messaging;

(IV) Services provided by an operator, live or otherwise, for electronic mail placement or retrieval;

(V) Debit card calls;

(VI) Travel-card services;

(VII) Directory assistance; and

(VIII) Calls made by inmates at penal institutions or other correctional facilities who are not permitted to use coins when placing calls at coin operated or coinless telephones or who are required to use an operator's services to complete a call because of the rules or regulations of said institutions or facilities.

(b) Persons or entities that provide non-optional operator services, which are incidental to the primary business of providing optional operator services and are provided at no additional cost to the customer, shall not be subject to the Commission's jurisdiction.

2164. Regulation of Non-optional Operator Services.

(a) The Commission regulates non-optional operator services, the associated rates, and providers of non-optional operator services.

(b) Prior to providing service in Colorado, non-optional operator service providers shall file an application for a LOR, shall receive authorization to provide service, and shall have an effective tariff on file with the Commission.

(c) The default form of regulation for non-optional operator service providers shall be as follows:

(I) No specific customer notice of proposed rate changes is required, provided that the rates, charges, terms and conditions are in compliance with the applicable Commission-approved benchmark rates.

(II) Providers may maintain their books of accounts according to generally accepted accounting principles rather than in accordance with USOA.

(III) The Commission's Cost Allocation Rules shall be waived for operator service providers whose primary telecommunications business is the provision of operator services and/or long distance services. However, the Commission retains authority to order providers of non-optional operator services to submit accounting and cost allocation information as deemed appropriate by the Commission.

(IV) Rules 2463 and 2464 shall be waived if the provider's rate proposal complies with the Commission-approved benchmark rates. However, the Commission retains authority to order providers to submit cost studies complying with these requirements.

(V) All maximum rates, charges, terms, and conditions for non-optional operator services shall be identified in tariffs on file with the Commission. Current rates for non-optional operator services shall be identified in tariffs or price lists on file with the Commission unless the Commission has deregulated a specific non-optional operator service. Rates, charges, terms, and conditions for deregulated or optional operator services shall not be included in tariffs or price lists.

(d) A provider of non-optional operator services may seek an alternative form of regulation or deregulation in accordance with rules 2205 and 2209.

(e) Providers of non-optional operator services shall charge just, reasonable, and non-discriminatory rates.

(f) In the absence of a specific order by the Commission, rates for non-optional operator services shall not exceed the benchmark maximum rates in the table below:

BENCHMARK MAXIMUM RATES FOR NON-OPTIONAL OPERATOR SERVICES		
No.	**Operator Service**	**Rate**
1	Message rate per call	$ .11
	Measured rate per minute:	
2	Day	$ .20
3	Evening/Night/Weekend	$ .11
	Calling Card Station Rates — Customer Dialed:	
4	Automated (Mechanized)	$ .30
5	Operator-assisted	$ .58
6	Calling Card Station Rates — Operator Dialed	$1.13
7	Operator Assistance	$ .75
	Operator Assisted:	
8	Station-to-Station	$1.25
9	Collect	$1.85
10	Billed to Third-party	$1.51
11	Person-to-Person	$3.00
	Busy Line:	
12	Verification	$1.25
13	Interrupt	$2.00
14	[RESERVED FOR FUTURE USE]	
15	Payphone Charge (facilities based providers only)	$ .55

(g) A provider proposing rates above the benchmark rates established in this rule shall be required to prove that such rates are just, reasonable, and non-discriminatory, and shall provide cost studies as required by rules 2463, 2464 and 2465. The Commission may suspend and investigate the proposed rates.

(h) If the Commission approves a rate for a non-optional operator service that is above the applicable benchmark rate, the Commission may, at its discretion, require the provider to:

(I) Disclose to the customer the total charges for the call;

(II) Disclose to the customer that such charges exceed the Commission-approved benchmark rate;

(III) Make such disclosures at no charge to the customer prior to connection; and

(IV) Allow the customer to decline the charges and to disconnect before incurring any charges.

(i) If the Commission finds, after notice and opportunity for hearing, that a non-optional operator service provider has violated an order adopted pursuant to paragraph (h) of this rule, the Commission, in addition to such other enforcement powers as may be authorized by statute, may order regulated providers to block access to the non-optional operator services provider for all intrastate operator-handled calls or order a local exchange provider to disconnect the non-optional operator services provider's service. A regulated telecommunications provider that blocks the access of or disconnects the service of a non-optional operator services provider in compliance with an order of the Commission and incurs attorney fees or costs to defend such action shall be entitled to recover its costs and attorney fees in each such proceeding. At the end of such proceeding the regulated provider shall provide an itemized list of these costs and attorney fees to the Commission. The Commission shall enter an order requiring the non-optional operator services provider whose services were blocked or disconnected to pay to the regulated provider such reasonable amounts as the Commission may determine.

(j) In the event the Commission increases a benchmark rate(s), or makes a change in any term or condition, any provider whose current tariff and/or price list is in compliance with the change(s) on the effective date of the revised benchmark rates will be allowed to have its tariff and price list remain in effect without further filings or proceedings.

(k) In the event the Commission decreases a benchmark rate, or makes a change in any term or condition, and a provider seeks to maintain a rate above the benchmark rate, the provider shall file an advice letter and/or transmittal letter with the Commission within ten days of the order modifying the benchmark rate or change to the term condition unless otherwise directed by the Commission. The advice letter or transmittal letter shall include the rate, term, or condition it seeks to maintain in its tariff and/or price list. Concurrent with the filing of the advice letter and/or transmittal letter, the provider shall submit cost studies complying with paragraph 2164(g) and shall include sufficient information for the Commission to determine that the provider's proposed rate, term, or condition is just, reasonable, and non-discriminatory. If the provider fails to meet this filing requirement, all of the provider's rates in excess of the new Commission-approved benchmark rate shall be deemed invalid without further action by the Commission, and any revenues collected pursuant to such excess rates shall be deemed illegally collected revenue. Upon filing of proposed rates under this rule, if filed within ten days of the effective date of the Commission order modifying the benchmark rate, term, or condition or as otherwise directed by the Commission, the provider's current rates will be allowed to remain in effect, subject to refund pursuant to order of the Commission, until the Commission determines if the provider's proposed rate is just, reasonable, and non-discriminatory. All rates in excess of the benchmark rates that have not been approved by the Commission are subject to refund pursuant to rule 2305.

(l) Each non-optional operator service provider shall include in its tariff, the requirements of rule 2165.

2165. Requirements for Non-Optional Operator Service Providers.

(a) For purposes of subparagraphs (b)(I) through (IX), the customer is the person who will be billed for the call.

(b) Each provider of non-optional operator services shall:

(I) Clearly identify itself to the customer at the beginning of each telephone call and before the customer incurs any charges for the call.

(II) Permit the customer to terminate the call at no charge before the call is connected.

(III) Immediately upon a customer's request and without charge to the customer, disclose:

(A) The rate(s) for the customer's intended call;

(B) The method by which such rate(s) will be billed; and

(C) The process by which informal complaints concerning rates, charges, or billing practices will be resolved.

(IV) Not bill for unanswered telephone calls. If such billing occurs, the charges shall be subject to refund.

(V) Not engage in call splashing unless the customer requests to be transferred to another provider. If a customer requests to be transferred, the provider shall, prior to transferring the customer:

(A) Inform the customer of any lawful charges;

(B) Disclose that the charge to the customer from the subsequent provider may not reflect the customer’s actual originating location; and

(C) Receive the customer’s consent to transfer the call.

(VI) Not bill for a call that does not reflect the location of the call origination except as provided in subparagraph (V) of this paragraph. If the provider charges for a call that does not reflect the location of the call origin, the charge shall be subject to refund.

(VII) Require, by contract or tariff, that each aggregator for which the provider is the presubscribed provider of non-optional operator services is in compliance with the requirements of rules 2166 and 2167.

(VIII) Withhold payment of any compensation the provider pays to an aggregator if the provider reasonably believes that the aggregator is not in compliance with rule 2167.

(IX) Not charge location or premises surcharges on behalf of a call aggregator.

(c) Upon receipt of an emergency telephone call, a non-optional operator service provider shall immediately connect the call to the appropriate emergency service provider and report the location of the emergency, if known. If the location of the emergency is not known, the non-optional operator service provider shall report the originating location of the call to the emergency service provider.

(d) Non-optional operator service providers, including those using automated equipment (e.g., store-and-forward equipment), shall provide the capability for the billed party to accept charges on collect and third-number billed calls. The provider shall not bill a customer for collect or third-number billed charges unless the customer has agreed to accept such charges. If the provider bills for these services without acceptance of charges by the customer, the charges to the customer shall be refunded.

(e) In cases where the non-optional operator service is provided using automated equipment (e.g., store-and-forward equipment) and the provider is technologically incapable of complying with subparagraphs (b)(I) through (III) concerning acceptance of collect or third-party billed calls, the provider shall seek a variance until such compliance may be accomplished.

2166. Arrangements with Call Aggregators.

(a) Operator service providers shall require each call aggregator to display printed documentation plainly on, or in close proximity to, all telephones available for customer use. Failure to provide such documentation shall mean all charges collected by that aggregator may be refunded. The documentation shall include, at a minimum:

(I) The name, address, and toll free telephone number of the operator service provider(s);

(II) A statement that the rates of the operator service provider shall be quoted upon request;

(III) A written disclosure that informs customers that they have a right to obtain access to the carrier of their choice, and that they may contact their preferred carrier for information on accessing that carrier's service using that telephone; and

(IV) Specific instructions to obtain rates or charges for operator-assisted local calls, including any charges per minute and operator surcharges, if applicable.

(b) Operator service providers shall require that aggregators ensure that no charge by the aggregator to the customer for using an 800/888, 950, 10XXX, or 1010XXX access code is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services. Charges in excess of the presubscribed rate shall be refunded to the customer.

2167. Call Blocking Prohibited.

(a) Call blocking occurs when an end user is prevented from accessing the preferred operator service provider through the access codes 800/888, 950, 10XXX, or 1010XXX.

(b) Non-optional operator service providers, call aggregators, and owners of payphones shall not require or participate in the call blocking of any customer's access to the customer's non-optional operator service provider of choice. Violation of this requirement:

(I) May result in a refund of all charges collected;

(II) Is sufficient grounds for revocation of any authority that was granted by the Commission; and

(III) May subject the persons engaging in such activity to penalty under § 40-7-105, C.R.S.

(c) Applicable contracts or tariffs shall be modified so as to effectuate the provisions of subparagraph (b)(I).

2168. Access Codes of Non-Optional Operator Service Providers.

(a) All providers of non-optional operator services, as defined above, shall establish an 800/888, 950, 10XXX, or 1010XXX access code.

2169. Access from Registered Equipment – Access to Common Carriers.

(a) Aggregators who provide payphones shall unblock 10XXX and 1010XXX access.

2170. – 2179. [Reserved].

Designation of Providers of Last Resort and Eligible Telecommunications Carriers

The basis and purpose of these rules is to: establish regulations concerning the designation of providers of last resort (POLRs); establish the obligations that attach to such designation; establish procedures for changing or relinquishing such designation; establish regulations concerning the designation or termination of eligible telecommunications carriers (ETCs); and establish regulations concerning the termination of eligible providers (EPs).

The statutory authority for the promulgation of these rules is found at §§ 40-15-201, 40-15-301, 40-15-502(5) and (6), and 40-2-108, C.R.S. These rules are consistent with 47 U.S.C. 254 and 47 C.F.R., Part 54.

2180. Applicability.

Rules 2180 through 2199 are applicable to all providers:

(a) Designated as a POLR or as an ETC;

(b) Seeking to be designated as a POLR or ETC; or

(c) Seeking to remove a designation as a POLR or as an ETC or EP.

2181. Definitions.

The following definitions apply only in the context of rules 2180 through 2199.

(a) "Geographic area" means a Commission defined geographic unit usually the same as or smaller than an existing provider's serving area.

(b) "Service area" means a geographic area established by the Commission for the purpose of determining federal universal service obligations and support mechanisms.

(I) A service area defines the overall area for which the carrier shall receive support from federal universal service support mechanisms. In the case of a service area served by a rural telephone company, "service area" means such company's "study area", as defined in 47 C.F.R., Part 36, unless and until the FCC and the Commission, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of the Telecommunications Act of 1934, establish a different definition of service area for such company.

(II) If the Commission proposes to define a service area served by a rural telephone company to be other than such company's study area, the FCC will consider that proposed definition in accordance with the procedures set forth in 47 C.F.R. § 54.207(c).

2182. Incorporation by Reference.

References in rules 2180 through 2199 to Parts 36 and 54 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2183. Designation of Providers of Last Resort.

(a) A provider who held a CPCN to offer basic local exchange service in a geographic area on or before July 1, 1996, shall be considered a POLR in those geographic areas.

(b) Upon application by a provider, the Commission:

(I) May, in the case of an area served by a rural telecommunications provider, permit more than one POLR in a geographic area; and

(II) Shall, in the case of all other areas, permit more than one POLR in a geographic area.

(c) The Commission shall, upon request by a person within an unserved geographic area, or upon its own motion, designate a POLR for that unserved geographic area, based upon a determination of the provider best able to provide basic local exchange service to the area.

2184. Application for Designation as an Additional Provider of Last Resort.

(a) A provider seeking designation as an additional POLR shall file an application with the Commission requesting designation as such for a specific geographic area.

(b) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b).

(II) The decision number(s) of the Commission authorizing the applicant to provide basic local exchange service.

(III) A description of the geographic area for which applicant seeks designation as a POLR. If a designation for a specific geographic area, rather than a statewide designation, is sought, the application shall include a description of such geographic area by metes and bounds and a map displaying the service area.

(IV) An affirmative statement that the applicant will accept the responsibilities identified in rule 2185.

(V) The facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it has the managerial, financial, and technical ability to provide basic local exchange service throughout that relevant geographic area notwithstanding whether there are other providers in that area.

(VI) The facts (not in the form of conclusory statements) relied upon by the applicant to establish that the POLR designation for that geographic area serves the public interest by demonstrating that such designation is consistent with the legislative statements of intent in §§ 40-15-101, 40-15-501, and 40-15-502(7), C.R.S.

(VII) A statement that the applicant understands that the filing of the application does not constitute, by itself, designation as a POLR.

(VIII) A statement that, if a designation is granted, applicant understands that such designation is conditional upon compliance with applicable Commission rules and any conditions established by Commission order.

2185. Obligations of Providers of Last Resort.

(a) A POLR shall offer basic local exchange service to every customer who requests such service within a designated geographic area, regardless of the availability of facilities, unless said customer has an outstanding balance owing to the POLR and no agreement for repayment has been established;

(b) A POLR shall be subject to the evolving definition of basic service developed by the Commission pursuant to § 40-15-502(2); and

(c) A POLR shall advertise the availability of such service and charges using media of general distribution. At a minimum, a POLR shall have customer guide pages in the "White Pages" directory within the POLR's geographic area. Such customer guide pages shall indicate that the provider will offer basic local exchange service to all who request such service within that area.

2186. Relinquishment of Designation as a Provider of Last Resort.

(a) Providers seeking to relinquish designation as a POLR in geographic areas in which there are multiple POLRs or in an area designated as an ECA, shall file an application with the Commission, at least 45 days before the effective date of the proposed relinquishment.

(b) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b).

(II) A detailed explanation of the proposed relinquishment.

(III) An explanation as to how the customers currently served by the applicant will continue to be served.

(IV) A plan for transition of customers to another provider, if the POLR proposes to discontinue the provision of basic local exchange service. Except in an ECA, the transition plan shall include sufficient notice to permit the purchase or construction of adequate facilities by a remaining POLR or other provider.

(c) If the POLR proposes to discontinue the provision of basic local exchange service, the Commission, except in an ECA shall establish a time, not to exceed one year after the approval of the discontinuance, within which such purchase or construction of adequate facilities by a remaining POLR or other provider shall be completed.

(d) During the transition period, the POLR shall ensure that customers do not experience a break in service as a result of the POLR discontinuing service.

(e) Notice to customers. In addition to filing an application with the Commission, the POLR shall prepare a written notice regarding the proposed relinquishment and shall mail or hand-deliver the notice at least 30 days before the effective date to all currently served customers or subscribers, including all interconnecting telecommunications providers. The POLR shall separately provide notice to all potentially affected customers through publication for four consecutive weeks in a publication or publications that are distributed in the affected certificated area. A notice shall be mailed to the Board of County Commissioners of each affected county, and to the Mayor of each affected city, town or municipality.

(I) In addition to the requirements of paragraph 2002(d), the notice shall:

(A) State that any affected person may obtain lists of alternative telecommunications providers from the Commission;

(B) Explain that basic local telephone service will continue to be available regardless of the outcome of the Commission's determination on the application; and that if the Commission grants the application, another carrier will be available to offer service;

(C) Be signed by an authorized officer of the provider or its representative; and

(D) Include said officer or representative's title and address.

(II) Proof of notice. At least 15 days before the date of the proposed relinquishment, the POLR shall file with the Commission a written affidavit stating its compliance with this paragraph. The affidavit shall state the date notice was completed and the method used to give notice. A copy of the notice shall accompany the affidavit.

(f) No hearing needs to be held if no objection, protest, or intervention is filed. If a hearing is to be held on an application, the Commission shall endeavor, within its operating constraints, to hold the hearing, or a portion thereof, at a location within the local calling area of the affected community.

(g) No proposed relinquishment shall be effective until the Commission issues an order approving it.

2187. Eligible Telecommunications Carrier Designation.

(a) The Commission shall, upon application, designate a common carrier that meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202 and paragraph 2187(b) as an ETC for a service area designated by the Commission.

(b) Upon request and consistent with the public interest, convenience, and necessity, the Commission may, in the case of an area served by a rural telecommunications provider, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by the Commission, so long as each additional requesting carrier meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202. Before designating an additional ETC for an area served by a rural telecommunications provider, the Commission shall find that the designation is in the public interest.

(c) Pursuant to Subpart E of 47 C.F.R., Part 54, as of January 1, 1998 all ETCs shall make available Lifeline service, as defined in § 54.401, to qualifying low-income customers.

(d) Contents. The application for designation as an ETC shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b).

(II) A statement identifying the decision(s) of the Commission and/or the FCC authorizing the applicant to provide telecommunications service.

(III) A description of the service area for which the applicant seeks designation as an ETC. The application shall include either a description of such service area by metes and bounds or the underlying carrier's exchange area map displaying the applicant's service area.

(IV) The facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202.

(V) An affirmative statement that the applicant will offer the services that are supported by the federal universal service support mechanisms under 47 U.S.C. § 254(c).

(VI) An affirmative statement that the applicant is a common carrier.

(VII) An affirmative statement that the applicant (ETC) will advertise the availability of such service and charges using media of general distribution pursuant to 47 U.S.C. § 214(e)(1)(B) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996. To meet the requirements of 47 U.S.C. § 214(e)(1)(B), the Commission establishes as guidelines that an ETC shall advertise in media of general distribution and shall place customer guide pages in the "White Pages" directory within the ETC's service area. Such customer guide pages shall indicate that the ETC offers the supported services identified by federal law within its ETC service area to all who request such service within that area.

(VIII) An affirmative statement that the applicant will make available Lifeline service, as defined in 47 C.F.R. § 54.401, to qualifying low-income customers.

(IX) An affirmative statement that the applicant is in compliance with the Commission's rules.

(X) A demonstration of the applicant's ability to remain functional in emergency situations.

(XI) A demonstration that the applicant will satisfy consumer protection and service quality standards.

(XII) An affirmative statement that the applicant will offer local usage plans comparable to those offered by the incumbent local exchange carrier (LEC). A local usage plan offered must include:

(A) Unlimited calling or a plan with not less than 900 minutes of use per month;

(B) A month-to-month term; and

(C) A rate comparable to the underlying LEC's basic residential local exchange rate.

(XIII) A two-year build-out plan demonstrating how high-cost universal service support will be used to improve the applicant's coverage, service quality or capacity in every wire center for which it seeks designation and expects to receive universal service support. If a wire center is not part of the build-out plan and the applicant does not have existing facilities in the service area, a detailed explanation of how the applicant will provide service to a requesting customer in the service area for which it is seeking designation.

(e) State certification for federal support. As required by the FCC's universal service regulations found at 47 C.F.R. §§ 54.313 and 54.314, and when appropriate, the Commission shall file an annual certification with the Administrator of the federal Universal Service Fund (USF) and the FCC on behalf of each jurisdictional ETC serving access lines in the state, stating that all federal high-cost support provided to such carriers within that state will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission may require a carrier to provide the information it finds necessary and convenient to make such a certification. At a minimum, carriers shall furnish requested information on a form supplied by the Commission as part of the carrier's annual report.

(f) Annual Reporting Requirements for Eligible Telecommunication Carriers.

(I) In order for an Eligible Telecommunication Carrier (ETC) previously designated by the Commission, or previously designated by the Federal Communications Commission (FCC), to be certified to receive federal support for the following calendar year, or to retain its ETC designation, it shall submit the reporting information specified below no later than August 15th of each calendar year to the Commission. ETCs failing to meet these annual report filing requirements and deadlines may not be certified by the Commission to the FCC and the Universal Service Administrative Company (USAC) as eligible to receive federal support for the following calendar year.

(II) Every ETC shall submit the following information in its report:

(A) The number of requests for service from potential customers within the ETC's service areas that were unfulfilled during the past year and a written explanation detailing how the ETC attempted to provide service to those potential customers, as set forth in 47 C.F.R. § 54.202(a)(1)(i).

(B) The number of complaints per 1,000 access lines or handsets.

(C) Detailed information on any outage lasting at least 30 minutes for any facilities that an ETC owns, operates, leases, or otherwise utilizes that potentially affects at least ten percent of the end users in a service area, or that could affect access to 9-1-1. An outage is defined as a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network. The ETC must report the following information regarding each outage: date and time of outage; description of the outage and resolution; specific service(s) affected; specific geographic area(s) affected; steps taken to prevent it from happening again; and number of customers affected by the outage.

(D) Certification that the ETC is complying with the applicable service quality standards and consumer protection rules, e.g., the CTIA Consumer Code for Wireless Service.

(E) Certification that the ETC is able to function in emergency situations as set forth in 47 C.F.R. § 54.202(a)(2).

(F) Certification that the ETC acknowledges the FCC may require it to provide customers with equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

(G) The total amount of all federal high cost support received in the previous calendar year and year-to-date through June 30 for the current calendar year.

(H) For the previous two calendar years, a detailed schedule/exhibit showing the actual dollar amounts expended by the carrier in the provision, maintenance, upgrading, plant additions and associated infrastructure costs for local exchange service within the service areas in Colorado where the carrier has been designated an ETC. An explanation regarding any network improvement targets that have not been fulfilled. This information shall be submitted at the wire center level or at the authorized service area. If service improvements in a particular wire center are not needed, an explanation of why improvement is not needed and how funding will otherwise be used to further the provision of supported services in that area.

(I) Documentation the carrier offers and advertises the rate and availability of Basic Universal Service offerings, Lifeline, and Linkup programs throughout the service areas in Colorado where the carrier has been designated an ETC. Copies of written material used in newspaper advertisements, press releases, posters, flyers and outreach efforts and a log of when and where these materials were distributed. For newspaper advertisements, dated copies of the published newspaper advertisements may serve as copies of written material. For radio station advertising, a confirmation from broadcasters of when the public service announcement was aired.

(J) Documentation that a competitive ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas.

(K) A map of the service areas where the carrier has ETC designation showing the locations of facilities or for wireless providers, maps showing the location of all cellular towers and the coverage area of these towers. Maps shall be submitted in 2007 and at least once every three years thereafter.

(L) Through June 30 of the current calendar year, a detailed schedule/exhibit showing the actual dollar amounts expended by the carrier in the provision, maintenance, upgrading, plant additions and associated infrastructure costs for any local exchange service within the service areas in Colorado where the carrier has been designated an ETC. This shall include the carrier's build-out plans and budgets for projects, upgrades or installations planned but not yet completed during the current calendar year applicable to local exchange service. This information shall be submitted at the wire center level or at the authorized service area.

(M) A copy of cost study filing made on July 31st to NECA for current year. If an ETC is not required to file cost study to NECA, then a copy of the line count filing made to the FCC and USAC Administrator shall be submitted.

(N) A copy of the company's Colorado-specific trial balance for previous year.

(O) An affidavit attesting to the fact that the information reported on the annual report and information submitted under this rule is true and correct. The affidavit must also state that the ETC is aware of the purpose of the support for the federal high-cost support and it is complying with the requirement set forth by the FCC in 47 U.S.C. § 254(e). An officer, director, partner, or owner of the company must sign the affidavit.

(P) If a review of the data submitted by an ETC indicates that the ETC is no longer in compliance with the Commission's criteria for ETC designation, the Commission may refrain from certifying the carrier to the FCC or revoke the carrier's designation as an ETC. In addition, ETCs must submit their reports on a timely basis.

2188. Relinquishment and Cancellation of EP or ETC Designation.

(a) Application to be filed with the Commission. When there are multiple EPs or ETCs in a service area, providers seeking to relinquish designation as an EP or ETC shall file an application with the Commission, at least 45 days before the effective date of the proposed relinquishment. In addition, if the applicant seeks to discontinue service, the requirements of rule 2108 must also be met.

(b) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b); and

(II) A complete explanation of the proposed relinquishment.

(c) The Commission shall establish a time, not to exceed one year after the approval of the relinquishment, within which such purchase or construction of adequate facilities by a remaining EP or ETC or other provider shall be completed.

(d) Notice to customers. In addition to filing an application with the Commission, the EP or ETC shall prepare a written notice regarding the proposed relinquishment and shall mail or deliver the notice at least 30 days before the effective date to all currently served customers or subscribers, including all interconnecting telecommunications providers. The EP or ETC shall separately provide notice all potentially affected customers through publication once each week for four consecutive weeks in a publication or publications of general circulation in the affected designated area. A notice shall be mailed to the Board of County Commissioners of each affected county, and to the Mayor of each affected city, town, or municipality.

(I) The notice shall, in addition to the requirements of paragraph 2002(d):

(A) Explain that basic local telephone service will continue to be available regardless of the outcome of the Commission's determination on the application;

(B) Be signed by an authorized agent or officer of the provider; and

(C) Include said agent or officer's title and address.

(II) Proof of public notice. Within 15 days before the date of the proposed relinquishment, the EP or ETC shall file with the Commission a written affidavit stating its compliance with this paragraph. The affidavit shall state the date notice was completed and the method used to give notice. A copy of the notice shall accompany the affidavit.

(e) No hearing needs to be held if no objection, protest, or intervention is filed. If a hearing is to be held on an application, the Commission shall endeavor, within its operating constraints, to hold the hearing, or a portion thereof, at a location within the local calling area of the affected community.

(f) No proposed relinquishment shall be effective until the Commission issues an order approving it.

(g) The Commission shall permit an EP or ETC to relinquish its designation as an EP or ETC in any area served by more than one EP or ETC when the Commission concludes that the requirements of paragraphs (a) through (d) have been met.

(h) Within one year of the effective date of the Commission's decision approving an application for ETC/EP designation, the ETC/EP shall offer the supported services. If the ETC/EP does not offer the supported services within one year, its ETC/EP designation shall be cancelled and deemed null and void.

2189. Combined Applications.

Applicants may file to be designated as a POLR, to be designated as an ETC, and/or to be designated as an EP (pursuant to rule 2847) in a combined application. Applicants may file to relinquish designation as a POLR, to relinquish designation as an eligible provider, and to relinquish designation as an ETC in a combined application pursuant to rule 2188. In a combined application, the applicant shall follow the application process and shall provide all information required for each separate component of the combined application.

2190. Disaggregation and Targeting of Support by Rural ILECs.

A rural ILEC that selects a disaggregation path pursuant to FCC regulations found at 47 C.F.R. § 54.315 shall file its disaggregation path selection with the Commission as required by paragraphs (a), (b), or (c). In study areas in which a CLEC has been designated as a competitive ETC prior to the effective date of the FCC's rule found at 47 C.F.R. § 54.315, the rural ILEC may only disaggregate support pursuant to paragraph (a) or (b), or subparagraph (c)(I)(C).

(a) Path 1: Rural ILECs not disaggregating and targeting federal High-Cost support:

(I) A rural ILEC's election of this path becomes effective upon filing by the rural ILEC with the Commission.

(II) This path shall remain in place for such rural ILEC for at least four years from the date of filing with the Commission except as provided in subparagraph (III) of this paragraph.

(III) The Commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural ILEC, the disaggregation and targeting of support under paragraph (b) or (c).

(b) Path 2: Rural ILECs seeking prior regulatory approval for the disaggregation and targeting of support. The application shall include the information required by paragraph 2002(b) in addition to the requirements of this paragraph.

(I) A rural ILEC electing to disaggregate and target support under this subsection must file a disaggregation and targeting plan with the Commission.

(II) Under this subsection a rural ILEC may propose any method of disaggregation and targeting of support consistent with the general requirements detailed in 47 C.F.R. § 54.315(e).

(III) A disaggregation and targeting plan under this paragraph becomes effective upon approval by the Commission.

(IV) A rural ILEC shall disaggregate and target support under this path for at least four years from the date of approval by the Commission except as provided in subparagraph (V) of this paragraph.

(V) The Commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural ILEC, the disaggregation and targeting of support in a different manner.

(VI) Requests for disaggregation under Path 2 shall be filed as an application. Such applications shall be served by the applicant upon all providers that have obtained either ETC or EP status in the rural ILEC's study area at the same time they are filed with the Commission.

(c) Path 3: Self-certification of the disaggregation and targeting of support.

(I) A rural ILEC may file a disaggregation and targeting plan with the Commission along with a statement certifying each of the following:

(A) It has disaggregated support to the wire center level;

(B) It has disaggregated support into no more than two cost zones per wire center; or

(C) That the rural ILEC's disaggregation plan complies with a prior regulatory determination made by the Commission.

(II) Any disaggregation plan submitted pursuant to this paragraph must meet the following requirements:

(A) The plan must be supported by a description of the rationale used, including the methods and data relied upon to develop the disaggregation zones, and a discussion of how the plan complies with the requirements of this paragraph.

Such filing must provide information sufficient for interested parties to make a meaningful analysis of how the rural ILEC derived its disaggregation plan.

(B) The plan must be reasonably related to the cost of providing service for each disaggregation zone within each disaggregated category of support.

(C) The plan must clearly specify the per-line level of support for each category of high-cost universal service support in each disaggregation zone provided pursuant to 47 C.F.R. §§ 54.301, 54.303, 54.305, and/or Subpart F of Part 36 of 47 C.F.R.

(D) If the plan uses a benchmark, the rural ILEC must provide detailed information explaining what the benchmark is and how it was determined. The benchmark must be generally consistent with how the total study area level of support for each category of costs is derived to enable a competitive ETC to compare the disaggregated costs used to determine support for each cost zone.

(III) A rural ILEC's election of this path becomes effective upon filing by the rural ILEC to the Commission.

(IV) A rural ILEC shall disaggregate and target support under this path for at least four years from the date of filing with Commission except as provided in subparagraph (V) of this paragraph.

(V) On its own motion, upon petition by an interested party, or upon petition by the rural ILEC, the Commission may modify the disaggregation and targeting of support selected under this path.

(d) Carriers failing to select a disaggregation path, as described in paragraphs (a), (b), or (c) of this rule, by the deadline specified in 47 C.F.R. § 54.315, will not be permitted to disaggregate and target federal high-cost support unless ordered to do so by the Commission.

2191. Uses of Disaggregation Paths.

(a) The Commission shall use the disaggregation plans of each rural ILEC established pursuant to rule 2190 not only for disaggregation of Colorado HCSM support, but also for the disaggregation of the study area of the rural ILEC pursuant to 47 C.F.R. 54.207 into smaller discrete service areas.

(b) Filing of petition. Where necessary, the Commission shall submit a petition to the FCC seeking the agreement of the FCC in redefining the service area of each rural ILEC as follows:

(I) Path 1: For rural ILECs not disaggregating and targeting support, no FCC filing is required;

(II) Path 2: For rural ILECs seeking prior regulatory approval for the disaggregation and targeting of support, the Commission shall submit a petition to the FCC within 60 days following the issuance of the Commission's final order in the provider's Path 2 disaggregation proceeding; or

(III) Path 3: For rural ILECs self-certifying disaggregation and targeting of support, the Commission shall submit a petition to the FCC within 60 days following the rural ILEC's filing of election of this Path with the Commission.

2192. – 2199. [Reserved].

Default, Alternative, and Simplified Forms of Regulation; Refraining from Regulation; and Reclassification of Parts II and III Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify default forms of regulation for services subject to the jurisdiction of the Commission and to establish procedures and standards concerning: alternative forms of regulation; simplified regulatory treatment for rural telecommunications providers; refraining from regulation for competitive purposes; reclassifying a regulated telecommunication service as an emerging competitive service; and deregulation of emerging competitive services.

The statutory authority for the promulgation of these rules is found at §§ 40-15-101, 40-15-203, 40-15-203.5, 40-15-207, 40-15-301, 40-15-302, 40-15-305, 40-15-501, 40-15-502, 40-15-503, and 40-2-108, C.R.S.

2200. Applicability.

Rules 2200 through 2299 are applicable to all providers of services pursuant to § 40-15-201, C.R.S., (Part II) or pursuant to § 40-15-301, C.R.S., (Part III or emerging competitive services); except that rule 2202 is only applicable to ILECs, rule 2203 is only applicable to CLECs, and Part III providers, rule 2206 is only applicable to rural ILECs, rule 2210 is only applicable to intraLATA interexchange telecommunications providers, and rule 2211 is only applicable to interLATA interexchange telecommunications providers Nothing in rules 2200 through 2299, except rules 2210, and 2211, shall limit the Commission's authority to investigate the rates and charges assessed by providers.

2201. Definitions.

The following definitions apply only in the context of rules 2200 through 2299.

(a) "Alternative forms of regulation" means those forms of regulation other than the default form of regulation, which may include any combination of the following elements: rate-of-return regulation, modified Tariff requirements, alternative reporting requirements, price bands, benchmark rates, detariffing, or any other such elements of alternative regulation as provided in § 40-15-302(1), C.R.S., that are consistent with the General Assembly's expression of intent stated in § 40-15-101, C.R.S.

(b) "Applicant" means any provider who files an application with the Commission pursuant to rule 2205.

(c) "Benchmark-rate" means an element of alternative regulation, as established by the Commission, with an established price ceiling for a service.

(d) "Cost support" means data, information, methods, and analyses conducted in accordance with the rules 2400 through 2499, as applicable.

(e) "Detariffing" means offering a service to the public without using a Tariff to administer rates, charges, terms, and conditions. Detariffing is available as an element of alternative regulation.

(f) "Price band" means a range of rates defined by a Commission-established price floor (the lower boundary) a Commission-established price ceiling (the upper boundary) and within which a provider of basic local exchange or emerging competitive telecommunications service may set a specific price for a service. Price bands are available as an element of alternative regulation.

(g) "Private telecommunications network" means "private telecommunications network", as that term is defined by § 40-15-102(23), C.R.S.

(h) "Reference provider" means any ILEC that has secured Commission approval for an alternative form of regulation under §§ 40-15-201(2) and 40-15-503, C.R.S.

(i) "Rural ILEC" means "rural telecommunications provider", as that term is used in § 40-15-203.5, C.R.S.

2202. Default Form of Regulation for ILECs.

(a) This rule applies to all ILECs.

(b) Part II services. Each ILEC shall be regulated using a rate-of-return form of regulation for its Part II services, except call delivery to a Basic Emergency Service Provider (BESP), in the absence of another Commission-approved alternative form of regulation.

(c) Part III services. Each ILEC shall be regulated using rate-of-return regulation for its emerging competitive services, except non-optional operator services, in the absence of a Commission-approved alternative form of regulation.

(d) The Commission shall regulate the terms and conditions, including rates and charges, under which Part III services are offered and provided to customers exclusively in accordance with the provisions of §§ 40-4-101(1), 40-4-111, 40-4-112, 40-5-105, 40-15-302, 40-15-303, 40-15-306, and 40-15-307.

(e) Prices for residential basic local exchange service. Consistent with § 40-15-502(3)(b)(I) and except as otherwise provided by law, prices for residential basic local exchange service, including zone charges, if any, shall not rise above the levels in effect on May 24, 1995, for comparable services regardless of the form of regulation of the ILEC, except for prices and price levels as determined by the Commission pursuant to § 40-15-301, C.R.S, et seq., or § 40-15-502, C.R.S.

(f) Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, ILECs' access charges:

(I) Shall be cost-based, as determined by the Commission;

(II) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987; and

(III) Each ILEC's switched access charges by rate element shall be capped at that ILEC's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate changes pursuant to federal requirements.

(g) Customer-specific contracts and notice.

(I) The Commission may permit an ILEC to provide a customer with regulated services, under contract, irrespective of any Tariff or Price List requirements.

(II) A notice of contract shall be filed with the Commission under seal within 14-days of the date the contract is executed. The notice shall: disclose any early termination penalty to the customer; confirm that the contract is a non-discriminatory offering; confirm that the charges exceed the company's cost; and confirm that the contract contains a provision acknowledging that it is subject to regulatory review.

(III) The contract shall be subject to Commission review to determine if:

(A) The negotiated contract is nondiscriminatory;

(B) The contract terms are not inconsistent with the public interest; and

(C) The contract terms are not inconsistent with applicable Commission rules.

(IV) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the applicant shall bear the burden of proof with respect to the contract. If the Commission does not set the contract for hearing, the contract is effective according to its terms.

2203. Default Forms of Regulation for CLECs.

(a) Requirements of all CLECs.

(I) Prices for residential basic local exchange service. Consistent with § 40-15-502(3)(b)(I) and except as otherwise provided by law, prices for residential basic local exchange service, including zone charges, if any, shall not rise above the levels in effect on May 24, 1995, for comparable services regardless of the form of regulation of the provider, except for prices and price levels as determined by the Commission pursuant to § 40-15-301, C.R.S., et seq., or § 40-15-502, C.R.S.

(II) Switched access prices. Consistent with § 40-15-105(1), C.R.S., and except as otherwise provided by law, providers' access charges:

(A) Shall be cost-based, as determined by the Commission;

(B) Shall not exceed the average price by rate element and type of access in effect on July 1, 1987; and

(C) Each CLEC's switched access charges by rate element shall be capped at that CLEC's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate changes pursuant to federal requirements.

(III) To enable the Commission to track the progress of competition and to monitor the delivery of basic, premium and advanced services to all areas of the state, it is in the public interest for CLECs to provide the Commission with information in annual reports and/or other special reports, pursuant to rule 2006.

(b) A CLEC may elect to opt into one of two forms of default regulation in their entirety. A new CLEC shall designate at the time of application for a CPCN and/or LOR under which form of default regulation it requests to be regulated or apply for an alternative form of regulation pursuant to rule 2205. An existing CLEC certified at the effective date of this rule shall notify the Commission by letter addressed to the Director of the Commission if they wish to change to the Option Two form of default regulation. If an existing carrier desires to be regulated under an alternative form of regulation, this must still be accomplished by application pursuant to rule 2205.

(c) Default Form of Regulation: Option One.

(I) This default form of regulation shall apply to all jurisdictional products and services offered by a CLEC provider, with the exception of the rates, terms and conditions for 9-1-1 call delivery to a BESP. Each CLEC shall establish rates, terms and conditions governing 9-1-1 call delivery to a BESP, as directed in rule 2138.

(II) Pursuant to rule 2122, each CLEC shall file an initial Tariff that contains the rates, terms and conditions governing its Part II and Part III services and products.

(III) Tariff changes. For products and services subject to this default form of regulation, changes to the Tariff may be made upon 14-days notice to the Commission. Additional notice to customers shall not be required unless ordered by the Commission. If the Commission does not suspend the effective date of the proposed Tariff change, the Tariff change shall become effective according to its terms.

(IV) Customer-specific contracts and notice.

(A) The Commission may permit a provider to provide a customer with regulated services, under contract, irrespective of any Tariff or Price List requirements.

(B) A notice of contract shall be filed with the Commission under seal within 14-days of the date the contract is executed. The notice shall: disclose any early termination penalty to the customer; confirm that the contract is a non-discriminatory offering; confirm that the charges exceed the company's cost; and confirm that the contract contains a provision acknowledging that it is subject to regulatory review.

(C) The contract shall be subject to Commission review to determine if:

(i) The negotiated contract is nondiscriminatory;

(ii) The contract terms are not inconsistent with the public interest; and

(iii) The contract terms are not inconsistent with applicable Commission rules.

(D) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the applicant shall bear the burden of proof with respect to the contract. If the Commission does not set the contract for hearing, the contract is effective according to its terms.

(d) Default Form of Regulation: Option Two.

Option Two default form of regulation recognizes that the Commission found in Docket No. 04A-411T that sufficient competition exists to warrant a reduction in the regulatory oversight of certain products and services.

(I) Customer specific contracts. Customer specific contracts may be negotiated and entered into without notice or filing to the Commission. CLECs shall maintain a log of such contracts and give Staff and the OCC reasonable access to the contracts upon request.

(II) There shall be minimal Commission oversight of certain telecommunications products and services under Market Regulation. Market Regulation includes:

(A) Detariffing;

(B) The ability to geographically deaverage prices;

(C) The ability to withdraw or cease offering a product or service to new customers without initial Commission review or approval; and

(D) The ability to make changes in rates, terms and conditions for services and products without any initial Commission review or approval.

(III) Customer specific notice. CLECs shall provide 14-days notice to customers of price increases and price-affecting changes in terms and conditions using customer-specific mechanisms such as direct letter contact, postcards, bill inserts and/or bill messages. CLECs are neither required nor prohibited from providing customer specific notices of price decreases.

(IV) Commission notice. CLECs shall provide the Supervisor of the Consumer Affairs section of the Commission with an e-mailed copy of all customer specific notices, including promotional material, at the same time the customers receive those notices. In addition, CLECs shall e-mail a one-day notice of all changes to rates, terms and conditions for all services subject to Market Regulation to a designated Staff person in the Fixed Utilities Section of the Commission.

(V) CLECs are required to post on their website the rates, terms and conditions associated with the services under Market Regulation in a timely and easily accessible manner and update such information regularly. CLECs shall maintain an archive of the website postings for a period of not less than two years from the time the rates, terms or conditions for that service are rescinded or changed. This archive data must be available to the Commission upon request.

(VI) The services subject to Market Regulation are:

(A) Additional residential access lines located within the following exchange wire centers the Denver Metro Exchange: Aberdeen, Arvada, Aurora Main, Capitol Hill, Columbine, Curtis Park, Denver International Airport, Dry Creek, Denver East, Denver Main, Denver North, Denver Northeast, Denver South, Denver Southeast, Denver Southwest, Denver West, Englewood, Golden, Highland Ranch, Lakewood, Littleton, Monaghan, Montbello, Smoky Hill, Sullivan and Westminster; the Boulder Exchange: Boulder Main, Table Mesa and Gun Barrel; the Longmont Exchange: Longmont and Niwot; the Lafayette/Louisville Exchange: Cottonwood; the Broomfield Exchange: Broomfield and Northglenn; Erie; and Parker and the Colorado Springs exchange: Air Force Academy, Colorado Springs East, Colorado Springs Main, Gatehouse, Fountain, Monument, Pikeview, Security and Stratmoor (known as the zones of competition).

(B) Residential features and services except for the public interest features and services described in Modified Existing Regulation;

(C) Six and above flat-rated, message or measured business access lines;

(D) Advanced features or services provided on business lines as defined in § 40-15-102(2) including hunting on six and above flat-rated, message or measured business access lines except public interest features and services;

(E) All other business services except for one to five flat-rated, message or measured business access lines and hunting on those lines;

(F) Premium services as defined by § 40-15-102(21), C.R.S., other than non-listed and non-published services;

(G) All packages and bundles (which include any combination of access lines and/or features or services subject to Commission jurisdiction) with a price cap.

(i) Prices for packages and bundles shall not exceed the sum of the highest prices of the a la carte components of the package.

(H) Non-optional operator services except busy line verify and busy line interrupt. The Commission approved statewide benchmark rate applies to all non-optional operator services, as required by § 40-25-302(5) C.R.S.

(VII) Modified existing regulation. Products and services regulated under Modified existing regulation shall have the same tariffing and notice requirements as those under Option One default regulation.

(VIII) The services subject to Modified existing regulation are:

(A) Residential primary access lines;

(B) Additional residential access lines in area other than the zones of competition identified above;

(C) Public interest features and services on residential and business access lines defined as per call and per line blocking; call trace; busy line verification; busy line interrupt; non-listed service; and non-published service;

(D) One to five flat-rated, message or measured business access lines and hunting on those lines;

(E) Payphone service offerings;

(F) Line extensions; and

(G) 9-1-1, E9-1-1 and N-1-1 services.

2204. General Requirements.

(a) This rule is applicable to any provider subject to an alternative form of regulation, including the simplified regulatory treatment of rural ILECs.

(b) If a provider is granted Commission approval for an alternative form of regulation for its Part III emerging competitive services, the Commission shall not consider the provider's overall rate-of-return or overall revenue requirements when determining the just and reasonable rate for a particular product or service.

(c) Accounting plan. The Commission may require a provider subject to an alternative form of regulation to file an accounting plan that segregates assets, liabilities, revenues, and expenses between services. In the event the Commission orders an applicant to file an accounting plan, the applicant shall not offer the service prior to Commission's approval of the accounting plan and shall modify its cost separation manual to conform to such an accounting plan.

(d) If the provider is required by the Commission to file an accounting plan, the provider shall bear the burden of proving that the accounting plan submitted is sufficient to segregate assets, liabilities, revenues, and expenses, which permits the Commission to define the regulated rate base and to implement the alternatives to rate-of-return regulation.

(e) Providers exempted from filing a cost separation manual pursuant to rules 2400 through 2459 shall not be required to file accounting plans or updates, but shall be required to follow the cost segregation rules.

(f) In any proceeding before the Commission to investigate any tariff, tariff rate, price, or price list, the provider shall have both the burden of going forward and of proving that any price, term, or condition included in a tariff, price list, or contract, or sold under any alternative form of regulation is fair, just, reasonable, and non-discriminatory.

(g) Revisions of terms. The Commission, on its own motion or upon the application of the provider which has been granted an alternative form of regulation, and after notice and opportunity to be heard, may revise a form of regulation granted pursuant to rule 2205 if it finds that continued use of the approved form of regulation is contrary to, or inconsistent with, statements of public policy in §§ 40-15-101, 40-15-501, 40-15-502, and 40-15-503(2)(c), C.R.S.

2205. Application for Alternative Form of Regulation.

(a) A provider seeking to obtain a form of regulation other than the applicable default form of regulation shall file an application with the Commission.

(b) Contents. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b);

(II) The services for which the alternative form of regulation is requested;

(III) A list of all currently effective tariff and price list pages, as applicable, for each relevant service;

(IV) A description of the form of regulation requested on a service basis and on a geographic area basis;

(V) The proposed price bands, if applicable, including ceilings and floors for each relevant service;

(VI) The proposed benchmark rates, if applicable, for each relevant service;

(VII) The proposed detariffing, if applicable, for each relevant service;

(VIII) Any other proposed element of alternative regulation requested by the applicant;

(IX) The conditions that the applicant believes exist to permit the Commission to ensure that telecommunication services continue to be available to all customers at fair, just, and reasonable rates, if an alternative form of regulation is granted;

(X) The estimated market share information, demand data, and cost support data, as applicable, for each relevant service;

(XI) A list of other known providers of similar or substitutable services in the affected geographic area(s) identified in subparagraph (IV), and any significant, functional differences between the applicant's service and other known available services;

(XII) An identification of the accounting method that will be used to account for services subject to the alternative form of regulation and an explanation of how the accounting method meets the requirements of rules 2405 through 2407; and

(XIII) The facts relied upon by the applicant to show that a grant of an alternative form of regulation is consistent with, and not contrary to, the statements of public policy contained in §§ 40-15-101, 40-15-501, 40-15-502, and 40-15-503(2)(c), C.R.S., as applicable.

(c) Applicant notice of application. Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves an alternate notice procedure. The applicant shall also provide notice by first-class mail to all providers of telecommunications services that are regulated by the Commission under Title 40, Article 15, Part II or Part III, C.R.S. The notice shall include the requirements of paragraph 2002(d).

(d) Commission notice of application. The Commission shall provide notice of the application in accordance with rule 1206. Additionally, if the Commission institutes a proceeding upon its own motion, it shall provide notice to the public pursuant to § 40-6-108(2), C.R.S.

(e) Criteria for Commission consideration. In determining whether to grant an application, the Commission will consider whether granting the requested regulation:

(I) Is suitable and appropriate under the circumstances;

(II) Is consistent with, and advances, the public policies contained in §§ 40-15-101, C.R.S., for an application for an alternative form of regulation;

(III) Is consistent with, and advances, the public policies contained in §§ 40-15-101, 40-15-501, 40-15-502, and 40-15-503(2)(c), C.R.S., for applications for a form of price regulation other than rate-of-return regulation for providers of local exchange service;

(IV) Ensures that telecommunication services continue to be provided to all consumers in the state at fair, just, and reasonable rates consistent with § 40-15-503(2)(c) (I); and

(V) Is not contrary to law or to Commission policy.

(f) If the Commission approves the application, the applicant shall file an advice letter and initial tariff and a transmittal letter and initial price list, if applicable, on not less than 30-days notice, to implement the terms of the alternative form of regulation approved by the Commission.

2206. Simplified Regulatory Treatment for Rural ILECs.

(a) Simplified regulatory treatment. The simplified pricing procedures provided for in these rules are applicable to rural ILECs electing simplified regulatory treatment and only to Part III products and services. Each rural ILEC that takes no action under these rules shall remain, on a default basis, subject to continuing rate-of-return regulation.

(b) Notice of election for simplified regulatory treatment. A rural ILEC that elects to be subject to simplified regulatory treatment for its Part III regulated retail services and products shall file a notice with the Commission advising of its election to be so regulated and shall also provide 30-days notice to its customers by direct mailing, bill stuffer, or billing statement notification. The provider's election is effective 30 days from the date of filing, and shall remain effective until revoked.

(c) Election of simplified regulatory treatment. Election by a rural ILEC of simplified regulatory treatment has no effect upon the existing prices of any of its Part III services unless and until the provider elects to seek a change in the price of one or more of its products or services under the procedure specified in these rules. If at the time of electing simplified regulatory treatment, a rural ILEC's prices for one or more Part III products or services exceeds the price ceiling that would be established as provided in paragraph (d), its then current pricing shall remain in effect as the price ceiling until the provider seeks a change. Additionally, any price change secured by a rural ILEC for a Part III product or service shall remain in force and effect even if the benchmark rate for the product or service is lowered either voluntarily by the reference provider or by Commission action.

(d) Price ceilings. Price ceilings for products and services under this regulatory treatment shall be established by reference to the prices for such products and services that are in effect under an alternative form of regulation for any one reference provider that has been approved by the Commission.

(e) Procedure for price change up to price ceiling. On not less than 14-days notice prior to the desired effective date for a change in one or more of the prices contained in its associated price list, a rural ILEC subject to simplified regulatory treatment shall file a transmittal letter with the Commission describing the proposed change(s) and containing its revised price list. The rural ILEC may, but need not, provide notice to its customers of any proposed price change provided that the price as changed is at or below the price ceiling. In its transmittal letter, the rural ILEC shall include a statement to the effect that the change does not exceed the price ceiling for the affected product(s) or service(s) that the Commission has approved in a reference provider's alternative form of regulation plan and shall set forth the name of the provider and the provider's approved product or service price ceiling for each product or service addressed by the transmittal letter. Unless suspended by the Commission, the revised price list will become effective according to its terms.

(f) Procedure for price change above price ceiling. On not less than 30-days notice prior to the desired effective date for a change in one or more of the prices contained in its tariffs, a rural ILEC seeking to increase the price of a product or service above the price ceiling rate of any reference provider or seeking to establish a rate for a product or service not provided by any reference provider shall file an advice letter with the Commission describing the proposed price changes or initial price setting and containing its revised tariff rate. The rural ILEC shall additionally file together with its advice letter a service-specific or product-specific cost analysis supporting the proposed rates and demonstrating that the proposed rate or rates are cost-based and otherwise just and reasonable.

(g) Customer-specific contracts and notice.

(I) The Commission may permit a rural ILEC to provide a customer with regulated services, under contract, irrespective of any tariff or price list requirements.

(II) If permitted, a notice of contract shall be filed with the Commission under seal within 14-days of the date the contract is executed. The notice shall disclose: any early termination penalty to the customer; whether the contract is a non-discriminatory offering; whether the charges exceed the company's cost; and a statement confirming that the contract contains a provision acknowledging that it is subject to regulatory review.

(III) The contract shall be subject to Commission review to determine if:

(A) The rate negotiated is nondiscriminatory and the customer did not receive an inappropriate rate;

(B) The contract terms are consistent with the public interest; and

(C) The contract terms are consistent with applicable Commission rules.

(IV) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the applicant shall bear the burden of proof with respect to the contract. If the Commission does not set the contract for hearing, the contract is effective according to its terms.

(h) Revoking election of simplified regulatory treatment on existing rates.

(I) A rural ILEC may elect to revoke its election to be subject to simplified regulatory treatment by providing notice of such revocation to the Commission. No customer notice of revocation is required. A notice of revocation is effective as of its date of filing and returns the rural local exchange provider to default regulation.

(II) If a rural ILEC revokes its election under this paragraph (h), the rates for the products and services of the rural ILEC in effect at the time that notice of revocation is filed with the Commission shall continue in effect until the effective date of a Commission order establishing new rates.

(III) If a rural ILEC revokes such election under this paragraph (h), that provider may not elect to become subject to simplified regulatory treatment for a period of at least three years from the date its notice of revocation is filed with the Commission.

(i) Supplemental information for application to increase rates for Part II services. In any proceeding in which a rural ILEC subject to simplified regulatory treatment makes a filing with the Commission putting an increase of its rates for Part II services at issue, the provider agrees that it will file together with its application, relevant cost allocation information pertaining both to its Part II services and products, and to its Part III services and products subject to simplified regulatory treatment under these rules. The filing of such information shall be subject to any applicable Commission rules and orders concerning confidentiality and shall not constitute a waiver of the provider’s rights under §§ 40-15-201 and 40-15-302, C.R.S.

2207. Refraining from Regulation of a Part II Service.

(a) The Commission, upon its own motion or upon application by a provider of Part II services, and in compliance with the requirements of § 40-15-203, C.R.S., may refrain from regulation for competitive purposes and authorize a provider to provide all or a portion of a private telecommunications network service under stated or negotiated terms to any person or entity that has acquired, is contemplating the acquisition of, or is operating a private telecommunications network.

(b) Any application under this rule shall comply with the requirements of § 40 15-203(3)(a), C.R.S. and shall include the information required by paragraph 2002(b).

(c) Commission notice of application. The Commission shall notice the application by inclusion of an appropriately identified item for discussion on its next weekly meeting agenda. No applicant notice is required.

2208. Reclassification of a Part II Service to a Part III Service.

(a) The Commission, if it finds that effective competition exists in the relevant market for a Part II service and that reclassification of such service to a Part III service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may reclassify such service upon its own motion or upon application by any Part II provider. Such reclassification shall be in compliance with the requirements of § 40-15-207, C.R.S.

(b) Any application under this rule shall comply with the requirements of § 40-15-207, C.R.S. and shall include the information required by paragraph 2002(b).

(c) Filing of testimony by applicant. At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing.

(d) Customer notice. Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves an alternative notice procedure. The applicant shall also provide notice by first-class mail to all providers of telecommunications services that are regulated by the Commission under Title 40, Article 15, Part II or Part III, C.R.S. The notice shall include the requirements of paragraph 2002(d).

2209. Deregulation of Part III Emerging Competitive Services.

(a) The Commission, if it finds that effective competition exists in the relevant market for a Part III service and that deregulation of such service to a Part IV service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may deregulate such service upon its own motion or upon application by any Part III provider. Such deregulation shall be in compliance with the requirements of § 40-15-305, C.R.S.

(b) Any application under this rule shall comply with the requirements of § 40-15-305, C.R.S., and shall include the information required by paragraph 2002(b).

(c) Filing of testimony by applicant. At the time the application is filed, the applicant shall file its direct testimony and copies of exhibits to be offered at the hearing.

(d) Customer notice. Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves an alternative notice procedure. The applicant shall also provide notice by first-class mail to all providers of telecommunications services that are regulated by the Commission under Title 40, Article 15, Part II or Part III, C.R.S. The notice shall include the requirements of paragraph 2002(d).

(e) If the Commission deregulates a service under § 40-15-305, C.R.S., all providers of the deregulated service shall submit to the Commission an accounting plan, account-by-account, to segregate the assets, liabilities, revenues, and expenses (including common and joint assets, liabilities, expenses, and revenues) assigned and allocated to the deregulated service to ensure compliance with § 40-15-108, C.R.S. The accounting plans shall be filed with the Commission within 30 days from the effective date of the final order granting the deregulation.

2210. Deregulation of IntraLATA Interexchange Telecommunications Services.

To apply for deregulation of intraLATA interexchange telecommunications services (intraLATA toll services), pursuant to § 40-15-306 C.R.S., a provider shall file an application with the Commission. The applicant may complete the Commission-issued application form, or may file a separate pleading with the information and documentation set forth below.

(a) Contents of Application. The application shall contain the following information:

(I) Applicant's name, complete mailing address (street, city, state and zip code), telephone number, and the name(s) under which the applicant is providing intraLATA toll services in Colorado, the name of the person filing the application, the representative's title or relationship to the applicant and e-mail address of the representative;

(II) Name, mailing address, telephone number and e-mail address of the person to contact for questions about the application;

(III) Commission Decision number that granted the applicant the authority to provide intraLATA toll services (the Decision that granted a CPCN and/or LOR, whichever is applicable);

(IV) Whether the applicant provides toll service on a resale basis from another facilities-based provider;

(V) Whether the applicant has effective tariffs on file with the Commission for the offering of intraLATA toll;

(VI) Acknowledgement that within ten days of Commission approval to deregulate the applicant's intraLATA toll authority, the applicant shall make a compliance filing(s) in the form of an Advice Letter and/or Transmittal Letter (whichever is applicable), effective on not less than 14-days notice, to modify its effective tariff and/or price list by deleting all reference to intraLATA toll offerings or identify intraLATA toll offerings as deregulated by the Commission; and

(VII) An affidavit signed by an officer, partner, owner, or authorized agent, who is authorized to act on behalf of the applicant, stating that the contents of the application are true, accurate, and correct and that the applicant will fully comply with all of the requirements in the Decision which grants the authority to deregulate its intraLATA toll services.

(b) Providers of IntraLATA interexchange telecommunications services shall continue to comply with all Commission rules and applicable statutes not expressly excluded by C.R.S. § 40-15-401.

2211. Deregulation of interLATA Interexchange Telecommunications Services.

InterLATA interexchange telecommunications services are not regulated by the Commission except as provided for in §§ 40-15-112, 40-15-113 and those not excluded by 40-15-401 C.R.S. Upon the effective date of this rule, all providers of such services shall:

(a) File a notice of compliance with the Director of the PUC. Such Notice shall include the Docket No. which granted the provider the authority to offer such service, acknowledgment that interLATA interexchange services are deregulated, the name, address telephone number and email address of the person to contact and an affidavit signed by an officer, partner, owner or authorized agent, who is authorized to act on behalf of the company, stating that the contents of the notice are true, accurate and correct that that the company will fully comply with all applicable rules, statutes and requirements in paragraph b of this rule.

(b) Within 10 days of the filing of the notice, make a compliance filing(s)in the form of an advice letter and/or transmittal letter(whichever is applicable) effective on not less than 14 days notice to modify its effective tariff and/or price list by deleting all references to interLATA toll offerings or identifying interLATA toll offerings as deregulated by the Commission.

(I) If a provider of such services fails to file such compliance filing pursuant to paragraph (b) of this rule, the rates, terms and conditions which are more favorable to the customer shall be the rates billed to the customer by the provider. Upon the effective date of such compliance filing, this condition shall be lifted.

(c) Providers of interLATA interexchange telecommunications service shall continue to comply with all Commission rules and applicable statutes not expressly excluded by C.R.S. § 40-15-401.

2212. Combined Applications.

An applicant may file an application for an alternative form of regulation, an application for reclassification, and/or an application for deregulation, in combination with any other application, *e.g.*, an application for a CPCN. In a combined application, the applicant shall provide all information required for each component of the combined application.

2213. Adjudicatory Proceedings for Reclassification of Basic Local Exchange Services

(a) Based upon evidence provided through an adjudicatory proceeding initiated by the Commission or any person, the Commission may find that certain wire center serving areas in Colorado are designated as "effective competition areas" or "ECAs".

(b) The Commission shall review the telecommunications market in triennial adjudicatory proceedings beginning no later than first quarter of 2013, to make findings as to whether wire center serving areas are ECAs pursuant to § 40-15-207, C.R.S.

(c) Once an area is determined by the Commission to be an ECA, regulatory treatment for ECAs as provided in these rules shall apply unless and until an application is filed requesting that the area be reclassified and that application has been approved by the Commission.

(d) In adjudicatory proceedings addressing basic local exchange services under § 40-15-207, C.R.S.:

(I) The Commission shall consider basic services and similar services offered by multiple, non-affiliated, facilities-based providers, carriers, or other entities through traditional wireline, cable-based, interconnected voice over internet protocol, and wireless technologies.

(II) The relevant geographic areas shall be wire center serving areas.

(III) In the proceeding determining if an area should be designated as an ECA, the Commission may, but need not, make additional findings of reclassification and effective competition pursuant to § 40-15-207, C.R.S., for telecommunications services other than basic local exchange service in the relevant geographic area.

(e) If the Commission finds that a wire center serving area is an ECA, then the Commission shall reclassify all Part II services in the wire center serving area, except for basic emergency service and white page directory listings, to Part III regulation for all companies offering services in that area. All services reclassified under this rule 2213 shall be regulated in accordance with rules 2214 and 2215.

2214. Regulation in Effective Competition Areas.

(a) All Part III services in ECAs, with the exception of switched access services, white page directory listings and basic emergency service, are not price-cap or rate of return regulated. Providers of Part III services in ECAs are not required to follow the Commission tariffing rules 2120 to 2124. However, each provider of Part III services in an ECA shall make its retail service rates, terms and conditions available on its website. Tariffs, prices lists, and customer specific contracts containing rates, terms and conditions for retail services provided to customers are not required and need not be filed at the Commission. Pursuant to § 40-15-502(3)(b)(I), C.R.S., the prices and price levels for residential basic service shall be determined by the market.

(b) Rules 2130 through 2159 for regulated basic emergency service, shall continue to apply to all carriers and providers in ECAs.

(c) The Commission will regulate providers offering service in ECAs pursuant to all rules applicable to Part 3 services and, including without limitation, to the following substantive rules: Reports (paragraphs 2006(a), (b), (f), (g), (h), (i), and (j)), Application for LOR (rule 2103), Numbering Administration (rules 2700 through 2741), Programs (rules 2800 through 2895), Provider Obligations to Other Providers (rules 2500 through 2588), and Collection and Disclosure of Personal Information (rules 2360 through 2362).

2215. Distribution of HCSM Funds in Effective Competition Areas.

(a) Distribution of HCSM funds will be eliminated in an ECA 180 days after the effective date of a Commission order designating the area as an ECA, unless within that 180 days after the effective date of the Commission order, the provider receiving funds from the HCSM files an application pursuant to paragraph 2215(b). If an application has been filed within 180 days of the Commission order, then HCSM funding will continue at existing levels until the Commission issues an order ruling upon the application and determining whether funding from the HCSM will continue, be reduced, or be eliminated.

(b) A provider may file an application with the Commission at any time requesting the establishment, continuation or restoration of HCSM funding for specified areas or access lines in an ECA. The application shall include an affidavit signed by an officer of the applicant verifying that the facts alleged are based upon reasonable inquiry.

(c) If the Commission determines that an area is no longer classified as an ECA, a provider may file an application requesting HCSM support.

2216. – 2299. [Reserved].

RELATIONSHIPS BETWEEN CUSTOMERS AND TELECOMMUNICATIONS SERVICE PROVIDERS

Services Provided to the Public

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify services subject to the Commission's regulation and to reflect continuing evolution of standards and technology. The Commission is charged with establishing standards for the adequate provisioning and performance of: Part II regulated telecommunications service, Part III emerging competitive telecommunications services, and other regulated telecommunications products and services.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-102, 40-3-103, 40-3.4-106, 40-4-101(1), 40-4-101(2), 40-15-112, 40-15-113, 40-15-201(1), 40-15-302(1)(a), 40-15-503(2), and 40-2-108, C.R.S.

2300. Applicability.

Rules 2300 through 2329 regulate the provision of intrastate telecommunications services and facilities to the public and apply to all providers of telecommunications services subject to the jurisdiction of the Commission. Rules 2300 through 2310, Rules 2330 through 2341, and Rules 2360 through 2364 apply only with respect to the residential and small business customers of a provider.

2301. Definitions [Reserved].

2302. Customer Deposits.

(a) General intent and guidelines. With the exception of subsection (b)(I) of this rule, this rule only governs deposits for basic local exchange service, and does not govern deposits for any other jurisdictional service.

(I) Each LEC shall process an application for service made orally, in writing, or via a secure website in a non-discriminatory manner.

(II) The LEC shall establish and maintain a written procedure for determining an applicant's credit status in its tariff.

(b) Criteria for establishment and amount of deposits.

(I) Each LEC's deposit and credit policy shall determine credit worthiness in an equitable and non-discriminatory manner.

(A) The LEC may require a new or existing customer to pay a deposit if billing records are available and records indicate recent or substantial delinquencies.

(B) A LEC shall not refuse to provide service to a customer who declines to provide a social security number.

(C) All LECs requiring deposits shall offer customers at least one non-cash alternative that does not require the use of the customer’s social security number, in lieu of a cash deposit.

(D) No LEC shall require a deposit that exceeds an amount equal to the charges for 90 days’ basic local exchange service and any associated taxes and surcharges.

(II) A deposit required under this rule may be in addition to any advance payment, contribution to, or guarantee in connection with construction of lines or facilities, as provided in the line extension policy of the LEC's tariffs on file with the Commission.

(c) Limitation on the use of deposits.

(I) The payment of a deposit shall not relieve any customer of the obligation to pay current bills when due. If forfeited, a deposit shall be applied only to the indebtedness of the customer.

(d) Payment on deposits. A customer who is required by a LEC acting under the requirements of this rule to pay a deposit shall pay the deposit in full, prior to receiving service, or if agreed to by the LEC, enter into a written installment arrangement for payment of the deposit.

(e) Interest and deposits.

(I) Simple interest shall be paid by the LEC upon a deposit at the percentage rate per annum as calculated by Commission Staff and in the manner provided in this paragraph, payable upon the return of the deposit. Interest on a deposit shall be earned for the time the deposit is held by the LEC, and shall be calculated from the date the deposit is received by the LEC to the date of refund to the customer.

(II) The simple interest rate to be paid on customer deposits shall be determined by the Commission Staff on an annual basis. The rate shall be computed at a rate equal to the average for the period October 1 through September 30 (of the immediately preceding year) of the 12 monthly average rates of interest expressed in percent per annum, as quoted for one-year United States Treasury constant maturities, as published in the Federal Reserve Bulletin, by the Board of Governors of the Federal Reserve System. If the difference between the existing customer deposit interest rate and the newly calculated interest rate is 25 basis points or more, the newly calculated interest rate shall be used beginning January 1 of the following year; otherwise the rate shall remain unchanged. When it is determined that a change in the interest rate is warranted, the Commission shall send a letter to each LEC within the state by November 15th identifying the new rate to be paid beginning on January 1 of the next year. Following notification by the Commission, each provider shall file an advice letter and revised tariff on not less than one-day notice to be effective January 1 of the following year. To the extent any of the dates contemplated herein are modified, there shall be at least 45 days between the date of the notification letter and the effective date of the rate change.

(f) Refund of deposits.

(I) Upon discontinuance of service, or when a customer establishes satisfactory credit, the LEC shall promptly refund any deposit, plus accrued simple interest, or the balance, if any, in excess of the unpaid bills.

(II) Unless the LEC has obtained sufficient factual information to determine that a customer is an unsatisfactory credit risk, the LEC shall promptly refund a customer's deposit plus interest upon satisfactory payment of all proper charges for 12 consecutive months.

(III) If there is a balance due the customer after service is discontinued and a final bill is rendered by the provider, that balance shall be payable to the customer without demand or notice from the customer.

(g) Deposit policy included in the tariff. Each LEC shall file as part of its tariffs, its deposit requirement policy, explaining in detail under what circumstances a deposit shall be required, and under what conditions the deposit shall be returned.

2303. Denial or Discontinuance of Service.

(a) Disconnection without notice. No LEC shall deny or discontinue service to a customer without prior written notice except for the following reasons:

(I) If a safety condition that is immediately dangerous or hazardous to life, physical safety, or property exists.

(II) Upon order by an appropriate court, the Commission, or any other duly authorized public authority.

(III) If service, having already been properly discontinued, has been restored by someone not authorized by the company and the original cause for discontinuance has not been cured.

(IV) Violation of any Commission rule or effective tariff that may adversely affect the safety of any person or the integrity of the provider's service.

(VI) Failure to comply with municipal ordinances or other laws pertaining to telecommunications service that may adversely affect the safety of any person or the integrity of the provider's service.

(VII) Failure of the customer to permit the provider reasonable access to its facilities or equipment.

(VIII) The customer obtained service by subterfuge. Subterfuge includes, without limitation:

(A) Obtaining service in another person's name with the intent to avoid outstanding charges; or

(B) Applying for new service at a location:

(i) Where a person has outstanding charges for jurisdictional service including outstanding charges for any associated taxes and surcharges; and

(ii) Where such person continues to reside.

(b) Disconnection with notice. A LEC may temporarily suspend or permanently discontinue service and may sever the connection and remove any of its equipment from the customer's premises after at least 15-days written notice only for one of the following reasons:

(I) Non-payment of any past due bill for basic local exchange service and any associated taxes and surcharges. Solely for the purposes of this paragraph, a bill is past due if not paid within 30 days of the due date which must be at least 15 days after the billing date.

(II) If the LEC determines service was obtained fraudulently or without the authorization of the provider or is being used for, or suspected of being used for, fraudulent purposes.

(c) Restrictions on denial or discontinuation of service – Disposition of payments.

(I) Basic local exchange service shall not be denied or discontinued for delinquency or nonpayment of charges for service unless the customer has been issued a bill for the charges consistent with the billing requirements under rule 2304.

(II) A LEC shall not deny or discontinue basic local exchange service for delinquency in payment for service rendered to a previous occupant of the premises to be served, for unpaid charges for services or facilities not ordered by the applicant or customer, or for any other indebtedness, except as incurred for basic local exchange service and any associated taxes and surcharges.

(III) A LEC may not use its purchase of a customer's indebtedness, i.e., the accounts receivable, from another provider to deny or discontinue providing its jurisdictional services to that customer.

(IV) If a customer pays or is willing to pay all current charges, which are defined for the purpose of this subparagraph as that portion of the amount owed by the customer for basic local exchange service and any associated taxes and surcharges that are not past due as set forth in subparagraph (b)(I) above, a LEC shall not discontinue service for non-payment of a past due amount for these services when the customer has entered into a payment arrangement with the LEC. If the payment arrangement is not satisfied, the service may be disconnected for non-payment without further notice.

(V) Unless requested by the customer, a LEC shall disconnect dial tone only during the normal business hours of the LEC's business or customer service offices. There shall be no disconnection of dial tone when the business or customer service offices of the LEC is not open or after noon the day before the business or customer service offices will not be open.

(VI) When a provider has been granted the authority by the Commission to discontinue offering basic local exchange service, an alternative provider may refuse service to a customer who has an outstanding balance for local services owing to the alternative provider and has not entered into an arrangement with the alternative provider to pay the outstanding balance.

(VII) Medical emergencies.

(A) A LEC shall postpone discontinuance of basic local exchange service to a residential customer for 60 days from the date of a medical certificate issued by a Colorado-licensed physician or health care practitioner acting under a physician's authority which evidences that discontinuance of service will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this rule 2303(c)(VII)(A) only once in any twelve consecutive months.

(B) As a condition of obtaining a new installment payment plan on or before the last day covered by a medical certificate, a customer who had already entered into a payment arrangement, but had broken the arrangement prior to seeking a medical certification, may be required to pay all amounts that were due up to the date of the original medical certificate as a condition of obtaining a new payment arrangement. At no time shall a payment from the customer be required as a condition of honoring a medical certificate.

(C) The certificate of medical emergency shall be in writing, sent to the LEC from the office of a licensed physician, and show clearly the name of the customer or individual whose illness is at issue; the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical emergency. Such certification shall be incontestable by the LEC as to the medical judgment, although the LEC may use reasonable means to verify the authenticity of such certification.

(d) Notice requirements.

(I) The customer shall be notified of the intention of a LEC to discontinue basic local exchange service and shall be allowed no fewer than 15 days from the date the notice was issued in which to respond to the company. The notice shall clearly state the amount that is past due and the date by which an installment payment arrangement must be entered into or payment must be received to prevent interruption of service. It shall also state that disconnection of basic local exchange service cannot occur for non-payment of other charges, such as for optional services, wireless service, or other companies' services. If the customer has chosen electronic billing, the notice of disconnection may be provided electronically.

(II) All discontinuance notices shall be printed in English and Spanish.

(e) Restoration of service

(I) Any service already discontinued must be restored without any additional charge if it was not properly discontinued or restored as provided in rule 2303.

(II) Service must be restored within 24 hours, or by 5:00 p.m. on the next business day in the event the end of the 24-hour period falls on a Saturday, Sunday, or holiday unless prevented by safety concerns, or circumstances beyond the company’s control, if the customer:

(A) Within ten days of the discontinuance of service, remits the full amount shown on the notice for jurisdictional services, plus any deposit as may be specifically required by the LEC's tariff by:

(i) Paying the LEC directly; or

(ii) Paying an authorized payment agent of the LEC, contacting the LEC by telephone and providing the LEC with the date paid, the amount paid and the valid receipt information;

(B) Presents a medical certificate, as provided in rules 2303 (c)(VII), within 24 hours of a disconnection for non-payment; or

(C) Demonstrates to the LEC that the cause for the discontinuance, if other than non-payment, has been cured.

2304. Customer-Billing Requirements.

(a) Billing information. The Commission incorporates by reference the FCC's Truth in Billing Rules, as identified in rule 2008.

In addition to the requirements found in the FCC's Truth in Billing Rules referenced above, all bills for telecommunications services shall clearly display the billing date and the payment due date, which must be at least 15 days after the billing date. At the option of the customer, and where it is technically feasible, electronic billing (e-billing) is permitted.

(b) Payment of bills, billing disputes, and bill credits or refunds.

(I) Whenever a customer makes a partial payment, the LEC shall apply it first to past due basic local exchange service and any associated taxes and surcharges in such a manner consistent with preserving basic local exchange service, unless otherwise instructed by the customer.

(II) In the event of a billing dispute between the customer and the provider, the provider may require the customer to pay the undisputed portion of the bill to avoid discontinuance of service for non-payment. The provider shall make a prompt investigation appropriate to the case and report the results to the customer. In the event the dispute is not reconciled, the provider shall advise the customer that an informal complaint may be registered with Commission Staff or that a formal complaint may be filed with the Commission.

(III) Whenever billing for basic local exchange service and any associated taxes and surcharges has not been determined accurately because of a LEC's omission or negligence, the LEC shall offer the following:

(A) Whenever a LEC over-bills a customer for the service, the LEC shall offer the customer a refund. When the amount of the refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. If the customer elects a one-time payment, the LEC shall mail the refund within thirty days. Such over-billing shall not be subjected to interest. Refunds for over-billing shall not be provided for a period of time exceeding two years.

(B) Whenever a LEC under-bills a customer for service, the customer shall be allowed to make an installment payment arrangement when the amount exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges. A customer shall be advised that any installment payment agreement may, at the option of the customer, extend over a time period equal in length to the period over which the errors were accrued. Charges for under-billing shall not be billed for a period of time exceeding two years and shall not include late payment fees or interest.

(C) Whenever a LEC collects from a customer more money than is due the LEC because of an erroneous payment or electronic transfer, the LEC shall electronically issue or mail the customer a refund within five days of realizing the mistake. When the amount of the refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. Such refunds shall not be subjected to interest. Refunds for erroneous payments shall not be provided for a period of time exceeding two years.

(IV) In the event the customer's basic local exchange service is interrupted and remains out of order for eight or more hours during a continuous 24-hour period after being reported by the customer, or is found to be out of order by the LEC (whichever occurs first), appropriate adjustments shall be automatically made by the LEC to the customer's bill.

(A) The adjustment shall be, at a minimum, a credit on the monthly bill for basic local exchange service and any associated taxes and surcharges proportional to the duration of the service interruption, with each occurrence of the loss of service for eight or more hours during the 24-hour period counting as one day. For the purpose of administering this rule, every month is considered to have 30 days.

(B) The LEC is not required to provide an adjustment for the loss of service during time periods due to the following conditions:

(i) The negligence or willful act of the customer;

(ii) A malfunction of facilities other than those under the control of the LEC;

(iii) Natural disasters or other events affecting large numbers of customers such as described in paragraph 2336(c); or

(iv) The inability of the LEC to gain access to the customer's premises when required.

(V) In the event the LEC misses a service call, i.e., an appointment for a premises visit associated with installation of new service by more than four hours, the LEC shall make a credit to the monthly bill of the customer in the amount of one-third the tariff rate for installation that was to be charged. This credit shall also apply when the LEC misses scheduled installation work to be done in the central office.

(VI) The bill credit policies set forth in paragraphs (a) and (b) are minimum requirements. LECs that merely adopt paragraphs (a) and (b) as their bill credit policy are not required to file tariffs that incorporate this rule. LECs that wish to have additional bill credit policies shall file a tariff that fully describes such additional policies. All bill credit policies shall be non-discriminatory and non-preferential.

2305. Refund Plans.

Any provider proposing or required by Commission order to make a refund to customers by class of service shall file an application for Commission approval of the plan of refund. For a LEC, the application shall contain the analysis of the feasibility and costs of customer-specific refunds in lieu of a general refund. When the amount of the refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customers shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company.

(a) Contents. An application for approval of a plan of refund shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) The information required by paragraph 2002(b).

(II) A copy of a detailed description of the proposed refund plan, including but not limited to: a description of the telecommunications service that is the subject of the refund plan; the dollar amount of the proposed refund by class of service; the date applicant proposes to start making the refund, which shall be at least 60 days after the filing of the application; the date by which the applicant proposes to complete the refund; the means by which the refund is proposed to be made; an identification of the service area(s) impacted by the refund; the interest rate that will be paid to customers, equal to the current rate paid on customer deposits unless the Commission establishes an alternative interest rate; and the proposed treatment of unclaimed refunds, consistent with § 40-8-101, C.R.S., et seq.

(III) A statement describing in detail the extent to which the applicant has any financial interest in any other company involved in the refund plan.

(IV) A reference by docket number, decision number, and date of any Commission decision requiring the refund; and/or a copy of any federal agency or other state order, if the refund is to be made because of the applicant's receipt of monies under any such order.

(V) If the applicant proposes to refund less than all of the monies received as described in subparagraph (a)(II), a detailed statement justifying the proposed refund of a lesser amount, with a copy of applicant's most recent balance sheet, dated not earlier than three months before the date of the filing of the application, with a copy of an income statement and a retained earnings statement as of the date of the balance sheet.

(VI) A statement showing the accounting entries for the refund plan.

(VII) A statement that if the application is granted, applicant will file an affidavit with the Commission establishing that the refund has been made in accordance with the Commission decision.

(b) Notice. The Commission shall give notice of the filing of an application to make a refund, as provided in rule 1206of the Rules Regulating Practice and Procedure.

(c) Customer notice. The applicant shall give notice of the filing of an application to make a refund, as provided in paragraphs 1206(g) and (h) of the Commission's Rules Regulating Practice and Procedure. Such notice shall also include the requirements of paragraph 2002(d).

2306. Public Information.

(a) Business offices and customer service centers. Each LEC shall have one or more business offices or customer service centers staffed to provide access in person or by telephone to qualified personnel, including supervisory personnel when warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and generally act as customer service representatives of the LEC. Toll free calling to the business office and customer service centers shall be provided to customers.

(b) Information available from the business office. Each provider shall, at a minimum, provide the following information to the public, as applicable and upon request, at each business office open to the public and may also be available on the provider's website:

(I) Copies of all tariffs and price lists as filed with the Commission;

(II) For each exchange served by the provider, maps showing the exchange, base rate area and zone (if applicable) boundaries in sufficient size and detail from which all customer locations can be determined and mileage and zone charges measured from these boundaries can be quoted;

(III) Publicly announced information about the present and intended future availability of services at the location of a potential customer;

(IV) Publicly announced information concerning plans for major service changes in the area served by the provider; and

(V) Information pertaining to services and rates as proposed in pending tariff, price list, or rate change filings.

2307. Directories for Basic Local Exchange Service.

(a) Publication and distribution of White Pages telephone directories.

(I) A LEC shall cause White Pages telephone directories to be published annually. A White Pages telephone directory shall include each exchange served by that LEC and shall list the name, address, and telephone number of all basic local exchange customers served by that exchange except for those customers that request omission of their listing from the directory. Each directory also shall include a list of all exchanges in the local calling area.

(II) All White Pages telephone directories shall be revised annually. A LEC may petition the Commission to extend the life of a directory for good cause shown. A LEC does not need to petition the Commission to extend the life of a directory unless the current directory will be in circulation more than an extra three months, for a total life of 15 months or more.

(III) Upon issuance of a White Pages telephone directory, a LEC shall cause White Pages telephone directories to be made available and shall ensure that all customers served by a directory have access to the directory. A LEC satisfies this requirement if it does, or causes to be done, one of the following:

(A) provides, free of charge, a White Pages telephone directory to each customer served by that directory.

(B) uses the opt-in process, in which event the following apply:

(i) a customer served by a White Pages telephone directory shall not receive a directory unless the customer requests a directory;

(ii) customers served by a White Pages telephone directory shall receive written and verifiable notice that they will not receive a directory unless they request a directory; shall receive written and verifiable notice that they may receive a White Pages telephone directory upon request, free of charge, and within a reasonable time of the request; shall receive written instructions informing them how to request a directory; and shall receive written notice that, even if they do not choose to opt in to any telephone directory, information required by subparagraphs 2307(b)(III) through (VI) shall continue to be provided in an alternative printed form. This information shall be contained in one notice;

(iii) a customer's request for a White Pages telephone directory shall be verifiable;

(iv) each customer served by a White Pages telephone directory shall receive the information required by subparagraphs 2307(b)(III) through (VI). This information shall be contained in a White Pages telephone directory that is provided to a customer on request or in an alternative printed form that is provided to all customers other than those that request a White Pages telephone directory; and

(v) the LEC shall maintain records that show the delivery of a White Pages telephone directory to all customers that are served by the directory and that requested a directory and shall maintain records that show the delivery of the alternative printed form to all customers that are served by the directory and that did not request a directory.

(C) uses the opt-out process, in which event the following apply:

(i) a customer served by a White Pages telephone directory shall receive, free of charge, a directory unless the customer chooses not to receive a directory and informs the LEC of that choice;

(ii) customers served by a White Pages telephone directory shall receive written and verifiable notice of the option not to receive a directory; shall receive written instructions informing them how to request that a

White Pages telephone directory not be provided; shall receive written notice that, if they choose, they later may request a White Pages telephone directory and instructions informing them how to make that request; and shall receive written notice that, even if they choose to opt out of all telephone directories, information required by subparagraphs 2307(b)(III) through (VI) shall continue to be provided in an alternative printed form. This information shall be contained in one notice;

(iii) a customer's request not to receive a White Pages telephone directory shall be verifiable;

(iv) a customer that chooses not to receive a White Pages directory later may request a directory and that request must be verifiable;

(v) if a customer that chose not to receive a White Pages telephone directory later requests a directory, the customer shall receive the White Pages telephone directory free of charge and within a reasonable time of the request;

(vi) each customer served by a White Pages telephone directory shall receive the information required by subparagraphs 2307(b)(III) through (VI). This information shall be contained in a White Pages telephone directory that is provided to a customer or in an alternative printed form that is provided to all customers that choose not to receive a White Pages telephone directory; and

(vii) the LEC shall maintain records that show the delivery of White Pages telephone directories to all customers that are served by the directory and that received the directory and shall maintain records that show the delivery of the alternative printed form to all customers that are served by the directory and that chose not to receive a directory.

(IV) Upon request from a customer with more than one access line, a White Pages telephone directory for each access line shall be provided at no charge. A LEC shall provide additional free White Pages telephone directories in response to a reasonable request from any customer. Also, upon request from a customer, White Pages telephone directories for the other exchanges in the customer's local calling area shall be provided at no charge. A copy of each White Pages telephone directory published for each LEC shall be provided annually to the Commission. Upon written request, public libraries within the state shall be provided free copies of the White Pages telephone directories for all exchanges served by the LEC within the state.

(b) Directory information and instructions. Each White Pages telephone directory shall include the following:

(I) On the front cover, an indication of the area included in the directory and the month and year of issue or, alternatively, the month and year through which the directory is effective.

(II) Telephone service pages that include information on every ILEC and CLEC with listings included in the directory.

(III) On the first page of the directory, information pertaining to emergency calls, such as for the police and fire departments, including “9-1-1.”

(IV) If provided by governmental public safety agencies, alternative numbers to use in case of an outage of the 9-1-1 system and non-emergency numbers to reduce inappropriate use of 9-1-1; this information shall be contained in, or shall be referenced conspicuously in, the front part of the directory.

(V) Instructions for placing local calls and long distance calls; instructions for placing calls to repair and directory assistance services; the business office website, if applicable; and the telephone number of the LEC’s business offices appropriate to the area served by the directory.

(VI) In a prominent manner in the instructional section of the directory, notice of the Commission’s current toll free telephone number and notice of the customer’s right to make inquiries regarding telecommunications services to the Commission.

(c) Directory assistance and intercept.

(I) The LEC shall list its basic local exchange customers (except for those customers that request otherwise) with the directory assistance operators within 72 hours of service connection.

(II) In the event of an error in the listed telephone number or name of any customer by the LEC and until a new White Pages telephone directory is published, the LEC shall make, at no charge to the customer, whatever special arrangements are necessary and reasonable to ensure that calling parties are able to reach the customer whose listed telephone number or name is in error.

(III) In the event of an error in the telephone number, name, or address listing of any customer, the customer’s correct name, address, and telephone number shall be included in the databases of directory assistance and intercept operators within 72 hours of confirmation of the error by the LEC or shall be sent to the providers of these services within 24 hours if the LEC does not provide its own services. The LEC shall take the necessary steps to ensure that the error is corrected in the next issue of the White Pages telephone directory.

(IV) In the event a customer’s telephone number is changed, the correct number shall be in the databases of directory assistance and intercept operators within 72 hours of the number change or shall be sent to the providers of these services within 24 hours if the LEC does not provide its own services.

(A) Whenever a customer’s telephone number is changed at the request of the customer after a directory is published, the LEC shall provide intercept service for all calls to the former number for a reasonable period but not fewer than 60 days.

The customer may pay to have the intercept recording include the customer's new number.

(B) If the telephone number change is due to the initiative of the LEC, the LEC shall provide intercept service for all calls to the former number for 60 days or the remaining life of the directory, whichever is greater. The intercept recording shall include, at no charge to the customer, the customer's new number.

2308. Local Exchange Service Standards.

(a) Basic service standard. As part of its obligation to provide adequate basic local exchange service, each LEC shall construct and maintain its telecommunications network so that the instrumentalities, equipment, and facilities within the network shall be adequate, efficient, just, and reasonable in all respects in order to provide the following services or capabilities to each of its customers within its service area:

(I) Individual line service or its functional equivalent constructed and maintained to meet the general parameters and characteristics of rule 2337;

(II) Voicegrade access to the public switched network;

(III) Dual tone multifrequency signaling capability (Touchtone) or its functional equivalent on the local access line;

(IV) Facsimile and data transmission capability with the public switched network when the customer uses modulation/demodulation devices rated for such capability, in particular, the capability to transmit two-way communications between a person using a telecommunications device or other nonvoice terminal device and a person using other customer premises equipment within the bandwidth of voicegrade access;

(V) The local exchange usage necessary to place calls to or receive calls from all local exchange access lines within a Commission approved local calling area;

(VI) Access to emergency services;

(VII) Access to toll services;

(VIII) Customer billing to the extent described in rule 2304;

(IX) Public information assistance to the extent described in rule 2306;

(X) Access to operator services;

(XI) White page directory listing as described in paragraphs 2307(a) and (b);

(XII) Access to directory assistance and intercept to the extent described in paragraph 2307(c);

(XIII) Provisioning of service during maintenance or emergencies to the extent described in rule 2335; and

(XIV) Any LEC that has also been designated as a POLR must offer basic local exchange service by itself as a separate tariff offering, however:

(A) This subparagraph does not preclude the LEC/POLR from also offering basic local exchange service packaged with other services; and

(B) If basic local exchange service is packaged with other services, the rate for the bundled package service must be at or below the rate that would be charged if the basic local exchange service and the optional features were charged individually.

(b) Universal service availability standard. In order to maintain a reasonable uniformity between all localities in the state for adequate basic local exchange service in the ordinary course of its business pursuant to its CPCN, each LEC shall construct and maintain its telecommunications network so as to provide for universal (i.e., ubiquitous) availability of the following services or capabilities when requested by a customer within its serving area:

(I) The basic service standard defined in paragraph 2308(a);

(II) E9-1-1 service, either by providing the necessary facilities and identification (name/number, etc.) information to a BESP or as provided by the LEC under rules 2130 through 2159; and

(III) Services to which the customer may voluntarily subscribe:

(A) Services that deny or limit access to toll providers; and

(B) Services that deny access to other information service providers.

(c) Local calling area standards. Local calling areas as established by the Commission shall meet either the community of interest or incremental extended service criteria. Any provider that is granted authority to offer basic local exchange service in an exchange, or for any part of the exchange, for which the Commission has previously established a local calling area, shall provide at least one option to its customers that includes that same local calling area, unless modified by order of the Commission. In general, and to the extent possible, each local calling area shall:

(I) Allow customers to place and receive calls without payment of a toll charge to 9-1-1, their county seat, municipal government, elementary and secondary school districts, libraries, primary centers of business activity, police and fire departments, and essential medical and emergency services;

(II) Be provided in both directions between the two exchange areas; and

(III) Not exhibit any discontinuities (i.e., an exchange area physically located between two exchanges that is not included in a local calling area that serves the two exchanges).

2309. Expanding a Local Calling Area.

The Commission shall consider requests for an expanded local calling area through the following processes: the Commission's own motion; a biennial review of calling volumes between exchanges conducted by Commission Staff; an application filed under the alternative criteria standard; or a petition filed under the incremental extended area service standard.

(a) Biennial reviews. Staff shall conduct a statewide review of calling volumes biennially to analyze whether a community of interest exists between exchange areas. All LECs and toll providers shall comply with Staff's data requests and shall provide data and information on monthly calling volumes for exchanges in their respective serving territories.

(I) Criteria. If the following criteria are met, a community of interest is determined to exist, and the Commission shall open an investigative docket to examine further the expansion of the local calling area. When the exchange area under consideration for an expansion of a local calling area:

(A) Includes the Denver Metro exchange, a calling rate of at least 24 calls per customer per month to the Denver exchange, with at least eight calls per customer per month made by at least 50 percent of the customers from the smaller exchange will demonstrate a community of interest;

(B) Includes the Colorado Springs exchange, a calling rate of at least eight calls per customer per month to the Colorado Springs exchange, with at least three calls per month made by at least 50 percent of the customers from the smaller exchange will demonstrate a community of interest;

(C) Includes the Fort Collins, Grand Junction, Greeley, or Pueblo exchange, a calling rate of at least six calls per customer per month to the Fort Collins, Grand Junction, Greeley, or Pueblo exchange, with at least two calls per month made by at least 50 percent of the customers from the smaller exchange will demonstrate a community of interest; or

(D) Does not include any of the exchanges named in subparagraphs (I)(A) through (I)(C), a calling rate from the smaller exchange area under consideration of at least four calls per customer per month to the larger exchange with at least two calls per month made by at least 50 percent of customers will demonstrate a community of interest.

(II) Rate increment. If a local calling area is expanded as a result of meeting the calling criteria of the biennial review, any rate increment shall be determined by apportioning the cost among all customers in the entire serving territory of the affected LEC(s).

(III) Data between biennial reviews. During the period between biennial reviews, a LEC, a majority of the elected representatives of the city or town from either of the exchange areas impacted by the proposed expansion, or a majority of the county commissioners from either of the exchange areas impacted by the proposed expansion may submit an application requesting that the Commission review the local calling volumes for a particular set of exchanges. Commission Staff will request the call data from the affected

LEC(s) and toll providers. If the resulting data meets the appropriate criteria, the Commission will open an investigative docket to examine further the expansion of the local calling area.

(IV) An application under subparagraph (III) shall include the following:

(A) The information required by paragraph 2002(b); and

(B) The information and documentation relied upon by the applicant to identify the circumstances that have changed sufficiently to justify a review outside the biennial review process.

(b) Alternate criteria standard. The Commission shall also consider requests for the expansion of a local calling area based upon evidence other than calling volumes to demonstrate that a community of interest exists between exchanges.

(I) To have a request processed under the alternate criteria standard, an application shall be filed by either the affected LEC or by a majority of elected representatives of the city or town or a majority of the county commissioners from the applying local exchange area. If the application for expansion of a local calling area will result in a local calling area that crosses county boundaries, then a majority of the county commissioners from the non-applying local exchange area shall also be signatories to the request.

(II) Criteria. In evaluating such a request, the Commission shall consider community of interest issues dictated by urban growth patterns and the present and future availability of essential services in rural areas. Specific criteria to be used by the Commission in making its determination shall include the:

(A) Local calling area standards of paragraph 2308(c);

(B) Customers' calling patterns;

(C) Location of serving transportation centers;

(D) Demographic profile of the residents of the exchange(s);

(E) Location of primary centers of business activity and employment centers;

(F) Location of employee residences;

(G) Availability and feasibility of optional calling plans and the level of local and long distance competition; and

(H) Other pertinent factors such as the results of the most recent biennial review. However, the calling standards related to the biennial review do not need to be met if the other data is persuasive.

(III) Rate increment. If a local calling area is expanded as a result of meeting the alternative criteria standard, any rate increment shall be determined by apportioning the cost among all the customers in the entire serving territory of the affected LEC(s).

(IV) Application contents. The application for an expanded local calling area under the alternate criteria standard shall include the following:

(A) The information required by paragraph 2002(b);

(B) A description of the existing local calling area;

(C) A description of the proposed local calling area; and

(D) Information and documentation relied upon by the applicant to support a conclusion that a community of interest exists based on the criteria identified in subparagraph (II).

(c) Incremental extended area service standard.

(I) If the community of interest standard is not met through either the biennial review calling volume criteria or through the alternative criteria, the option of establishing a two-way incremental extended area service may be pursued by any one, or more, of the following submitting a petition to the Commission:

(A) A LEC serving at least one of the exchanges seeking the expansion;

(B) A majority of elected representatives of the city or town or a majority of the county commissioners from the applying local exchange area. If the application for expansion of a local calling area will result in a local calling area that crosses county boundaries, then a majority of the county commissioners from the non-applying local exchange area shall also be signatories to the request; or

(C) A petition signed by 15 percent or 500 customers, whichever is less, of the customers in the affected local exchange.

(II) A joint petition on behalf of both exchanges shall be filed if the petitioners seek recovery of the costs from customers of both exchanges.

(III) Criteria. Neither the calling volume criteria nor the alternative criteria standards need be met for the Commission to evaluate a petition for expanded local calling. Once a petition is filed, the Commission will open an investigative docket to further examine the local calling area expansion. The Commission will not open an investigative docket for a particular exchange more than once every twelve months.

(IV) Rate increment. If such a petition is filed on behalf of customers in only one exchange, only the customers in the petitioning exchange shall pay the rate increment for the two-way incremental extended area service. If such a petition is submitted jointly on behalf of customers in all affected exchanges, customers in all the affected exchanges shall pay the rate increment.

(V) Petition contents. The petition for an expanded local calling area under the incremental extended area service standard shall include:

(A) The information required by paragraph 2003(b);

(B) A description of the existing local calling area; and

(C) A description of the proposed local calling area.

(d) Cost study requirements. If the Commission determines that the criteria of either 2309(a)(I) or (b)(II) are met, or upon the receipt of a valid petition to pursue an incremental extended area service option under paragraph 2309(c), any LEC providing service in and between the exchange areas being considered for inclusion in the local calling area shall perform all revenue and cost analyses necessary to calculate the rate element increment per affected customer (cost study). The cost study shall be completed by the LEC(s) and submitted to the Commission and electronically to the Office of Consumer Counsel within 30 days of notification by the Commission. Staff shall report to the Commission of the filing of the cost study and any modifications necessary within 15 days of receipt. The Commission shall determine the costs the affected LEC(s) will be allowed to recover from customers. When the amount of the recoverable costs is ordered by the Commission, the Commission shall also direct that a letter be sent to the LEC(s), notifying them of the allowed rate impact and directing the LEC(s) to proceed with the customer survey. Any issue arising regarding the cost study shall be resolved by Commission order.

(e) Customer survey requirements.

(I) When a local calling area expansion is proposed and the rate increment is allowed, a statistically valid survey of all residential customers in the exchange areas being considered for calling area expansion shall be performed by the affected local exchange provider(s). The statistical sample of residential customers shall be sized to produce not more than plus or minus five percent margin of error. The survey shall explain the proposed expansion of the local calling area and the resultant increase in local rates. The survey results must demonstrate at least a 50 percent positive acceptance of the local calling area at the stated rate levels. The customer survey shall be completed within 30 days of Commission notification unless otherwise ordered by the Commission.

(II) Notwithstanding subparagraph (I), if the cost study results show that the increase in the monthly rate for basic local exchange service in the non-petitioning local exchange area represents less than a 0.5 percent increase, a residential customer survey need not be conducted in the non-petitioning local exchange area.

(III) In the case of the incremental extended area service option, a statistically valid survey only of residential customers in the petitioning exchange area(s) shall be performed by the LEC(s) at the expense of the petitioners. The statistical sample of residential customers shall be sized to produce not more than plus or minus five percent margin of error. The survey shall explain the proposed expansion of the local calling area and the resultant increase in local rates. The survey results must demonstrate at least a 66 percent positive acceptance of the local calling area at the stated rate levels.

The customer survey shall be completed within 30 days of Commission notification unless otherwise ordered by the Commission.

(f) When the cost study and customer survey requirements have been met, the Commission will issue an order indicating the complying exchanges and setting the procedural schedule for conducting any required public hearings. The applicant or petitioner shall have the burden of going forward and the burden of proof.

(g) LECs may offer a lower priced alternative to full flat-rate local service, such as measured rate service and/or a message rate service. They may also offer a combination local service comprised of a smaller local calling area for a lower priced flat rate with local measured and/or message rate service to the rest of the local calling area, or they may offer a larger local calling area for a higher flat rate, as long as the LEC continues to offer the Commission-ordered local calling at the original rate. This rule does not in any way negate a carrier's responsibility to pay applicable access charges.

(h) If community of interest standards are not met, the Commission will generally rely on long distance competition, local competition, and optional calling plans that assess additional charges only to participating customers to meet customer demand for alternate or expanded calling.

(i) While nothing in rules 2308 or 2309 shall impose on any LEC an obligation to construct facilities or relieve any LEC of any obligation to construct facilities otherwise provided for by applicable law or Commission directive, to the extent facilities are constructed, they shall comply with all statutory and Commission requirements.

2310. Availability of Service -- Adequacy of Facilities.

Each LEC shall employ prudent management planning practices, including budgeting and prioritizing resources, to ensure that adequate facilities and equipment are in service to provide service to prospective customers in its service territory and in areas certificated to the LEC in conformance with the LEC's line extension policy.

(a) Line extension policies. Each LEC shall maintain, as part of its tariffs, the rules, regulations, circumstances, terms, and conditions under which line extensions or extensions of service by the LEC will be made in order to render service to a prospective end user within the exchange area. A LEC's line extension tariffs:

(I) Shall not discriminate among the LEC's prospective customer by class of service;

(II) Shall include rate schedules for service connections, extensions, and line mileage, as applicable;

(III) Shall provide a construction credit to prospective customers which reflects the amount of its capital investment that is supported by customers' revenues, the CHCSM, and all other price support mechanisms established by the federal and state governments if the LEC receives support from such price support mechanisms (i.e., its supported costs); and

(IV) Shall be on file at a business location in Colorado or may be on the provider's website, and shall be available for inspection by the public during normal business hours.

(b) Date of application for service.

(I) When a customer orders service and the LEC is not required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date of the first oral or written customer contact with the LEC to request service.

(II) When a customer orders service and the LEC is required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date on which the customer makes payment or partial payment of initial construction charges, regardless of whether the customer's project is an individual construction project or is included as part of a group construction project. If the LEC has to recalculate the construction charges for a group construction project as the result of adding customers to the group or removing customers from the group, the date of application for service remains as the date the customer first made payment or partial payment of the initial construction charges. If no payment is required from the customer, the date of application for service is the date the estimate was provided to the customer.

(c) Information to be provided to residential or small business customers at the time of application for service.

(I) At the time of the first customer contact to apply for service, the LEC shall provide the customer an order number. If construction charges are, or may be required to provide the customer service, the customer shall be informed during the first customer contact that construction may be required to provide service. The LEC must subsequently inform the customer within 30 days of the customer's first contact that construction will be required and a construction charge estimate is necessary before the LEC quotes the estimated construction charge. If the tariffs of the LEC require the payment of an engineering fee prior to the provision of a construction charge estimate, the customer shall be informed of the required fee at the time of second customer contact.

(II) The LEC shall specifically ask customers who contact the LEC to inquire about service availability if the customer desires to initiate, at that time, a request for service. The LEC shall not discourage the customer from placing an order at the time of such inquiry and shall use the date the provider offers for service or a date otherwise agreed upon with the customer for service as the due date for installation.

(III) A LEC shall provide any information and assistance necessary to enable customer to choose from the lowest cost jurisdictional telecommunications service or other alternatives it provides which conform to the customer's or applicant's stated needs.

(IV) The LEC shall inform customers of the potential of future facility unavailability when the LEC is experiencing or forecasting facility unavailability in specific areas. The LEC shall allow customers to reserve basic local exchange service at the appropriate tariff rate (i.e., vacation service) and shall inform customers of this option.

(d) Construction charge estimate.

(I) When a customer orders service and the tariff of the LEC requires the provision of a construction charge estimate, the LEC shall provide to the customer, within 30 days from the date of the customer's request for an estimate, a good faith written cost estimate of the amount of the required payment. If the tariff of the LEC requires the payment of an engineering fee prior to the provision of a construction charge estimate, the payment of the engineering fee shall be notice to the LEC that the customer desires a construction charge estimate to be performed within 30 days. For group applications, the 30 days commence after all applicants have paid the required engineering fee. The good faith written cost estimate shall inform the customer that receipt of payment or partial payment is required before the customer's request will be considered an application for service.

(e) Notices to residential and small business customers.

(I) All customers who are not provided service within ten days of the date of application for service or by the customer's requested date for service, whichever is later, shall be provided a written notice by the LEC, stating the order number assigned by the LEC to the application for service, the general status of the order, and a phone number to call with questions. This notice shall be postmarked on or before the 15th day after the date of application.

(f) Provision of basic local exchange service.

(I) Applicability. Time frames for providing basic local exchange service and any remedies associated with not providing service by these time frames shall apply to all applications for service for the primary (first) residential and primary (first) business lines at a residential premises and the first two lines at a business premises. This rule shall not be applicable in geographic areas where the Commission has found basic local exchange service to be effectively competitive.

(II) Time frames for provision of service.

(A) Each LEC shall provide 95 percent of its customers with primary basic local exchange service no later than ten days from the date of the customer's application for service, except that when the customer requests a later date of service, the service shall be provided by the requested date, unless construction of new facilities is required in which case subparagraph (B) below shall apply. Failure to provide basic local exchange service for at least 95 percent of primary service orders placed in each of the LEC's wire center serving areas within the time set forth in this subparagraph shall constitute a violation of this rule. The LEC shall provide primary basic local exchange service to the remaining five percent of customers within 30 days of the application date for service. Failure to provide basic local exchange service for the remaining five percent of primary service orders placed in each of the LEC's wire center serving areas within the time set forth in this subparagraph shall constitute a violation of this rule.

(B) A LEC that relies on wholesale services purchased from an underlying facilities based provider shall provide 95 percent of its customers with primary basic local exchange service no later than five days from the date of the provisioning of the underlying wholesale service, except that when the customer requests a later

date of service, the service shall be provided by the requested date, unless construction of new facilities is required in which case subparagraph (B) below shall apply. Failure to provide basic local exchange service for at least 95 percent of primary service orders placed in each of the LEC's wire center serving areas within the time set forth in this subparagraph shall constitute a violation of this rule. The LEC shall provide primary basic local exchange service to the remaining five percent of customers within 30 days from the provisioning of the service by the underlying wholesale provider, except that when the customer requests a later date, the service shall be provided by the requested date. Failure to provide basic local exchange service for the remaining five percent of primary service orders placed in each of the LEC's wire center serving areas within the time set forth in this subparagraph shall constitute a violation of this rule.

(C) Subject to the exceptions in subparagraph (i) below, if construction of new facilities is required, the LEC shall provide that customer with basic local exchange service no later than 90 days from the date of the customer's application for service.

(i) When construction is required during the months of October through May, or when construction is required in counties that have construction moratoriums in place, a LEC shall provide primary basic local exchange service no later than 150 days from the date of the customer's application for service.

(III) Remedies to customers not receiving basic local exchange service within 30 days.

(A) If a LEC fails to provide basic local exchange service within 30 days, the LEC shall provide a remedy to the customer for the first residential and the first business line at a residential premises and for the first two lines at a business premises included in the initial order. These remedies shall continue to be provided until the customer receives the basic local exchange service.

(B) Remedies shall include a credit that shall be applied to the customer's account no later than the second bill issued for service that has been provided in an amount at least equal to the pro rata monthly local exchange service charge for each day thereafter that service is not provided, a monthly credit up to $40 to reimburse the cost of a temporary alternative to basic local exchange service and an installation charge waiver. These monthly credits shall accrue until the customer receives basic local exchange service.

(IV) Other remedies. The credits and installation charge waivers described in subparagraph (III) shall be offered in addition to, and not in lieu of, any other remedy available to the customer or the Commission, including, but not limited to:

(A) An order by the Commission that the LEC provide basic local exchange service by a date certain;

(B) An order by the Commission that the CPCN to provide local exchange service is deemed null and void or is revoked by the Commission, either in whole or in part; or

(C) Penalties under § 40-7-105, C.R.S.

(g) Procedure for variance of this rule. LECs may seek a variance of any part of this rule, subject to all the following limitations:

(I) A request by a LEC for a blanket variance shall not be granted. Requested variances for individual customers, or individual developments or areas, shall be considered.

(II) A variance may be granted only in those instances where the LEC has demonstrated a good faith effort to comply with the provisions of this rule and the Commission finds that good cause exists to grant the variance.

(III) All LECs may request a variance from the Commission by application that sets forth in detail the grounds upon which the variance is sought.

(h) For reports required for services held more than 90 days, see paragraph 2006(c).

2311. Changing Provider/Carrier Presubscription.

(a) Definitions. The following definitions apply only in the context of this rule.

(I) "Authorized carrier" means any telecommunications carrier chosen by the subscriber in accordance with the procedures specified in this rule. Authorized carrier can refer to a LEC, intraLATA long distance carrier or interLATA long distance carrier.

(II) "Electronic authorization" means approval for any carrier change that is initiated by a telephone call, either by the subscriber or by an independent third party.

(III) "Executing carrier" means any telecommunications carrier that implements a request that a subscriber's telecommunications carrier be changed.

(IV) "Slamming" means any change in an end-use subscriber's presubscription to a telecommunications service that is made without appropriate consent of the customer.

(V) "Submitting carrier" means any telecommunications carrier that requests that the subscriber's telecommunications carrier be changed.

(VI) "Subscriber" means any one of the following:

(A) The party identified in the account records of a carrier as responsible for payment of the telephone bill;

(B) Any adult person authorized by such party to change telecommunications services or to charge services to the account; or

(C) Any person (e.g., a payphone agent or building owner) who is contractually or otherwise lawfully authorized to represent such party.

(VII) "Unauthorized carrier" means any telecommunications carrier that is providing telecommunications service to a subscriber without the subscriber's authorization.

(VIII) "Unauthorized change" means a change to a subscriber's carrier of telecommunications service that is made without the subscriber's authorization in accordance with the procedures specified in this rule.

(b) Verification of orders for service.

(I) No telecommunications carrier shall submit or execute a change in a subscriber's authorized carrier except in accordance with the procedures in this rule.

(II) No submitting carrier shall request a change in a subscriber's authorized carrier prior to obtaining the subscriber's authorization by one of the following methods:

(A) A written or electronically signed (Internet or e-mail) letter of agency.

(i) A submitting carrier shall obtain a written or electronically signed letter of agency to obtain authorization to change a subscriber's authorized carrier. Any letter of agency that does not conform to this rule is void.

(ii) The letter of agency shall be a separate document or shall be located on a separate screen or web page including only the authorizing language described below. The sole purpose of the letter of agency is to authorize a carrier change. The letter of agency shall be signed and dated by the subscriber. The letter of agency shall not be combined with inducements of any kind on the same document, screen or web page. A letter of agency shall not be valid if it is presented to the customer for signature in connection with a sweepstakes or other game of chance.

(iii) The letter of agency may be combined with checks that include only the required letter of agency language prescribed and the necessary information to make the check a negotiable instrument. The letter of agency check shall not include any promotional language or material. The letter of agency check shall include, in easily readable, bold-faced type on the front of the check, a notice that the subscriber is authorizing a carrier change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

(iv) At a minimum, the letter of agency shall be printed in a sufficiently sized and readable type to be clearly legible and shall include clear and unambiguous language, in separate statements, that confirms: the subscriber's billing name and address, and each telephone number to be covered by the authorized carrier change order; the decision to change the authorized carrier from the current telecommunications carrier to the soliciting carrier; the subscriber's approval for the submitting carrier to act

as the subscriber's agent for the respective authorized carrier change; the subscriber's understanding that one carrier can be, but does not have to be, the subscriber's authorized carrier for local exchange, intraLATA toll, and interLATA toll services (or any combination of these services) for any one telephone number (although a separate letter of agency for each choice is not necessary); and the subscriber's understanding that a change in an authorized carrier may involve a charge to the subscriber.

(v) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the customer's current authorized carrier.

(vi) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.

(vii) Letters of agency submitted with an electronically signed authorization must include the customer disclosures required by § 101(c) of the Electronic Signatures in Global and National Commerce Act.

(B) Telephone call initiated by a subscriber. The subscriber must place a telephone call to the carrier of choice. The carrier shall obtain the subscriber's authorization that must confirm the subscriber's billing name and address, the decision to change to the new carrier, and the subscriber's understanding of the executing carrier's change fee. The submitting carrier electing to confirm a change in service electronically shall establish one or more toll free telephone numbers exclusively for that purpose. Calls to the toll free number(s) shall connect a subscriber to a voice response unit or similar mechanism that records the required information regarding the carrier change, including automatically recording the originating number using Automatic Number Identification (ANI).

(C) Third-party verification.

(i) An independent third-party verifier shall not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; shall not have any financial incentive to confirm authorized carrier change orders for the carrier or the carrier's marketing agent; and shall operate in a location physically separate from the carrier or carrier's marketing agent.

(ii) Automated third-party verification systems and three-way conference calls may be used for verification purposes as long as the requirements of subparagraphs (II)(C)(iii) and (iv) are satisfied.

(iii) A carrier or carrier's sales representative initiating a three-way conference call or a call through an automated verification system shall drop off the call once the three-way connection has been established.

(iv) All third-party verification methods shall elicit, at a minimum: the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call intends to make the carrier change; the telephone number(s) to be switched; and the types of services involved in the change. Third-party verifiers may not market the carrier's services by providing additional information, including information regarding authorized carrier freeze procedures.

(v) All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. Automated systems shall provide customers with an option to speak with a live person at any time during the call.

(c) A telecommunications carrier shall submit an authorized carrier change on behalf of a subscriber within three days of obtaining the subscriber's authorization.

(d) Authorized carrier freeze.

(I) An authorized carrier freeze prevents a change in a subscriber's authorized carrier unless the subscriber gives consent to make a change.

(II) A LEC may offer carrier freezes for local exchange, intraLATA toll, and interLATA toll services to its subscribers. If a LEC offers carrier freezes they shall be offered at no charge and on a non-discriminatory basis to all subscribers regardless of the subscriber's carrier selections.

(III) LECs shall conduct an education program upon initiation of service to a subscriber, which informs the subscriber of the option to freeze his choice of carrier(s) and the effects of freezing the selection of a telecommunications carrier.

(IV) Authorized carrier freeze procedures, including any solicitation, shall clearly distinguish among telecommunications services (e.g., local exchange, intraLATA toll, and interLATA toll) subject to an authorized carrier freeze. The carrier offering the freeze shall obtain separate authorization for each service for which an authorized carrier freeze is requested.

(V) All carrier-provided solicitation and other material regarding an authorized carrier freeze shall include the following:

(A) An explanation, in clear and neutral language, describing an authorized carrier freeze and which services may be subject to a freeze; and

(B) A description of the specific procedures necessary to lift an authorized carrier freeze, an explanation that these steps are in addition to the Commission's verification provisions in paragraph (b), and an explanation that a provider will be unable to make a change in carrier unless the subscriber cancels the freeze.

(VI) No LEC shall implement or cancel an authorized carrier freeze unless the subscriber's request to impose or cancel a freeze has first been confirmed in accordance with one of the following procedures:

(A) The LEC has obtained the subscriber's written or electronically signed authorization in a form that meets the requirements as a letter of agency; or

(B) The LEC has obtained the subscriber's electronic authorization in a form that meets the requirements of paragraph (b).

(e) Tariff filing requirements. Each LEC shall file a tariff describing the subscribers' options regarding freezing their authorized carriers.(f) Enforcement.

(I) A carrier that violates any provision included in these rules is subject to enforcement and penalties as provided in Articles 1-7 and 15 of Title 40, C.R.S.

(II) Upon notification from a subscriber of a change to another telecommunications carrier without authorization, the executing carrier shall switch the subscriber's line(s) back to the authorized carrier at no charge to the subscriber.

(III) A telecommunications carrier that initiates an unauthorized change in a subscriber's authorized telecommunications carrier, i.e., an unauthorized carrier, in violation of this section is liable:

(A) To the subscriber, the subscriber's previously selected carrier, or both, as determined by the Commission, for all intrastate long distance charges, all interstate long distance charges, local exchange charges, carrier switching fees, the value of any premiums to which the customer would have been entitled, and other relevant charges incurred by the subscriber during the period of the unauthorized change; and

(B) To the executing carrier for the change fees associated with the unauthorized change.

(g) Waiver for the sale or transfer of subscribers.

(I) A telecommunications carrier that acquires, through a sale or transfer, part or all of another carrier's subscriber base, shall comply with all the following provisions:

(A) No later than 45 days prior to the planned transfer of the affected subscribers from one carrier to another, the acquiring carrier shall file with the Commission an application for waiver of this rule. The application shall include the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the proposed date of the transfer. This application for waiver shall also include a copy of the notice that will be sent to the affected subscribers.

(B) The notice to subscribers shall be provided at least 45 days prior to the transfer or sale. The acquiring carrier is required to fulfill the obligations set forth in the notice. The notice shall, in addition to the requirements of paragraph 2002(d)(I) – (XII), include:

(i) The proposed date on which the acquiring carrier will become the subscriber's new carrier of telecommunications;

(ii) The rates, charges, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the transfer or sale;

(iii) A statement that the acquiring carrier will be responsible for any charges associated with the transfer to the new carrier;

(iv) A statement that reflects the subscriber's right to select a different authorized carrier for the telecommunications service(s), if an alternative carrier is available;

(v) A statement that all subscribers receiving notice, even those with an authorized carrier freeze(s) in place, will be transferred to the acquiring carrier, unless the subscriber selects a different carrier before the transfer date;

(vi) A statement that an existing authorized carrier freeze(s) will be lifted to execute the transfer, and advising the customer to ask the new carrier to institute a freeze after the transfer; and

(vii) The toll free customer service number of the acquiring carrier.

2312. IntraLATA Equal Access.

(a) References in this rule to Part 32, Part 36, and Part 64 Subparts I and K are references to rules issued by the FCC and are incorporated by reference as identified in rule 2008.

(b) Requirement. All companies offering basic local exchange service shall provide intraLATA equal access to all intraLATA IXCs.

(c) Customer notification for carrier selection. Customers commencing service shall be informed by the LEC of their intraLATA and interLATA toll carrier options at the time that service is requested, and shall be allowed to select both their primary interLATA and intraLATA carrier(s) at that time.

(d) Scope of intraLATA equal access.

(I) Zero-plus (0+) calls, in which the caller dials 0 plus a local number; zero-minus (0-) calls, in which the caller dials 0 and no further digits; abbreviated dialing arrangements included in rules 2740 through 2799; cellular 1+ calling-party-pay calls; 976; 676; and 1+ area code (+555+1212 calls) shall be processed by the customer’s local exchange carrier.

(II) In-WATS calls (1+ 800/888), "follow me" or "go anywhere" service (1+ 500), interactive information service calls (1+ 700), and information service calls (1+ 900) are not subject to these intraLATA equal access rules.

(III) 1+ interLATA calls; 0+ interLATA calls; 00- calls, in which the caller dials "00" and no further digits; and 1+NPA+555+1212 interLATA calls shall be processed by the caller's presubscribed interLATA toll carrier.

(IV) 1+ intraLATA calls and 0+ intraLATA calls shall be routed to the customer's primary intraLATA toll carrier.

(V) No charge shall be imposed for a customer's initial selection of a primary intraLATA or interLATA interstate carrier or for a choice of no presubscribed carrier.

(VI) No change order for a primary intraLATA or interLATA interstate toll carrier shall be submitted to a LEC until the order has been confirmed pursuant to the procedures set forth in rule 2311 and 47 C.F.R., Part 64, Subpart K.

(e) Use of customer information for marketing purposes. Customer information in the possession of the LEC provided in conjunction with a white pages telephone directory listing shall be made available to all requesting IXCs. In making customer information available, the LEC shall safeguard and refuse access to any and all customer information entitled to protection and confidentiality as required by applicable federal and state laws. The LEC may charge for the information based on the total service long-run incremental cost of providing the information. Information relating to customers subscribing to non-published or non-listed telephone number service shall not be made available to the LEC itself or any other carriers for the purpose of marketing intraLATA toll services.

2313. – 2329. [Reserved].

<u>Quality of Services Provided to the Public</u>

2330. Applicability.

Rules 2330 through 2359 regulate the provision of intrastate telecommunications services and facilities to the public and apply to all providers of telecommunications services subject to the jurisdiction of the Commission. These rules do not apply to specific services in geographic areas where the Commission has found that effective competition exists.

2331. Definitions [Reserved].

2332. Incorporation by Reference.

References in these rules to Part 68 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2333. Construction and Maintenance of Plant and Equipment -- Generally.

The telecommunications plant of the provider shall be constructed, installed, maintained and operated in accordance with good engineering practice in the telecommunications industry to assure, as far as reasonably possible, uniformity in the quality of service provided and the safety of persons and property.

2334. Construction and Maintenance Practices.

(a) Minimum standard. The provider shall use, as a minimum standard of accepted good engineering practice, the 2002 National Electric Safety Code, as identified in rule 2008.

(b) For any telecommunications plant constructed or installed prior to February 5, 2001, the minimum standard of accepted good engineering practice shall be the edition of the National Electric Safety Code in effect at the time of beginning construction or installation of the telecommunications plant.

(c) Telecommunications plant that is constructed, installed, maintained, or operated in accordance with the National Electric Safety Code in effect at the time of its construction or installation shall be presumed to comply with accepted good engineering practice in the telecommunications industry and the provisions of this rule. However, all direct buried cables connecting the network interface at the customer's premises to the network facilities of the provider shall be permanently buried, as practical, at least 12 inches below the final surface grade as known at time of installation. All other direct buried communication cable shall, at minimum, be buried at depths required for supply cable of similar voltage as specified in the National Electric Safety Code.

(d) The provider shall use as a minimum standard of safe practice 47 C.F.R., Part 68, dated October 1, 2002, for the interconnection of new or existing telecommunications plant of the provider with terminal equipment of a customer.

(e) The provider shall coordinate with other entities concerning construction work initiated by itself, or other entities, that may affect its facilities used for serving the public. For example, the provider shall:

(I) Economically minimize construction expenditures by coordinating construction with other entities, such as the joint use of trenches for cable, where joint construction is both safe, cost effective, and in the best interest of the provider;

(II) Take reasonable action to protect service to the public, such as identifying the location of underground facilities that may be affected by construction work for other entities;

(III) Maintain a database or some other form of quickly accessible information at its facilities sufficient to allow facility location coordination and participation in a program on a statewide basis to minimize service interruptions caused by accidental cutting of cables; and

(IV) Engage in coordination with electric power utilities in the area prior to constructing new plant or a major rebuild of existing plant that may be impacted by inductive interference from the electric power systems.

(f) Each provider shall adopt a program of periodic tests, inspections, and preventative maintenance aimed at achieving efficient operation of its system to permit the rendering of safe, adequate, and continuous service at all times as recognized by general practices within the telecommunications industry. The presence of inductive interference, cut-offs, cross-talk, and excessive noise generation by communication system facilities are symptomatic of inadequate service, and a maintenance program shall be designed to minimize or prevent those occurrences. The provider shall maintain its system to meet the applicable service adequacy standards defined in rules 2336 through 2341.

(g) The provider shall keep records of the tests and inspections necessary to meet industry and Commission service standards on file in its office for review by the Commission. These records shall show the nature of the equipment tested or inspected, the reason for the test or inspection, the general conditions under which the test or inspection was made, the results of the test or inspection, and any corrections made as a result of the test or inspection.

2335. The Provision of Service During Maintenance or Emergencies.

The following paragraphs describe minimum standards for maintaining service.

(a) Each LEC shall make reasonable provisions to meet emergencies resulting from: power failures; sudden and prolonged increases in traffic; staff shortages; and fire, storm, or acts of god. Each LEC shall issue instructions to its employees identifying procedures to be followed in the event of an emergency in order to prevent or mitigate interruptions or impairment of telecommunications service.

(b) In the event of a commercial power failure, the provider shall furnish a minimum of four hours of backup power or battery reserve rated for peak traffic load requirements from the provider's power source to the network interface in landline (coaxial, fiber, or copper) applications in order to support existing basic service to lines that use a traditional ringer. A mobile power source shall be available that can be delivered and connected within four hours. Additional battery reserve capacity beyond the four-hour minimum shall be provided based on the consideration of the following local conditions:

(I) Reasonable travel time (the time from personnel call-out through arrival at the facility);

(II) Time for procuring and transporting the portable engine to the site, placing it in position, and connecting it to the load;

(III) Number of sites serviced by one engine (commercial power failures may simultaneously affect more than one facility); and

(IV) Frequency and duration of past commercial power failures.

(c) All local central offices, toll switching or tandem switching offices, repeater huts, microwave radio sites, and other interoffice facilities requiring LEC-supplied power shall have available a minimum of four hours of battery reserve (or backup power) rated for peak traffic load requirements. If the facility is not continuously attended by trained personnel, or does not include a permanent auxiliary power unit, additional battery reserve shall be installed to provide for travel time. Travel time is the time from personnel call-out through arrival at the facility.

(I) In central offices with capacity for more than 10,000 access lines, or in toll or tandem switching offices, a permanent auxiliary power unit shall be installed. If the auxiliary power unit requires manual-start and transfer, one hour additional battery reserve shall be installed.

(II) For central offices serving fewer than 10,000 lines, repeater huts, microwave radio sites, and other interoffice facilities requiring power, a mobile power source shall be available which can be delivered and connected. Additional battery reserve capacity beyond the four-hour minimum shall be installed by the LEC at these locations based on the consideration of the following local conditions:

(A) Reasonable travel time (the time from personnel call-out through arrival at the facility);

(B) Time for procuring and transporting the portable engine to the site, placing it in position, and connecting it to the load;

(C) Number of sites serviced by one engine (commercial power failures may simultaneously affect more than one facility); and

(D) Frequency and duration of past commercial power failures.

(d) Service interruptions for an extended time due to maintenance requirements shall be performed at a time that causes minimal inconvenience to impacted customers. The LEC shall take reasonable steps to notify the customer in advance of extended maintenance requirements. The LEC shall also make emergency service available when the provider knows that the service interruption affects 1,000 or more access lines and when the provider knows, based upon the prior experience of the LEC, that the interruption may last more than four hours during the hours of 8 a.m. to 10 p.m. If the LEC cannot provide emergency service, it shall file a report of the occurrence as required by paragraph 2143(h).

(e) Each LEC shall develop a general contingency plan to prevent or minimize any service interruptions due to the catastrophic loss of a central office switch that serves more than 10,000 access lines or is the toll or tandem switching office for 10,000 access lines. The plan shall describe the actions and systems installed to prevent or minimize the probability of such an occurrence as well as describe the actions and systems available to minimize the extent of any incurred service interruption.

2336. Adequacy of Service.

(a) Each LEC and toll service provider shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available at all times, including the average busy hour of the busy season. To meet this objective, each LEC and toll service provider shall conduct traffic studies, employ reasonable procedures for forecasting future service demand and maintain the records necessary to demonstrate to the Commission that sufficient equipment is in use and that an adequate operating force is provided.

(b) The criteria for quality of service defines a minimum acceptable standard for the most basic elements of telecommunications service. The rules do not attempt to define all criteria for all service applications or the most desirable service level for any basic element except for the minimal acceptable standard. In the event this subchapter does not cover a specific service element, the provider shall meet generally accepted industry standards for that element and the total service. Organizations that are recognized for establishing standards that may be appropriate for telecommunications services provided in this state include the IEEE, ANSI, the Rural Utility Service (RUS), and the FCC.

(c) The standards within this subchapter establish the minimum acceptable quality of service under normal operating conditions. They do not establish a level of performance to be achieved during the periods of emergency, catastrophe, natural disaster, severe storm, acts of terrorism, acts of negligent or willful misconduct by a customer or third parties including but not limited to outages originating from the introduction of a virus onto the provider's network, or other events affecting large numbers of customers nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events for which a provider may not have been expected to accommodate, or which are outside of the provider's control including but not limited to failure of the customer to permit the provider reasonable access to its facilities, equipment or customer premise, and delay caused by local, state, federal or tribal government entities in approving easements or access to rights of way. To the extent such conditions affect the measurement records required or the ability of the provider to meet any other service standards, it is the responsibility of the provider to separately document the duration and magnitude or effect of such occurrences in its records.

2337. Standard Performance Characteristics for Customer Access Lines.

LECs shall construct and maintain all local access lines used for individual line service to meet generally accepted industry standards as the specifications evolve and improve over time. Organizations that are recognized for establishing standards that may be appropriate for local access lines include the IEEE, the ANSI and the FCC. Specifications for unbundled network elements may also be appropriate for establishing such standards. At a minimum, each LEC shall construct and maintain all local access lines used for individual line service so that the following parameters and performance characteristics are met:

(a) Performance classifications as used in this rule describe the operating performance range:

(I) Recommended range: ensures the most desirable performance.

(II) Acceptable range: is outside the recommended region, but that provides satisfactory performance.

(III) Substandard range: provides unacceptable performance. Performance within this range requires that the LEC shall initiate appropriate repair work.

(b) Bandwidth. Bandwidth for voicegrade access shall be, at a minimum, 300 to 3,000 Hertz.

(c) Loop loss. The performance of an access line is considered acceptable when the transmission insertion loss, as measured at the interface with the LEC network at the customer's location and including any losses in central office equipment, does not exceed 8.5 dB at 1004 + 20 Hertz (Hz).

(d) Frequency response characteristics:

(I) Three-tone slope deviation. Three-tone slope deviation is the loss deviation at 404 Hz and 2804 Hz relative to the actual measured loss (AML) -16 dBm0 at 1004 Hz. Three-tone slope deviation from AML shall be within the following performance ranges:

Three-Tone Slope Deviation from Actual Measured Loss

Frequency	Deviation	Performance Category
404 Hz & 2804 Hz	Less than -1.5 dB	Substandard
404 Hz & 2804 Hz	-1.5/+9.5 dB	Acceptable
404 Hz & 2804 Hz	Greater than +9.5 dB	Substandard

(II) Attenuation distortion. Attenuation distortion is the loss variation measured over the indicated frequency ranges relative to the AML -16 dBm0 signal at 1004 Hz. Attenuation deviation from AML shall be within the following performance ranges:

Attenuation Distortion from Actual Measured Loss

Frequency	Deviation	Performance Category
504 Hz & 2504 Hz	-1.5 to +7.5 dB	Acceptable
404 Hz & 2804 Hz	-1.5 to +9.5 dB	Acceptable
304 Hz & 3004 Hz	-2.5 to +11.5 dB	Acceptable

(e) Loop current. Local access line current is the metallic direct current flowing in the circuit at the customer interface during the talk and signaling states or during the idle line state. Local access line current shall be equal to or greater than 20 milliamps (ma).

(f) Loop noise. Noise is defined as unwanted disturbances superimposed on a useful signal that tends to obscures its information content.

(I) C-message noise.

(A) Customer access lines used for individual line service that are less than 30,000 feet in length shall be constructed and maintained so that a measure of the C-message circuit noise from the network interface at the customer's premises to and including the central office termination shall meet the following performance thresholds:

C-Message Weighted Noise	
Noise Level (dBrnC)	Performance Category
≤ 20	Recommended
> 20 and ≤ 30	Acceptable
>30	Substandard

(B) All other local access lines shall be maintained so that the measured C-message circuit noise does not exceed 30 dBrnC.

(II) kHz FLAT noise. Circuit noise, as measured using the "3 kHz FLAT" weighting, shall meet the following performance thresholds:

3 kHz FLAT Weighted Noise	
Noise Level (dBrn 3 kHz FLAT)	Performance Category
≤ 40	Recommended
> 40 and ≤ 60	Acceptable
> 60	Substandard

(III) Power influence. Power influence, as measured as C-message weighted longitudinal noise, shall meet the following performance thresholds:

C-Message Weighted Longitudinal Noise	
Noise Level (dBrnC)	Performance Category
≤ 80	Recommended
> 80 and ≤ 90	Acceptable
> 90	Substandard

(g) Longitudinal balances. Longitudinal balance (circuit balance), as measured as the difference between power influence (dBrnC) and circuit noise (dBrnC), shall meet the following performance thresholds:

Circuit Balance	
Balance (dB)(C-Message)	Performance Category
≤ 50	Substandard
> 50 and ≤ 60	Acceptable
> 60	Recommended

(h) Testing. Each LEC shall, as good utility practice, engage in testing its physical plant for all the following purposes:

(I) Identifying potential trouble (routine, preventive, or proactive testing).

(II) Locating or specifying the type of circuit problem or deficiency (diagnostic testing).

(III) Determining the appropriate course of action upon receipt of a customer trouble report to resolve the customer trouble report. Upon receipt of a trouble report pertaining to the LEC's network, the LEC shall test the local access line. The records of these test results shall be maintained pursuant to subparagraph 2005(c)(VII). The test results shall be made available to the customer, upon request. This information shall be provided to the Commission upon request.

2338. Interexchange Trunk Connections.

(a) LECs and toll providers shall construct and maintain sufficient trunking facilities to ensure that 95 percent of the sampled toll calls have from a minimum of 3db to a maximum of 12dB of transmission loss at 1000 + 20HZ. Providers shall construct and maintain trunk facilities used solely for providing extended area service to ensure that 95 percent of the sampled calls, excluding calls between central offices in the same building, have from a minimum of 2dB to a maximum of 9dB of transmission loss at 1000 + 20HZ with the measured loss for any trunk directly connecting two central offices not exceeding 6.0dB. These measurements are for trunk side access connections and include losses associated with the originating and terminating central offices.

(b) The allowable message circuit noise measure, as measured between the line side of the originating central office and the line side of the terminating central office, for sampled calls on interexchange trunk connections shall be:

(I) No more than 31 dBrnC for offices located less than 50 miles apart;

(II) No more than 35 dBrnC for offices located 50 to 100 miles apart; and

(III) No more than 38 dBrnC for offices located greater than 100 miles apart.

2339. PBX and Multiline Channels.

The provisions of rule 2337 for individual service local access lines shall apply to facilities connecting the network interface for switching and intercommunication among stations at the customer's premises to the line side of the serving central office. However, for access line lengths of less than 18,000 feet, if transmission insertion loss exceeds 8.5dB at the station set of the customer, the responsibility of the LEC shall be limited to providing a channel with no more than 6.5dB loss as measured from the customer's interface with the LEC network to and including the central office.

2340. Network Call Completion Requirements.

(a) Direct dialed calls.

(I) The LEC shall construct and maintain sufficient central office local usage message path capacity, interoffice channel capacity, and other necessary facilities to meet the following minimum requirements during any normal busy hour:

(A) Dial tone within three seconds for 98 percent of call attempts on the switched network;

(B) Correct termination of 98 percent of properly dialed intraoffice or interoffice calls within an extended service area; and

(C) Correct termination of 98 percent of properly dialed intraLATA or interLATA calls when the call is routed entirely over the network of the LEC.

(II) Unless otherwise authorized by the Commission, a provider of intrastate toll services shall maintain sufficient switching and network channel capacities and other necessary facilities so that 98 percent of properly dialed toll calls are correctly terminated.

(III) A dialed call shall be considered properly terminated if:

(A) The calling party receives an indication of ringing, a ringing signal is delivered to the station location of the called party, the called party answers, and a connection is established between the calling and called parties;

(B) If the called number is busy, the calling party receives a busy signal; or

(C) A call to a non-working code or inoperative customer number is directed to the intercept service of the LEC.

(IV) A dialed call shall not be considered properly terminated if a connection cannot be established between the calling and called parties, and the calling party receives an overflow announcement or an overflow signal that is different from the called party busy signal.

(V) All toll providers that use connections provided from the line side of the central office of the LEC or connections that require use of a special access code to reach the provider, in addition to using trunk side connections without this requirement provided by the LEC at this or any other central office, shall order sufficient quantities of switched access service from the LEC to maintain the same blocking probability on those connections as the provider normally establishes for trunk side connections without the access code requirement using similar assumptions of customer toll calling demand. Normally, the Commission shall consider a .01 blocking probability to be a desirable parameter for ordering switched access service from a LEC.

(b) Operator-assisted calls.

(I) All communications between customers shall be considered as confidential in nature. The provider shall take reasonable action to minimize the potential access of other entities to those communications. Operators or employees of the provider shall not listen to any conversation between customers unless there is an operating necessity. Operators shall not repeat or divulge the nature of any local or long distance conversation, nor divulge any information inadvertently overheard. The provider is responsible for compliance with this paragraph by both its employees and the employees of other entities that perform this service on behalf of the provider.

(II) Suitable rules and instructions shall be adopted by each provider and followed by employees or other entities employed by the provider governing the language and operating methods to be used by operators during assistance to customers. Specifically, operators shall be instructed to be courteous, considerate, and efficient in the handling of all customer calls. Any required call timing for jurisdictional operator-assisted calls shall accurately record when the customer requested connection is established and when it is terminated.

(III) Each provider offering operator assistance to the public shall provide a service that can answer 85 percent of intercept, toll, and local assistance calls within ten seconds.

(IV) Other calls directed to the published telephone numbers for service repair or the business offices of the LEC or toll providers shall be answered either by a company representative or a voice-response mechanized unit within an average wait time of 150 seconds. Each business day during any month for which the standard was not obtained for the published telephone number associated with the respective service center or business office shall be deemed a separate violation of this paragraph. When the average wait time exceeds 150 seconds in any month for any service center or business office, a written report listing each offending service center or business office shall be submitted to the Commission within 31 days from the end of the month in which the standard was not met. For each violation listed, the report shall identify the percent of calls answered, the reason for failure to meet the 150 second average wait time standard, the remedial action the LEC has taken, and any known results of that remedial action.

(V) The measurement records for determining the minimum acceptable call completion criteria described under subparagraphs (III) and (IV) may be adjusted, as allowed under paragraph 2336(c), for the circumstances specifically described within subparagraph 2304(a)(IV)(B) and paragraph 2336(c).

(VI) An answer shall mean that either a company representative or a voice response or mechanized unit menu is ready to assist the customer or accept information necessary to process the call. An acknowledgement that the customer is waiting on the line shall not constitute an answer. A dropped call shall not be considered an answer. An answer shall not mean either directing the call to a company representative or mechanized system incapable of providing assistance to the customer or directing the call to a system that will only take a message from the customer.

2341. Trouble Report Response.

(a) Maximum acceptable numbers of reports. Each LEC shall maintain its network so as to minimize customer trouble reports for jurisdictional services economically; however, trouble reports shall not exceed eight reports per 100 access lines per month per wire center, averaged over a three-month period. An occurrence of a violation of this paragraph shall be considered as each month that exceeds this criterion for the wire center in question. However, the first month in a calendar year that a wire center does not meet this criterion is not considered to be a violation.

(b) Allowable response time.

(I) The response of a LEC to customer trouble reports shall be such that 85 percent of all out-of-service reports, for each wire center are cleared within 24 hours for each month. A separate occurrence of a violation of this subparagraph shall be considered as each month for which the criterion was not met in each wire center served by the LEC.

(II) When fewer than 85 percent of trouble reports for any month for any wire center are not cleared within 24 hours, a written report listing each offending wire center shall be submitted to the Commission within 31 days from the end of the month in which the standard is not met. For each violation listed, the report shall identify the percent of trouble reports cleared within 24 hours, the reason for falling below the standard, the remedial action the LEC has and will take in the future to meet the standard, and the date the wire center is expected to meet or exceed the standard.

(III) This criterion excludes the following occurrences to the extent the LEC can separately document the number of such occurrences:

(A) Reports for non-jurisdictional services or services of another provider; and

(B) Situations where LEC access to the customer's premises is required, but is not available for reasons outside the control of the LEC.

(c) The measurement records for determining the maximum acceptable number of reports and the allowable response time may be adjusted, as allowed under paragraph 2336(c), for circumstances specifically identified in subparagraph 2304(a)(IV)(B) and paragraph 2336(c).

(d) Response priorities. The LEC shall give priority to and initiate repairs, regardless of the hour, for customer trouble reports that may affect the public's health and safety.

(e) Customer notification. If the LEC cannot clear the reported trouble within 24-hours for out of service reports and within 48-hours of other trouble reports the LEC shall inform the customer of an estimate of when the service or trouble report will be cleared.

(f) Appropriate adjustments to the customer's bill shall be automatically made by the LEC for jurisdictional service interruptions pursuant to subparagraph 2304(b)(IV)(A).

2342. – 2359. [Reserved].

<u>Collection and Disclosure of Personal Information</u>

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to regulate the collection and disclosure of personal information obtained by providers and to identify procedures for protecting the personal information of the providers' customers.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-4-101, and 40-2-108, C.R.S.

2360. Applicability.

Rules 2360 through 2399 apply to all providers regulated under Title 40, Article 15, Parts 2 and 3, C.R.S.

2361. Definitions.

The following definition applies only in the context of rules 2360 through 2399.

(a) "Customer proprietary network information" has the same meaning as the meaning given to such term in 47 U.S.C. § 222(h)(1).

2362. Incorporation by Reference.

Except as provided in paragraph 2361(a), the Commission incorporates by reference the regulations published in 47 C.F.R. §§ 64.2003, 64.2005, 64.2007, 64.2008, and 64.2009, as identified in rule 2008.

2363. – 2399. [Reserved].

COSTING AND RATES

Cost Allocation

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: prescribe methodologies that prevent the price of deregulated services from being set below cost by use of subsidization from customers of regulated services; and prescribe cost-allocation methodologies for the segregation of intrastate investments and expenses for providers that offer both regulated and deregulated telecommunications services.

The statutory authority for the promulgation of these rules may be found at §§ 40-15-108(2) and 40-2-108, C.R.S.

2400. Applicability.

(a) Except as specifically provided otherwise, rules 2400 through 2459 apply to all intrastate providers who provide both regulated and deregulated telecommunications services as permitted by law.

(b) Except as otherwise specifically noted, rule 2415 is applicable to rural telecommunications providers, as defined in § 40-15-102(24.5), C.R.S., that:

(I) Are not average-schedule companies as defined in 47 C.F.R. §§ 69.605 to 69.610 (average-schedule LEC); and

(II) Have opted to have their access charges regulated by the Commission in accordance with § 40-15-105(2), C.R.S.

(c) Rule 2416 is applicable to all rural telecommunications providers.

(d) CLECs are exempt from paragraph 2404(a), rule 2406, and paragraphs 2407(b) through (f), and, under specific circumstances, paragraph 2405(a).

2401. Definitions.

The following definitions apply only in the context of rules 2400 through 2459.

(a) "Cross-subsidization" occurs when telecommunications services which are not subject to the jurisdiction of the Commission (deregulated services) are priced below cost by use of subsidization from customers of services subject to the jurisdiction of the Commission (regulated services); or when a provider's deregulated services derive benefits from the regulated operations without the regulated operations receiving just and reasonable compensation from the deregulated operations for the benefits derived.

(b) "Fully distributed costs" (FDC) means the costs derived by assigning the total historical costs of the firm to individual products or services using cost accounting, engineering, and economic standards. FDCs include not only all costs related to the provision of service but also the return on investment.

2402. Incorporation by Reference.

References in these rules to Parts 32, 36, 64, and 69 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2403. Applicability to Specific Types of Services.

(a) Each provider shall file with the Commission a list of each service that it offers, providing a description of such service and its classification of service as a regulated or deregulated telecommunications service, as those terms are used in Title 40, Article 15, C.R.S., and as determined by the Commission. This list shall be updated as changes occur.

(b) Providers are permitted to continue accounting for non-tariff services as regulated services when they are offered incidental to tariff services provided that all of the following conditions are met:

(I) The non-tariff services are outgrowths of regulated operations.

(II) The total revenue from all non-tariff services does not exceed:

(A) For all providers except rural telecommunications providers, one percent of the provider's total annual Colorado operating revenue for regulated services; for rural telecommunications providers, seven percent of such provider's total annual Colorado operating revenue for regulated services; or

(B) The provider-specific revenue levels as ordered by the Commission.

(III) The service is a non-line-of-business service.

(IV) The service has traditionally been treated as an incidental service.

(c) Providers are permitted to continue accounting for deregulated de minimis services, which have traditionally been offered in conjunction with tariff services, as regulated services provided that the following conditions are met:

(I) The sum of the revenues from the incidental services of paragraph (b) and these de minimis deregulated services does not exceed:

(A) For all providers except rural telecommunications providers, one percent of the provider's total annual Colorado operating revenue for regulated services; for rural telecommunications providers, seven percent of such provider's total annual Colorado operating revenue for regulated services, provided that the rates charged for such de minimis deregulated services are compensatory; or

(B) The provider-specific revenue levels as ordered by the Commission.

(II) The service has traditionally been treated as a de minimis service.

(d) Providers shall specify precisely which services they propose to treat as incidental services and which services they propose to treat as de minimis services.

(e) Each provider shall demonstrate that any activity proposed for treatment as either an incidental service or as a de minimis service complies with this rule.

2404. Uniform System of Accounts.

(a) All providers shall maintain their books and records in accordance with FCC regulations found at 47 C.F.R., Part 32, Class A, except for rural telecommunications providers, who may use 47 C.F.R., Part 32, Class A or Class B.

(b) In the event a provider, other than a CLEC, is authorized by the FCC to maintain its books of account and records in a manner other than under the USOA, it may seek a variance from paragraph (a) allowing it to maintain its books of account and records as permitted by the FCC. However, the provider requesting such a variance shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

(c) Providers who were already authorized by the Commission prior to April 30, 1990, to maintain their books of account and records in a manner other than the USOA need not seek a variance from paragraph (a) and are authorized to continue maintaining their books of account and records in the manner previously authorized by the Commission.

(d) CLECs are automatically exempt from paragraph (a). However, a CLEC shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

2405. State-Interstate Separation of Costs.

(a) Any provider that provides facilities or equipment for use by customers or providers of interstate telecommunications services shall apply federal cost allocation and separations principles as described in 47 C.F.R., Part 64 (The Cost Allocation Manual) and 47 C.F.R., Part 36 (The Separations Manual).

(b) A provider, other than a CLEC, which is not required by the FCC to apply the Part 36 rules may apply for a variance of paragraph (a) as it relates to Part 36. However, the provider requesting such a variance shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

(c) If a CLEC has been given an exemption by the FCC from either Part 64 or Part 36, it is automatically exempt from all corresponding requirements of paragraph (a). However, the CLEC shall implement a suitable alternate method of producing Colorado intrastate-specific information to the Commission.

2406. Cost Segregation Standards Generally.

For purposes of these rules, and in order to comply with §§ 40-15-106 and 40-15-108(2), C.R.S.:

(a) All providers of telecommunications services may perform a FDC study for Commission use. In performing an FDC study, all providers shall follow generally accepted cost accounting and cost causation principles.

(b) When performing a FDC study the following cost-segregation principles shall be used by all providers (listed in descending order of preferred application):

(I) Cost causation: Costs are assigned to all services that cause those costs to be incurred.

(II) Traceability: Costs that are identified in their entirety with a specific service are directly assigned to that service.

(III) Variability: Costs that are not directly traceable to a particular service, but do vary in total with some measure of the volume of activity that is associated with services, are segregated according to the estimated rate of variability.

(IV) Capacity Required: Costs of capacity are assigned according to whether they are necessary for the performance of the service.

(V) Beneficiality: A service benefits from a cost if that cost is necessary to render that service.

(c) Any investments or expenses that are used jointly by two or more different services or that are used in common by services shall be segregated among all of those services using allocators that, to the maximum extent practicable, track how those costs are incurred.

(d) Consistent with FCC Docket 86-111, adopted December 23, 1986, paragraph 131, these rules do not require or suggest the sole use of Cost Accounting Standards Board (CASB) standards.

(e) The method for segregating investments and associated expenses which are common or jointly used shall ensure that all services that use those investments and expenses are allocated a portion of the joint investments and expenses. Incremental marginal cost studies will not be accepted for the purposes of this rule.

2407. Specific Cost-Segregation Standards and Guidelines.

(a) All investments and expenses attributable to interstate jurisdictional services are to be allocated using applicable federal rules. Each provider shall be able to demonstrate that such rules have been properly applied.

(b) Each service shall be treated specifically in the cost-segregation procedure. There shall be a description of each service provided by the provider that identifies the service, the service family, and describes how the service or service family is provided. Unless the service qualifies for treatment as an incidental service under paragraph 2403(b) or a de minimis service under paragraph 2403(c), sufficient information about the service shall be given to determine the appropriate cost categories to be employed.

(c) In order to provide a consistent approach to segregating all costs, the Commission requires that the following factors be applied (listed in descending order of preferred application):

(I) Costs shall be directly assigned whenever possible. Directly assignable costs are defined as those costs that can be attributed only to a specific service (this employs the Traceability principle in subparagraph 2406(b)(II)). Where more than one service uses an investment or causes a cost to be incurred, direct assignment is inappropriate.

(II) Methods of segregating common or joint investments and expenses shall use the provider's own engineering and service-provisioning design criteria as the primary assumptions (this employs the Variability principle in subparagraph 2406(b)(III)). When design criteria are used, the segregation method employed shall include the following to the maximum extent possible:

(A) If the service incorporates amounts of use that vary by time period and the engineering design criteria are sensitive to the peak-period usage (for example, end office or toll switching), then the segregation method shall also follow the engineering cost causation.

(B) Common or joint costs that vary in direct proportion to the relative amounts of use of a service shall be segregated based upon those relative amounts of use.

(III) Common or joint costs that do not vary in direct proportion to the relevant amounts of use of the service shall be segregated by a surrogate measure that has a logical or observable correlation to the use of the service (this employs the Capacity Required principle in subparagraph 2406(b)(IV)); except that a time-reporting method of allocation shall be used for certain labor-intensive items as required in subparagraph (IV).

(IV) A time-reporting method of allocation shall be used for labor-intensive customer operations, service related expenses, or investments of significance. The allocation of joint marketing (USOA Account Number 6610), operator services, local business office, and planning costs shall employ actual time-reporting methods for the allocation, if not directly assigned.

(A) An allocation method that uses statistically valid samples based on time reporting is permissible.

(B) A method other than a strict time-reporting allocation method may be approved by the Commission if it can be verified that the surrogate method is reasonably related to the expense being allocated.

(V) Residual common marketing expenses that cannot be directly assigned or directly or indirectly attributed shall be allocated using a general marketing allocator. This allocator shall be derived from the previously assigned or attributed marketing expenses between regulated and deregulated operations.

(VI) Common costs for which there is no direct or indirect measure of allocation shall be segregated using an appropriate general allocator that is based upon total expenses otherwise assigned (this employs the beneficiality principle in subparagraph 2406(b)(V)).

(d) General allocators shall be used only in exceptional cases and, then, only when the justification for their use is fully explained.

(e) Providers shall provide the Commission with all the data necessary to verify the cost segregation.

(f) It is inappropriate to allocate investments or expenses associated with the newly developed services exclusively to existing services. As new services begin to use joint and common investments and expenses are incurred, the methods of segregation shall be modified to track the usage and expenses.

2408. Implementation and Enforcement.

(a) A certified audit report shall be filed with the Commission when a provider files a general rate case, which includes requests for a change in revenue requirements, a change in the spread of rates, a change in rate base, and a change in the rate-of-return.

(b) A provider seeking any change in revenue requirements shall have the burden of demonstrating that the change is based on cost information and standards established by these rules.

2409. Informational Requirements.

Each provider subject to these rules shall provide the following information:

(a) A description of each service provided by the provider that identifies the service, the service family, and describes how the service or service family is provided in order to provide sufficient information about the service to ascertain its cost treatment.

(b) A statement of whether the service is regulated or deregulated. The statement shall also identify the services subject to a Commission decision and order if, in association with these services, the provider is required by the Commission to file an accounting plan that segregates assets, liabilities, revenues, and expenses in order to define rate base and to implement alternatives to rate-of-return regulation in accordance with rule 2205.

(c) A list of all services that the provider now treats as incidental services, that are accorded incidental accounting treatment, and the justification for treating each service as incidental.

(d) A list of all services which the provider now treats as de minimis services, accords de minimis accounting treatment, and the justification for treating each as de minimis.

(e) If the provider is a local exchange provider, a chart showing all corporate affiliates and a statement identifying those affiliates that engage in transactions (as described in rule 2413) with the provider and describing the nature, terms, and frequency of those transactions.

2410. Reporting and Record Keeping.

(a) Each provider shall keep records and all supporting documentation for cost segregations for two years following the close of the fiscal year associated with the records.

(b) Each provider, except rural telecommunications providers, shall file with the Commission its segregated financial statements as part of its annual report.

2411. Auditing.

(a) Certified auditor's reports required under paragraph 2408(a) shall include the following information:

(I) The scope of work conducted, specifying the items examined and the extent of examination;

(II) The auditor's conclusion as to whether actual methods and procedures designed and implemented by the provider conform to the procedures described in these rules;

(III) Any material exceptions or qualifications that the auditor may have identifying the adequacy of the procedures;

(IV) Any limitations in the scope of review imposed upon the auditor by the provider; and

(V) A statement that the attestation standards have been fully met during the examination.

(b) Any work papers used by independent auditors shall be made available for Commission Staff review. The provider shall authorize the release of such work papers by the auditors to the Staff of the Commission.

2412. Confidential Information.

The certified auditor's report, detailed specifications, documentation, supporting information, and Appendix B may be treated as confidential pursuant to applicable Commission rules governing confidential information.

2413. Affiliate Transactions - Local Exchange Providers.

(a) Transactions with affiliates involving asset transfers or provision of services into or out of the regulated accounts shall be recorded by the provider in its regulated accounts as provided in paragraphs (b) through (e).

(b) Transfer of assets:

(I) Assets sold or transferred between a provider and its affiliate pursuant to a tariff shall be recorded in the appropriate revenue accounts at the tariff rate. Non-tariffed assets sold or transferred between a provider and its affiliate that qualify for prevailing price valuation as defined in paragraph (d) shall be recorded at the prevailing price.

(II) All other assets sold by or transferred from a provider to its affiliate shall be recorded at either fair market value or net book cost, whichever is higher. All other assets purchased by or transferred to a provider from its affiliate shall be recorded at either fair market value or net book cost, whichever is lower. For purposes of this subparagraph, providers shall make a good faith determination of fair market value.

(c) Valuation of services provided to or by an affiliate:

(I) Services provided between a provider and its affiliate pursuant to a tariff shall be recorded in the appropriate revenue accounts at the tariff rate. Non-tariff services provided between a provider and its affiliate pursuant to publicly-filed agreements submitted to the Commission pursuant to section 252(e) of the Communications Act of 1934 or statements of generally available terms pursuant to section 252(f) shall be recorded using the charges appearing in such publicly-filed agreements or statements. Non-tariff services provided between a provider and its affiliate that qualify for prevailing price valuation, as defined in paragraph (d), shall be recorded at the prevailing price.

(II) All other services provided to an affiliate shall be recorded at the greater of fair market value or FDC. All other services received by a provider from its affiliate shall be recorded at either fair market value or FDC, whichever is lower, except that services received by a provider from an affiliate which exists solely for the purpose of providing services to members of the provider's corporate family shall be recorded at FDC. For purposes of this subparagraph, providers shall make a good faith determination of fair market value.

(d) In order to qualify for prevailing price valuation, sales of a particular asset or service to third parties shall be greater than 50 percent of all such products or services sold by an entity. Providers shall apply this 50 percent threshold on an asset-by-asset, service-by-service basis, rather than on a product line or service line basis. In the case of transactions for assets and services subject to § 272 of the Communications Act of 1934, a RBOC may record such transactions at prevailing price regardless of whether the 50 percent threshold has been satisfied.

(e) Income taxes shall be allocated among the regulated activities of the provider, its non-regulated divisions, and members of affiliated groups. If income taxes are determined on a consolidated basis by the provider and other members of an affiliated group, the income tax expense to be recorded by the provider shall be the same as if determined for the provider separately for all time periods, except that the tax effect of carry-back and carry-forward operating losses, investment tax credits, or other tax credits generated by operations of the provider shall be recorded by the provider during the period they are applied in settlement of the taxes otherwise attributable to any member, or combination of members, of the affiliated group.

(f) All providers, except rural telecommunications providers and interexchange providers, shall provide a statement identifying all affiliates that engage in transactions with the provider and describing the nature, terms and frequency of those transactions as defined below.

(I) Nature of transactions. The provider shall state, for each service transaction, whether the service involves the provision of services or asset transfers and how such transactions are accomplished.

(II) Terms of affiliate transactions. The provider shall state the terms at which the service is provided (i.e., at a tariff rate, the prevailing market price, or at the FDC).

(III) Frequency of affiliate transactions. The provider shall state the frequency with which the service is rendered.

2414. Affiliate Transactions - Interexchange Providers.

Notwithstanding any provisions of these rules to the contrary, interexchange providers shall file contemporaneously with the Commission any reports they are required to file with the FCC concerning affiliate transactions pursuant to 47 C.F.R., Part 64.

2415. Separation of Colorado Intrastate Access Costs.

(a) Pursuant to § 40-15-108(1), C.R.S., each rural telecommunications provider who provides facilities or equipment for use by interstate customers or providers of telecommunications services shall separate all investments and expenses associated therewith according to applicable federal separation procedures and agreements. Prior to separating intrastate costs, each provider shall segregate its intrastate investments and expenses in accordance with rules 2400 through 2459.

(b) Colorado intrastate access costs shall be separated from other jurisdictional costs using the separation procedures set forth at 47 C.F.R., Part 36, except as follows:

(I) Common line allocation. As provided in subparagraphs (I)(A) and (B), the lesser of 26.5 percent or twice the subscriber line usage (SLU) as measured by the ratio of intrastate interexchange holding time minutes of use to total holding time minutes of use applicable to traffic originating and terminating in the study area, as defined in 47 C.F.R., Part 36, shall be allocated to Colorado switched access. This allocation factor shall be known as the "basic allocation factor".

(A) The basic allocation factor specified in this subparagraph shall be modified by multiplying it by a weighting factor, which results in the "Colorado basic allocation factor".

(i) For rural telecommunications providers reporting an average unseparated loop cost per working loop less than or equal to 115 percent of the national average for this cost, the weighting factor shall be one (1).

(ii) For rural telecommunications providers reporting an average unseparated loop cost per working loop in excess of 115 percent of the national average for this cost, the weighting factor shall be 115 percent of the national average unseparated loop cost per working loop divided by the rural telecommunications provider's average unseparated loop cost per working loop.

(B) The Colorado basic allocation factor shall be used for allocating: Subcategory 1.3 of Exchange Line Cable and Wire facilities, Category 4.13 of Exchange Line Circuit equipment excluding Wideband, and Category 1 of Other Information Origination/Termination Equipment.

(C) Local switching allocations. Except as provided in this subparagraph, the allocation of Category 3 of Local Switching Equipment shall follow 47 C.F.R. § 36.125, using Colorado relative dial equipment minutes of use (DEM) for interLATA and intraLATA switched access. The Colorado DEM factors shall be weighted by a factor of 1.5. In no event shall the sum of all the interstate and the intrastate allocation factors be greater than 0.85. If the arithmetic sum exceeds 0.85, the intrastate allocation factor(s) shall be reduced accordingly.

2416. Colorado Intrastate Access Charge Elements.

(a) The rate elements included in the access tariffs of rural telecommunications providers who are not average-schedule rural telecommunications providers, shall be based on the application of 47 C.F.R. §§ 69.1 to 69.502, to the intrastate access revenue requirement of the rural telecommunications provider.

(b) The intrastate access charge elements in the s of average-schedule rural telecommunications providers shall be set at the average, as determined by the HCSM Administrator, of the access rate elements of the rural telecommunications providers who are not average-schedule LECs prevailing at the time that the average-schedule rural telecommunications provider's tariff rate elements are established. Average-schedule rural telecommunications providers are not required to modify their access charge elements each time the administrator recalculates the average of the access charge elements, but each shall comply with the provisions of paragraph 2855(f). When modified access charge elements are established, through a request by the LEC, a formal complaint, or other proceeding, the access charge elements shall be set at the then-current average.

2417. – 2459. [Reserved].

<u>Costing and Pricing of Regulated Telecommunications Services</u>

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify standards for determining costs for pricing of regulated services and to provide guidelines for appropriate market and cost analyses that underlie just and reasonable rates.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-110, and 40-2-108, C.R.S.

2460. Applicability.

Except as provided by rule 2466, these Costing and Pricing Rules apply to all providers other than CLECs whose rates the Commission regulates. In the event of any inconsistency between these Costing and Pricing Rules and the Cost Allocation Rules, the latter shall apply.

2461. Definitions.

The following definitions apply only in the context of rules 2460 through 2499.

(a) "Average cost pricing" means the practice of setting the price of a product equal to the average total cost of that product. Such a result can be achieved by adding a mark-up to the average variable cost of the product.

(b) "Average fixed cost" means the sum of the relevant fixed costs of producing a given quantity of output, divided by the total number of units produced.

(c) "Average service long-run incremental cost" means the total service long-run incremental cost divided by the total number of units of the service.

(d) "Average total cost" means the total cost of producing a given quantity of output, divided by the total number of units produced. Average total cost equals the sum of average variable cost and average fixed cost.

(e) "Average variable cost" means the sum of all variable costs of producing a given quantity of output, divided by the total number of units produced.

(f) "Bundling" means a situation in which the rate elements and tariff provisions for a service are aggregated such that customers are unable to buy some features and functions included within the aggregation without buying them all.

(g) "Cost accounting standards" means the assignment of costs to products, services, or customer classes using the following five criteria:

(I) Cost causation. Costs are assigned to the revenue-producing products or services that cause those costs to be incurred;

(II) Traceability. Costs are assigned using the cost attribute that permits the resources represented by the costs to be identified in their entirety with a revenue-producing activity;

(III) Variability. Costs that vary in total with variations in some measure of the volume of activity that is associated with the revenue-producing product or service but that are not traceable to a revenue-producing product or service, are assigned to the revenue-producing product or service based upon the estimated rate of variability;

(IV) Capacity required. Costs of capacity are assigned according to whether they are necessary for the performance of the service; and

(V) Beneficiality. Costs are assigned to various services based upon the degree of benefit derived by each service.

(h) "Direct cost" means a cost specifically identifiable with the production of an individual service. These costs would not be incurred if the service was not offered.

(i) "Economies of scale" exist if the average cost of producing any group of services increases less than proportionately to an increase in quantity of those services.

(j) "Economies of scope" exist if the cost of producing any group of services by one firm is less than the sum of the costs of producing the same group and quantities of those services by two or more firms providing mutually exclusive subsets of those services.

(k) "Elasticity of demand" means the percentage change in the quantity demanded of a service, divided by the percentage change in the price of the service.

(l) "Elasticity of supply" means the percentage change in the quantity supplied of a service, divided by the percentage change in the price of the service.

(m) "Fixed cost" means a cost that does not vary with respect to the volume of output within the specified planning horizon. Such a cost must be paid regardless of how many units the firm produces, or whether it produces at all, as long as the firm does not withdraw entirely from the relevant market.

(n) "Fully distributed costs" (FDC) means the costs derived by assigning the total historical costs of the firm to individual products or services using cost accounting, engineering, and economic standards. FDCs include not only all justifiable costs related to the provision of service but also the return on investment.

(o) "Functional component" means a cost element or group of cost elements representing the smallest feasible level of unbundling capable of being in a tariff and offered as a service.

(p) "Historical costs" are the investments or expenses incurred at the time an input or resource is purchased. Such costs are not necessarily equal to the current cost of replacing the input or resource and are directly obtainable from accounting records of the provider.

(q) "Imputation" means the practice of including the tariff price of a Part II or fully regulated Part III service in the price floor for the service in question, where:

(I) Part II or fully regulated Part III services are bundled with other services; or

(II) Part II or fully regulated Part III services are used as inputs to provide either a final or intermediate service.

(r) "Incremental service incremental cost" means the change in total cost resulting from increasing (or decreasing) the quantity of output of a service by a small number of units, divided by that small number of units. If total cost changes in a continuous fashion as output changes and the increment is sufficiently small, incremental service incremental cost approximates marginal cost.

(s) "Joint cost" means a cost that occurs when the production process involves intermediate or final outputs that maintains fixed proportions with respect to two or more services.

(t) "Long-run costs" means the costs incurred by a firm within a specified planning horizon where all elements of the production process can be varied, including the size and type of facilities and other used resources.

(u) "Marginal cost" means a theoretical change in total cost resulting from an extremely small change in output. In mathematical terms, marginal cost is the first derivative of the total cost function with respect to output.

(v) "Marginal cost pricing" means the theoretical practice of establishing the price of a product equal to the marginal cost of the last unit of output of the product.

(w) "Market power" means any power exerted by a firm in a market where the competitive process cannot produce the theoretical outcomes and benefits of perfect competition. The degree of market power is determined by a consideration of the following factors:

(I) The relevant market, as determined by service and geographic substitutability on both the demand and supply sides of the market.

(II) The market share of the particular service held by the regulated provider in the relevant market.

(III) The supply responsiveness (or elasticity) of competitors in the relevant market, as determined by an assessment of entry and expansion conditions of competitors.

(IV) The market demand characteristics in the relevant market. (For example, the more elastic the total market demand the more customers view other services as substitutes or alternatives for the provider's service.)

(x) "Monopoly", in the strictest sense, means a situation in which the sole supplier of a service for which there are no substitutes has many buyers of that service. The simple economic analysis of monopoly relaxes the assumption of no substitutes, but assumes that the monopolist faces a relatively stable and predictable downward-sloping market demand curve.

(y) "Natural monopoly" exists if a single firm produces its set of outputs at less cost than could be achieved by dividing that set among two or more firms.

(z) "Overhead costs" means shared costs related to the production of all services offered by a firm.

(aa) "Perfect competition":

(I) A market structure is perfectly competitive when the following conditions prevail:

(A) There are a large number of firms each with an insubstantial share of the market;

(B) The firms possess perfect information and produce a homogeneous service using identical production processes; and

(C) There is free entry into and exit from the industry.

(II) Perfect competition implies that both marginal revenue and average revenue are equal to price in long run equilibrium. Thus, firms are price takers and can sell as much as they are capable of producing at the prevailing price.

(bb) "Price ceiling" means the maximum level at which a provider may price a service.

(cc) "Price discrimination" means the act of selling different units of a service at price differentials not directly corresponding to differences in cost.

(I) Price discrimination includes both:

(A) The sale of identical units of the service to different customers at different prices; and

(B) The sale of identical units of the service to the same customer at different prices.

(II) In order for a firm to practice price discrimination profitably with respect to a particular service, it shall have:

(A) Some control over the price it charges for that service;

(B) The ability to segregate its customers for that service into groups with different price elasticities of demand; and

(C) The ability to prevent resale of the service by those customers who can buy it at the lower price.

(dd) "Price floor" means the minimum level at which a provider may price a service.

(ee) "Ramsey pricing" means, as subject to relevant regulatory constraints, the practice of pricing all products and services such that the sum of customer and producer welfare is maximized.

(ff) "Replacement cost" means the cost that the provider of a service would incur to construct its plant and facilities using the current, best technology at current prices but without changing the physical position of such facilities.

(gg) "Residual pricing" means that service price is set so that revenues from the service equal all costs not covered by revenues from all other services offered by the firm once their prices are set.

(hh) "Service-specific fixed cost" means a fixed cost caused by the existence of a specific service within the array of services currently offered that does not vary with changes in the number of units produced but would be eliminated if the specific service were deleted from the current array of services offered.

(ii) "Shared cost" means a cost incurred for facilities and resources used in common for the production of two or more services.

(jj) "Short-run costs" means the costs incurred by a firm operating within a planning horizon where many elements of the production process are fixed and cannot be readily varied, including the size and type of certain used facilities.

(kk) "Stand alone cost" means the total cost incurred by a firm to produce a given volume of a service or group of services as if it were the sole service or group of services produced by that firm.

(ll) "Sunk cost" means a cost that has already been incurred, is irretrievable, and cannot be avoided, even by discontinuing production entirely.

(mm) "Total cost" means the sum of all costs (including fixed and variable costs) incurred by the firm to produce any given level of output.

(nn) "Total incremental cost" means the change in total cost resulting from an increase or decrease in output. In mathematical terms, total incremental cost equals total cost assuming the increment is produced, minus total cost assuming the increment is not produced.

(oo) "Total service incremental revenue" means the change in the firm's total revenues resulting from adding or deleting a service.

(pp) "Total service long run incremental cost" (TSLRIC) is equal to the firm's total cost of producing all of its services assuming the service (or group of services) in question is offered minus the firm's total cost of producing all of its services excluding the service (or group of services) in question.

(I) The strict definition of TSLRIC requires that it be calculated by producing two total cost studies and then subtracting one from the other. An estimate of TSLRIC can be made directly.

(II) The strict definition of TSLRIC incorporates a forward looking concept which shall, therefore, include the costs that the firm would incur today if it were to install its own original network. An estimate of TSLRIC can be arrived at by assuming that the geographic locations of routes and possible switching locations are the same as those available to the firm today and that future technological changes can be anticipated. In making this estimate, the assumptions underlying it shall be made explicit and the estimating procedure shall reflect the time period in which the resulting prices are anticipated to be in effect.

(III) TSLRIC includes both fixed and variable costs specific to the service (or group of services) in question.

(IV) The TSLRIC for a group of services is at least equal to the sum of the TSLRICs of the individual services within the group. If the TSLRIC for the group is greater than this sum, the difference is equal to the shared costs attributable to the group of services and/or to some subset of that group. In other words, these shared costs are part of the TSLRIC of the group but are not part of the TSLRIC of any individual service within the group.

(qq) "Unbundling" means a situation in which the rate elements and tariff provisions for a retail service are disaggregated to the lowest level practicable to permit customers to buy the features and functions they desire without having to purchase those they do not want.

(rr) "Variable cost" means a cost that changes (but not necessarily proportionately) either with the number of units produced of a given set of services or with the number of services provided.

2462. Service Applicability.

Colorado statutes (§ 40-15-101, C.R.S., et seq.) categorize telecommunications service regulation into three segments: Regulated Telecommunications Services (Part 2), Emerging Competitive Telecommunications Services (Part 3), and Deregulated Telecommunications Services (Part 4). The statutes, Commission decisions, and Commission rules categorize these telecommunications services into three regulatory schemes. The level of actual competition in a specific service is the primary determinant for the extent of regulation of that service under the statute.

(a) Rule 2463 shall cover Part II telecommunications services.

(b) Part III telecommunications services shall be treated differently depending upon the amount of actual demonstrated competition for each service.

(I) Part III telecommunications services for which the Commission has not made a determination regarding the level of competition or has determined that competition is absent or negligible (i.e., the provider has significant market power for the service(s)) shall be covered by rule 2463.

(II) Part III telecommunications services for which the Commission has determined competition is sufficient to warrant relaxed regulatory treatment shall be covered by rule 2464.

(c) Rules 2463 and 2464 do not apply to Part 4 telecommunications services. It is assumed that the competitive market determines prices for Part 4 services. Additional protection is provided by applicable Commission rules prohibiting cross-subsidization.

2463. Fully Regulated Telecommunications Services.

(a) Costing.

(I) TSLRIC studies shall be provided at the time a service rate proposal is submitted. Other cost studies may be provided if deemed relevant. TSLRIC studies will be used to establish price floors as described below in subparagraph (b)(I). FDC studies shall be filed annually, within 120 days after the close of a provider's fiscal year. FDC studies shall be used as a component of the actual pricing process described in subparagraph (b)(IV).

(II) If a provider offers a new service that uses a part of the existing investment, a surrogate for a FDC study shall be performed for the new service for the purpose of allocating an appropriate portion of that existing investment to the new service. This is termed a surrogate study because most FDC studies are performed on existing products and services using historical information. The surrogate FDC study shall allocate the existing investment and expenses that the new service uses employing either actual historical or pro forma adjusted investments and expenses. Pro forma adjusted investments and expenses will be considered in cases where the provider desires to reflect a more current view of expenses and/or investments; for example, in situations wherein the provider has obsolete investments or one-time expenses on the books of account that would be inappropriate to include in a cost study for a new service. The estimates of existing costs to be allocated to new services would reduce the total allocations of these costs to existing services by the same amount.

(III) Cost studies shall be performed either for all specific service offerings or for all functional components that make up the entirety of services offered. The provider shall notify the Commission in its documentation that it is using either service level or functional component level cost studies. If functional component level cost studies are used, the provider shall also provide information sufficient to match functional components to services.

(IV) The FDC studies shall use the cost accounting standards defined in paragraph 2461(g), and the TSLRIC studies shall use the standards presented in the definition of TSLRIC to properly include all costs identifiably related to a given service. Any deviation from these standards shall be clearly stated, a justification provided, and approved by the Commission.

(V) Cost studies shall include, but are not limited to, the relevant costs for billing, marketing, advertising, and network costs in addition to any other relevant costs associated with the service.

(VI) Cost studies for any service offerings that include, as underlying functionalities, any tariff Part II services or fully regulated Part III services must impute the tariff rates as part of the costs of the services in question.

(VII) Cost studies must be approved by the Commission.

(VIII) Individual cost studies for each service or functional component must have been performed within three years of being filed.

(b) Pricing.

(I) The Commission shall set the prices for all fully regulated telecommunications services. Such prices shall be designed to advance universal service at just and reasonable rates. The price for each service must be set to satisfy the following conditions:

(A) Total revenue from the given service is equal to or greater than its total service long run incremental cost.

(B) Total revenue from any group of services in which the given service appears is equal to or greater than the TSLRIC of the group of services.

(C) Total revenue for the given service (or any group of services in which the given service appears) shall be equal to or less than the stand-alone cost for the service (or group of services). However, since stand-alone cost studies may be difficult and burdensome to execute, the Commission may use the FDC for the service (or group of services) plus some determined mark-up as a surrogate price ceiling. For a new service, a FDC study must be produced in accordance with subparagraph (a)(II).

(D) The access loop is not a separate service but rather is an input necessary for the provision of many telecommunications services. As such, costs associated with the access loop shall not appear in the TSLRIC of any single service requiring the access loop. Rather, it shall appear as part of the total service long run incremental cost of the entire group of services requiring the loop. Consequently, prices must be set so that the sum of the revenues from all services requiring the access loop covers not only the sum of the total service long run incremental costs for the individual services but also the shared cost of the loop. Finally, regarding the computation of stand-alone costs, since each service in this group requires the access loop, the entire cost of the loop shall appear in the stand-alone cost for each of these services.

(II) Subparagraph (b)(I) will not apply if the Commission specifically determines that, for reasons of public policy, the price for a fully regulated telecommunications service may be below the price floor or above the price ceiling established in subparagraph (b)(I).

(III) When the Commission sets the price of a fully regulated telecommunications service below its respective price floor, the amount below the price floor and the source from which the resulting deficit is made up must be identified and specifically approved by the Commission.

(IV) The price set by the Commission for a fully regulated telecommunications service may include some portion of the overhead costs of the provider in order to allow the provider to recover its overall revenue requirement. The amount of overhead costs to be recovered by each fully regulated telecommunications service must be specifically identified and must represent the contributions of various services to the covering of overhead costs. As part of this pricing process, the Commission will consider FDC studies. In addition, the following non-exclusive list of factors may be considered by the Commission on a case-by-case basis, depending upon the complexity of the issues and the magnitude of the net revenue involved:

(A) Other cost studies;

(B) Market studies designed to determine market structure, extent of competition, etc.;

(C) Elasticity of demand and supply studies;

(D) Focus group results;

(E) Survey results;

(F) Social obligations, e.g., promotion of universal service and absence of rate shock;

(G) Rate continuity; and/or

(H) Statutory requirements.

(V) Any changes to rates for fully regulated telecommunications services shall be made through the traditional tariff review process prior to implementation. This includes, but is not limited to, revenue neutral rate changes of any fully regulated telecommunications services.

(VI) Residual pricing may not be used for any services.

(VII) Nothing in this paragraph shall be construed to limit the Commission's powers to do all things necessary in fulfilling its statutory duties.

2464. Part III Emerging Competitive Services Subject to an Alternative Form of Regulation.

(a) Costing. The cost studies referred to in this rule must conform to the specifications outlined in paragraph 2463(a).

(b) Pricing.

(I) The price floor for Part III emerging competitive services subject to an alternative form of regulation shall be determined pursuant to paragraph 2463(b) and shall include imputation, as defined in paragraph 2461(q).

(II) The price ceiling for Part III emerging competitive services subject to an alternative form of regulation shall be determined pursuant to subparagraph 2463(b)(I)(C) unless the Commission explicitly adopts an alternative such as, for example, the current price.

(III) A provider may request that the Commission review an existing price floor and/or price ceiling by filing a formal request with the Commission. The request shall be supported by appropriate revised cost studies, including imputation.

(IV) The exact form of regulation of a Part III emerging competitive service subject to an alternative form of regulation shall be specified in the Commission order(s) granting the alternative form of regulation pursuant to rule 2205.

2465. Cost Studies to be provided to the Commission.

(a) Contents.

(I) The cost study results submitted by a provider must specify the type of costs being estimated, irrespective of any legitimate simplification and/or approximation incorporated into the studies.

(II) Cost studies must be produced in accordance with the definition of the type of costs being estimated.

(III) The provider shall identify all instances in which its estimate deviates from the definitions of the cost type. A written explanation justifying each such deviation on the basis of data limitations, methodological simplicity, or other practical considerations shall be provided. The explanation shall be sufficiently clear and detailed to allow interested parties to determine whether the deviation is justified and to understand its potential significance. The Commission has discretion to grant or deny each proposed deviation.

(IV) The provider shall identify the costs and elements of the production process it considers to be fixed within the specified planning horizon and the costs it considers to be variable.

(V) The provider shall identify any included sunk costs and shall calculate the cost reduction that results from the exclusion of such sunk costs.

(VI) The provider shall identify all shared and overhead costs and specify those included in or excluded from the cost study. The provider shall separately quantify the reduction in the cost estimates that would result if shared and overhead costs were to be excluded. This subparagraph does not apply to FDC studies.

(VII) Nothing in this paragraph shall be construed to limit the Commission's authority to accomplish its statutory duties.

(b) Cost estimate requirements.

(I) In any incremental cost estimate submitted, the increment of output analyzed must be relevant to the issues under consideration.

(II) In any incremental cost estimate submitted, the estimated change in costs must approximate the cost difference between a "business as usual" scenario accommodating existing and future demand and a scenario assuming output levels that are higher (lower) by the relevant increment (decrement).

(III) A cost estimate for a service that uses or displaces another service offered by the provider shall reflect the revenue that would have been derived from the other service. For example, the cost estimate for message toll service shall reflect the access revenues that are foregone when the customer purchases toll service from the provider instead of from a competitor.

(c) Required work papers.

(I) A cost estimate submitted to the Commission shall be accompanied by a complete set of supporting work papers and source documents.

(II) Work papers shall clearly and logically present all data used in developing the estimate and provide a narrative explanation of all formulas or algorithms applied to such data. They shall also allow others to replicate the methodology and calculate equivalent or alternative results using equivalent or alternative assumptions.

(III) Work papers shall clearly set forth all significant assumptions and identify all source documents used in preparing the cost estimate.

(IV) Work papers shall be organized so that a person unfamiliar with the study will be able to work from the initial investment, expense, and demand data in order to calculate the final cost estimate. The significance of each number used in developing the estimate shall be clearly identified in the work papers and the source of each number not included within the work papers shall be clearly identifiable and readily available.

(V) Any input expressed as a "dollars per minute," "dollars per foot," "dollars per loop," dollars per port," or similar units must be traceable to the original source documents including without limitation the dollars, minutes, feet, loops, and ports from which such figures are calculated.

(VI) Unless impracticable, all data and work papers shall be provided in electronic format using standard, commercially-available spreadsheet or database software formats. Data and work papers shall be accompanied by files or internal comments that define the contents of each data set or work paper, and shall include an explanation of the definitions, formulae, equations, and data provided.

(VII) An index or detailed table of contents of the work papers and source documents shall be provided. In addition, to the extent practicable, a cross index shall be included that allows others to track key numbers through the various source documents, work papers, and exhibits.

2466. Exceptions.

(a) Any local exchange provider who, prior to July 1, 1996, had either served only rural exchanges with a combined total of 10,000 or fewer access lines or served fewer than 10,000 customers in rural exchanges only, shall be deemed to be in compliance with these rules by providing the Commission with its required filing information under the Commission's Cost Allocation Rules 2400-2459. Providers of local exchange service who commenced providing such service on or after July 1, 1996, shall be subject to all provisions of these rules, in the absence of a specific variance or an alternative form of regulation.

(b) This rule does not modify any prior order of the Commission granting a provider a specific form of costing and pricing for a specific service.

2467. – 2499. [Reserved].

PROVIDER OBLIGATIONS TO OTHER PROVIDERS

Interconnection and Unbundling

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: prescribe non-discriminatory access to, and interconnection with, the facilities of providers' networks by other providers; and provide for the unbundling of certain providers' networks.

The statutory authority for the promulgation of these rules is found at §§ 40-15-109(3); 40-15-503(2)(a), (b), (g), and (h); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252.

2500. Applicability.

Rules 2500 through 2529 are applicable to all telecommunications carriers that provide telecommunications exchange services in the State of Colorado.

2501. Definitions.

The following definitions apply only in the context of rules 2500 through 2529:

(a) "Common transport link" means a communications path:

(I) Used by multiple customers; and

(II) Containing one or more circuits connecting two switching systems in a network.

(b) "Customer network interface" or "network interface device" (NID) means the facilities on or near the customer's premises that allow the customer to connect to the network.

(c) "Dedicated transport link" means a communications path:

(I) Used by one customer; and

(II) Containing one or more circuits connecting two switching systems in a network.

(d) "Essential facilities" or "essential functions" mean those network elements that a telecommunications provider is required to offer on an unbundled basis.

(e) "Exchange access" means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

(f) "Interconnection" means the process of providing a seamless connecting link between competing networks for the completion of local traffic that originates in the network of one provider and terminates in the network of another provider.

(g) "Loop" means the facilities that connect a customer network interface to a main distribution frame, or its equivalent.

(h) "Operator systems" means systems that provide for live or mechanized operator functions that assist end users with call completion and directory assistance.

(i) "Originating provider" means the telecommunications provider that serves the end user who originates a local call.

(j) "Service control point" (SCP) means a node in the signaling network to which informational requests for service handling (for example, routing) are directed and processed. The SCP includes both the service logic and the customer specific information necessary to process individual requests.

(k) "Signal transfer point" (STP) means a facility that provides the function of connecting signal links in order to transfer appropriate signals from and between the various elements of a signaling network.

(l) "Signaling links" means transmission facilities in a signaling network which carry all out-of-band signaling traffic between the end office and signal transfer point, the tandem office and signal transfer point, the signal transfer point and service control point, and the signal transfer point and another signal transfer point.

(m) "Switch" means a facility that provides the functionalities required to connect appropriate lines or trunks to a desired communications transmission path. These functionalities may include, but are not limited to, recognizing service requests, obtaining required call specific information, data analysis, route selection, call completion or hand-off, testing, recording, or signaling.

(n) "Tandem switch" means a facility that provides the function of connecting trunks to trunks for the purpose of completing inter-switch calls.

(o) "Telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services. This definition includes Commercial Mobile Radio Service (CMRS) providers, IXCs, and to the extent they are acting as telecommunications carriers, companies that provide both telecommunications and information services.

(p) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(q) "Terminating provider" means the telecommunications provider that serves the end user who receives a local call.

2502. Interconnection.

(a) All telecommunications carriers shall interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.

(b) All LECs shall:

(I) Not prohibit and not impose unreasonable or discriminatory conditions or limitations on the resale of its telecommunications services;

(II) Provide number portability, to the extent technically feasible;

(III) Provide dialing parity to competing providers of telephone exchange service and telephone toll service;

(IV) Permit all competing providers to have non-discriminatory access to telephone numbers, operator services, directory assistance, and directory listings, with no unreasonable dialing delays;

(V) Afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, charges, terms, and conditions that are consistent with 47 U.S.C. § 224; and

(VI) Establish reciprocal compensation arrangements for the transport and termination of telecommunications.

(c) In addition to the above obligations, all ILECs shall provide for the interconnection with the facilities and equipment of any requesting telecommunications carrier:

(I) For the transmission and routing of telephone exchange service and exchange access;

(II) At any technically feasible point within the ILEC's network;

(III) That is at least equal in quality to that provided by the ILEC to itself or to any subsidiary, affiliate, or any other party to which the ILEC interconnects;

(IV) At rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory;

(V) In accordance with the rates, charges, terms, and conditions established by the ILEC pursuant to contract, arbitration, or tariff or price list, as applicable; and

(VI) Consistent with the Commission's rules regarding the Costing and Pricing of Regulated Telecommunications Services.

(d) Collocation: An ILEC shall provide, for the physical collocation of equipment necessary for interconnection or access to unbundled network elements at the ILEC's premises at rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory. An ILEC may provide virtual collocation if the Commission determines that physical collocation is not practical for technical or space limitation reasons.

(e) Each telecommunications carrier shall be responsible for constructing and maintaining the facilities on its side of the point of interconnection unless the interconnecting carriers agree to some other arrangement.

(f) Each telecommunications carrier shall construct and maintain its interconnection facilities in accordance with accepted telecommunications engineering standards and practices. Each terminating carrier shall make available to all originating providers all technical references to documents that provide the technical specifications of the terminating provider’s interconnection interfaces. In no event shall a telecommunications carrier construct or maintain its interconnection facilities under terms and conditions different from the terms and conditions the provider offers to itself, its affiliates, or another telecommunications carrier.

(g) All Commission quality of service rules shall apply to the provision of interconnection facilities, unless the provider has opted into a Performance Assurance Plan mechanism.

(h) Terminating providers shall make all required interconnection facilities available within 90 days of a bona fide written request. No unreasonable refusal or delay, or discriminatory provision of service by a terminating provider shall be allowed.

2503. Compensation for Terminating Local Traffic.

(a) For purposes of this rule, local calls originate at the customer network interface of the calling party's provider and terminate at the customer network interface of the called party's provider.

(b) Except as provided in paragraphs (g) and (h), a terminating provider may charge the originating provider a termination fee for all local calls that originate on the originating provider's network and terminate on the terminating provider's network.

(c) The termination fee shall be based on the costs associated with each network element:

(I) On the terminating provider's side of the point of interconnection; and

(II) Used by the terminating provider to terminate the call.

(d) If the originating provider is either interconnected to the terminating provider through the purchase of one or more unbundled elements owned by the terminating provider or a third provider, or uses one or more unbundled elements owned by the terminating provider or a third provider to originate the call:

(I) The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and

(II) The provider of the unbundled elements shall charge the originating provider for the use of the unbundled elements.

(e) If the terminating provider is either interconnected to the originating provider through the purchase of one or more unbundled elements owned by the originating provider or a third provider, or uses one or more unbundled elements owned by a third provider to terminate the call:

(I) The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and

(II) The provider of the unbundled elements shall charge the terminating provider for the use of the unbundled elements.

(f) The termination fee, subject to Commission approval, may reflect:

(I) A usage-sensitive charge based on, for example, distance, duration, or time of day;

(II) A flat charge based on, for example, capacity port charges based on either the trunk group size or the peak-use of interconnecting capacity; or

(III) Any combination thereof or an alternative mechanism.

(g) The terminating provider's costs associated with the termination of local calls may be recovered, as approved by the Commission, in the rates the terminating provider charges for services provided to its customers.

(h) If the terminating provider provides the originating provider with dial tone, the terminating provider may charge the originating provider with the use of unbundled local switching for the generation of dial tone when the terminating provider terminates calls from the originating provider on the terminating provider's network.

2504. Other Intercompany Arrangements.

(a) Telecommunications carriers shall deal with other telecommunications carriers in a good faith and cooperative manner.

(b) All telecommunications carriers are obligated to serve their customers in accordance with the Commission's rules.

(c) All telecommunications carriers shall provide reasonable access to poles, ducts, conduits, and rights-of-way when feasible and when access is necessary for other telecommunications carriers to provide service. Upon application by a telecommunications carrier, the Commission shall determine any matters concerning reasonable access to poles, ducts, conduits, and rights-of-way, upon which agreement cannot be reached, including but not limited to, matters regarding valuations, space, capacity restraints, and compensation for access.

(d) All LECs shall provide interconnecting telecommunications carriers with both answer and disconnect supervision as well as all available call detail information necessary to enable proper customer billing.

(e) Interconnecting telecommunications carriers shall be required to enter into mutual billing and collection agreements so that each telecommunications carrier can accept other telecommunications carrier's telephone line number and other nonproprietary calling cards and can bill collect or third-party calls to a number served by another provider.

(f) All LECs shall offer the interoperability of non-optional operator services between networks including, but not limited to, the ability of operators on each network to perform such operator functions as completing collect calls, third-party calls, busy line verification calls, and busy line interrupt.

(g) Telecommunications carriers shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

(h) Telecommunications carriers shall cooperate in developing and implementing procedures for repair service referrals so that trouble reports are directed to the correct carrier or carriers.

(i) All LECs shall offer, in a non-discriminatory manner pursuant to contract or tariff, the necessary operational support to enable other telecommunications carriers the opportunity to provide their customers quality of service as is available to the LEC's customers, consistent with rules 2330 through 2359. Such contracts or tariffs shall be approved by the Commission, and available for review pursuant to Commission order.

(j) Telecommunications carriers shall make available access to technically reasonable, non-proprietary, as determined by the Commission, signaling protocols used in the routing of local and interexchange traffic; including signaling protocols used in the query of call processing databases such as 800 Database Service, Alternate Billing Service (ABS), and Line Information Data Base (LIDB); and shall make available the signaling resources and information necessary for the routing of local and interexchange traffic.

(k) Telecommunications carriers shall be prohibited from interfering with the transmission of signaling information between customers and other telecommunications providers in a manner that is injurious to network integrity or that results in fraud. This shall not preclude a telecommunications carrier from blocking specific signaling information to the extent required by the end user's service (e.g., CLASS services).

(l) Regarding directories for basic local exchange service.

(I) Each ILEC (White Pages provider) shall cause the customer information (i.e., name, address, and telephone number) of all customers within the local calling area served by the LEC to be published in a White Pages telephone directory, regardless of whether the customer subscribes to the telecommunications services of that particular ILEC. Upon Commission approval, a different LEC may assume the responsibilities identified in this rule.

(II) Unless the LEC provides written notice limiting the number of White Pages telephone directories it will receive, each White Pages provider shall cause each LEC to receive one directory for each access line the LEC serves in the directory provider's operating area.

(III) Each LEC shall cause a White Pages telephone directory to be delivered to its customers in accordance with the requirements of paragraph 2307(a).

(IV) Each LEC shall provide to all White Pages providers the information required to adequately list all subscribers' information (i.e., name, address, and telephone number) in the telephone directory(ies). This information shall be provided in a mutually agreeable format.

(V) Each directory provider shall offer premium listings in its directory to other LECs' subscribers.

(VI) Each White Pages provider shall provide space in the customer guide pages of the White Pages telephone directory for the purpose of notifying customers how to reach LECs to:

(A) Request service;

(B) Contact repair service;

(C) Dial directory assistance;

(D) Reach an account representative;

(E) Request buried cable local service; and

(F) Contact the special needs center for customers with disabilities.

(VII) All parties involved shall abide by the Commission's rules on privacy and the handling of customer proprietary network information.

2505. Unbundling.

(a) As identified in rule 2008, the Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319.

(b) Nothing in paragraph (a) shall be construed to limit the Commission's duties and responsibilities under § 40-15-503, C.R.S., et seq.

(c) A detailed record of all requests for unbundling shall be documented and maintained in accordance with the requirements of the change management process. This information shall include the name of the requesting person, the date of the request, the specific type of unbundling requested, the provider's planned and actual response date, and the provider's response.

2506. Process and Imputation.

(a) Interconnection. Except as provided in rule 2507, each ILEC shall maintain effective tariffs with the Commission that establish rates, charges, terms, and conditions for interconnection.

(b) Termination of local traffic. Except as provided in rule 2507, each ILEC shall maintain effective tariffs with the Commission that establish rates, charges, terms, and conditions for the termination of local traffic.

(c) Unbundling. Within 30 days after designation as an incumbent carrier, a certified carrier shall file with the Commission tariffs effective on 30-days notice or, if applicable, price lists, that establish rates, charges, terms, and conditions for the sale of unbundled network elements.

(d) White Pages for basic local exchange service.

(I) Each directory provider shall file with the Commission directory tariffs within 30 days of that provider's certification as a LEC within the provider's operating area. Such tariffs shall establish the rates, charges, terms, and conditions for the transfer of customer information, the publication of White Pages telephone directories for the LEC, the publication of customer guide information for the competing provider, and the publication of premium directory listings for the LEC's customers.

(II) When determining the just and reasonable rate the White Pages provider may charge a LEC, the Commission may consider, where applicable, the compensation arrangement that the directory provider has with its publisher.

(e) Tariffs. The Commission will review each tariff filed. The LEC filing the tariff shall have the burden of proving that any proposed rates, charges, terms, or conditions are consistent with the following:

(I) Rates shall be cost-based, just, and reasonable, and may include a reasonable profit;

(II) Rates, charges, terms, and conditions shall be non-discriminatory and competitively neutral;

(III) Rates, charges, terms, and conditions shall be established to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality telecommunications service; and

(IV) Rates shall be designed so that products or services that are subject to regulation do not subsidize products and services that have been specifically deregulated by statute, rule, or Commission order.

(f) Imputation.

(I) As applicable, each LEC shall impute its rates for interconnection, the termination of local traffic, unbundled network elements, and directory listings into the rates of its own services in accordance with the Commission's rules on Costing and Pricing.

(II) Imputation of unbundled network elements shall only be required if the unbundled network element is a bottleneck monopoly input. The Commission shall, as necessary, determine if an unbundled network element is a bottleneck monopoly input.

2507. Exemption for Rural Telephone Companies.

(a) Rules 2502, 2503, 2505, and 2506, and paragraphs 2504(d) through (j) and 2504(l) shall not apply to a rural telephone company until:

(I) Such company has received a bona fide request for interconnection, services, or the purchase of an unbundled network element; and

(II) Such request is deemed by the Commission to be technically feasible and not unduly economically burdensome.

(b) A telecommunications carrier making such a bona fide request shall submit a notice of its request to the Commission.

(I) The Commission shall conduct a hearing for the purpose of determining whether to terminate the rural telecommunications carrier's exemption under paragraph (a).

(II) The Commission shall determine within 120 days after it receives notice of the request if such termination of the exemption is technically feasible, is not unduly economically burdensome, and is consistent with the state and federal universal service requirements.

(III) Upon termination of an exemption, the Commission shall establish an implementation schedule for compliance with the request.

(c) A LEC with fewer than 2 percent of the aggregate nationwide installed subscriber lines may file an application with the Commission for a suspension, modification, or specific exemption of certain telephone exchange service facilities as specified in such application. The Commission may grant the application to the extent it is necessary and for such duration as it determines.

(d) The Commission shall act upon such application filed pursuant to paragraph (c) within 180 days after its receipt. Pending such action, the Commission may suspend enforcement of the requirement or requirements to which the application applies with respect to the carrier filing such application.

2508. – 2529. [Reserved].

<u>Interconnection Agreements</u>

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process the Commission uses to review interconnection agreements and any amendments thereto; the criteria for Commission approval or rejection of such agreements; and the timelines for Commission action regarding both negotiated and arbitrated interconnection agreements.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-503(2)(b)(I) and (III); 40-15-503(2)(g)(I); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 252 and 271.

2530. Applicability.

Pursuant to 47 U.S.C. 252(a)(1), rules 2530 through 2549 apply to all agreements, and any amendments thereto, for interconnection, services, or network elements between ILECs and telecommunications carriers negotiated before or after February 8, 1996, the date of enactment of the Telecommunications Act of 1996. Pursuant to 47 U.S.C. 252(e)(1), any interconnection agreements adopted by negotiation or arbitration shall be submitted for approval to the Commission.

2531. Definitions.

The following definitions apply only in the context of rules 2530 through 2579.

(a) "Arbitrated interconnection agreement" means an interconnection agreement or portion thereof, reached through compulsory arbitration.

(b) "Interconnection agreement" (ICA) means, for purposes of § 252(e)(1) of the Telecommunications Act of 1996, a binding contractual agreement or amendment thereto, without regard to form, whether negotiated or arbitrated, between an ILEC and a telecommunications carrier or carriers that includes provisions concerning ongoing obligations pertaining to rates, charges, terms, and/or conditions for interconnection, network elements, resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, or collocation.

(c) "Negotiated interconnection agreement" means an interconnection agreement, or portion thereof, reached through negotiation.

(d) "Party to the agreement" means any telecommunications carrier that is a signatory to an interconnection agreement or any subsequent amendment submitted for approval to the Commission.

(e) "Report of adoption" (report) means a filing with the Commission pursuant to rule 2533 made by a party seeking approval of an interconnection agreement or an amendment to an agreement previously approved by the Commission.

(f) "Statement of generally available terms and conditions" (SGAT) means, pursuant to 47 U.S.C. § 252(f), a statement of the terms and conditions for wholesale products and services, including rates and charges, that an ILEC generally offers within Colorado.

2532. Incorporation by Reference.

References in these rules to Parts 51 and 69 are references to rules issued by the FCC and have been incorporated herein by reference, as identified in rule 2008.

2533. Submission of Agreement and Amendments for Approval.

(a) Pursuant to 47 U.S.C. 252(a)(1) and 47 U.S.C. 252(e)(1), and within 30 days of execution of an interconnection agreement (ICA) or ICA amendment, by all parties, or one of the parties, shall submit the ICA, or ICA amendment, under a cover letter to the Commission for approval. The cover letter shall serve as notice to the Commission and shall include the following:

(I) The names and addresses of the parties;

(II) The name(s) under which the submitting party(ies) are or will be providing telecommunications service(s) in Colorado;

(III) The name(s) address, telephone number, facsimile number and e-mail address of the submitting party(ies) representative to whom all inquiries concerning the submission should be made;

(IV) The caption and docket number(s), if applicable, of the proceeding;

(V) The date of the submission of the ICA or ICA amendment;

(VI) A short description of the nature of the ICA, or ICA amendment;

(VII) A statement as to whether the ICA or ICA amendment was the result of negotiation or arbitration or whether it was an opt-in of a previously approved and effective SGAT or another previously approved and effective ICA or ICA amendment;

(VIII) In the case of a new ICA, the cover letter shall describe the primary source documents, if any, that served as the framework for the agreement. In the case of an amendment to an ICA, the cover letter shall list all sections of the ICA that have been amended;

(IX) A statement that intervention and public comment must be filed within ten days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within five days of the posting of the notice on the Commission's website for an arbitrated interconnection agreement or an amendment thereto. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules; and

(X) A statement that the Commission Staff intervention shall be filed within 20 days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within 15 days of the posting of the notice on the Commission's website for an arbitrated ICA or ICA amendment. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules.

(b) Filing entity. The Commission prefers that the parties jointly submit the ICA or ICA amendment. However, a single party may make the filing.

(c) Number of copies. Parties shall file an original plus three paper copies of the ICA or ICA amendment, an original plus seven copies of the cover letter and a copy on disk in an electronic format acceptable to the Commission of the cover letter and the ICA or ICA amendment.

(d) Upon initial receipt of an ICA the Commission will assign a docket number to the submission. Any subsequent amendment to the agreement submitted for approval to the Commission shall use the original docket number.

2534. Approval of Interconnection Agreements and Amendments to Interconnection Agreements.

(a) Notice and opportunity for public comment.

(I) Notice. The cover letter submitted pursuant to paragraph 2533(a) shall serve as the notice and shall be submitted in an electronic format acceptable to the Commission. The Commission shall give notice of the filing of the ICA or ICA amendment by posting the cover letter on its website within two business days of the submission.

(II) Public review and comment.

(A) The ICA or ICA amendment shall be posted on the Commission's website within two business days of the filing and shall be available for review at the Commission during its normal business hours.(B) Public comment on the submission seeking approval of a negotiated ICA or ICA amendment or an arbitrated ICA or ICA amendment shall be due within ten days of the posting of the required notice.

(C) The public comment shall include the following information at a minimum:

(i) A detailed statement of the person's interest in the ICA or ICA amendment, including a description of how approval of the agreement may adversely affect those interests.

(ii) Specific allegations that the ICA or ICA amendment, or specific portion(s) thereof:

(1) discriminates against a telecommunications carrier that is not a party to the agreement;

(2) is not consistent with the public interest, convenience and necessity; and/or

(3) is not consistent with other requirements of state law.

(iii) The specific facts upon which the allegations are based.

(III) Intervention.

(A) Interventions shall be filed within ten days from posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.

(B) Interventions by Commission Staff shall be filed within 20 days from the posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.

(IV) Commission review. The Commission will review the ICA or ICA amendment using the standards for review set forth in 47 U.S.C. § 252. Pursuant to 47 U.S.C. § 252(e)(4), if the Commission does not act to approve or reject the ICA or ICA amendment within 90 days after submission by the parties of an ICA adopted by negotiation under 47 U.S.C. § 252(a), or within 30 days after submission by the parties of an ICA adopted by arbitration under 47 U.S.C. § 252(b), the ICA or ICA amendment shall be deemed approved.

2535. Confidentiality.

(a) Information submitted to the Commission is subject to the provisions of §§ 24-72-201, C.R.S., et seq., and rules 1100 through 1102. Under those provisions it is generally presumed that information in Commission files is public information.

(b) An agreement for interconnection services or network elements, including the detailed schedule of itemized charges, and any subsequent amendments shall not be considered confidential and shall, pursuant to the provisions of rule 2540, be made available for public inspection.

2536. – 2549. [Reserved].

Requests for Commission Participation in the Negotiation and Mediation of Interconnection Agreements

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process to be used and the information required by the Commission when an entity negotiating an interconnection agreement requests that the Commission participate in the negotiation and, mediate any differences arising in the course of the negotiation.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; 40-15-503(2)(b)(I) and (III); 40-15-503(2)(g)(I); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252(a)(1), (a)(2), and (e).

2550. Applicability.

Rules 2550 through 2559 apply to any negotiation of an ICA relating to telecommunications services in Colorado in which any party to the negotiations has requested that the Commission mediate any differences arising during the negotiations.

2551. Definitions.

The following definitions apply only in the context of rules 2550 through 2559:

(a) "Negotiation/mediation request" (request) means a filing made by a telecommunications carrier with the Commission asking the Commission to participate in the negotiation of an interconnection agreement (ICA) and to mediate any differences.

(b) "Party to the negotiation" (party) means a telecommunications carrier negotiating for an agreement with another telecommunications carrier pursuant to 47 U.S.C. § 252(a).

(c) "Telecommunications mediator" (mediator) means the person assigned by the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

2552. Request Process.

(a) Pursuant to 47 U.S.C. 252(a)(2), any party to the negotiation may, at any point in the negotiation, ask the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

(b) A party shall file a letter with the Director to request negotiation/mediation.

(c) The negotiation/mediation request shall include the following information, either in the request or in appropriately identified, attached exhibits:

(I) The name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party to the negotiation making the request;

(II) The name(s), address(es), telephone number(s), facsimile number(s), and e-mail address(es), if applicable, of the other parties to the negotiation;

(III) The name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party's representative who is participating in the negotiations and to whom all inquiries should be made;

(IV) The negotiation history, meeting times, and locations;

(V) Available schedule dates of party representatives; and

(VI) The issues on which the requestor seeks Commission participation and mediation.

2553. Negotiation/Mediation Process.

(a) Pursuant to 47 U.S.C. 252(a)(2), the Commission shall participate in the ICA negotiations and mediate any differences arising in the course of the negotiation.

(I) Upon receipt of a request for Commission negotiation/mediation, the Commission shall assign a docket number to the matter.

(II) The Commission will respond to the request within ten days after receipt. The response shall identify the assigned mediator.

(b) The mediator shall promptly schedule negotiation/mediation sessions. These sessions shall continue until:

(I) All outstanding issues are settled;

(II) A party makes a written declaration that the mediation proceedings are terminated; or

(III) The mediator makes a written declaration that further efforts at mediation are no longer worthwhile.

2554. Confidentiality.

The mediator shall not voluntarily disclose nor, through discovery, be required to disclose any oral or written communication prepared or expressed for the purposes of, in the course of, or pursuant to, any mediation or negotiation hereunder.

2555. – 2559. [Reserved].

Commission Arbitration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish a Commission process for arbitration of issues arising in the course of negotiation of interconnection agreements under 47 U.S.C. § 252.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; 40-15-503(2)(b)(I) and (III); 40-15-503(2)(g)(I); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and at 252(a)(1) and (e).

2560. Applicability.

Pursuant to 47 U.S.C. 252(b), rules 2560 through 2579 apply to any petition filed by any party to the negotiation of an interconnection agreement requesting that the Commission arbitrate any unresolved issues in the negotiations. These provisions apply only to petitions filed during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 251 and 47 U.S.C. § 252.

2561. Definitions.

The following definitions apply only in the context of rules 2560 through 2579.

(a) "Agreement being negotiated" means an interconnection agreement (ICA) being negotiated between or among telecommunications carriers, following a request for negotiation made by a telecommunications carrier to an ILEC.

(b) "Petition for arbitration" means the petition requesting arbitration of any unresolved issues in the interconnection agreement being negotiated.

(c) "Petitioner" means the party to the interconnection agreement being negotiated that files the petition for arbitration.

(d) "Respondent" means a non-petitioning party to the agreement being negotiated.

2562. Petition Process.

(a) Pursuant to 47 U.S.C. § 252(b), any party to an ICA being negotiated may, during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 252, petition the Commission to arbitrate any unresolved issues in the negotiation.

(b) To request Commission arbitration, a party shall file a petition with the Commission. The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified, attached exhibits:

(I) Identifying information:

(A) The name, address, telephone number, facsimile number, and e-mail address, if applicable of the party to the negotiation making the request;

(B) The names, addresses, telephone number(s), facsimile number(s), and e-mail addresses, if applicable, of the other parties to the negotiation;

(C) The name, address, telephone number, facsimile number, and e-mail address, if applicable, of the petitioner's representative who is participating in the negotiations and to whom all inquiries should be made;

(D) The negotiation history, meeting times, and locations; and

(E) Available schedule dates of party representatives.

(F) All other relevant documentation and arguments concerning:

(i) The unresolved issues;

(ii) The position of each of the parties with respect to those issues;

(iii) The specific relief requested by the petitioner with respect to each issue; and

(iv) Any other issues discussed and resolved by the parties.

2563. Notice.

(a) Pursuant to 47 U.S.C. § 252(b)(2)(B), a party petitioning the Commission to arbitrate shall deliver by first-class mail, express mail, or by hand delivery a copy of the petition and any attached documents to the other party or parties to the agreement being negotiated no later than the day on which the Commission receives the petition.

(b) The petitioner shall also furnish written notice to:

(I) The Office of Consumer Counsel;

(II) Any telecommunications carrier known to be negotiating an ICA, as included on a list maintained by the Commission; and

(III) Any telecommunications carrier certified by the Commission to provide telecommunications service as included on a list maintained by the Commission.

(c) Contents and manner of service. The written notice shall include a statement that a petition for arbitration has been filed with the Commission; the names of the parties; the date that the request for negotiation with the ILEC was made; a summary of the issues; and that interventions must be filed with the Commission within ten days of the filing date. The notice shall be delivered by first-class mail, by express mail, or by hand delivery not later than the day on which the petition for arbitration is filed with the Commission.

(d) Certificate of service. The petition shall include a certificate of service showing that notice was given in accordance with this rule.

2564. Opportunity to Respond to Petition.

(a) Other parties. A respondent shall respond to the petition for arbitration within 25 days after the petition is filed with the Commission. If a respondent seeks to have issues arbitrated that are not set out in the petition, the respondent shall state those issues, the position of each of the parties with respect to those issues, and the specific relief requested with respect to those issues. The respondent to a petition for arbitration shall become a party to arbitration proceedings upon service of the petition in accordance with paragraph 2563(a).

(b) Intervention and public comment or intervention. A person seeking to intervene on the petition shall file a motion to intervene within ten days of the date that the petition for arbitration was filed with the Commission. A person may submit public comment on the petition within 25 days of the date that the petition for arbitration was filed with the Commission.

2565. Role of Commission during Arbitration.

(a) The Commission shall:

(I) Review all submitted documentation and written arguments; and

(II) Hold a hearing on the petition.

(b) The Commission may require the petitioning and responding parties to provide additional information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any request from the Commission, the Commission may proceed on the basis of the best information available.

(c) The Commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement rule 2566 upon the parties to the arbitrated agreement.

(d) The Commission shall conclude the resolution of any unresolved issues no later than nine months after the date on which the ILEC received the request for negotiation for interconnection under 47 U.S.C. § 252 in accordance with the Commission's own procedures and specified statutes or rules.

(e) The Commission may order the parties to the arbitration to pay for a transcript of the arbitration proceedings. In such case, the Commission will apportion the cost among the parties in an equitable fashion.

2566. Standards for Arbitration.

Pursuant to 47 U.S.C. § 252(c), in resolving any unresolved issues by arbitration under 47 U.S.C. § 252(b) and imposing conditions upon the parties to the agreement, the Commission shall:

(a) Ensure that such resolution and conditions meet the requirements of 47 U.S.C. § 251, including the regulations prescribed by the FCC pursuant to 47 U.S.C. § 251;

(b) Establish any rates for interconnection, services, or network elements according to 47 U.S.C. § 252(d); and

(c) Provide a schedule for implementation of the rates, charges, terms, and conditions of the agreement by the parties.

2567. Duty to Negotiate in Good Faith during Arbitration.

Pursuant to 47 U.S.C. § 251(c)(1), each ILEC has, among other duties, the duty to negotiate in good faith, in accordance with 47 U.S.C. § 252, the particular rates, charges, terms, and conditions of agreements to fulfill the duties described in 47 U.S.C. § 251(b)(1) through (5), and 47 U.S.C. § 251(c). The requesting telecommunications carrier also has the duty to negotiate in good faith the rates, charges, terms, and conditions of such agreements.

2568. Refusals to Negotiate.

Pursuant to 47 U.S.C. § 252(b)(5), the refusal of any party to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a breach of the duty to negotiate in good faith.

2569. – 2579. [Reserved].

Rules for the Resale of Telecommunications Exchange Services

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish regulations: for the resale of retail telecommunications exchange services; to ensure the non-discriminatory availability of services for resale; and to ensure that retail telecommunications services are available for resale in a manner that enhances competition.

The statutory authority for promulgation of these rules is found at §§ 40-15-108(2); 40-15-502(1), (3)(b)(V), and (5)(b); 40-15-503(2)(a), (2)(b)(IV), and (2)(g)(I); and 40-2-108, C.R.S.

2580. Applicability.

Rules 2580 through 2599 are applicable to all telecommunications providers that provide telecommunications exchange service in Colorado.

2581. Definitions.

The following definitions apply only in the context of rules 2580 through 2599:

(a) "Facilities-based telecommunications provider" means a provider of telecommunications exchange service that owns telecommunications facilities.

(b) "Telecommunications exchange service" means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area, operated to furnish subscribers with service of the character ordinarily provided by a single exchange, and which is covered by the exchange service charge.

(c) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

2582. Regulation of Facilities-Based Telecommunications Providers.

(a) Facilities-based telecommunications providers shall neither prohibit nor impose unreasonable or discriminatory conditions or limitations on the resale of their retail telecommunications services.

(b) Facilities-based telecommunications providers shall not be required to modify their Commission-established local calling areas for the purpose of accommodating a reseller.

(c) Operational support:

(I) Each facilities-based telecommunications provider shall offer, in a non-discriminatory manner, pursuant to contract or tariff, the operational support necessary to enable each reseller, certified within the facilities-based telecommunications provider's service territory, the opportunity to provide the reseller's end users the same quality of service, consistent with rules 2330 through 2359 that is available to the facilities-based telecommunications provider's end users.

(II) Such contracts shall be approved by the Commission and available for review pursuant to Commission order.

(d) A facilities-based telecommunications provider may require a deposit from a reseller, pursuant to an effective tariff on file with the Commission. The tariff shall specify, at a minimum, the amount of the deposit, the circumstances under which the deposit shall be required, when the deposit shall be returned, and the terms and conditions of the forfeiture of the deposit. Such deposit shall be in an amount sufficient to recover the reasonable costs borne by the facilities-based telecommunications provider in the event the reseller:

(I) Discontinues telecommunications exchange service without Commission approval; or

(II) Fails to pay the facilities-based telecommunications provider for services rendered.

(e) In the event a reseller discontinues telecommunications exchange service without Commission approval, the facilities-based telecommunications provider shall notify the Commission of the reseller's discontinuance of service.

(f) Subject to Commission approval, an ILEC shall charge resellers a price equal to the retail price the ILEC charges end users adjusted for any marketing, billing, collection, and other costs that will be avoided by the ILEC. For purposes of this rule, the price charged to resellers shall also reflect any package discounts the ILEC offers to its end users for a package of retail telecommunication services if the resold combination of products purchased is identical.

2583. Service Quality.

(a) For purposes of compliance with rules 2330 through 2359, the reseller is a customer of the facilities-based telecommunications provider.

(b) All local exchange service providers, including resellers, shall comply with all Commission rules applicable to LECs.

(c) The provider of local exchange services that directly interfaces with the end user is obligated to serve that end user according to the Commission's rules.

(d) Services offered for resale by the facilities-based telecommunications provider must be provisioned at the same standard of quality as the services offered to its end users.

2584. Confidentiality.

(a) Each facilities-based telecommunications provider shall establish procedures to ensure that its personnel, including, but not limited to, those personnel who are involved in the provision of resold service and operational support to resellers, hold as confidential all information about the reseller and its end users obtained solely from providing services to a reseller, and do not use that information to compete against the reseller.

(b) Each facilities-based telecommunications provider shall establish procedures to ensure that specific or summarized information about a provider or a reseller or their end users obtained solely from providing services is not used to develop any marketing strategy to compete, or develop, market, or sell services.

(c) Each facilities-based telecommunications provider and each reseller of its services shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

2585. Tariff Filings.

(a) Except for those providers addressed in paragraph (b), each facilities-based telecommunications provider shall file tariffs with the Commission implementing the resale of services according to these rules within 30 days of the date the facilities-based telecommunications provider receives operating authority.

(b) Rural facilities-based telecommunications providers shall file tariffs with the Commission implementing the resale of requested services according to these rules within 30 days after such company has received a bona fide request by a reseller that has been granted operating authority within the facilities-based telecommunications provider's service territory, and the Commission has determined that such request is not unduly economically burdensome and is technically feasible.

2586. Negotiation, Mediation, and Arbitration.

(a) Nothing in rule 2585 shall be construed to limit a telecommunications provider’s ability to reach a negotiated, mediated, or arbitrated agreement with respect to the rates, charges, terms, and conditions associated with the resale of retail telecommunications services.

(b) All agreements for resale of retail telecommunications services shall be submitted to the Commission for approval.

2587. Regulation of Resellers.

(a) All providers of residential basic local exchange services shall price such services to comply with statutory provisions of § 40-15-502(3), C.R.S.

(b) A reseller that obtains a telecommunications service at wholesale, which at retail is available only to a category of subscribers, is prohibited from offering such service to a different category of subscribers.

(c) If the reseller is reselling basic local exchange service to a particular end user, the end user's bill must separately identify the reseller's Commission-authorized price for basic local exchange service.

2588. Dispute Resolutions.

The Commission shall resolve disputes arising out of any provision of resold retail telecommunications services pursuant to these rules.

2589. - 2699. [Reserved].

NUMBERING ADMINISTRATION

Efficient Use of Telephone Numbers

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify procedures to ensure the efficient use and assignment of telephone numbers.

The statutory authority for the promulgation of these rules is found at §§ 40-15-503(2)(b)(II), 40-2-108, C.R.S. Relevant federal law exists at 47 U.S.C. § 251 (e)(1) and 47 C.F.R., Part 52.19 (October 1, 2002).

2700. Applicability.

Rules 2700 through 2719 are applicable to all providers of telecommunications services, who have accepted or make use of numbering resources in the Numbering Plan Areas (NPAs) assigned to Colorado or who assign numbering resources in any NPA assigned to Colorado.

2701. Definitions.

The following definitions apply only in the context of rules 2700 through 2719:

(a) "Central office code" means the second three digits (NXX) of a ten-digit telephone number in the form NPA-NXX-XXXX. A central office code is also called an NXX code. The "N" denotes numbers 2 through 9 and X denotes numbers 0 through 9.

(b) "Central office code administrator" means the entity responsible for the administration of the NXXs within an NPA. The central office code administrator is also known as the North American Numbering Plan Administrator (NANPA).

(c) "Contaminated block" means any thousand block of telephone numbers where at least one telephone number is not available for assignment to end users.

(d) "Numbering Plan Area" (NPA) means the first three digits of a ten-digit telephone number in the North American Numbering Plan. This is also called an area code. NPAs are classified as either geographic or non-geographic.

(e) "NXX code holder" means any telecommunications service provider that has been assigned at least one central office code by the central office code administrator.

(f) "Pooling administrator" means the entity responsible for the administration and assignment of the thousand blocks in a pooling environment.

(g) "Thousand block" means a range of a thousand consecutive telephone numbers within a single NXX code, e.g., numbers NXX-1000 through NXX-1999 constitute a thousand block.

2702. Assignment of Telephone Numbers in Colorado.

(a) All providers with numbers assigned from the NPAs in the Colorado (303, 719, 970, 720, or any future NPAs assigned to Colorado) shall assign numbers from a single opened thousand block within an NXX before assigning telephone numbers from an uncontaminated thousand block.

(b) Notwithstanding paragraph (a), a provider may assign telephone numbers in a thousand block different from the thousand block described in paragraph (a) if the available numbers in the opened thousand block are not sufficient to meet a specific customer request.

(c) The Central Office Code Administrator and Pooling Administrator must perform their central office code administration and thousand block administration functions in such a manner as to support these rules.

(d) Upon implementation of any number pooling between providers in Colorado, providers participating in pooling must make uncontaminated thousand blocks and thousand blocks with less than ten percent contamination available to the Pooling Administrator for possible reassignment to other providers in a number pooling process.

(e) All providers that are required to be local number portability (LNP) capable pursuant to paragraph 2724(c) shall participate in number pooling for a particular geographic area when implemented by the Pooling Administrator.

(f) All providers shall provide services in such a manner as not to encourage the inefficient use or depletion of telephone numbers in any Colorado NPA.

2703. Variance.

Any provider seeking relief from the requirements of rules 2700 through 2719 or pursuant to 47 C.F.R. 52.15(g) shall request a variance by petition to the Commission. The petition shall demonstrate (1) a request from an end-user customer detailing the specific need for telephone numbers; and (2) the carrier's inability to meet the customer's request from the carrier's current inventory of numbers. The designated Commission Staff shall act on the petition within 14 days of receiving the required information. If the petitioner disagrees with the Staff's determination, the petitioner may formally request a Commission ruling.

2704. – 2719. [Reserved].

<u>Local Number Portability and Administration</u>

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish local number portability (LNP) regulations so that end users can choose between authorized telecommunications providers without losing their telephone numbers; to establish mechanisms supporting LNP; and to identify LNP database network architecture.

The statutory authority for the promulgation of these rules is found at §§ 40-2-108 and 40-15-503(2)(b)(II), C.R.S.

2720. Applicability.

Rules 2720 through 2739 shall apply to all facilities-based LECs.

2721. Definitions.

The following definitions apply only in the context of rules 2720 through 2739:

(a) "Limited Liability Company" (LLC) means the legal entity given the responsibility of selecting and managing the Number Portability Administration Center (NPAC) in Colorado. This entity is made up of representatives of providers that are or will be porting numbers.

(b) "Number portability administration center" (NPAC) means the independent third-party administrator of the Service Management System (SMS) and LNP database.

(c) "Portable NXX" means an NXX that the public switched telephone network, in doing call routing, recognizes as an address that may require routing on the basis of something other than the dialed digits, and that the telephone company billing system, in determining which provider serves the billed telephone number, recognizes may involve a provider other than the one to which the NXX is assigned.

(d) "Ported telephone number" means a telephone number (TN) that is served (receives dial tone) from a switch other than the one to which the NXX is assigned.

2722. Incorporation by Reference.

The FCC's *LNP First Report and Order,* Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996, is incorporated by reference, as identified in rule 2008.

2723. Local Number Portability.

If a customer changes basic local exchange providers and remains within the same rate center, the customer shall have the option to retain the customer's telephone number(s).

2724. Long-Term Service Provider Number Portability.

(a) Long-term service provider number portability, as described in rule 2723, shall be attained by means of a database network architecture.

(b) The database network architecture employed shall meet the following performance criteria:

(I) Supports network services, features, and capabilities existing at the time number portability is implemented, including emergency services, Custom Local Area Signaling System (CLASS) features, operator and directory assistance services, and intercept capabilities;

(II) Efficiently uses numbering resources;

(III) Does not require customers to change their telephone numbers;

(IV) Does not result in unreasonable degradation in service quality or network reliability;

(V) Does not result in any degradation in service quality or network reliability when customers switch carriers;

(VI) Does not result in a carrier having a proprietary interest in the network architecture;

(VII) Is able to migrate to location and service portability; and

(VIII) Has no significant adverse impact outside the areas where number portability is deployed.

(c) Implementation. All facilities-based LECs offering service in the top 100 Metropolitan Statistical Areas (MSAs) as defined by the U.S. Bureau of Census, including those listed in the FCC's LNP First Report and Order, Decision No. FCC 96-286 in CC Docket No. 95-116, Appendix D, must provide a long-term database method for number portability upon entry. All facilities-based LECs offering service in areas outside the top 100 MSAs must make number portability available six months after a request from a competing carrier.

(d) NPAC.

(I) The long-term service provider portability database shall be administered by an NPAC. The NPAC shall be the exclusive source of LNP database information for facilities-based Colorado service providers.

(II) The NPAC shall be selected and contracted to perform its duties by the LLC.

2725. – 2739. [Reserved].

N-1-1 Abbreviated Dialing Codes

Basis, Purpose, and Statutory Authority

The basis and purpose for these rules is to establish Colorado N-1-1 regulations so that the use of N-1-1 in Colorado is consistent with the FCC assignments by: identifying the designated uses of N-1-1 codes; identifying the limitations of the N-1-1 code usage; and establishing Commission procedures regarding petitions for N-1-1 use or assignment.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-15-201, and 40-2-108, C.R.S. These rules are consistent with the FCC's rules found at 47 C.F.R., Part 52 (October 1, 2002).

2740. Applicability.

Rules 2740 through 2799 are applicable to all telecommunications providers.

2741. Abbreviated Dialing Codes.

(a) Definitions.

(I) "Abbreviated dialing codes" enable callers to connect to a location in the telephone network that otherwise would be accessible only through the use of a seven or ten-digit telephone number. The network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number, including toll free numbers, and route the call accordingly.

(II) "N-1-1" codes are three-digit codes of which the first digit can be any digit other than 1 or 0, and the last two digits are both 1. N-1-1 codes "0-1-1" and "1-1-1" are unavailable because "0" and "1" are used for switching and routing purposes.

(b) The following abbreviated dialing codes have been designated and assigned by the FCC and shall be used for the FCC's stated purpose in Colorado:

(I) 2-1-1 - Community Information and Referral Services;

(II) 3-1-1 - Non-emergency governmental police and other governmental service information;

(III) 5-1-1 - Traffic and Transportation Information;

(IV) 7-1-1 - Telecommunications Relay Service;

(V) 8-1-1 - Advanced Notice of Excavation Activities; and

(VI) 9-1-1 - Emergency Service.

(c) The following abbreviated dialing codes are commonly used for the FCC's stated purpose in Colorado, but may be used for other purposes:

(I) 4-1-1 - Directory Assistance and Directory Assistance Call Completion; and

(II) 6-1-1 - Repair Service.

(d) A provider in Colorado may assign or use N-1-1 dialing codes only as directed by the Commission.

(e) The following limitations apply to a provider's use of N-1-1 dialing codes for internal business and testing purposes:

(I) The provider's use shall not interfere with the assignment of such numbers by the FCC or with the North American Numbering Plan (NANP); and

(II) The provider's use shall be discontinued upon 30-days notice if the dialing code is reassigned on a statewide or nationwide basis, provided that the code not be reassigned earlier than six months after the provider’s use is discontinued in order to allow sufficient time for customer education regarding the discontinuance and reassignment of the dialing code.

(f) Rule relating to the provisioning of the 2-1-1 abbreviated dialing code for community information and referral services.

(I) An entity submitting an application for use of the 2-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any applicant that is granted the authority to offer 2-1-1 access to a referral service for non-commercial community resource information shall comply with this rule and any provisions set out in the Commission decision granting such authority.

(A) Assignment of 2-1-1 abbreviated dialing code. The assignment of the 2-1-1 abbreviated dialing code will be considered by the Commission upon:

(i) The Commission's own motion; or

(ii) The application of an information and referral organization.

(II) Application. An entity filing an application to request assignment of the 2-1-1 abbreviated dialing code for access to community information and referral services shall present evidence that a public benefit exists. The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(A) Background of the applicant, including composition of any governing board or agency;

(B) Demonstration of public need;

(C) Comprehensive list of participating agencies including proposed process to add to or delete agencies from the list;

(D) Historic volume of calls seeking community service information;

(E) Affected geographic area including list of cities, towns, counties, and central offices, if known, and any plans for expansion of that initial geographic area;

(F) Staffing expectations, including hours and days of operation;

(G) Proposed cost recovery solution, including funding mechanisms;

(H) Letters of support from stakeholders (e.g., community members, government agencies, non-profit organizations);

(I) Proposed plan for community notification and outreach; and

(J) Other information demonstrating a public benefit.

(III) If two or more entities file an application with the Commission to provide community information and referral services using 2-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (f)(II) to establish one assignee.

(IV) When an application is granted by the Commission under subparagraph (f)(II), all telecommunications providers that provide service in the geographic area outlined in the application shall complete the following tasks:

(A) If an affected provider is using 2-1-1 for purposes other than access to community information and referral services, that provider shall discontinue use for that non-compliant purpose.

(B) If the affected provider plans to seek recovery of its costs associated with 2-1-1 implementation, the affected provider shall calculate the cost for the necessary translations and facilities work.

(C) The affected provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 2-1-1 call completion from its subscribers as requested in the application.

(V) Within 30 days of the granting of an application the affected provider shall file with the Commission the information requested in subparagraphs (f)(II)(B) and (C).

(VI) Upon a showing that the public will benefit from the assignment of 2-1-1 to an applicant and factoring in the provider filed information, the Commission will establish a timeline for assignment and use of the 2-1-1 abbreviated dialing code in the affected geographic area. All providers serving customers in the affected area shall comply with this assignment date unless a variance is sought and granted.

(g) Rules relating to the provisioning of the 3-1-1 abbreviated dialing code for non-emergency governmental police and other governmental service information:

(I) A government entity submitting a petition for use of the 3-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet the public benefit standards as delineated in this rule. Any government entity that is granted the authority to offer 3-1-1 access to non-emergency police and other governmental services information shall comply with this rule and any other provisions set out in the Commission's decision granting such authority.

(II) Definitions. The following definitions apply to paragraph (g):

(A) "Affected area" means the geographic area within which a 3-1-1 abbreviated dialing code is sought to be used, will be used, or (after implementation) is used for the purpose of providing non-emergency police and other governmental service information to the public.

(B) "Government entity" or "entity" means a department or agency of the state of Colorado, any county, or any city, municipality or town as those terms are defined in § 31-1-101 C.R.S.; and any Ambulance District, Fire Protection District, Health Service District or Metropolitan District as those terms are defined in § 32-1-103 C.R.S.

(III) On and after the date established by the Commission for implementation within an affected area, an assigned 3-1-1 abbreviated dialing code shall be used within that affected area exclusively to deliver non-emergency police and other governmental service information to the public.

(IV) Process for Assignment of 3-1-1 Abbreviated Dialing Code. The Commission will consider assignment of the 3-1-1 abbreviated dialing code either upon the Commission's own motion or upon the filing of a petition by a governmental entity.

(V) The Commission will assign a 3-1-1 abbreviated dialing code when, after taking into consideration the available information, the Commission finds that assignment of a 3-1-1 abbreviated dialing code in a specific affected area for the purpose of delivering non-emergency police and other governmental service information to the public is in the public interest. A governmental entity that is granted the authority to offer access to non-emergency police and other governmental service information using a 3-1-1 abbreviated dialing code shall comply with this rule and with the provisions contained in the Commission's decision granting authority.

(VI) Petition for Assignment of a 3-1-1 Abbreviated Dialing Code. A governmental entity filing a petition must present evidence that a public benefit exists. The Commission will evaluate the petition based upon the evidence presented.

(VII) Contents of the Petition. A petition shall contain the following information and, as necessary, supporting documentation:

(A) Specific information regarding the entity including:

(i) The name and address of the governmental entity filing the petition;

(ii) The name, address and telephone number of the person filing the petition on behalf of the governmental entity;

(iii) The name, address, telephone number, facsimile number, and e-mail address of the entity's representative to whom all inquiries concerning the petition should be addressed;

(iv) The name, address, and telephone number of the person to contact with respect to the implementation and/or provisioning of the 3-1-1 abbreviated dialing service, if different from the person identified in (iii) in the event the Commission grants the petition;

(v) Information about the governmental entity, including the composition of any governing board or agency.

(B) A statement that the entity agrees to answer all questions propounded by the Commission or its Staff concerning the petition.

(C) A detailed plan for the use of the 3-1-1 abbreviated dialing code, including:

(i) A description of the services to be offered;

(ii) Proposed hours of operation;

(iii) Proposed staffing;

(iv) A description of the staff training;

(v) A detailed plan for community outreach with examples of notices and releases;

(vi) The proposed method for routing the 3-1-1 calls to the call center.

(D) A precise description of the affected area, including a map of the affected area.

(E) Historic volume of calls seeking non-emergency police and other governmental services information.

(F) Demonstration of public need, including letters of support.

(G) Estimated cost of implementation and the on-going provisioning of the 3-1-1 abbreviated dialing code.

(H) Identification of funding source(s) for implementation and maintenance of the service, should the Commission grant the petition.

(I) Acknowledgement that by signing the petition the entity understands that:

(i) The filing of the petition does not, by itself, constitute approval of the petition.

(ii) If the petition is granted, the entity shall not commence the requested action until the entity has complied with applicable Commission rules and with any conditions established by the Commission order granting the petition.

(VIII) In the event two or more requests for 3-1-1 are made to the Commission that cover the same geographic area or overlap the same geographic area, the governmental entities making the conflicting requests shall attempt to negotiate a settlement as to which entity shall provide the service in conflict. In the event the entities are not able to resolve a conflicting request for 3-1-1 service, the Commission shall have the final authority to determine which entity shall provide 3-1-1 service, taking into account the nature of the services to be provided, the number of residents the entity serves and the potential frequency of access to entities wishing to implement the 3-1-1 service.

(IX) The Commission shall mail its order granting the petition to all jurisdictional providers that offer service in the affected area.

(X) When it receives notice of a Commission order assigning the 3-1-1 abbreviated dialing code for providing non-emergency police and other governmental service information to the public, a jurisdictional telecommunications provider that provides telecommunications services in the affected area shall:

(A) If the jurisdictional telecommunications service provider is using a 3-1-1 abbreviated dialing code for purposes other than providing the public with access to non-emergency police and other governmental service information, that provider shall discontinue use for that non-compliant purpose within 30 days or such other time as the Commission shall order.

(B) If the jurisdictional telecommunications service provider plans to seek recovery of its costs associated with implementation using the 3-1-1 abbreviated dialing code associated with non-emergency police and other governmental service information, the provider shall perform all analyses required to quantify its costs for the necessary translations and/or facilities work associated with implementation of the 3-1-1 abbreviated dialing code. If a provider does not intend to recover its implementation costs, no analysis is required.

(C) The jurisdictional telecommunications service provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 3-1-1 call completion for its subscribers as requested in the Petition, keeping in mind that the FCC has determined that a request for 3-1-1 service shall initiate a 6 month deadline to take any necessary steps to complete 3-1-1 calls.

(D) No fewer than 30 days prior to the Commission-ordered implementation date, each jurisdictional telecommunications service provider that offers service within the affected geographic area shall file, on not less than 30 days' notice, an advice letter and accompanying Tariff that describes the availability of the 3-1-1 abbreviated dialing code; that contains the terms and conditions of the 3-1-1 abbreviated dialing code service; and, if the provider desires to recover its costs, the rates for the 3-1-1 abbreviated dialing code service.

(E) All jurisdictional telecommunications service providers serving customers in the affected area shall comply with the Commission-established schedule unless a waiver is sought and granted.

(XI) Upon a showing that it is in the public interest to assign the 3-1-1 abbreviated dialing code for providing non-emergency police and other governmental service information to the public, and considering the jurisdictional providers' filed information pursuant to paragraph (C), the Commission will establish a schedule for assignment and implementation of the 3-1-1 abbreviated dialing code in the affected area.

(XII) Discontinuance of offering of 3-1-1 access.

(A) Any governmental entity that has been granted the authority to offer 3-1-1 access and wishes to discontinue providing the 3-1-1 service shall file a notification with the Commission not fewer than 45 days prior to the effective date of the proposed discontinuance. The Commission may give notice of the notification if it determines notice would be in the public interest.

(B) Contents of the notification. The notification shall contain the following information:

(i) The entity's name, complete mailed address (street, city and zip code), telephone number, and e-mail address;

(ii) Name, mailing address, telephone number and e-mail address of the person to contact for questions regarding the discontinuance;

(iii) The proposed effective date, which shall not be sooner than 45 days after the date on which the notification is filed with the Commission;

(iv) The reason(s) for the discontinuance;

(v) A detailed description of the affected area, including a map of the affected area;

(vi) A copy of the notice to the affected users of the discontinuance of 3-1-1 service and a list of all the newspapers of general circulation in which the notice of discontinuance will be published;

(vii) A detailed description of the other means to be utilized to inform and educate the affected users of the discontinuance of 3-1-1 service;

(viii) Acknowledgment that by signing the notification, it is understood and agreed that:

(ix) Filing of the notification does not, by itself, constitute authority to discontinue the offering of the service; and

(x) If the discontinuance is granted, it is conditional upon fulfillment of any conditions established by Commission order.

(xi) An affidavit signed by a person who is authorized to act on behalf of the provider, stating that the contents of the notification are true, accurate and correct.

(h) Rules relating to the provisioning of the 5-1-1 abbreviated dialing code for traffic and transportation information:

(I) A government entity submitting a Petition for use of the 5-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet the public benefit standard outlined in this rule. Any petitioner that is granted the authority to offer 5-1-1 access to intelligent transportation systems or other transportation information shall comply with this rule and any provisions set out in the Commission's decision granting such authority.

(A) Process for Assignment of 5-1-1 Abbreviated Dialing Code. The assignment of the 5-1-1 abbreviated dialing code will be considered by the Commission upon: 1) the Commission's own motion; or 2) the Petition of a government entity.

(B) Petition for Consideration of the Assignment of 5-1-1. A government entity filing a Petition to request consideration of the assignment of the 5-1-1 abbreviated dialing code for intelligent transportation systems or other transportation information must present clear and convincing evidence that a public benefit exists. The Commission will evaluate the Petition based upon this evidence.

(C) Contents of the Petition. The Petition shall contain the following information and documentation:

(i) Background of the Petitioner, including composition of any governing board or agency;

(ii) Demonstration of public need;

(iii) Historic volume of calls seeking transportation information;

(iv) Proposed affected geographic area, including a list of cities/towns and counties or central offices, if known, and any plans for expansion of that initial geographic area;

(v) Proposed cost recovery solution, including funding mechanisms;

(vi) Letters of support from stakeholders;

(vii) Proposed plan for community outreach and notification; and

(viii) Other pertinent factors that the Commission deems relevant.

(II) If two or more entities petition the Commission to provide access to intelligent transportation systems or other transportation information using 5-1-1 in the same or overlapping geographic areas, the Commission shall apply the criteria in subparagraph (C) to establish one assignee.

(III) When a Petition is granted by the Commission under subparagraph (C), any jurisdictional telecommunications provider that provides service in the geographic area outlined in the Petition shall complete the following tasks:

(A) If an affected jurisdictional telecommunications service provider is using 5-1-1 for purposes other than access to intelligent transportation systems or other transportation information, that provider shall discontinue use for that noncompliant purpose.

(B) If the affected jurisdictional telecommunications service provider plans to seek recovery of internal costs associated with 5-1-1 call completion, the affected provider shall perform all analyses required to quantify its cost for the necessary translations and/or facilities work.

(C) The affected jurisdictional telecommunications service provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 5-1-1 call completion from its subscribers as requested in the petition.

(IV) Within 30 days of the granting of a Petition, the affected jurisdictional telecommunications service providers shall file with the Commission the information requested in subparagraphs (B) and (C).

(V) Upon a showing that the public will benefit from the assignment of 5-1-1 to a petitioner and factoring in the jurisdictional telecommunications service providers' filed information the Commission will set a timeline for assignment and implementation of the 5-1-1 abbreviated dialing code in the affected geographic area. All jurisdictional telecommunications service providers serving customers in the affected area will comply with this assignment date unless a waiver is sought and granted.

(i) Rules relating to the provisioning of the 7-1-1 abbreviated dialing code for telecommunications relay service:

(I) See rules 2820 through 2839.

(j) Rules relating to the provisioning of the abbreviated dialing code 8-1-1 for providing advanced notice of excavation activities to underground facility operators:

(I) An entity submitting a Petition for use of the 8-1-1 abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any petitioner that is granted the authority to offer 8-1-1 access to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities shall comply with this rule and any provisions set out in the Commission's decision granting such authority.

(A) Process for Assignment of 8-1-1 Abbreviated Dialing Code. The assignment of the 8-1-1 abbreviated dialing code will be considered by the Commission upon: 1) the Commission's own motion; or 2) the Petition of an entity.

(B) Petition for Consideration of the Assignment of 8-1-1. An entity filing a Petition to request consideration of the assignment of the 8-1-1 abbreviated dialing code to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities must present clear and convincing evidence that a public benefit exists. The Commission will evaluate the Petition based upon this evidence.

(C) Contents of the Petition. The Petition shall contain the following information and documentation:

(i) Background of the Petitioner, including composition of any governing board or agency;

(ii) Demonstration of public need;

(iii) Historic volume of calls seeking notification to facility operators in advance of their intent to engage in excavation activities;

(iv) Proposed affected geographic area;

(v) Proposed cost recovery solution, including funding mechanisms;

(vi) Proposed plan for community outreach and notification; and

(vii) Other pertinent factors that the Commission deems relevant.

(II) If two of more entities petition the Commission to provide a means for excavators and the general public to notify facility operators in advance of their intent to engage in excavation activities using 8-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (C) to establish one assignee.

(III) When a Petition is granted by the Commission under subparagraph (C), any telecommunications provider that provides service in the geographic area outlined in the Petition, shall complete the following tasks:

(A) If an affected telecommunications service provider is using 8-1-1 for purposes other than access to notification to facility operators in advance of their intent to engage in excavation activities, that provider shall discontinue use for that non-compliant purpose.

(B) If the affected telecommunications service provider plans to seek recovery of internal costs associated with 8-1-1 call completion, the affected provider shall perform all analyses required to quantify the cost to its individual company for the necessary translations and/or facilities work.

(C) The affected telecommunications service provider shall estimate the time required to perform the necessary translation and/or facilities work to allow 8-1-1 call completion from its subscribers as requested in the Petition.

(IV) Within 30 days of the granting of a Petition, the affected telecommunications service providers shall file with the Commission, the information requested in subparagraphs (B) and (C).

(V) All telecommunications service providers serving customers in the affected area will complete the requirements of subparagraph IV to allow for 8-1-1 call completion no later than April 13, 2007, unless a waiver is sought and granted.

(k) Rules relating to the provisioning of the 9-1-1 abbreviated dialing code for emergency services:

(I) See rules 2130 through 2159.

(l) Neither an entity granted the use of a N-1-1 abbreviated dialing code nor a provider may charge end users a fee on a per-call or per-use basis for using the N-1-1 system without the consent of the Commission.

(l) Sale or transfer of N-1-1 codes through private transactions is not allowed.

2742. – 2799. [Reserved].

PROGRAMS

2800. – 2819. [Reserved].

Telecommunications Relay Services for Disabled Telephone Users

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to implement Article 17 of Title 40, C.R.S., Telecommunications Relay Services (TRS) for Disabled Users compliant with the federal Americans with Disabilities Act of 1990 and which are consistent with the Commission's quality of service rules; require relay-communicated messages to be delivered promptly, accurately, privately, and confidentially; specify the types of calls that are included as telecommunications relay services; and implement a cost recovery mechanism.

The statutory authority for the promulgation of these rules is found at §§ 40-3.4-106; 40-15-502(3)(a); 40-17-103(2) and (3); and 40-2-108, C.R.S.

2820. Applicability.

Rules 2820 through 2839 are applicable to all providers of basic local exchange telecommunications services, certificated to do business in the state.

2821. Definitions [Reserved].

2822. Incorporation by Reference.

References in rules 2820 through 2839 to Part 64 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2823. Conformity with the Federal Americans with Disabilities Act of 1990.

(a) Adoption of federal regulations. For the purpose of providing telecommunications relay services in Colorado, the Commission adopts the FCC's rules and regulations establishing mandatory minimum operational and technical standards, found at 47 C.F.R. §§ 64.601 and 64.604 (a) and (b). These rules require that telecommunication relay service providers relay communicated messages promptly and accurately, maintain the privacy of persons who receive telecommunications relay services, and preserve confidentiality of all parties in connection with relayed messages.

(b) Enforcement. The Commission shall resolve any formal complaint alleging a violation of this rule pursuant to its normal complaint process, except that the Commission shall take final action regarding such formal complaint within 180 days after the formal complaint is filed.

(c) Public access to information. All local exchange providers and IXCs, through publication in their directories, periodic billing inserts, placement of telecommunications relay services instructions in telephone directories, through directory assistance services, and incorporation of telecommunications relay service numbers in telephone directories, shall assure that callers in their service areas are aware of the availability and the use of telecommunications relay services.

(d) The FCC has assigned the abbreviated dialing code 7-1-1 for access to telecommunications relay services. All providers of local exchange services must allow for call completion using this abbreviated dialing code.

(e) Jurisdictional separation of costs.

(I) Where appropriate, the costs of providing telecommunications relay services shall be separated in accordance with applicable federal separations procedures and agreements (see § 40-15-108(1)).

(II) Costs caused by interstate telecommunication relay services shall be recovered according to applicable federal rule. Costs caused by intrastate telecommunication relay services shall be recovered from the intrastate jurisdiction consistent with this rule.

2824. Conformity with the Commission's Quality of Service Rules.

The provider of TRS in Colorado shall be subject to any applicable Commission quality of service rule(s). In the case of conflict between the Commission's rule and the federal rule incorporated by reference in rule 2822, the more stringent of the two shall apply.

2825. Rates – Calls Included as Telecommunications Relay Calls.

Intrastate local, intraLATA interexchange, and interLATA interexchange calls shall be included as TRS. The costs of any toll service or any other service that is not a basic local exchange service is to be borne by the TRS user; however, the TRS user shall pay rates no greater than the rate paid for functionally equivalent voice communication services with respect to factors such as the duration of the call, the time of day, and the distance from the point of origination to the point of termination.

2826. Commission Powers and Duties.

(a) The Commission shall administer and contract for telecommunications relay services with a telecommunications provider (Contractor). The Commission, as Administrator, shall direct that the cost of these services shall be paid from the Colorado Disabled Telephone Users Fund. The contract shall conform to these rules, and shall make available adequate procedures and remedies for enforcing the requirements.

(b) Each month, the Contractor shall request reimbursement of its expenses from the Commission. The Commission shall, upon its approval of the expenses, remit the approved amount to the Contractor and shall debit the approved amount from the Colorado Disabled Telephone Users Fund.

2827. Administration of the Colorado Disabled Telephone Users Fund.

(a) Fund administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each business and residential access line in a uniform amount. In order to adjust the uniform charge the Commission requires certain information. To assist the Commission:

(I) In compliance with annual state budget cycle timelines and requirements, the Commission shall estimate its administrative expenses incurred under §§ 40-17-101 through 104, C.R.S.

(II) If the monthly uniform charge, per access line, as determined by the Commission, exceeds 15 cents, the Commission shall within 20 days prepare a report for the Legislative Appropriation Committees which would justify any additional increase in the monthly uniform charge.

(b) Uniform charge.

(I) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed to each access line provided by each LEC.

(II) The uniform charge shall not be included in each subscriber's bill as part of the subscriber's base rate. The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each local exchange provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Fund."

(III) Upon collecting the uniform charge, each local exchange provider may retain, from the total charges collected, a vendor fee in the amount of three-fourths of one percent of the amount of total monthly uniform charges collected by such local exchange provider. The vendor fee is intended to reimburse local exchange providers for administrative costs in imposing and collecting the uniform charge. No later than the last day of the following month, each local exchange provider shall remit to the Commission or the State Treasurer the amount the provider collected for the previous month, less the applicable vendor fee. The funds collected shall be credited to the Colorado Disabled Telephone Users Fund.

(IV) Every month, each local exchange provider shall submit to the Commission a completed "Colorado Telecommunications Relay Service Surcharge" form. This form is available from the Commission or its website.

(A) The following information is required:

(i) Company name, as is on-file with the Commission;

(ii) The name, telephone number, facsimile number, and e-mail address, if available, of the person preparing the form on behalf of the provider;

(iii) The month for which the charges are being reported;

(iv) The number of access lines being reported;

(v) The total surcharge amount collected for the month being reported;

(vi) Adjustments to customer bills;

(vii) The vendor fee being withheld; and

(viii) The total remittance.

(B) The "Colorado Telecommunications Relay Service Surcharge" form must be signed and dated by a company representative authorized to do so. The name and telephone number of the most appropriate company representative to whom questions may be directed must also be included on the form.

2828. – 2839. [Reserved].

High Cost Support Mechanism and High Cost Administration Fund

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process used by the Commission to implement and the provisions of the high cost support mechanism while remaining consistent with the relevant rules and orders of the FCC.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-15-208(2)(a), 40-15-502, and 40-2-108, C.R.S.

2840. Applicability.

Rules 2840 through 2869 govern the operation of the Colorado High Cost Support Mechanism (HCSM) and the Colorado High Cost Administration Fund and shall apply to all providers of intrastate telecommunications services.

2841. Definitions.

The following definitions apply only in the context of rules 2840 through 2869:

(a) "Administrator" means the Commission, or a designee employed by the Commission, pursuant to § 40-15-208(3), C.R.S., that performs the administrative functions of the HCSM under the direction of the Commission.

(b) "Average-schedule rural provider" means a rural telecommunications service provider that is an average-schedule company as defined and used in 47 C.F.R. §§ 69.605 through 69.610.

(c) "Colorado High Cost Administration Fund" (Fund) means the fund created in the state treasury for the purpose of reimbursing the Commission acting as Administrator for its expenses incurred in the administration of the HCSM.

(d) "Geographic area" means a Commission-defined area of land usually smaller than an incumbent provider's wire center serving area included wholly within the incumbent's wire center boundaries.

(e) "Geographic support area" means a geographic area where the Commission has determined that the furtherance of universal basic service requires that support be provided by the HCSM.

(f) "High Cost Support Mechanism" (HCSM) means the mechanism created by Colorado statute for the support of universal service for basic local exchange service within a rural Colorado, high-cost geographic support area.

(g) "Intrastate proxy cost" means that portion of proxy cost that is jurisdictionally applicable to the provision of intrastate supported services. Pursuant to § 40-15-108, C.R.S., the intrastate proxy cost is produced by applying the separation factors of 47 C.F.R., Part 36, to the estimated investments and expenses produced by the Commission approved Proxy Cost Model.

(h) "Proxy cost" means a per access line estimate of the cost required to compensate a provider for the provisioning of specific supported services and features based upon the level of investment calculated by the Commission-approved Proxy Cost Model.

(i) "Proxy cost model" means a model which produces a per access line estimate of the reasonable, required level of investment and expenses in a particular geographic area (i.e., wire center basis) for a defined set of telephone services and features assuming least-cost efficient engineering and design criteria and technology-neutral deployment of current state-of-the-art technology, and using the current local exchange network topology and the total number of access lines in each area.

(j) "Retail revenues" means the gross revenues associated with contribution levels to the HCSM from the sale of intrastate telecommunications pre-paid and post-paid services to end-use customers. Intrastate telecommunications services include, but are not limited to, all types of local exchange service; non-basic, vertical, or discretionary services, also known as advanced features, such as call waiting, call forwarding, and caller identification, or premium services such as voicemail; listing services; directory assistance service; wireless and other cellular telephone and paging services; mobile radio services; personal communications services (PCS); both optional and non-optional operator services; wide area telecommunications services (WATS) and

WATS-like services; toll free service; 900 service and other informational services; toll service; private line service; special access service; special arrangements; special assemblies; CENTREX, Centron, and Centron-like services; ISDN, IAD and other multi-line services, telex; telegraph; video and/or teleconferencing services; satellite telecommunications service; the resale of intrastate telecommunications services; payphone services; any services regulated by the Commission under § 40-15-305(2), C.R.S.; and such other services as the Commission may by order designate from time to time as equivalent or similar to the services listed above. Revenues associated with the sale of video services other than video conferencing identified in § 40-15-401(1)(a), C.R.S., shall not be considered a part of retail revenues associated with contribution levels.

(k) "Revenue benchmark" means a calculated amount of intrastate revenues per access line. A separate revenue benchmark shall be established for residential service and for business service for each geographic area according to the following formulae:

(I) "Residential revenue benchmark", for each geographic area is calculated as the sum of the following types of revenues received by the provider that serves the relevant geographic area as of January 1 of the previous year.

(A) The weighted average monthly revenues per residential line for all types of residential basic local exchange service in that geographic area including, but not limited to flat, measured or message services; as provided in subparagraph 2841(k)(III), the Commission-approved benchmark rates shall be imputed if the company's existing tariff rates are less than the benchmark rates; plus

(B) One-half of the average residential revenues per line in that geographic area from non-basic, vertical, or discretionary services including, but not limited to, package and bundled features, call waiting, call forwarding, and caller identification; plus

(C) The average intrastate residential carrier common line access charges and imputed carrier common line access charges in intrastate toll services in a geographic area; plus

(D) Support from the Federal High Cost Loop Support; plus

(E) Such other revenues as the Commission, by order, deems included.

(II) "Business revenue benchmark", for each geographic area is calculated as the sum of the following types of revenues received by the ILEC that serves the relevant geographic area as of January 1 of the previous year:

(A) The weighted average monthly revenues per business line for all types of business basic local exchange service in that geographic area including, but not limited to, flat, measured or message services; as provided in subparagraph 2841(k)(III), the Commission-approved benchmark rates shall be imputed if the company's existing tariff rates are less than the benchmark rates; plus

(B) One-half of the average business revenues per line in that geographic area from non-basic, vertical, or discretionary services including, but not limited to, package and bundled features, call waiting, call forwarding, and caller identification; plus

(C) The average intrastate business carrier common line access charges and imputed carrier common line access charges in intrastate toll services in a geographic area; plus

(D) Support from the Federal High Cost Loop Support; plus

(E) Such other revenues as the Commission, by order, deems included.

(III) The statewide residential and business revenue benchmark rates are the Commission-approved rates for purposes of calculating the HCSM support and shall be used in subparagraphs 2841(k)(I)(A) and (II)(A).

2842. Incorporation by Reference.

References in rules 2840 through 2869 to Parts 32, 36, 54, 64, and 69, are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2843. General.

The HCSM shall be coordinated with the Federal Universal Service Fund (USF), as described by regulations found at 47 C.F.R. §§ 36.601 to 36.641 and §§ 54.1 to 54.707 and any other Universal Service Support Mechanism that may be adopted by the FCC pursuant to 47 U.S.C. 254 of the Communications Act, as amended by § 101 of the Telecommunications Act of 1996.

(a) The HCSM shall operate on a calendar-year basis. The Commission shall, by November 30 of each year, adopt a budget for the HCSM including the:

(I) Proposed benchmarks;

(II) Proposed contributions that may be collected through a rate element assessment by each telecommunications provider; and

(III) Proposed total amount of the HCSM fund from which distributions are to be made for the following calendar year.

(b) If the budget prepared pursuant to paragraph (a) and submitted to the General Assembly pursuant to paragraph 2849(p) includes a proposal for an increase in any of the amounts listed in paragraph (a), such increase shall be suspended until March 31 of the following year.

(c) Beginning in 2012, the HCSM fund is capped at $54,000,000 annually. If the annual calculated support amount is above the $54,000,000 capped amount due to Commission approved requests for funding or to the increase in the number of access lines or handsets per carrier, a sizing factor will be used to adjust each EP's monthly support per line or handset. The sizing factor shall be the capped amount divided by the uncapped amount.

2844. Specific Services and Features Supported by the HCSM.

The services and features supported by the HCSM are an evolving level of telecommunications services established by the Commission and periodically updated under § 40-15-502(2), C.R.S., to recognize advances in telecommunications and information technologies and services. Until revised, the HCSM will support such services as defined in rule 2308. In addition, the HCSM will support access to 9-1-1 service and such other elements, functions, services, standards or levels necessary to attain Commission-prescribed service-quality standards or other criteria established pursuant to statute or Commission rule.

2845. Affordable Price Standard for Basic Service.

For the purpose of rules 2840 through 2869, the benchmark rates as determined by the Commission for residential and business basic local exchange services shall be deemed affordable. If the current tariff rates are higher than the benchmark rates set by the Commission for HCSM purposes, those rates are deemed affordable.

2846. Contributors; Reporting Requirements; Rate Element Calculation; Application of Rate Element to Customer Billings; and Remittance of Contributions.

(a) Contributors. Every provider of intrastate telecommunications service to the public, or to such classes of users as to be effectively available to the public, every provider of intrastate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators not falling within the de minimis exemption of subparagraph (b)(I)(B) must contribute to the HCSM.

(I) Revenues associated with the sale of cable services identified in § 40-15-401(1)(a), C.R.S., other than video conferencing, shall not be considered when determining a provider's assessment.

(II) The provider who falls within the de minimis exemption of subparagraph (b)(I)(A) is not required to contribute to the HCSM. Any provider that falls within the de minimis exemption must notify their underlying carrier that they should be considered end users for reporting purposes.

(b) Process for determining the HCSM rate element.

(I) Contributor reporting requirements. Each provider shall provide to the Administrator a verified accounting of its gross retail revenues, and such other revenues, and uncollectibles as the Administrator shall request for purposes of determining contributions and disbursements under these rules. The accounting shall be submitted using the form identified as the HCSM Worksheet available from the Commission or on its website. The completed HCSM Worksheet shall be submitted to the Administrator twice a year. The HCSM Worksheet shall be due March 31, of each year, containing data for the prior calendar year. The HCSM Worksheet shall be due September 1, of each year, containing data for the six-month period from January 1 through June 30 for the current calendar year.

(A) De minimis exemption. If a provider's contribution to the HCSM in any given year is calculated to be less than $5,000, that contributor is not required to submit a contribution. Providers falling within this de minimis exemption are required to file with the Administrator only that portion of the HCSM Worksheet for that period that certifies their de minimis status. Such de minimis certification shall be accompanied by an affidavit of an officer of the provider attesting to the veracity of its self-certification. However, each provider exempt from contributing because of its de minimis revenues shall retain complete documentation (including, but not limited to the information required in the HCSM Worksheet) and shall make such documentation available to the Administrator upon request. Notwithstanding the de minimis exemption of this subparagraph (I)(A), all EPs are required to remit contributions and to file the entire HCSM Worksheet.

(II) Reporting requirements.

(A) Each EP receiving support pursuant to rule 2848 shall provide to the Administrator, a verified accounting of: (1) the actual number of residential and business access lines served by such provider in each geographic area as of the last day of each month; and (2) the actual amount of contributions collected in the month if the provider applies the rate element to its end user customer. This data shall be submitted to the Administrator by the 15th day of the subsequent quarter.

(B) Each wireless EP receiving support pursuant to rule 2848 shall provide to the Administrator a verified accounting of: (1) the actual number of residential and business wireless handsets served by such provider in each geographic area (i.e., the underlying local exchange carrier's geographic area) as of the last day of each month; and (2) if the provider applies the rate element to its end user customer then it shall report the actual amount of contributions collected in the month. The data shall be submitted to the Administrator by the 15th day of the subsequent quarter.

(III) Rate element calculation. The Administrator shall estimate the total amount of high cost support that will be needed for the next quarter (including support needed under rules 2846 through 2855 and administrative expenses) and shall determine the quarterly factor. This estimate shall be based on the information provided to the Administrator by providers, EPs, ILECs, and other information that the Administrator may gather from the Commission and providers. The factor shall be equal to the ratio of total statewide HCSM requirement to total statewide net (gross revenues minus uncollectibles) retail revenues for the period. The appropriate factor shall be converted to a HCSM rate element that shall be applied to the retail revenues of each telecommunications service provider. The Commission shall issue an order establishing the appropriate HCSM rate element at least 15 days prior to the first day of each quarter and shall post notice of the setting of such rate element on the Commission's website.

(IV) The Commission may increase the rate element factor by an amount it reasonably estimates to be necessary to compensate the HCSM fund for any qualified contributors who fail to pay the assessments. Such increase shall generally not exceed five percent of the total statewide HCSM requirement.

(c) Application of the rate element to providers. The HCSM rate element shall be assessed upon all providers in Colorado. Providers may, at their option, apply the rate element to the retail revenues of each provider's end users as a line item on the monthly bill except that providers falling within the de minimis exception of subparagraph (b)(I)(A) shall not apply the HCSM rate element nor collect such contribution from their end users. For those telecommunications providers opting to apply the rate element to their end user customers, the location of the telecommunication service delivery shall be used to determine whether the HCSM rate element applies where an end user service location receiving the bill and an end user service location receiving the service differ.

(d) Remittance of contributions. All providers not falling within the de minimis exemption of subparagraph (b)(I)(A) shall be responsible for remitting quarterly to the HCSM according to the following procedure:

(I) Each quarter, or as necessary, the Administrator shall issue an invoice instructing each contributor to remit its HCSM contribution to the HCSM escrow account.

(II) The HCSM contributions shall be remitted as directed by the Administrator no more than 30 days after the end of each quarter. If the amount owed is not remitted by that date, the Administrator shall bill the provider a late payment charge equal to one percent per month of the late amount. If the provider establishes a history of making late contributions, the Commission may initiate an appropriate process to ascertain and implement proper corrective measures including, but not limited to, withholding future support from the HCSM and/or penalties pursuant to §§ 40-7-101, C.R.S., et seq.

(III) Reconciliation. The Administrator shall review each EP's HCSM account transactions. The review shall reconcile HCSM contributions, receipts, and other projected account transactions to the actual HCSM entitlement, as provided in paragraph 2848(f). The Administrator shall analyze any deviation between the estimated amount and the verifiable contribution amount. Adjustments to the standard quarterly transaction amount or any other reconcilable adjustments will be performed in a subsequent quarter.

(e) Continuing customer education. For those telecommunications service providers opting to apply the rate element to their end user customers, in the first billing cycle of the third quarter of each calendar year, each provider that is collecting the rate element (also known as the "Colorado Universal Service Charge") from its end users shall provide to each of its customers, by message directly printed on the bill, by bill insert, or by separate first-class mail, or any combination of these alternatives, the continuing customer education material as may be ordered by the Commission.

2847. Eligible Provider.

(a) As a prerequisite for designation and eligibility to receive support from the HCSM, a provider shall be in compliance with the Commission's rules applicable to the provision of basic local exchange service.

(b) Upon request and consistent with the public interest, convenience, and necessity, the Commission may designate more than one common carrier as an EP in a service area designated by the Commission, so long as each additional requesting carrier meets the requirements of Commission rules. The Commission shall find that the designation is in the public interest.

(c) The EP shall agree to certify that it is complying with the Commission's service quality standards and consumer protection rules, and shall agree to submit to the Commission's enforcement and sanction authority with regards to violations of such service quality standards and/or consumer protection rules.

(d) Application. A provider shall file an application with the Commission to be designated as an EP within a geographic support area and eligible to receive support from the HCSM.

(I) Contents. In addition to complying with the requirements of paragraph 2002(b), the application must provide evidence sufficient to establish that:

(A) The provider is, or is applying to be, designated as an ETC under rule 2187 for purposes of being eligible to receive federal universal service support;

(B) The provider agrees to provide such basic local exchange service as described in Sections 214(e) and 254 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996;

(C) The provider will offer basic local exchange service throughout the entire geographic support area;

(D) The provider has the managerial qualifications, financial resources, and technical competence to provide basic local exchange service throughout the specified support area regardless of the availability of facilities or the presence of other providers in the area;

(E) The provider is not receiving funds from the HCSM or any other source that together with revenues, exceed the reasonable cost of providing basic local exchange service to customers of such provider;

(F) The granting of the application serves the public convenience and necessity, as defined in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.; and

(G) The provider acknowledges that it will offer basic local exchange service within one year of the effective date of the Commission order approving such application for EP designation or its designation will become null and void.

(II) Process for determining eligibility.

(A) The Commission processes applications in accordance with the Rules of Practice and Procedure.

(B) An application filed pursuant to paragraph (e) may be filed contemporaneously with an application for a CPCN, LOR, or an alternative form of regulation. In addition, an application to be designated as an EP may be filed in a combined application to be designated a POLR or an ETC pursuant to rules 2183 and 2187.

(e) Reseller ineligibility. A provider which provisions its service to end users solely through purchase of a finished service from a facilities-based provider, and then sells that same service or that service combined with other services is not eligible to receive support from the HCSM.

(f) Portability of support. HCSM support shall be portable between any EP chosen by the end user.

(g) Annual reporting requirements for eligible providers.

(I) Each EP shall submit the reporting information specified below no later than August 15th of each calendar year to the Commission. EPs failing to meet these annual reporting requirements may not be eligible to receive high cost support and are subject to Commission enforcement and sanction with regard to failure to comply.

(A) For the previous calendar year, a detailed schedule/exhibit showing the actual dollar amounts expended by the carrier in the provision, maintenance, upgrading, plant additions and associated infrastructure costs for local exchange service within the service areas in Colorado where the carrier has been designated an EP. This information shall be submitted at the wire center level or at the authorized service area. If service improvements in a particular wire center are not needed, an explanation of why improvement is not needed and how funding will otherwise be used to further the provision of supported services in that area.

(B) Documentation the carrier offers and advertises the rate and availability of Basic Universal Service (BUS) offerings throughout the service areas in Colorado where the carrier has been designated an EP. Copies of written material used in newspaper advertisements, press releases, posters, flyers and outreach efforts and a log of when and where these materials were distributed. For newspaper advertisements, dated copies of the published newspaper advertisements may serve as copies of written material. For radio station advertising, a confirmation from broadcasters of when the public service announcement was aired.

(C) Documentation that a competitive EP is offering an unlimited local usage plan or a plan with at least 900 minutes of use per month that is comparable to that offered by the incumbent LEC in the relevant service areas.

(D) An affidavit attesting to the fact that the information reported on the annual report and information submitted under this rule is true and correct. An officer, director, partner, or owner of the company must sign the affidavit.

(II) If a review of the data submitted by an EP indicates that the EP is no longer in compliance with the Commission's criteria for EP designation, the Commission may refrain from authorizing HCSM support to the carrier until the carrier is in compliance with the Commission's criteria for EP designation.

2848. Support through the HCSM.

(a) The Commission shall, by order, establish geographic areas throughout the state. Such geographic areas may be revised at the discretion of the Commission.

(b) Disaggregation and targeting of Colorado High-Cost Support by rural ILECs. The disaggregation plan selected by a rural incumbent EP for targeting Colorado high-cost support shall be the same plan as that selected by the provider under rule 2190 and approved by the Commission under those rules unless another EP or ETC provider, or the Commission requests a different disaggregation plan.

(c) Support through the HCSM applicable to non-rural geographic areas shall be calculated as follows:

(I) By order, the Commission shall publish the intrastate proxy cost for each non-rural geographic area. The proxy cost model and the resultant intrastate proxy costs shall be updated as necessary. The Commission shall ensure that the HCSM operates such that the supported basic local exchange service bears no more than its reasonable share of the joint and common costs of facilities used to provide those services.

(II) When the per-line intrastate proxy cost exceeds the applicable benchmark in a particular non-rural geographic area, the Commission shall designate that non-rural geographic area as a geographic support area.

(III) Amount of Support: Each EP shall receive support from the HCSM based on a verified accounting of the actual number of residential and business access lines it serves in the non-rural high cost geographic support areas, as designated by the Commission, multiplied by the difference between the per line intrastate proxy cost in such geographic support area and the applicable per access line revenue benchmark as determined by the Commission. The amount of support shall be reduced by any other amount of support received by such provider or for which such provider is eligible under support mechanisms established by the federal government and/or this state.

(IV) Revenue benchmarks. Separate revenue benchmarks shall be determined for residential and business supported access lines for each geographic area according to the formulae defined in paragraph 2841(k).

(d) Support through the HCSM applicable to rural geographic areas (areas served by rural ILECs) shall be calculated as follows:

(I) Revenue requirement shall be calculated on a per access line basis pursuant to rules 2400, 2854 and 2855 (based upon the filing of the incumbent rural EP serving that area and as modified pursuant to paragraph 2848(h)); and (2) publish the support per access line, disaggregated into such geographic support areas as may be designated by the Commission. The Commission shall ensure that the HCSM operates such that the supported basic local exchange service bears no more than its reasonable share of the joint and common costs of facilities used to provide those services.

(II) Amount of support: Each EP shall receive support from the HCSM in an area served by a rural ILEC based upon the number of access lines or the EP serves in those high cost geographic support areas, as designated by the Commission, multiplied by the applicable support per access line.

(III) Total local revenues shall include, but not be limited to, local revenues, feature revenues, and federal high cost loop support. If the tariffed residential or business rate is less than statewide residential or business benchmark rate, then the EP shall impute the statewide residential or business benchmark rate. If the tariffed residential or business rate exceeds the statewide residential benchmark rate or the statewide business benchmark rate, then actual revenues shall be used.

(IV) The total local revenue deficiency shall equal total local revenues minus total local revenue requirement.

(V) Per-line support amounts shall equal the total local revenue deficiency divided by the total number of access lines (i.e., residential and business).

(VI) Additional procedures governing the operation of disaggregated support:

(A) The disaggregation and targeting plan adopted under rule 2190 shall be subject to the following general requirements:

(i) Support available to the rural ILEC's study area under its disaggregation plan shall equal the total support available to the study area without disaggregation.

(ii) The ratio of per line support between disaggregation zones for each disaggregated category of support shall remain fixed over time, except as changes are allowed pursuant to rule 2190.

(iii) The ratio of per line support shall be publicly available.

(iv) Per-line support amounts for each disaggregation zone shall be recalculated whenever the rural ILEC EP's total annual support amount changes using the changed support amount and total access line counts at that point in time.

(v) Per-line support for each category of support in each disaggregation zone shall be determined such that the ratio of support between disaggregation zones is maintained and that the product of all of the rural ILEC EP's access lines for each disaggregation zone multiplied by the per-line support for those zones when added together equals the sum of the rural ILEC EP's total support.

(vi) Until a competitive EP is designated in a study area, the quarterly payments to the rural ILEC EP will be made based on total annual amounts for its study area divided by four.

(vii) When a competitive EP is designated anywhere in a rural ILEC EP's study area, the per-line amounts used to determine the competitive EP's disaggregated support shall be based on the rural ILEC EP's then-current total support levels, lines, and disaggregated support relationships.

(viii) Each EP shall receive support from the HCSM based on the number of access lines or wireless handsets it serves in the designated high cost geographic support areas.

(ix) The support received shall be based on actual number of access lines or the actual number of wireless handsets reported to the administrator as a verified accounting for each geographic area as of the last day of each month.

(e) Process for payments. The Administrator will arrange payments to be made to EPs, which are net recipients from the HCSM, within 30 days of the last day of each quarter.

(f) Reconciliation. The Administrator shall reconcile the estimated disbursements previously authorized for each EP for the period for which the report provides information to the actual disbursements to which such provider is entitled, and shall send a statement of such reconciliation to each EP within 60 days after the receipt of the report. The statement shall show if the provider is entitled to additional amounts from the HCSM, or if the EP has received more than the amount of its HCSM entitlement. The Administrator shall use these reconciling amounts when setting the EP's support in subsequent quarters.

(g) Colorado High Cost Fund Administration. The Commission, acting as Administrator, shall determine and establish by order, the HCSM support to be received by an EP.

(I) Once the Commission, by order, has established the appropriate HCSM support amount for an EP, the Commission will monitor to ensure that no provider is receiving funds from the HCSM or any other source that together with revenues do exceed the reasonable cost of providing basic local exchange service on an annual basis. The Administrator will develop the appropriate form to be used for such monitoring. The monitoring form shall be available from the Commission's website.

(II) The monitoring forms and related information shall be filed with the Administrator and the Office of Consumer Counsel by August 15th of each year.

(III) If the information contained in a provider's HCSM monitoring form, annual report, or other filed document indicates that HCSM support for that provider should be adjusted, Staff of the Commission may request that the Commission issue, or the Office of Consumer Counsel may file, a formal complaint. The Commission, acting as Administrator and following an opportunity for hearing, may revise the provider's HCSM support as a result of the complaint proceeding.

2849. Administration.

The HCSM shall operate under the direction of an Administrator, which shall be the Commission or its designee.

(a) The Commission may engage a third-party entity who meets the criteria in this rule to perform such duties of the Administrator as the Commission may, from time to time, deem necessary or convenient. The Commission shall select the entity using Colorado State Government contracting procedures. Until such time as an entity has been engaged, or during times when the entity is not available to fulfill its duties, the Commission shall act as the Administrator.

(I) The third-party entity shall meet all of the following criteria:

(A) Be neutral and impartial.

(B) Not be a party in any matter before the Commission, nor advocate specific positions before the Commission in any telecommunications service matter.

(C) Not be a member in a trade association that advocates positions before the Commission.

(D) Not be an affiliate of any provider of telecommunications services.

(E) Not issue a majority of its debt to, nor derive a majority of its revenues from, nor hold stock in any provider(s) of telecommunications services. This prohibition also applies to any affiliates of the third-party entity.

(F) Not have a Board of Directors that includes members with direct financial interests in entities that contribute to or receive support from the HCSM.

(b) The reasonable expenses incurred in the administration of the HCSM shall be a cost of the HCSM and shall be paid from the funds contributed to the HCSM.

(c) The Administrator shall determine the amount each telecommunications provider must pay into the HCSM and determine the disbursement each EP may receive from the HCSM.

(d) The Administrator shall net each EP's assessment and support prior to receipt of actual funds.

(e) To the extent the funding received from providers in any one fiscal year exceeds the cost of administering the HCSM (including such reserve as may be necessary for the proper administration of the HCSM), any unexpended and unencumbered monies shall remain in the Fund and shall be credited against the assessment each provider must pay in the succeeding fiscal year.

(f) The Administrator shall engage and determine the compensation for such professional and technical assistance as may, in its judgment, be necessary for the proper administration of the fund.

(g) If the Commission has delegated such duties, the third-party entity shall have access to the books of accounts of all providers to the limited extent necessary to verify the intrastate retail revenues and other information used in determining contributions and disbursements from the HCSM.

(h) The Administrator shall maintain a database that tracks eligible access lines for support based on the method through which service is provisioned and the identity of each carrier providing that service in each geographic area.

(i) The Administrator will develop appropriate forms to be used by all providers and all EPs for reporting information as required by rule 2846. Copies of the forms will be made available on the Commission's website and at the offices of the Commission.

(j) The Commission shall perform an annual review of HCSM fund recipients. One purpose of this review shall be a verification of continued eligibility. Another purpose shall be a verification of the receipt by each EP of the funds to which each provider is entitled and is projected to receive from the HCSM. Subject to such reviews, the Administrator will recommend any required adjustments to HCSM contribution methods, distributions, necessary rule changes and other relevant items that shall be considered in connection with the HCSM.

(k) The quarterly reconciliations under subparagraph 2846(d)(III) and paragraph 2848(f) shall be the principal source for such annual reviews.

(l) Supplemental and forecast information that may be requested by the Administrator to assure a complete review shall be provided by all providers to the Administrator, as formally requested, within ten days of the Administrator's written request. If those persons do not provide the data required within ten days of the request, the Commission may initiate a formal complaint proceeding for remedies, including withholding future support from the HCSM and/or penalties as provided in § 40-7-101, C.R.S., et seq.

(m) The Administrator and the Fund may operate on a fiscal year from July 1 to June 30 of the succeeding year.

(n) An independent external auditor chosen by the Commission shall periodically, at its discretion, audit the Fund and associated HCSM records, including both collections and disbursements from the Fund. The costs for conducting audits shall be included in the computation of HCSM requirements.

(o) An annual report of the Fund prepared by the Administrator shall be filed with the Commission by December 1 of each year. A copy of the Administrator's annual report shall be provided to the Legislative Audit Committee and to each provider that contributes to the HCSM. This report shall summarize the preceding fiscal year's activity and include the following:

(I) A record of the total cost of administration of the HCSM; and

(II) The most recent audit report.

(p) A written annual report of the HCSM, prepared by the Administrator, shall be submitted to the committees of reference in the Senate and House of Representatives that are assigned to hear telecommunications issues, in accordance with § 24-1-136, C.R.S., by December 1 of each year. A copy of the Administrator's annual report of the HCSM shall be provided to the Legislative Audit Committee and to each provider that contributes to the HCSM. The Administrator may satisfy the latter requirement by notifying the provider of the availability of the annual report using an e-mail message directing the provider to the report on the Commission's website. The report shall account for the operation of the HCSM during the preceding calendar year and include the following information, at a minimum:

(I) The total amount of money that the Commission determined shall constitute the HCSM from which distributions would be made;

(II) The total amount of money ordered to be contributed through a rate element assessment collected by each provider;

(III) The basis on which the contribution of each provider was calculated;

(IV) The benchmarks used and the basis on which the benchmarks were determined;

(V) The total amount of money that the Commission determined shall be distributed from the HCSM;

(VI) The total amount of money distributed to each provider from the HCSM;

(VII) The basis on which the distribution to providers was calculated;

(VIII) As to each provider receiving a distribution, the amount received by geographic support area and the type of customer, the way in which the benefit of the distribution was applied or accounted for;

(IX) The proposed benchmarks, the proposed contributions to be collected through a rate element assessment by each telecommunications provider, and the proposed total amount of the HCSM from which distributions are to be made for the following calendar year; and

(X) The total amount of distributions made from the HCSM, directly or indirectly, and how they are balanced by rate reductions by all providers for the same period and a full accounting of and justification for any difference.

2850. Review of the HCSM.

(a) For the purpose of determining whether the HCSM should be reformed, modified, or adjusted, the HCSM will be evaluated and reviewed at the discretion of the Commission. The time period between reviews shall usually not exceed three years, and at least every three years thereafter, for the purpose of determining whether the HCSM should be adjusted.

(b) The Commission shall consider opening a docket to consider any changes to these rules that may be necessary as a result of the conclusion of every proceeding, conducted pursuant to § 40-15-502(2), C.R.S., to review the definition of basic service.

2851. [Reserved].

2852. Enforcement.

(a) Holder of a CPCN. A provider holding a CPCN issued by the Commission that fails to make timely reports or to pay, in a timely manner, its contribution when it is due and payable under these rules, may, after notice and opportunity for hearing, have its CPCN revoked as provided in Article 6, Title 40, C.R.S., be denied interconnection to the public switched network, and/or have other appropriate remedies imposed upon them by the Commission.

(b) Uncertificated provider. If a provider does not hold a CPCN from the Commission and fails to make timely reports or payment of its contribution, the provider may be subject to a Commission action including but not limited to a formal complaint:

(I) To the FCC seeking an order directing the delinquent provider to make the payment or for further appropriate remedies;

(II) For an action for damages in an appropriate court; or

(III) For other appropriate remedies.

(c) Any provider that disputes the requirement that it pay into the HCSM shall:

(I) Post a bond in an amount determined by the Commission pending the resolution of that dispute; and

(II) Repay all other providers with interest (at a rate determined by the Commission) in the event the Commission determines that the provider should have been paying into the fund.

2853. Other.

These rules are not intended to limit the programs in rules 2800 through 2819 and 2820 through 2839.

2854. Calculation of Average Loop, Local Switching, and Exchange Trunk Costs for Fund Support for Rural Telecommunications Service Providers.

(a) The averages used in calculating HCSM support in rules 2854 and 2855 will be computed on the basis of the data reported per this rule for the preceding calendar year unless updated at the option of the rural provider pursuant to 47 C.F.R. § 36.612(a).

(b) Each basic local exchange provider, that is not an average schedule rural company, shall calculate and report its average unseparated loop cost per study area per working loop as prescribed by 47 C.F.R. §§ 36.621 and 36.622 in its request for HCSM for the preceding calendar year to the Commission as required by paragraph 2006(a).

(c) The national average unseparated loop cost per study area per working loop shall be calculated as prescribed by the National Exchange Carrier Association (NECA), 47 C.F.R. § 36.622(a)(1) for the preceding year.

(d) Each rural provider shall calculate and report in its annual report to the Commission its unseparated investment per study area for:

(I) Local switching equipment (Central Office Equipment, Category 3, 47 C.F.R. § 36.125); and

(II) Its average number of working loops.

(e) Each rural provider shall calculate and report in its annual report to the Commission its unseparated investment per study area for exchange trunk equipment (Cable and Wire Facilities, Category 2, Exchange Trunk, 47 C.F.R. § 36.155, and Category 4.12, Exchange Trunk Circuit Equipment, 47 C.F.R. § 36.126(c)(2)).

(f) The state average unseparated local switching equipment investment per working loop shall be calculated by dividing the sum of the local switching equipment investments in the state, as reported pursuant to paragraph (d) for all LECs except rural providers, by the sum of the working loops in the state, as reported in paragraph (d) for all LECs except rural providers.

(g) The state average unseparated exchange trunk equipment investment per working loop shall be calculated by dividing the sum of the exchange trunk equipment investments in the state, as reported pursuant to paragraph (e) for all LECs except rural providers, by the sum of the working loops in the state, as reported in paragraph (d) for all LECs except rural providers.

(h) Each rural ILEC, in its annual report filed with the Commission, shall include any additional HCSM reporting requirements as requested by the Commission.

2855. Calculation of Support per Access Line for Rural ILECs.

Incumbent rural providers, who are not average schedule rural providers, shall be eligible for support from the HCSM for high costs in three areas: loops; local switching; and exchange trunks, upon a proper showing. Incumbent average schedule rural providers shall be eligible for support from the HCSM for high costs as determined by subparagraph (f)(I), upon a proper showing.

(a) Support for high loop costs. The HCSM revenue requirement for high loop costs of rural providers who are not average schedule rural providers shall be determined as follows:

(I) For rural providers with an average unseparated loop cost per working loop less than or equal to 115 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) Zero; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange subscriber line usage (SLU) multiplied times the provider's average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

(II) For rural providers with an average unseparated loop cost per working loop in excess of 115 percent but not greater than 150 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) The difference between the rural provider's average unseparated loop cost per working loop and 115 percent of the national average unseparated loop cost per working loop, times 0.10; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange SLU times 115 percent of the national average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

(III) For rural providers with an average unseparated loop cost per working loop greater than 150 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) The difference between 150 percent of the national average unseparated loop cost per working loop and 115 percent of the national average unseparated loop cost per working loop, times 0.10; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange SLU times 115 percent of the national average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

(b) Support for high local switching costs. Rural providers who are not average schedule rural providers shall be eligible for support for high local switching costs. The HCSM revenue requirement for high local switching cost support shall be determined as follows:

(I) For rural providers with an average unseparated local switching equipment investment per working loop less than or equal to the Colorado average unseparated local switching investment per working line as determined by paragraph 2854(f), the HCSM revenue requirement for local switching cost support shall be zero.

(II) For rural providers with an average unseparated local switching equipment investment per working loop in excess of the Colorado average unseparated local switching equipment investment per working loop as determined in paragraph 2854(f), the revenue requirement for high local switching cost support shall be calculated by creating a new service category in the separations study and apportioning the costs of the provider to this service generally following 47 C.F.R., Part 36. The service category for the HCSM high local switching cost support shall be assigned a portion of Category 3 of local switching equipment investment.

(A) The percentage of Category 3 allocated to the HCSM service category shall be known as the "Colorado High Local Switching Cost Allocation Factor" and shall be calculated as one minus the sum of:

(i) The interstate factor(s);

(ii) The intrastate factor(s) of subparagraph 2415(b)(I)(C); and

(iii) The local exchange factor.

(B) The local exchange factor for each rural provider shall be calculated as the:

(i) Colorado average unseparated local switching equipment Category 3 investment per working loop, as determined by paragraph 2854(f);

(ii) Multiplied by the rural provider's local DEM percentage;

(iii) Divided by the rural provider's average investment per working loop.

(C) The Colorado High Local Switching Cost Allocation Factor shall not be less than zero. If, by the application of the formula of subparagraph (b)(II), the Colorado High Local Switching Cost Allocation Factor is less than zero, the factors (ii) and (iii) of subparagraph (II)(A) shall be reduced proportionally.

(c) Support for high exchange trunk costs. Rural providers who are not average schedule rural providers shall be eligible for support for high exchange trunk costs. The HCSM revenue requirement for high exchange trunk cost support shall be determined as follows:

(I) For rural providers with an average unseparated exchange trunk investment per working loop less than or equal to the Colorado average unseparated exchange truck investment per working loop, as determined by paragraph 2854(f), the HCSM revenue requirement for exchange trunk cost support shall be zero.

(II) For rural providers with an average unseparated exchange trunk equipment investment per working loop in excess of the Colorado average unseparated exchange truck investment per working loop, as determined in paragraph 2854(f), the revenue requirement for high exchange trunk cost support shall be calculated by apportioning the costs of the rural provider to the HCSM service category as established in paragraph (b) of the rural provider's separations study following 47 C.F.R., Part 36, as modified by the rules found in rule 2415. The HCSM service category shall be assigned a portion of the investments of Cable and Wire Facilities, Category 2 Exchange Trunk, 47 C.F.R. § 36.155 and a portion of Category 4.12, Exchange Trunk Circuit Equipment, 47 C.F.R. § 36.126(c)(2).

(A) The percentage allocated to the HCSM service category shall be calculated separately for each of these types of investments as one minus the sum of:

(i) The interstate factor(s), for exchange trunk

(ii) The intrastate factor(s) for exchange trunk; and

(iii) The local factor for exchange trunk.

(B) The local factor for Category 2 exchange trunk for Cable and Wire Facilities for each rural provider shall be calculated as the Colorado average unseparated investment per working loop as determined by paragraph (f) of this rule, times the rural provider's local relative number of minutes of use percentage divided by the rural provider's average investment per working loop.

(C) The local transport allocation factor for Category 4.12 Exchange Trunk Circuit Equipment, for each rural provider shall be calculated as the Colorado average unseparated investment per working loop, as determined by paragraph 2854(f), times the rural provider's local relative number of minutes of use percentage divided by the rural provider's average investment per working loop.

(d) Support for high costs of average schedule rural providers.

(I) The HCSM support requirement for high cost support for average schedule rural providers shall be determined as the remainder, if positive, of the following process:

(A) First, the total company revenue requirement (i.e., costs) for the average schedule rural provider shall be determined;

(B) Next, the local network services revenues shall be calculated and subtracted from the total company revenue requirement. The local network services revenues shall include amounts booked to 47 C.F.R. §§ 32.5000 through 32.5069. Except the local network services revenues shall be adjusted as follows:

(i) Residential revenue calculation:

(a) The statewide residential benchmark rate shall be imputed to determine the residential revenues if the existing tariffed rate for residential basic local exchange service is less than the statewide residential benchmark rate.

(b) If the existing tariffed rate for residential basic local exchange service is equal or greater than the statewide residential benchmark rate, then the existing residential basic local exchange service rate shall be used.

(c) The imputed residential revenues shall be calculated on a monthly basis to determine the yearly revenues.

(ii) Business revenue calculation:

(a) Statewide business benchmark rate shall be imputed to determine the business revenues if the existing tariffed rate for business basic local exchange service is less than the statewide business benchmark rate.

(b) If the existing tariffed rate for business basic local exchange service is equal or greater than the statewide business benchmark rate, then the existing business basic local exchange service rate shall be used.

(c) The imputed residential revenues shall be calculated on a monthly basis to determine the yearly revenues.

(C) Then, the following revenues shall be subtracted from the revenue requirement of subparagraph (d)(I)(A):

(i) All interstate revenues and Federal Universal Service Fund (FUSF) support;

(ii) Intrastate network access services;

(iii) Long distance network services;

(iv) All miscellaneous revenues; and

(v) The local network services revenues adjusted in accordance with subparagraph (d)(I)(B).

(D) Support per access line: The support as calculated in subparagraph (d)(I)(C), shall be divided by the number of access lines to determine the support per access line.

(e) Support for high costs of rural cost companies.

(I) The local network services revenues shall be calculated and subtracted from the total company revenue requirement. The local network services revenues shall include amounts booked to 47 C.F.R. §§ 32.5000 through 32.5069. Except the local network services revenues shall be adjusted as follows:

(A) Residential revenue calculation:

(i) The statewide residential benchmark rate shall be imputed to determine the residential revenues if the existing tariffed rate for residential basic local exchange service is less than the statewide residential benchmark rate.

(ii) If the existing tariffed rate for residential basic local exchange service is equal or greater than the statewide residential benchmark rate, then the existing residential basic local exchange service rate shall be used.

(iii) The imputed residential revenues shall be calculated on a monthly basis to determine the yearly revenues.

(B) Business revenue calculation:

(i) Statewide business benchmark rate shall be imputed to determine the business revenues if the existing tariffed rate for business basic local exchange service is less than the statewide business benchmark rate.

(ii) If the existing tariffed rate for business basic local exchange service is equal or greater than the statewide business benchmark rate, then the existing business basic local exchange service rate shall be used.

(iii) The imputed residential revenues shall be calculated on a monthly basis to determine the yearly revenues.

(f) Local network services tariff cap. In no event shall the local network services revenue requirement, as defined in 47 C.F.R. §§ 32.5000 through 32.5069 (1995) for rural providers exceed 130 percent of the average of such revenue requirement for local exchange providers that are not rural providers. Such excess shall be considered as a part of the rural provider's HCSM support revenue requirement.

2856. – 2869. [Reserved].

Discount Rate for Eligible Intrastate Services Purchased by Eligible Colorado Schools and Libraries

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the discount rate for specific telecommunications services that are available to elementary schools, secondary schools, and libraries consistent with 47 U.S.C. § 254(h).

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-3-103, and 40-2-108, C.R.S.

2870. Applicability.

The discounts included in rules 2870 through 2879 shall apply to the rates for all eligible intrastate services.

2871. Definitions.

The meaning of terms used within rules 2870 through 2879 shall be consistent with the definitions in the FCC's Universal Service Support for Schools and Libraries Rules found at 47 C.F.R., Part 54, Subpart F. The following definitions apply only in the context of rules 2870 through 2879:

(a) "Eligible intrastate services" means services eligible for discounts including all commercially available and offered intrastate telecommunications services. In addition to intrastate telecommunications services, special services eligible for discounts include Internet access and installation and maintenance of internal connections.

(b) "Rural schools or libraries" means, pursuant to 47 C.F.R. § 54.505(b)(3)(ii), those schools and libraries located in non-metropolitan counties, as measured by the Office of Management and Budget's Metropolitan Statistical Area method. Schools and libraries located in rural areas within metropolitan counties identified by census block or tract in the Goldsmith Modification shall also be designated as rural.

(c) "Urban schools or libraries" means, pursuant to 47 C.F.R. § 54.505(b)(3)(i), those schools and libraries located in metropolitan counties, as measured by the Federal Office of Management and Budget's Metropolitan Statistical Area method, except for those schools and libraries located within rural areas of metropolitan counties identified by census block or tract in the Goldsmith Modification.

2872. Incorporation by Reference.

References in rules 2870 through 2879 to Part 54 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2873. Discount for Eligible Intrastate Services for Eligible Schools and Libraries.

After receiving a *bona fide* request from such schools or libraries, a telecommunications provider shall apply the specified discount rate to eligible intrastate services. The following matrix shall be used to set a discount rate to be applied to eligible intrastate services purchased by eligible schools, school districts, libraries, or library consortia based upon the institution's level of disadvantage or eligibility and the location in either an "urban" or "rural" area.

Schools & Libraries Discount

Percentage of Students Eligible for National School Lunch Program	Urban Discount Percent	Rural Discount Percent
<1%	20%	25%
1 – 19%	40%	50%
20 – 34%	50%	60%
35 – 49%	60%	70%
50 – 74%	80%	80%
75 – 100%	90%	90%

2874. Rate Disputes.

Pursuant to 47 C.F.R. § 54.504(c), schools, libraries, and consortia including those entities, and service providers may seek a determination from the Commission regarding intrastate rates if they believe that the lowest corresponding price is unfairly high or low.

2875. Discount Administration.

The FCC or its designee, pursuant to 47 C.F.R. § 54.707, shall determine the resolution of disputes dealing with the authority, practice, discount and fund accounting, and administration of the Schools and Libraries Discount Fund.

2876. Response to Request for Services.

A certificated telecommunications services provider shall respond in writing to a written request for eligible intrastate services within four weeks of the receipt of the request.

2877. – 2879. [Reserved].

2880. – 2889. [Reserved].

Colorado No-Call List

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to implement the Colorado No-call List Act, §§ 6-1-901, C.R.S., et seq. including establishing procedures by which residential telephone subscribers and wireless telephone service subscribers can decide whether or not to receive telephone solicitations by phone or facsimile; establishing procedures for the Commission to contract with a designated agent for No-call services and to establish a No-call database; to set guidelines for the designated agent; and to set the annual registration fees charged by the designated agent to telephone solicitors.

The statutory authority for these rules is found in §§ 6-1-905(3) and 40-2-108, C.R.S.

2890. Applicability.

Rules 2890 through 2899 apply to the designated agent, wireless telephone service providers, and local exchange providers regulated by the Commission.

2891. Definitions.

The following definitions apply only in the context of rules 2890 through 2899.

(a) "Colorado No-call List" means the database of Colorado residential subscribers and wireless telephone service subscribers that have given notice, in accordance with rules promulgated by the Commission, of such subscribers' objection to receiving telephone solicitations.

(b) "Conforming list broker" means any person or entity that provides lists for the purpose of telephone solicitation, if such lists shall have removed, at a minimum of every 30 days, any phone numbers that are included on the Colorado No-call List.

(c) "Designated agent" means the party with whom the Commission contracts to administer the Colorado No-call List program.

(d) "Established business relationship" means a relationship that:

(I) Was formed, prior to the telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber, or wireless service subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor;

(II) Has not been previously terminated by either party; and

(III) Currently exists or has existed within the immediately preceding 18 months.

(IV) With respect to a financial institution or affiliate, as those terms are defined in § 527 of the federal Gramm-Leach-Bliley Act of 1999, an established business relationship includes any situation in which a financial institution or affiliate makes solicitation calls related to other financial services offered, if the financial institution or affiliate is subject to requirements regarding privacy of Title V of the Federal Gramm-Leach-Bliley Act of 1999, and the financial institution or affiliate regularly conducts business in Colorado.

(e) "Internet" means the international computer network consisting of federal and non-federal, interoperable packet-controlled switched data networks.

(f) "Residential subscriber" means:

(I) A person who has subscribed to residential telephone service with a local exchange provider, as defined in § 40-15-102(18), C.R.S., or

(II) Another person living or residing with the person described in subparagraph (I) of this paragraph.

(g) "Residential telephone service" includes wireline transmission of voice or facsimile communication to residential telephone customers.

(h) "Telephone solicitation":

(I) "Telephone solicitation" means any voice, facsimile, graphic imaging, or data communications, including text messaging, communication over a telephone line or wireless telephone for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether such communication originates from a live operator, through the use of automated dialing and recorded message equipment, or by other means.

(II) "Telephone solicitation" does not include communications:

(A) To any residential subscriber or wireless telephone service subscriber with that subscriber's prior express invitation or permission;

(B) By or on behalf of any person or entity with whom a residential subscriber or wireless telephone service subscriber has an established business relationship;

(C) For 30 days after a residential subscriber or wireless telephone service subscriber has contacted a business to inquire about the potential purchase of goods or services or until the subscriber requests that no further calls be made, whichever occurs first;

(D) By or on behalf of a charitable organization that is required to and that has complied with the notice and reporting requirements of § 6-16-104, C.R.S., or is excluded from such notice and reporting requirements by § 6-16-103(7), C.R.S.;

(E) Made for the sole purpose of urging support for or opposition to a political candidate or ballot issue; or

(F) Made for the sole purpose of conducting political polls or soliciting the expression of opinions, ideas, or votes.

(i) "Telephone solicitor" means any person or entity that makes a telephone solicitation or that causes a telephone solicitation to be made.

(j) "Wireless telephone" means a telephone that operates without a physical wireline connection to the provider's equipment. The term includes, but is not limited to, cellular and mobile telephone.

(k) "Wireless telephone service subscriber" means a person who has subscribed to a telephone service that does not employ a wireline telephone, or that employs both wireline and wireless telephone equipment on the same customer account.

2892. Administrative Procedures.

(a) Telephone solicitor registration fee. Persons or entities that wish to make telephone solicitations or otherwise access the database of telephone numbers and zip codes included in the Colorado No-call List database shall pay to the designated agent the annual registration fee set by the Commission. Persons or entities with fewer than five employees shall pay no fee. Conforming list brokers or nonprofit corporations, as defined in § 7-121-401(26), C.R.S., shall pay no fee. The maximum fee set by the Commission shall be charged only to persons or entities with more than 1,000 employees.

(b) Determination of annual registration fee. The Commission will set the annual registration fee on a sliding scale. The sliding scale ranges from zero for persons or entities with fewer than five employees to the maximum fee of no more than $500 for persons or entities with more than 1,000 employees. The sliding scale between five and 1,000 employees is directly related to the number of employees a particular entity has within that range. The designated agent shall use monies from such fees to cover the direct and indirect costs for the operation of the Colorado No-call List. Monies from such fees shall be collected and paid directly to the designated agent. The Commission may adjust the fees annually based on the revenue history of the fees received by the designated agent. The annually adjusted fees will become effective on January 1 of each year.

(c) Audit and inspection of records. The designated agent shall permit the Commission to audit, inspect, examine, excerpt, copy or transcribe any of its records relating to the No-call List program. The designated agent shall make all requested information available to Commission Staff for audit on request including, but not limited to: salaries and benefits associated with both operators and managerial employees, local exchange access charges, operating expenses, building rent and utilities costs, equipment depreciation, corporate overhead allocations, advertising and marketing expenses, expenses for consultants and temporary employees, and expenses for account management.

2893. Designated Agent's Responsibilities.

(a) Implementation. The designated agent shall update the database on an ongoing basis with information provided by residential subscribers and wireless service subscribers and local exchange providers as required in these rules.

(b) Annual registration. The designated agent shall provide a means for on-line registration. The designated agent shall also accept payment by credit card, check, or money order for annual registration fees charged to any telephone solicitor that wishes to make telephone solicitations or otherwise access the database.

(c) No-call database. The designated agent shall provide the No-call List database to all telephone solicitors who properly register with the No-call List program.

(I) The designated agent shall make the data in the No-call List database available online at the No-call List designated website.

(II) The designated agent shall allow telephone solicitors to select and sort the data for downloading by zip code and telephone area code.

(III) The No-call List shall be made available to registered telephone solicitors as a downloadable extract file from the Colorado No-call List website. This extract file must meet, at a minimum, the following requirements:

(A) The file created shall be a standard ASCII text file. The file must be operating system and applications program independent.

(B) The file shall be generated using, at a minimum, a standard comma-delimited file format. At the discretion of the designated agent, other format options (tab-delimited, fixed-width, html, etc.) may also be provided to the registered telephone solicitor downloading the file.

(C) Registered telephone solicitors shall have the option to download the No-call List file using zip code or telephone area code as the sort and selection criteria.

(D) For each extract file created, a separate informational or "Readme", file shall also be generated. This file shall include at least the following information: general information about the No-call List extract file created; the date the extract file was created; the user defined selection and sort criteria used to create the extract file; the number of records included in the extract file; the file layout used; and information about all fields included within the file and how they are delimited.

(d) Use of existing data. Upon expiration of the designated agent's contract to operate and maintain the Colorado No-call List, the designated agent shall cooperate fully in the transfer of operations to any new designated agent selected by the Commission so that the No-call List program continues without interruption. Such cooperation shall include providing the new designated agent with the current No-call List in an electronic format such that the new designated agent can use the list immediately.

(e) Record maintenance. The designated agent shall maintain electronically the current business name, business address, e-mail address (if available), and telephone number of each person or entity registering to make telephone solicitations or otherwise accessing the No-call List. This information must be updated when changes occur.

(f) Toll free telephone number. The designated agent shall pay for and maintain a toll free statewide telephone number for use to register for the No-call list and to file complaints.

(g) Notice of objection. The designated agent shall provide the means by which each residential subscriber or wireless service subscriber of telephone service may give notice of objection to receiving telephone solicitations. The designated agent is required to provide two methods by which subscribers can provide notice of objection to receiving telephone solicitations:

(I) By entering the area code, phone number and zip code of the subscriber directly into the database using an Internet application housed on the designated website.

(II) By entering the area code, phone number and zip code of the subscriber directly into the database using the designated statewide toll free telephone number.

(h) Revocation of notice. The designated agent shall provide means by which each residential subscriber or wireless service subscriber of telephone service may revoke its No-call list registration. The designated agent is required to provide two means by which residential subscribers can revoke the registration.

(I) By entering the area code, phone number, and zip code of the subscriber directly into the database using an Internet application housed on the designated website.

(II) By entering the area code, phone number, and zip code of the subscriber directly into the database using the designated statewide toll free telephone number.

(i) Transaction dates. The designated agent must record and maintain the date of each transaction identified in paragraphs (g) and (h).

(j) No-call List updates. No later than the 10th day of every calendar quarter (i.e., January 10, April 10, July 10, and October 10) the designated agent shall electronically update the Colorado No-call List to include any additions, deletions, changes, and modifications made to the Colorado No-call List by residential and wireless telephone service subscribers. No later than the 10th day of every calendar quarter the designated agent shall remove all telephone numbers from the No-call List that have been disconnected or reassigned within the previous calendar quarter.

(k) Information requirements.

(I) The designated agent shall submit quarterly to the Commission the following information in order for the Commission to accurately adjust the registration fees. The information shall be submitted no later than 30 days after the end of the quarter. The Commission will determine the exact format of this report which shall include:

(A) Revenues from registration fees for the previous quarter;

(B) Capital investment purchased for use in No-call List activities during the previous quarter;

(C) Operating expenses related to the administration of the No-call List for the previous quarter; and

(D) Such other information as the Commission shall request for purposes of determining the annual registration fees.

(l) Information distribution. Neither the designated agent nor any person or entity collecting information to be transmitted to the designated agent shall use or distribute subscriber information included in the No-call List except as expressly authorized by the Commission or by the No-call List Act.

(m) Complaint system.

(I) The designated agent shall maintain an automated, on-line complaint system and a toll free statewide telephone complaint system for residential subscribers to report suspected violations of § 6-1-904, C.R.S.

(A) The on-line complaint system shall be a web-based system and shall have the capability to electronically collect, sort, and report suspected violations to the Colorado Attorney General.

(B) The telephone complaint system shall be a toll free statewide telephone number and the complaint information shall ultimately be transformed into an electronic format by the designated agent in order for the suspected violation to be sent to the Colorado Attorney General.

(II) The designated agent shall collect from the complainant the following information: the complainant's name, address, telephone number, the date and time of the call, the name of the telemarketer, and the product or service being marketed. The designated agent shall collect such other information requested by the Colorado Attorney General upon approval by the Commission.

(n) Federal No-call List program. The designated agent shall receive from and provide to the Federal Trade Commission (FTC) all No-call list data, if so directed by the Commission.

(o) Help line. The designated agent shall provide mechanisms on both its website and its statewide toll free telephone number to assist residential subscribers in placing their telephone number and zip code on the Colorado No-call List.

2894. Local Exchange Carriers' Responsibilities — Notification of Designated Agent.

Not later than the 5th day of every calendar quarter (*i.e.*, January 5, April 5, July 5, and October 5) LECs shall provide electronically to the designated agent a list including all changed, transferred, and disconnected telephone numbers for residential subscribers from the previous calendar quarter. Data shall be in the format defined by subparagraph 2893(c)(III) such that the designated agent can use this information to amend the No-call List.

2895. Regulated Telecommunications Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to $2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	**Description**	**Maximum Penalty Per Violation**
	Articles 1-7 and 15 of Title 40, C.R.S.	$2000
	Commission Order	$2000
Rule 2005	Records and Record Retention	$2000

Rule 2108(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	$2000
Rule 2109, text preceding (a) only	Applications to Transfer or Encumber	$2000
Rule 2110(a) and (b)	Toll Reseller Restrictions and Obligations	$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	$2000
Rule 2133(a)	Service Components and Requirements	$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	$2000
Rule 2136	Obligations of Basic Emergency Service Providers	$2000
Rule 2137	Obligations of ALI Database Providers	$2000
Rule 2138	Obligations of Basic Local Exchange Carriers	$2000
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	$2000
Rule 2141(b) and (c)	Obligations of Multi-line Telephone Systems	$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	$2000
Rule 2143	Diverse Routing and Priority Service Restoration	$2000
Rule 2164(b),(c)(V),(e),(f),(k), and (l)	Regulation of Non-optional Operator Services	$2000
Rule 2165(b)-(e)	Requirements for Non-optional Operator Service Providers	$2000
Rule 2185	Obligations of Providers of Last Resort	$2000
Rule 2186(a),(d), and (e)	Relinquishment of Designation as Provider of Last Resort	$2000
Rule 2187(c) and (f)	Eligible Telecommunications Carrier Designation	$2000

Rule 2202(e)-(g)	Default Form of Regulation for ILECs	$2000
Rule 2203	Default Forms of Regulation for CLECs	$2000
Rule 2204(c)-(e)	General Requirements	$2000
Rule 2205(a) and (f)	Application for Alternative Form of Regulation	$2000
Rule 2206(b),(c),(e)-(g)	Simplified Regulatory Treatment for Rural ILECs	$2000
Rule 2209(e)	Deregulation of Part III Emerging Competitive Services	$2000
Rule 2304	Billing Information, Procedures, and Requirements	$2000
Rule 2305, text preceding (a) only	Refund Plans	$2000
Rule 2310(a),(c),(d)-(f)	Line Extensions	$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	$2000
Rule 2403(a)	Specific Types of Services	$2000
Rule 2404(a),(d)	Uniform System of Accounts	$2000
Rule 2405(a),(c)	State-Interstate Separation of Costs	$2000
Rule 2410	Reporting and Record Keeping	$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	$2000
Rule 2414	Affiliate Transactions for Interexchange Providers	$2000
Rule 2415	Separation of Colorado Intrastate Access Costs	$2000
Rule 2416	Intrastate Access Charge Elements	$2000
Rule 2533	Submission of Agreement and Amendments for Approval	$2000
Rule 2702(a),(d),(e),(f)	Assignment of Telephone Numbers in Colorado	$2000
Rule 2723	Local Number Portability	$2000

Rule 2724(b),(c)	Long-Term Service Provider Number Portability	$2000
Rule 2741(d),(e),(f)(IV-V),(g)(X),(h)(III-IV),(j)(III-IV),(l)	Abbreviated Dialing Codes	$2000

Citation	**Description**	**Maximum Penalty Per Violation**
Rule 2004	Disputes	$1000
Rule 2123	Price Lists and Transmittal Letters	$1000
Rule 2144	Reports	$1000
Rule 2168	Access Codes of Non-Optional Operator Service Providers	$1000
Rule 2169	Access From Registered Equipment and Access to Common Carriers	$1000
Rule 2311(b)-(g)	Changing Providers and Carrier Presubscription	$1000
Rule 2312(b)-(e)	IntraLATA Equal Access	$1000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	$1000
Rule 2336(a),(b)	Adequacy of Service	$1000
Rule 2337(b),(d)-(h)	Standard Performance Characteristics for Customer Access Lines	$1000
Rule 2338	Interexchange Trunk Connections	$1000
Rule 2339	PBX and Multiline Channels	$1000
Rule 2340	Network Call Completion Requirements	$1000
Rule 2341(a),(b),(d)-(f)	Trouble Report Response, Interruptions and Curtailments of Service	$1000
Rule 2502	Interconnection	$1000
Rule 2503(c)-(e)	Compensation for Terminating Local Traffic	$1000

Rule 2504	Other Intercompany Arrangements	$1000
Rule 2505(c)	Unbundling	$1000
Rule 2506	Process and Imputation	$1000
Rule 2582(a),(c)-(f)	Regulation of Facilities-Based Telecommunications Providers	$1000
Rule 2583(b)-(d)	Service Quality	$1000
Rule 2584	Confidentiality	$1000
Rule 2585	Tariff Filings	$1000
Rule 2586(b)	Negotiation, Mediation and Arbitration	$1000
Rule 2587	Regulation of Resellers	$1000
Rule 2894	Local Exchange Carriers' Responsibilities – Notification of Designated Agent	$1000

Citation	**Description**	**Maximum Penalty Per Violation**
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	$500
Rule 2307	Directories for Basic Local Exchange Service	$500
Rule 2308	Local Exchange Service Standards	$500

Citation	**Description**	**Maximum Penalty Per Violation**
Rule 2006(a)-(e); (l)	Reports	$100
Rule 2303	Denial or Discontinuance of Service	$100
Rule 2306	Public Information	$100
Rule 2823(a),(c)-(e)	Conformity with the Federal Americans with Disabilities Act of 1990	$100

Rule 2824	Conformity with the Commission's Quality of Service Rules	$100
Rule 2827(b)	Timely or Completely Filing or Making Appropriate Payments to the TRS Fund	$100
Rule 2846	Timely or Completely Filing or Making Appropriate Payments to the CHCSM Fund	$100

2896. – 2899. [Reserved].

GLOSSARY OF ACRONYMS

ABS Alternate Billing Service
ALI Automatic Location Identification
AMA Automatic Message Accounting
AML Actual Measured Loss
ANI Automatic Number Identification
ANSI American National Standards Institute
BER Bit Error Rate
BESP Basic Emergency Service Provider
BRI Basic Rate Interface
BSA Basic Serving Arrangement
BSE Basic Service Element
CASB Cost Accounting Standards Board
CCR Code of Colorado Regulations
CEI Comparably Efficient Interconnection
CFR Code of Federal Regulations
CHCSM Colorado High Cost Support Mechanism
CLASS Custom Local Area Signaling System
CLEC Competitive Local Exchange Carrier
CMRS Commercial Mobile Radio Service
CNS Complementary Network Service
CPCN Certificate of Public Convenience and Necessity
CPNI Customer Proprietary Network Information
CRCP Colorado Rules of Civil Procedure
CRS Colorado Revised Statutes
CSR Customer Service Record
dB Decibel
dBrnC Decibel above Reference Noise level using C-message weighting
DEM Dial Equipment Minutes of Use
DMS Data Management System
DS0,DS1,DS3 Digital Signaling levels 0, 1 and 3
E9-1-1 Enhanced 911
e-mail Electronic mail
ENS Emergency Notification Service
EP Eligible Provider

ESP	Enhanced Service Provider
ETC	Eligible Telecommunications Carrier
ETS	Emergency Telephone Service
FCC	Federal Communications Commission
FDC	Fully Distributed Cost
FOC	Firm Order Confirmation
GAAP	Generally Accepted Accounting Principles
Hz	Hertz
ICB	Individual Case Basis
IEEE	Institute of Electrical and Electronics Engineers
ILEC	Incumbent Local Exchange Carrier
ISDN	Integrated Services Digital Network
IXC	Interexchange Carrier
kbit/sec	kilobit per second (1,000 bits per second)
LATA	Local Access Transport Area
LCA	Local Calling Area
LEC	Local Exchange Carrier
LIDB	Line Identification Database
LLC	Limited Liability Company
LNP	Local Number Portability
LOR	Letter of Registration
LRIC	Long Run Incremental Cost
LSR	Local Service Request
ma	milliamps
Mbps	Megabits per second
MLTS	Multi-line Telephone System
MSA	Metropolitan Statistical Area
MSAG	Master Street Address Guide
MTB	Minimum Transport Bandwidth
MTE	Multi-Tenant Environment
NANP	North American Numbering Plan
NANPA	North American Numbering Plan Administrator
NECA	National Exchange Carrier Association
NENA	National Emergency Number Association
NID	Network Interface Device
NIIF	Network Interconnection Interoperability Forum
NPA	Numbering Plan Area
NPAC	Number Portability Administration Center
OC1	Optical Carrier-Level 1 Signal
OCC	Office of Consumer Counsel
ONA	Open Network Architecture
OSS	Operational Support Systems
PBX	Private Branch Exchange
PCS	Personal Communications Service
PIN	Personal Account Identification Number
POLR	Provider of Last Resort
POTS	Plain Old Telephone Service
PRI	Primary Rate Interface
PSAP	Public Safety Answering Point
RBOC	Regional Bell Operating Company

RTEZ Rural Technology Enterprise Zone
RTF Rich Text Format
RUS Rural Utility Service
SCP Service Control Point
SGAT Statement of Generally Available Terms and Conditions
SLU Subscriber Line Usage
SS7 Signaling System #7
STP Signal Transfer Point
TDD Telecommunications Device for the Deaf
TRS Telecommunications Relay Services
TSLRIC Total Service Long Run Incremental Cost
UNE Unbundled Network Element
USF Universal Service Fund
USOA Uniform System of Accounts
WATS Wide Area Telephone Service