

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21R-0099T

IN THE MATTER OF THE PROPOSED RULES REGARDING THE IMPLEMENTATION
OF HOUSE BILL 20-1293 AND THE 9-1-1 STATEWIDE SURCHARGE MECHANISM
PURSUANT TO 4 CODE OF COLORADO REGULATIONS 723-2.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
AMENDING RULES**

Mailed Date: May 20, 2021

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 A. The Commission Orders That:22

I. STATEMENT

1. On March 4, 2021 by Decision No. C21-0118, the Colorado Public Utilities Commission (Commission) issued a Notice of Proposed Rulemaking (NOPR) to amend the Rules Regulating Telecommunications Services and Providers of Telecommunications Services contained in 4 *Code of Colorado Regulations* 723-2-2130 through 2159, 2003, 2010, 2011, and 2827 (9-1-1 Rules).

2. The changes proposed were reflective of the changes to the Colorado statute realized by the enactment of House Bill (HB) 20-1293 and were consistent with draft rules developed through informal stakeholder workshops led by Commission Staff (Staff) prior to the issuance of this NOPR. The proposed rules were included as Attachments A and B to that Decision. Comments from interested participants were encouraged.

3. Four initial comments were received. They were from CTIA – the Wireless Association (CTIA); Qwest Corporation, doing business as CenturyLink QC (Lumen); the Boulder Regional Emergency Telephone Service Authority (BRETSA) and the Montrose

Emergency Telephone Service Authority, the Ouray County Emergency Telephone Service Authority, and the San Miguel County Emergency Telephone Service Authority (West Region 9-1-1 Authorities).

4. Three response comments were received. The response comments were from Lumen, BRETSA, and the Colorado Telecommunications Association (CTA).

5. A rulemaking hearing was held on April 19, 2021. At the conclusion of the hearing, additional written comments and replies to comments were allowed.

6. BRETSA and Bresnan Broadband of Colorado, LLC and Time Warner Cable Information Services (Colorado), LLC (collectively, Charter) filed additional comments.

7. BRETSA filed additional reply comments

A. House Bill 20-1293 and Temporary Rules

8. On July 10, 2020, Governor Jared Polis signed HB 20-1293, which provided comprehensive updates to Colorado 9-1-1 funding through changes in §§ 24-33.5-2103, 25-3.5-903, 29-11-100 to -107, 39-21-113 and 119.5, and 40-2-131, C.R.S. In addition to numerous other revisions related to the provision of emergency telephone service, HB 20-1293 provides the Commission with additional authorities and duties in regulating 9-1-1 service funding in the State, and immediately required the Commission to set a new statewide 9-1-1 surcharge by October 1, 2020, to take effect on January 1, 2021.

9. In order to implement HB 20-1293 timely, temporary rules were implemented in Proceeding No. 20R-0335T to establish the process by which the Commission would propose and approve, by October 1, 2020, the threshold at which Applications are required for increasing Emergency Telephone Charges by a governing body; the rate of the State 9-1-1 surcharge; the

wireless prepaid 9-1-1 charge; and a distribution schedule for the disbursement of State 9-1-1 surcharge funds to the 9-1-1 governing bodies.¹

10. While temporary rules and processes were required to meet the October 1, 2020 statutory deadlines, the Commission at the same time, initiated stakeholder processes to seek input on full implementation of HB 20-1293 going forward, including in anticipation of a NOPR.

11. Through the processes adopted in temporary rules through Proceeding No. 20R-0335T, the Commission established the new State 9-1-1 surcharge before October 1, 2020, at \$0.10 per 9-1-1 access connection per month.² Through subsequent order, while stakeholder processes for full implementation of HB 20-1293 remained ongoing, the Commission moved forward with temporary rules to implement those items required by the statute to take effect on January 1, 2021, including a remittance and distribution procedure, in addition to establishment of procedures by which 9-1-1 governing bodies may apply to change the number of concurrent sessions for which they are credited in the distribution schedule for the collected State 9-1-1 funds.³

12. While temporary rules provided processes for the necessary implementations of HB 20-1293 required by October 1, 2020 and January 1, 2021, the Commission noted that full implementation of HB 20-1293 also allows the Commission to promulgate rules to resolve disputes regarding collection, payment, remittance, and audit of the Emergency Telephone Charge and statewide 9-1-1 surcharge, and to impose penalties for noncompliance with certain statutory provisions and Commission rules. Workshops led by Staff conducted from October of

¹ See Decision No. C20-0599, Proceeding No. 20R-0335T, issued August 17, 2020, and Decision No. C20-0690, Proceeding No. 20M-0337T, issued September 29, 2020.

² See Decision No. C20-0690, Proceeding No. 20M-0337T, issued September 29, 2020.

³ See Proceeding No. 20R-0480T, Decision No. C20-0795, issued November 10, 2020.

2020 through January of 2021⁴ provided stakeholder input on permanent implementation of the processes required for October 1 and January 1 requirements annually going forward, in addition to the processes to resolve disputes, provide audit, and if necessary impose penalties required by HB 20-1293.

13. Stakeholder processes resulted in near-consensus rule proposals on all areas of implementation of HB 20-1293. Those near-consensus rules were the initial starting point for this NOPR.

14. The Administrative (ALJ) would like to commend Mr. Daryl Branson from the Commission and all of the stakeholders who participated in the workshops. It was refreshing for the undersigned ALJ to find that almost all issues had been resolved before the rulemaking hearing. Regulation works when it is a cooperative process that respects and gives voice to all parties.

B. Proposed Rule Changes

15. In initiating the NOPR, the proposed suggested revisions resulted from the joint stakeholder workshops in October of 2020 through January of 2021.

16. An overview of the changes proposed by the Commission fell into general categories. Interested stakeholders were invited to comment on the proposed rule revisions and provide additional suggested changes.

⁴ Workshop participation included diverse stakeholders, including without limitation industry representatives, governing authorities, Public Safety Answer Point representatives, in addition to Commission Staff. Workshop participants and all members of the interested public are encouraged to further propose revisions to and comment on the proposed rules through this NOPR proceeding.

1. Rule 2003 Petitions

17. BRETSA notes that the statute allows governing bodies to petition the Commission to pay for a locally conducted audit of an originating service provider's collection and remittance of emergency telephone charges, but that statute does not require governing bodies to seek permission from the Commission to conduct the audit (see § 29-11-103, C.R.S.).

18. BRETSA is correct that this language is problematic, but incorrect about the solution. BRETSA states that the language must be stricken entirely, but petitions need to come before the Commission for funding of locally conducted audits of providers. Instead of just striking the language entirely, the word "and" will be removed from proposed Rule 2003(a)(VI), so that it reads: "for approval of funding of an audit" instead of "for approval of and funding of an audit."

2. Rule 2131: Definitions

19. BRETSA recommends including a definition of "Emergency Telephone Charge Threshold Amount."

20. Lumen opposes BRETSA's proposal, stating that the meaning of the term is plain, and that adding a definition for this term would "add complexity and decrease the clarity of the rules".."

21. The ALJ agrees with Lumen and declines to include a definition of "Emergency Telephone Charge Threshold Amount."

a. (t) Geographic Area

22. BRETSA recommends changing the definition of "geographic area" to "governing body response area."

23. Lumen opposes BRETSA's proposal, stating that BRETSA fails to explain why the term "geographic area" is problematic.

24. The ALJ disagrees with BRETSA's proposed change since changing this term would require changes in other rules not contemplated in this rulemaking. Also, changing the term to "response area" would be nonsensical since governing bodies don't respond to emergencies, they only fund Public Safety Answer Points (PSAPs).

b. (y) Originating Service Provider

25. BRETSA recommends eliminating the term "originating service provider" in favor of the statutorily defined term, "service supplier".

26. CTIA opposes BRETSA's proposal. "Originating service provider" is a commonly used term in the industry and well understood.

27. Lumen argues that BRETSA's argument is "stylistic" only.

28. The ALJ believes this change is generally unnecessary and it shall not be adopted.

3. Rule 2141: Multi-line Telephone Systems (MLTS) Complaint Portal

29. BRETSA notes that the title of this section, "Obligations of Multi-Line Telephone Systems (MLTS)", no longer accurately describes the contents of the rule and that the phrase "Obligations of" should be removed.

30. Lumen agrees that the header of this section of the rules should be changed consistent with the suggestion of BRETSA.

31. The ALJ agrees. The phrase "Obligations of" shall be removed from the title of Rule 2141. The new title of Rule 2141 shall be Multi-Line Telephone Systems (MTLS) Complaint Portal.

4. Rule 2147: Applications by the Governing Body for Approval of an Emergency Telephone Charge in Excess of the Threshold Established by the Commission

32. BRETSA takes issue with the requirement that documentation of costs for any line item over \$50,000 be provided. They state that: (1) almost every line item will be over \$50,000; and (2) providing documentation of costs may violate some confidentiality agreement with the vendor(s).

33. Regarding (1), the ALJ does not believe that most line items in a 9-1-1 governing body's budget are in excess of \$50,000. It is more likely to be true of the larger 9-1-1 governing bodies, but the majority of the applications received by the Commission have one or two budget lines over \$50,000 for a year. Regarding (2), 9-1-1 governing bodies are public entities. Their budgets are public. It would be unreasonable to expect the Commission to approve increases in the emergency telephone charge if the governing body cannot document its expenses due to a confidentiality agreement with a vendor. Even if confidentiality were required, and allowed under Colorado law, the governing body could file the document in question with the Commission as "confidential". It has not happened, but a governing body has this option.

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

34. BRETSA recommends changing the term "9-1-1 governing body" to the term "governing body", which is defined in 2131 and comports with the statutorily defined term in § 29-11-101, C.R.S.

35. The ALJ finds this recommendation unnecessary and would require changes in other rules not contemplated in this rulemaking.

36. Comcast and Charter recommend adding language that would cap emergency telephone charges applied to multi-line telephone systems at 25 lines. Comcast and Charter argue that it is difficult to determine what the "simultaneous outbound calling" capacity is for an MLTS. They also make the argument that the statute provides the Commission with sufficient authority to modify how emergency telephone charges are assessed on MLTS, pointing primarily to § 29-11-101.5, C.R.S. Finally, they point to several other states that have capped 9-1-1 surcharges at 25 instances on multi-line telephone systems. but do not offer any reasoning as to why 25 was chosen as the "correct number."

37. BRETSA notes that the emergency telephone charge is a liability of the customer, not the provider, and no customers have requested capping MLTS systems at 25 instances of the emergency telephone charge. BRETSA also noted that the statute exempts state and local government customers from paying emergency telephone charges and exempted prepaid wireless telecom customers from paying the Eligible Telecommunications Carrier (ETC) (since they have a separate prepaid surcharge). BRETSA is arguing that if the Colorado Legislature (Legislature) had intended MLTS customers to be exempt from paying the surcharge in the same manner as everyone else, it would have included the exemption in the statute.

38. The statute is prescriptive regarding how the emergency telephone charge is assessed, stating in § 29-11-102(2)(a), C.R.S., that "A governing body is hereby authorized, by ordinance or resolution as appropriate, to impose the charge authorized in subsection (1) of this section per month per 911 access connection...." and the definition for "911 access connection" in § 29-11-101(2), C.R.S., includes a statement that "The number of 911 access connections is determined by the configured capacity for simultaneous outbound calling." This means that for multi-line telephone systems, the number of 9-1-1 access connections equals the number of

simultaneous outbound calls that the system is configured to be capable of making. Arbitrarily capping this number at 25 would be contrary to the statute. Additionally, Comcast and Charter have failed to make a good argument for why 25 lines is the appropriate cap, other than to state that it is the number that some other states have imposed legislatively. Without sufficient reasoning for why 25 lines is the correct number, the ALJ shall deny the recommendation of Comcast and Charter.

6. Rule 2149: Annual Data Collection from 9-1-1 Governing Bodies

39. BRETSA recommends allowing the governing bodies to submit address tables to the Commission and update them on a regular basis, and to make them confidential except for the service providers to use to accurately determine which governing body should be receiving emergency telephone charge remittances.

40. The ALJ does not believe that Staff has the resources or capacity to manage data submissions and access to that data to the degree that BRETSA is proposing and shall therefore reject the recommendation.

a. Rule 2149(a)(II)

41. BRETSA recommends the word "annual" be changed to "mandatory". Instead of the data collection being conducted for the purpose of responding to "annual" data requests, it should be to respond to "mandatory" data requests from the federal government.

42. There are currently no mandatory data requests from the federal government regarding 9-1-1. The Federal Communications Commission (FCC) and the national 9-1-1 program office both issue data requests on an annual basis. The Commission responds so Colorado will be viewed a good community member in the 9-1-1 ecosystem, and because if the Commission does not, the State may be deemed ineligible for future federal grants. BRETSA's

premise for proposing this change is incorrect. Replacing "annual" with the word "mandatory" would render this rule moot and shall be denied.

b. Rule 2149(a)(II)(A)-(K)

43. BRETSA recommends deletion of the data elements required in the annual data collection found in 2149(a)(II)(A)-(K). BRETSA's reasoning for removing these data elements is that they are not required as part of the Commission's annual State of 911 Report to the Legislature, and the federal reports are not mandatory.

44. Lumen takes no position on this proposal, but states that it is inconsistent for BRETSA to "demand that the Commission require information from carriers that they cannot provide while asserting a jurisdictional shield against governing bodies providing information."⁵

45. Section 29-11-102(4), C.R.S., states that governing bodies shall comply with annual reporting requirements from the Commission for the following purposes:

- (1) Federal reporting requirements;
- (2) Federal data requests; and
- (3) The Commission's annual State of 911 Report to the Legislature

46. BRETSA argues that (1) does not exist, which is correct, but fails to note that the statute allows the Commission to collect data for (2). BRETSA also incorrectly argues that the data is unnecessary for the Commission's annual report to the General Assembly, but all of the items listed in § 2149(a)(II), C.R.S., are relevant to funding of 9-1-1 services, which is a required element of our annual report to the Legislature.

47. BRETSA also argues that the State of 911 Report is only intended for the transmission of data to the General Assembly about 9-1-1 service narrowly defined as the

⁵ Lumen's Response Comments at p. 3.

delivery of 9-1-1 calls to the PSAP (otherwise defined as "Basic Emergency Service"). The ALJ believes that § 40-2-131, C.R.S., is clearly requiring information on 9-1-1 service in a wider context, not just Basic Emergency Service, particularly as it relates to § 40-2-131(1)(g), C.R.S., which requires the report to include "A discussion of 911 funding and fiscal outlook, including current funding sources and whether they are adequate for 911 service in the state". Section 40-2-131(2), C.R.S., also requires that the Commission "consult with public safety answering points [and] 911 governing bodies," which would be unnecessary if we were only talking about funding of Basic Emergency Service. Furthermore, if the Legislature meant to restrict the Commission's reporting to only Basic Emergency Service, it would have used that term rather than the more expansive term "9-1-1 services".

48. BRETSA further notes that the Commission has no authority to enforce the provisions of § 29-11-104, C.R.S. This is a strawman argument, because the rules do not do anything to enforce that section of the statute.

49. BRETSA argues that inclusion of data elements from past federal data requests into our rules may be "both over- and under-inclusive". It is possible that future data requests from the FCC may not require all of the data elements listed in proposed Rule 2149, but they would still be necessary for the Commission's annual report to the Legislature, so they cannot be over-inclusive based on potential changes to future data requests. The recommendation of BRETSA is rejected.

50. BRETSA also claims that proposed Rule 2149(a)(II)(K) is improper because it delegates authority to the Task Force.

51. Since Rule 2149(a)(II) says that this list is not exhaustive, then striking any particular item from the list has no actual effect. In order to avoid the appearance of the

Commission improperly delegating authority to the Task Force, the ALJ agrees it would be best to strike this line in the rules.

52. BRETSA recommends allowing governing bodies to voluntarily submit GIS data to the Commission regarding their collection areas.

53. Lumen in its comments states this is unnecessary because the proposed rules already allow it.

54. The ALJ agrees that the rules already allow it.

7. Rules 2150 Administration of the 9-1-1 Surcharge Trust Cash Fund.

55. BRETSA recommends requiring that originating service providers disclose the governing body jurisdictions in which they are supplying service as part of the form that originating service providers are required to use when remitting 9-1-1 surcharges.

56. CTA opposes this proposal, stating that the Commission does not have the authority to require this information, and that it would be burdensome and would require the disclosure of commercially-sensitive information.

57. The ALJ finds that keeping track of this information and keeping it up-to-date would be burdensome and difficult for both the OSPs and Staff. BRETSA's recommendation will be denied.

8. Rule 2151 Use and Distribution of the 9-1-1 Surcharge Trust Cash Fund.

58. BRETSA recommends removing the requirement that Staff obtain the number of concurrent sessions for which each governing body is being invoiced, and instead direct the Basic Emergency Service Provider (BESP) to provide that information.

59. Lumen argues that BRETSA's concern is a "distinction without a difference" and that removing this requirement is unnecessary.

60. The requirement BRETSA is proposing already exists in the proposed modification to Rule 2136 (Obligations of BESPs). The ALJ will remove the statement regarding Staff collecting the number of concurrent sessions from the BESP that is found in 2151(b), but not adding the requirement that the BESP provide that information in 2151 because it would be redundant with 2136.

61. BRETSA recommends that rather than requiring applications for concurrent sessions to be filed by June 1, the Commission should simply state that applications to increase the number of concurrent sessions for which a governing body is receiving distributions must be approved by October 1 in order to be included.

62. The distribution formula for the 9-1-1 surcharge trust cash fund must be established by Commission order by October 1, by statute, meaning that giving applications until October 1 to be approved does not work with the Commission required deadline for approval of the formula. The ALJ does agree that it makes more sense to put a date by which applications must be approved to be considered, rather than a date by which they must be filed, but believes this date needs to be earlier so that Staff has time to make recommendations to the Commission regarding the formula for the Commission to approve by the October 1 deadline. The ALJ will change the rule as recommended by BRETSA, but using an August 1 deadline for applications to be approved rather than October 1.

63. BRETSA objects to the data elements required by the proposed rules in an application to increase the number of concurrent sessions for two reasons: (1) they are not forward thinking, in that it asks for call volume statistics but the application itself may be

requested on the basis of forward-looking projections; and (2) it "invites Commission second-guessing of public safety professionals".⁶

64. The ALJ will not change the proposed rule. Regarding (1), if a governing body wishes to provide *additional* information regarding why they want more concurrent sessions in their application, including forward-looking projections, there is no reason they cannot do so. In fact, the proposed rules call for the inclusion of "any other information that the governing body deems relevant to its request to change its number of concurrent sessions." As such, there is no need to require that forward-looking projections be included in the application. If the governing body believes it helps the application, it already has the ability to include them. Regarding (2), the rule does allow the Commission to second-guess local requests to increase the number of concurrent sessions, but that is how the Legislature intended this to work. If the Commission's judgment were not expected to be applied regarding these applications, the Legislature would not have allowed the Commission to create a process for requesting them in the first place. BRETSA seems to be suggesting that the Commission should simply rubber-stamp requests to increase the number of concurrent sessions at a governing body rather than exercise any sort of analysis. The reason for the application is that if the Commission sets the state 9-1-1 surcharge rate at a high enough level, the distributions to the governing bodies (which are based on the number of concurrent sessions) would be higher than the tariffed price of the concurrent sessions themselves. This would create a perverse incentive for a governing body to purchase more concurrent sessions than they need so they could receive a larger percentage of distributions from the 9-1-1 surcharge trust cash fund. Requiring an application that is reviewed by Staff and approved by the Commission puts a break on that incentive. It should also be noted

⁶ BRETSA Comments at ¶ 45

that there is nothing stopping a 9-1-1 governing body from obtaining additional concurrent sessions even if the Commission denies the application. The application is only to increase the number of concurrent sessions for which the governing body is credited when determining the distribution percentages for the 9-1-1 surcharge trust cash fund.

9. Rule 2152: Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices

65. BRETSA recommends adding a prohibition against providers "backing into" their line counts by taking the total they collected, dividing that by the surcharge, and reporting it as the number of lines against which the state 9-1-1 surcharge and emergency telephone charge is assessed.

66. CTA opposes BRETSA's proposal stating that this is an observation more than a substantive proposal.

67. Lumen opposes BRETSA's proposal, stating that OSPs would not be able to comply.

68. Comcast and Charter oppose BRETSA's proposal, noting that even BRETSA admits that it does not know if BRETSA's proposed change would yield different results.

69. In follow-up comments, BRETSA appears to reverse its position.

70. The ALJ believes this additional prohibition is unnecessary, since Rule 2152(b)(VI) already states that remittances must be based on the actual number of 9-1-1 access connections within the governing body's jurisdiction.

71. BRETSA proposes a new rule that would create a cyclical audit schedule, in which every provider is audited on a rotating basis.

72. CTA opposes the imposition of an audit cycle, stating that it would be burdensome on both the Commission and the carriers.

73. Lumen also opposes BRETSA's change. They state that mandatory audit cycle would be "massively expensive, intrusive and wasteful".⁷

74. Charter and Comcast oppose BRETSA's change, stating that a mandatory audit cycle would be costly and inefficient, and that there is no evidence of widespread noncompliance. They suggest that targeted audits would yield better results, and that the proposed rules strike the appropriate balance.

75. While Staff may implement an audit rotation cycle for all providers, there does not need to be a rule that allows Staff to do so since there does not need to be a reason to perform an audit under the statute or these proposed rules.

76. Putting it in the rules that Staff must perform audits on a rotating four to eight- year rotation is impractical and unnecessarily burdensome both on Staff and the OSPs.

77. The ALJ agrees with BRETSA's follow-up comments that audits should act as a deterrent against bad behavior by the service providers, but the ALJ believes that this goal is best served by providing Staff with the flexibility to determine when audits take place.

a. Rule 2152(a)(V)

78. BRESTSA States that 2152(a)(V) restricts audits to only reviewing collection and remittance of emergency telephone charges or the state 9-1-1 surcharge, but not both, and that doing so is inefficient.

⁷ Lumen's Response Comments at p. 5.

79. CTA opposes BRETSA's redline "fix" for this rule because it removes the phrase that limits audits to only addressing emergency telephone charges and the 9-1-1 surcharge, and replaces it with "shall include", which implies that other aspects of an OSP's finances could be part of the audit. They also believe that BRETSA's removal of the words "governing body" in their redline revision would essentially allow governing bodies to conduct "unbound audits" of OSPs.

80. Lumen agrees that there are efficiencies to be found in doing emergency telephone charge and 9-1-1 surcharge audits together, but that it should be permissive rather than required.

81. Comcast and Charter interpret that the proposed rules do not intend to limit audits to reviewing only the emergency telephone charge or 9-1-1 surcharge, but never both. They state that while it would make sense to audit both in some circumstances, it should not be required to audit both anytime an audit is performed.

82. BRETSA, in its second-round comments, agreed with Lumen's suggestion that audits be allowed for both ETC remittances and state 9-1-1 surcharge remittances, but not required to cover both.

83. It is not the intent of this proposed rule to limit audits to considering emergency telephone charges or state 9-1-1 surcharges, but not both, but it is an understandable interpretation. The purpose of the rule is to prevent either the Commission or the governing bodies from delving into other aspects of an originating service provider's finances that are unrelated to either the state 9-1-1 surcharge or the emergency telephone charge. Furthermore, the statute gives the Commission authority to audit both the 9-1-1 surcharge and the emergency telephone charge, but only gives governing bodies the authority to audit the emergency telephone

charge. Rather than striking the rule the ALJ will rewrite it into two separate subparagraphs: “(V) Audits initiate the Commission shall be limited to the collection and remittance of emergency telephone charges and state 9-1-1 surcharges.” and “(VI) Audits initiated by one or more governing bodies shall be limited to the collection and remittance of emergency telephone charges.”

b. Rule 2152(e)

84. BRETSA argues that proposed Rule 2152(e) is improper because it requires originating service providers to divulge confidential customer information and suggests alternate language. The language as it currently exists requires originating service providers to provide governing bodies, upon their request, billing examples from a reasonable number of customer addresses randomly selected in a given area. The modified language as proposed by BRETSA would provide the governing body only with the "code" for the governing body associated with each address.

85. Lumen opposes BRETSA's recommended change, stating that it is confusing and does not address the issue of confidentiality that BRETSA states that it is concerned with.

86. In BRETSA's follow-up comments, it says that "for either service providers or the governing body to randomly select the addresses would be inefficient as the service provider wouldn't choose an appropriate sample of the random selection and the governing body doesn't know which addresses to ask for.”

87. The language in the proposed rule is taken almost verbatim from the statute, § 29-11-103(7)(a), C.R.S., which states that "[t]he service supplier shall cooperate with governing bodies to provide a reasonable number of randomly selected service addresses for

verification of collection and remittance at no charge". The time to argue for different language would have been during the legislative process.

88. Furthermore, BRETSA is assuming that providers have a "911 governing body code" in their billing systems, which may or may not exist. Concerning BRETSA's concern in the second round comments, no solution is offered, and the rules almost completely mirror the statutory language in § 29-11-103(7)(a), C.R.S.

89. To address the confidentiality issue highlighted by BRETSA above, Lumen proposes an alternate solution of adding the words "without disclosing any customer-identifying information" at the end of proposed Rule 2152(e), between the words "no charge" and the period.

90. The ALJ agrees that this addresses the confidentiality issue and will be adopted.

10. Rule 2153: Governing Body Funding Petition and Petition Requirements

a. Rule 2153(b)

91. BRETSA states that 2153(b), which requires governing bodies to submit petitions to pay the expenses of audits must be submitted 60 days before the commencement of the audit, is improper.

92. Lumen opposes this change, stating that the Commission has a role in the application of its own rules, which would be a necessary part of any audit, and that BRETSA is inappropriately trying to remove the Commission from its necessary role as an arbiter in any audit process.

93. The ALJ believes it makes no sense to allow governing bodies to conduct audits at their own expense and only ask the Commission for permission to reimburse them for the audit

after the fact. If a governing body wishes for the Commission to pay for an audit, it should make that request prior to the audit being conducted. Any change is rejected.

b. Rule 2153(c)(I)

94. BRETSA notes that proposed Rule 2153(c)(I) requires that petitions to fund audits include the service area of the entity that the governing body proposes to audit. The governing body may not have knowledge of the entity's service area.

95. The ALJ agrees and Rule 2153 (c)(I) shall be stricken.

c. Rule 2153(d)

96. BRETSA states that proposed Rule 2153(d) is problematic in that the governing body cannot know which governing bodies are served by a particular originating service provider.

97. The ALJ agrees. The proposed rule would require the governing body filing a petition to provide it to all other governing bodies in the entity's service area and to the 9-1-1 Advisory Task Force. This will be changed to provide it only to the Task Force, which can then distribute it to all of the governing bodies.

11. Rule 2154: Audit Notification Requirements

98. BRETSA argues that the Commission's 9-1-1 Advisory Task Force is not an appropriate body to receive or post notifications concerning audits as described in Rule 2154.

99. Lumen opposes this change. Lumen notes that the Task Force already notifies its participants about ongoing Commission proceedings related to 9-1-1 service and that the addition of information about upcoming or ongoing audits is an incremental change and does not make the Task Force a party to the audit.

100. Charter and Comcast also oppose this change. They support the audit notification and publication requirements in both 2154(a) and (c) because they would create a central repository of audit information, promoting increased transparency and "a more efficient use of government and carrier resources". Interpreting this sentiment, they believe that if a governing body is going to audit a carrier with customers in other governing bodies' territories, they would rather be audited by all of them at once rather than one at a time.

101. The ALJ denies this change. BRETSA states that the Task Force does not have standing to intervene in a petition to fund an audit, but whether this is true or not is irrelevant. The Task Force is not receiving notifications of audits so that it may intervene; it is receiving notifications of audits so that it may serve as a repository of information regarding ongoing or upcoming audits for the benefit of participants in the Task Force.

II. ORDER

A. The Commission Orders That:

1. The Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* 723-2, attached to this Recommended Decision in legislative/strikeout format as Attachment A, and in final format attached as Attachment B, are adopted, and are available through the Commission's Electronic Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=21R-0099T

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

3. If this Recommended Decision becomes a Commission Decision, the relevant rules are adopted on the date the Recommended Decision becomes a final Commission Decision.

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

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

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

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

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

* * * *

[indicates omission of unaffected rules]

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 services, as provided in rule 2103;
 - (II) for the issuance of a LOR for services, as provided in rule 2103;
 - (III) to amend a CPCN or LOR, as provided in rule 2105;
 - (IV) to change exchange area boundaries, as provided in rule 2106;
 - (V) to discontinue the provisioning of basic emergency service, switched access service, or basic local exchange service provided by an ETC, EP, or HCSCM recipient, as provided in rule 2109;
 - (VI) to transfer or encumber a CPCN, LOR, or assets, or to merge a provider with another entity, as provided in rule 2110;
 - (VII) to amend a tariff on less than statutory notice, as provided in subparagraph 2122;
 - (VIII) for certification as a basic emergency service provider, as provided in rule 2132;
 - (IX) for approval of a change to an emergency telephone charge in excess of the threshold set by the Commission, as provided in rule 2147;
 - (X) for approval of an increase in the number of concurrent sessions associated with a 9-1-1 governing body for purposes of determining distribution percentages from the 9-1-1 surcharge trust cash fund, as provided in rule 2151;

- ~~(XI)~~ for designation as a POLR, as provided in rules 2183 and 2184;
 - (XII) for relinquishment of the designation as a POLR, ETC, or EP, as provided in rule 2186;
 - (XIII) for designation as an ETC, as provided in rule 2187;
 - ~~(XIV)~~ for approval of a disaggregation of a study area of a rural ILEC, as provided in rule 2189;
 - (XV) for reclassification of a Part II service to a Part III service, as provided in rule 2203;
 - ~~(XVI)~~ for deregulation of Part III Services, as provided in rule 2204;
 - (XVII) for approval of a refund plan, as provided in rule 2305; or
 - (XVIII) 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 attachments:
- (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, 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, 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; and
 - (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; and
- (XI) 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) 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. 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 customer class(es) will be affected and the monthly customer rate impact by customer class, if customers' rates are affected by the application;
 - (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 proceeding number, 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; and
 - (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) Filings shall be made in accordance with rule 1204.

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 2107;

- (IV) for arbitration of an interconnection agreement, as provided in rules 2562 through 2579;~~or~~
 - (V) for use of N-1-1 abbreviated dialing codes, as provided in ~~rules-paragraph 2742(e); or~~
 - (VI) for approval of funding of an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges, filed by a governing body or bodies as provided in paragraph 2152(g).-
- (b) Unless otherwise noted in specific rules, all petitions shall include, the information contained in paragraph 2002(b).
 - (c) 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 same information as required by paragraph 2002(d).
 - (d) Filings should be made in accordance with rule 1204.

* * * *

[indicates omission of unaffected rules]

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.; § 29-11-103(7)(b) and (c), 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., or for delinquent payments, penalties, and interest as described in § 29-11-103(7)(b) and (c), 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 paragraph 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. 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
Rule 2109(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	\$2000
Rule 2110, text preceding (a) only	Applications to Transfer or Encumber	\$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	\$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	\$2000
<u>Rule 2136</u>	<u>Obligations of Basic Emergency Service Providers</u>	<u>\$2000</u>
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	\$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	\$2000

Rule 2143	Diverse Routing and Priority Service Restoration	\$2000
<u>Rule 2150</u>	<u>Administration of the 9-1-1 Surcharge Trust Cash Fund</u>	<u>\$2000</u>
<u>Rule 2152</u>	<u>Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices</u>	<u>\$2000</u>
Rule 2186(a),(d), (e) and (f)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2742	Abbreviated Dialing Codes	\$2000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000
Rule 2337(a)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
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 (TBD)	Timely or Completely Filing or Making Appropriate Payments to the HCFSM Fund	\$100
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[indicates omission of unaffected rules]

Basic Emergency Service

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) define and describe basic emergency service as regulated by § 40-15-201, C.R.S.; (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 originating service providers and other BESPs; (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; (7) prescribe the process for the establishment of the annual threshold, surcharge, and prepaid wireless 9-1-1 charge amounts; (8) prescribe the processes for the collection and distribution of 9-1-1 surcharge funds; (9) establish procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of emergency telephone charges and 9-1-1 surcharges; and (10) establishing annual reporting requirements for 9-1-1 governing bodies.

The statutory authority for the promulgation of these rules is found at §§ 29-11-101.5; 29-11-102(2)(b); 29-11-102.3; 29-11-102.5(2)(c); 29-11-102.7(2); 29-11-103; 29-11-106(3); 40-2-108; 40-3-102; 40-3-103; 40-4-101(1) and (2); 40-15-201; 40-15-301; and 40-15-503(2)(g), -C.R.S.

2130. Applicability.

- (a) Except as otherwise provided, rules 2130 through 2159 apply to BESPs.
- (b) ~~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. Rules 2147, 2151, 2153, 2154, and 2156 apply to 9-1-1 governing bodies.~~
- (c) Rules 2152 and 2155 apply to originating service providers.

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 access connection" means any communications service including wireline, wireless cellular, interconnected voice-over-internet-protocol, or satellite in which connections are enabled, configured, or capable of making 9-1-1 calls. The term does not include facilities-based broadband services. The number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
- (c) "9-1-1 call" means a request for emergency assistance from the public by dialing 9-1-1 or addressing the E911 regardless of the technology used, and may include voice, text, images, and video, whether originated by wireline, wireless, satellite, or other means.
- (db) "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 selective router or functional equivalent and subsequently connects to a Public Safety Answering Point (PSAP). These may include, but are not limited to, point-to-point private line 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.
- (ee) "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.
- (fd) "9-1-1 selective router" means the telecommunications switch or functional equivalent dedicated to aggregation of 9-1-1 call traffic from public networks and proper routing of 9-1-1 call traffic to PSAPs.
- (ge) "9-1-1 service" means the service by which a 9-1-1 call is routed and transported from the end user placing a 9-1-1 call to the PSAP serving the caller's location. 9-1-1 service also includes any related caller location information routed to the PSAP, if any.
- (h) "9-1-1 surcharge" or "state 9-1-1 surcharge" means the surcharge established pursuant to § 29-11-102.3, C.R.S.
- (if) "Automatic Location Identification" (ALI) means the automatic display, on equipment at the PSAP, of the telephone number and location of the caller. ALI data includes non-listed and non-published numbers and addresses, and other information about the caller's location.
- (ig) "ALI 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.
- (kh) "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, provided to the governing body or PSAP or a specific geographic area. ALI service does not include the provision of ALI by originating service providers, PSAPs, 9-1-1 governing bodies, or local governments.

- (~~li~~) "Automatic Number Identification" (ANI) means the automatic display of the caller's telephone number at the PSAP.
- (~~jm~~) "Basic emergency service" means the aggregation and transportation of a 9-1-1 call directly to a point of interconnection with a governing body or PSAP, regardless of the technology used to provide the service. The aggregation of calls means the collection of 9-1-1 calls from one or more originating service providers or intermediary aggregation service providers for the purpose of selectively routing and transporting 9-1-1 calls directly to a point of interconnection with a governing body or PSAP. The offering or providing of ALI service or selective routing directly to a governing body or PSAP by any person is also a basic emergency service. Basic emergency service does not include:
- (I) the portion of a 9-1-1 call provided by an originating service provider;
 - (II) the services provided by an intermediary aggregation service provider;
 - (III) the delivery of a 9-1-1 call from the originating service provider or an intermediary aggregation service provider to a point of interconnection with the BESP;
 - (IV) the delivery of a 9-1-1 call from the point of interconnection between the BESP and a PSAP to the PSAP facility that receives and processes the 9-1-1 call; or
 - (V) the delivery of text-to-9-1-1 via interim methods.
- (~~kn~~) "Basic Emergency Service Provider" (BESP) means any person certificated by the Commission to provide basic emergency service.
- (o) "Concurrent session" means a channel for an inbound simultaneous 9-1-1 call.
- (~~pt~~) "Demarcation point" means the physical point where the responsibility of a portion of a network changes from one party to another.
- (~~mq~~) "Emergency notification service" (ENS) means a service in which, upon activation by a public safety agency:
- (I) the 9-1-1 database or a database which may be derived in whole or in part 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.).
 - (IV) ENS may also include the transmission of messages to individuals by other means, including text messages, e-mail, facsimile, or other mass alerting method or system.

- (~~ra~~) "Emergency telephone charge" means a charge established by a governing body pursuant to § 29-11-102(2)(a), C.R.S., or established by § 29-11-102.5(2)(a), C.R.S., to pay for the expenses authorized in § 29-11-104, C.R.S.
- (~~se~~) "Enhanced 9-1-1" (E9-1-1) means 9-1-1 service that includes the association of ANI and ALI (including non-listed and non-published numbers and addresses), and selective routing.
- (~~tp~~) "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.
- (~~uq~~) "Governing body" means the organization responsible for establishing, collecting, and disbursing the emergency telephone charge in a specific geographic area, pursuant to §§ 29-11-102, 103, and 104, C.R.S.
- (~~vf~~) "Intermediary aggregation service provider" means a person that aggregates and transports 9-1-1 calls for one or more originating service providers for delivery to a BESP selective router or the functional equivalent of such a router.
- (~~ws~~) "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.
- (~~xt~~) "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.
- (~~yt~~) "Originating service provider" (OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services supplying the ability to place 9-1-1 calls.
- (~~zv~~) "Public Safety Answering Point" (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP.
- (~~aaaw~~) "Selective routing" means the capability of routing a 9-1-1 call to a designated PSAP based upon the location of the end user, as indicated by the ten-digit telephone number of the fixed location subscriber dialing 9-1-1, the p-ANI (ESRK or ESQK), or otherwise permitted by FCC rule, regulation, or order.

* * * *

[indicates omission of unaffected rules]

2136. Obligations of Basic Emergency Service Providers.

- (a) A BESP certificated by the Commission, shall obtain facilities from or interconnect with all originating service providers telecommunications providers who have customers in areas served by the BESP. BESP's shall interconnect with all other BESP's.
- (b) At the request of an originating service provider, intermediary aggregation service provider, or other BESP, a BESP shall provide and/or arrange for the necessary facilities to interconnect, route and transport 9-1-1 calls and ALI from originating service provider, intermediary aggregation service provider, or other BESP's 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 originating service provider or intermediary aggregation service provider 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 originating service provider or intermediary aggregation service provider 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 service. These rates shall be averaged over the entire geographic areas the BESP is certificated to serve, except as otherwise provided in subparagraph 2143(a)(III).
- (d) A BESP shall render a single monthly bill for its tariff services provided to the appropriate governing body. The monthly bill shall be sufficiently detailed to allow the governing body to determine that it is being billed properly based on the billing increments as approved by the Commission.
- (e) The BESP shall coordinate with the 9-1-1 Advisory Task Force to establish a process for ensuring units used for tariff pricing are accurate and up-to-date.
- (f) BESP's shall ensure, to the extent possible and in the most efficient manner, that telecommunication services are available for transmitting 9-1-1 calls from deaf, hard of hearing, and persons with speech impairments to the appropriate PSAP.
- (g) A BESP shall ensure that all basic emergency service facilities, and interconnections between it and the originating service providers and intermediary aggregation service providers are engineered, installed, maintained and monitored in order to provide a minimum of two circuits and a minimum P.01 grade of service (one percent or less blocking during the busy hour), or such other minimum grade of service requirements approved by the Commission.
- (h) Where a BESP obtains facilities from a basic local exchange carrier for delivery of 9-1-1 calls to a PSAP, the rates for such facilities shall be reflected in a tariff or agreement filed for approval with the Commission. Such tariffs or agreements shall ensure that such facilities 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. The basic local exchange carrier providing such facilities shall not be considered a BESP. The provisions of this rule shall not apply to routing arrangements implemented pursuant to paragraph 2143(d).

- (i) To expedite the restoration of service following a 9-1-1 outage, each BESP shall designate a telephone number for PSAPs and originating service 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.
- (j) A BESP shall keep on file with the Commission its contingency plan as described in paragraph 2143(d).
- (k) BESP's shall identify service providers supplying service within a governing body or PSAP's service area, or statewide, to the extent that the BESP possesses such information, in response to a request from a governing body, PSAP, or the Commission.
- (l) A BESP shall report to the Commission a list of every PSAP serviced by the BESP with the number of concurrent sessions provided to each PSAP. This report shall be updated and filed annually with the Commission by June 1 of each year.

2137. [Reserved].

2138. Obligations of Payphone Providers.

All payphone providers must ensure that access to dial tone, emergency calls, and telecommunications relay service calls for the deaf, hard of hearing, and individuals with speech impairments is available from all payphones at no charge to the caller, pursuant to 47 C.F.R. 64.1330(b).

2139. – 2140. [Reserved].

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

(a) The Commission maintains an online portal by which members of the public or other interested parties may report violations of federal law or regulation regarding the 9-1-1 capabilities of multi-line telephone systems in Colorado. This includes but is not limited to reports of violations of 47 U.S.C. § 623.

~~(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) ~~The Commission shall relay all complaints received via this portal to the appropriate federal enforcement agency or agencies in a timely manner. 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 9-1-1 service 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 9-1-1 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 9-1-1 service 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 9-1-1 telecommunicator 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 9-1-1 your phone number and exact location. This telephone does not automatically give 9-1-1 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 9-1-1 service is not required.~~

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[indicates omission of unaffected rules]

2147. Applications by the Governing Body for Approval of an Emergency Telephone Charge in Excess of the Threshold Established by the Commission.

- (a) A governing body requesting approval pursuant to § 29-11-102(2)(bc), C.R.S., for an emergency telephone charge in excess of the limit established by ~~§ 29-11-102(2), C.R.S.,~~the Commission through the procedure described in rule 2148, shall file an application with this Commission pursuant to ~~4 CCR 723-2-2002, paragraphs (a) through (c) and (e).~~ The Commission may provide a form for this purpose, consistent with these rules.
- (b) ~~All a~~Applications shall include an attestation that the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S. within the last 18 months, that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with ~~§ 29-11-104(5), C.R.S.~~be processed in accordance with the Commission's Rules Regulating Practice and Procedure and with rule 1204. The Commission may provide a form for this purpose, consistent with these rules. Applications must contain the following information:
- (I) the name and address of the applicant;
 - (II) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (III) the name, address, telephone 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 (II);
 - (IV) a statement indicating the town, city, or virtual forum and any alternate town, city, or virtual forum where the applicant prefers any hearings be held;
 - (V) a statement that the applicant agrees to respond to all questions propounded by the Commission or Commission staff concerning the application;
 - (VI) a statement that the applicant shall permit the Commission or Commission staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VII) 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;
 - (VIII) acknowledgment that, by signing the application, the applying governing body 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 governing body shall not commence the requested action until the applying governing body complies with applicable Commission rules and with any conditions established by Commission order granting the application; and

- (C) if a hearing is held, the applying governing body shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and
 - (D) in lieu of the statements contained in subparagraphs (b)(VIII)(A) through (C) of this rule, an applying governing body may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(VIII)(A) through (C) of this rule.
 - (IX) an attestation which is made under penalty of perjury; which is signed by an officer, employee, agent, or an attorney for the applying governing body, as appropriate, who is authorized to act on behalf of the applying governing body; and which states that the contents of the application are true, accurate, and correct; and which attests that within the last 18 months the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S., that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with 29-11-104(5), C.R.S.;
 - (X) a report showing actual revenues and expenses for at least three previous years;
 - (XI) a five-year projected budget for the governing body with the proposed emergency telephone charge, including proposed capital expenses;
 - (XII) documentation of all budgetary line items in excess of \$50000;
 - (XIII) any current intergovernmental agreement or equivalent document authorizing the governing body to collect and use emergency telephone charge funds;
 - (XIV) a resolution or equivalent decision by the governing body authorizing its agent to pursue approval for the requested emergency telephone charge;
 - (XV) a copy of the most recent audit performed of the governing body's finances, or the online address where a copy of such an audit may be found, or a statement that the governing body is exempt from audit requirements;
 - (XVI) a draft public notice and a statement regarding where the governing body proposes to publish the notice; and
 - (XVII) any additional supporting or explanatory documentation which may assist in the evaluation of the application.
- ~~(c) Documentation to be included in the application shall be supporting attachments of budget information, cost information and such other information the Commission may rely upon for justification of the proposed increase in emergency telephone charge. The attached information should include present and proposed emergency telephone charge remittance estimates, all other revenue sources and amounts, and any other information that may be used to justify the proposed increase in the emergency telephone charge.~~

(ce) Notice. Notwithstanding paragraph 2002(d), this rule shall establish the notice procedure for governing bodies applying for approval of an emergency telephone charge in excess of the amount established pursuant to § 29-11-102(2), C.R.S. Within three days after the Commission issues notice of the application, the applicant shall publish a notice of the application in at least one newspaper of general circulation in the area of applicability in at least one edition. The notice shall also be made available for a period of no less than two weeks on the governing body's website, if one exists. The notice shall include:

- (I) the name, address and telephone number of the requesting governing body and the Colorado Public Utilities Commission;
- (II) a statement that the governing body has filed with the Colorado Public Utilities Commission an application to change its currently effective emergency telephone charge, and identify both the current and proposed emergency telephone charge;
- (III) the proceeding number and the deadline for interventions or objections;
- (IV) the proposed effective date of the new charge;
- (V) a statement of the purpose of the application, including an explanation of the proposed changes;
- (VI) a statement that the application is available for inspection at the office of the governing body utility and at the Colorado Public Utilities Commission; and
- (VII) 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.

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

(a) On or before August 1 of each year, the Commission shall initiate a proceeding to be concluded on or before October 1 to establish the emergency telephone charge threshold, a statewide 9-1-1 surcharge, a wireless prepaid 9-1-1 charge, a distribution schedule for the funds raised by the state 9-1-1 surcharge, and a distribution schedule for the funds raised by the wireless prepaid 9-1-1 charge for the following calendar year.

(I) The emergency telephone charge threshold:

(A) shall take into account inflation through the consideration of historical data and future projections; and

(B) shall take into account the needs of governing bodies through the consideration of historical data, inflation rates, the rate of increase of the average emergency telephone charge, comments provided under this rule, and other factors the Commission deems relevant.

(II) The 9-1-1 surcharge:

(A) shall not exceed fifty cents per month per 9-1-1 access connection;

(B) shall be calculated to meet the needs of governing bodies to operate the 9-1-1 system by considering historical data, costs to the 9-1-1 governing body of basic emergency service tariffs, comments provided under this rule, and other factors the Commission deems relevant; and

(C) shall be uniform, regardless of the technology used to provide the 9-1-1 access connection.

(III) The wireless prepaid 9-1-1 charge shall be calculated by determining the average of all local emergency telephone charges as they existed on July 1 of that year plus the amount of the statewide 9-1-1 surcharge established by the Commission for the upcoming year.

(IV) The distribution schedule for the funds raised by the state 9-1-1 surcharge shall be based on the number of concurrent sessions at all of the PSAPs associated with a governing body as a percentage of the total number of concurrent sessions statewide.

(V) The distribution schedule for the funds raised by wireless prepaid 9-1-1 charge shall be based on the wireless 9-1-1 call volume at all of the PSAPs associated with a governing body as a percentage of the total number of wireless 9-1-1 calls received by all PSAPs statewide.

(b) The decision initiating this proceeding shall be accompanied by proposed amounts and distribution schedules as described in (a) (I) through (V) for comment.

(c) The wireless prepaid 9-1-1 charge rate and wireless prepaid 9-1-1 distribution schedule shall be transmitted to the Colorado Department of Revenue on or before October 1.

(d) The new rates and distribution schedules established by this proceeding shall take effect on the following January 1.

2149. Annual Data Collection from 9-1-1 Governing Bodies.

(a) No more than once per year, the Commission may issue a request for data to all 9-1-1 governing bodies. This data request shall include:

(I) an accurate and current description or GIS data set representing the boundaries of the 9-1-1 governing body's jurisdiction; and

- (II) other information necessary for the completion of annual data requests from the Federal Communications Commission, the National 9-1-1 Program, or other federal bodies, including but not limited to:
- (A) the current emergency telephone charge rate set by the 9-1-1 governing body;
 - (B) the number of employees at all of the governing body's associated PSAPs, and how many are funded with either emergency telephone charge revenue, state 9-1-1 surcharge revenue, or wireless prepaid 9-1-1 charge revenue;
 - (C) the total cost of providing emergency telephone service at all of the governing body's PSAPs;
 - (D) the total annual revenues received from emergency telephone charge remittances, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, broken down by source;
 - (E) a statement indicating whether any 9-1-1 funds, including emergency telephone charge funds, state 9-1-1 surcharge funds, or wireless prepaid 9-1-1 charge funds, were used for purposes other than those allowed pursuant to § 29-11-104, C.R.S.;
 - (F) that amount of funding the governing body has spent in preparation for the implementation of next generation 9-1-1;
 - (G) that amount of funding the governing body has spent on cybersecurity programs at its PSAPs;
 - (H) that sources, beyond emergency telephone charge remittance, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, are used to fund the equipment and operations of the governing body's associated PSAPs, and an estimate of what percentage each source represents as a total of the cost of operating and equipping the PSAP;
 - (I) the number of call taker equipment positions at each of the PSAPs associated with the 9-1-1 governing body; and
 - (J) total number of text-to-911 calls received by all PSAPs associated with the 9-1-1 governing body.

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

- (a) This rule does not apply to 9-1-1 access connections provided via prepaid wireless telecommunications services or emergency telephone charges remitted to governing bodies pursuant to § 29-11-102, C.R.S. The 9-1-1 surcharge is a statewide surcharge applied to all 9-1-1 access connections in the state of Colorado, and is separate from local emergency telephone charges that originating service providers are required to collect and remit pursuant to 29-11-102 C.R.S., the wireless prepaid 9-1-1 charge imposed upon retail transactions of prepaid wireless service pursuant to 29-11-102.5 C.R.S. and 1 CCR 201-5, Special Rule 43, the Colorado

telecommunications relay service charge imposed pursuant to 40-17-101 C.R.S., et seq., and 4 CCR 723-2-2827(b), and the prepaid wireless TRS charge imposed pursuant to 29-11-102.7, C.R.S., and 201-5, Special Rule 43.

- (b) The Commission shall determine, and by appropriate order, impose a uniform 9-1-1 surcharge on each 9-1-1 access connection per month. The surcharge amount will be available on the Commission's web site at least 60 days prior to its effective date.
- (c) All originating service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 surcharge registration form. This form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Originating service providers shall provide an updated form within 15 days of any change of the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.
- (d) 9-1-1 surcharge.
- (I) Effective January 1, 2021, all originating service providers shall collect and remit the 9-1-1 surcharge assessed upon each service user whose primary service address, if known, or billing address, if service address is unknown, is within the State of Colorado. The surcharge shall be assessed on each 9-1-1 access connection provided to that service user. Such charges shall be collected monthly and remitted as directed by the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (e).
- (II) With respect to multi line telephone systems, the number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
- (III) If the originating service provider lists fees separately on its billing to the customer, the 9-1-1 surcharge shall be listed separately as the "Colorado 911 Surcharge." The listing for this charge and the local emergency telephone charge authorized by § 29-11-102, C.R.S. may not be combined on the bill presented to the customer.
- (IV) The 9-1-1 surcharge is the liability of the service user and not of the originating service provider, except that the originating service provider is liable to remit all 9-1-1 surcharges that the originating service provider collects from service users. An originating service provider is liable only for the 9-1-1 surcharge collected until it is remitted to the Commission. The amount remitted by the originating service provider must reflect the state 9-1-1 surcharges actually collected on the number of 9-1-1 access connections provided in Colorado by the originating service provider.
- (V) Each originating service provider may retain from the total 9-1-1 surcharges collected and timely remitted, a vendor fee in the amount of one percent of the total monthly charges collected by such provider.
- (VI) Each originating service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following

month. If the last day of the month is a legal holiday, then the remittance shall be due the next business day.

(VII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.

(e) Combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.

(I) Each remittance shall be accompanied by a completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.

(A) The combined Colorado telecommunications relay service and 9-1-1 surcharge remittance 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.

(B) Regardless of the method of payment, the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.

(C) Originating service providers shall submit all surcharge remittances to the custodial receiver directly.

(D) If payments are made by physical check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.

(f) All remittances of 9-1-1 surcharges received by the Commission pursuant to this section shall be deposited in the 9-1-1 surcharge trust cash fund established pursuant to § 29-11-102.3(3)(I), C.R.S.

2151. Use and Distribution of 9-1-1 Surcharge Trust Cash Fund

(a) The Commission may withdraw from the 9-1-1 surcharge trust cash fund an amount up to four percent of the total amount of the fund necessary for direct and indirect costs of administering the collection and remittance of the 9-1-1 surcharge, including costs related to conducting audits of service suppliers. Any funds withdrawn by the Commission for this purpose must be returned to the 9-1-1 trust cash fund if the Commission determines that the funds are not necessary to pay administrative costs.

(b) Information from the BESP listing each governing body and the number of concurrent sessions being purchased by each shall be considered regarding the distribution percentages for the remaining funds in the 9-1-1 surcharge trust cash fund, as described in rule 2148. Reductions in

the number of concurrent sessions being purchased by each governing body shall be reflected in the calculation. Increases in the number of concurrent sessions shall only be reflected in the calculation following an application process as described in paragraph (e).

(c) On a monthly basis, the Commission shall distribute to each governing body the total funds received into the 9-1-1 surcharge trust cash fund, less the administrative retention fee authorized in paragraph (a), in percentages as determined by the method described in subparagraph 2148 (a) (IV). These distributions shall be made via ACH bank transfer to each governing body.

(d) For the purposes of subparagraph 2148 (a)(IV), the number of concurrent sessions at each governing body, may only be adjusted annually at the time that the Commission establishes the formula for distribution for the following calendar year.

(e) A 9-1-1 governing body may file an application to adjust its number of concurrent sessions for the purposes of the distribution of funds under this section no more than once per year.

(I) Applications for adjustment of the number of concurrent sessions must be approved by the Commission by August 1 in order to be considered in the distribution formula to be set on October 1. Applications approved after August 1 will be considered for the next distribution to be established in the following year.

(II) Applications for this purpose shall be filed with this Commission and processed in accordance with the Commission's Rules of Practice and Procedure and with rules 1204 and 2002. The Commission may provide a form for this purpose, consistent with these rules. In addition to the information required by paragraph (b) of rule 2002, applications must contain the following information:

(A) the current number of concurrent sessions at each of the PSAP(s) associated with the governing body;

(B) the total volume of calls delivered to the PSAP(s) associated with the governing body via the existing concurrent sessions over the previous 12 months of operation;

(C) peak volume statistics relevant to the governing body's request to change its number of concurrent sessions; and

(D) any other information that the governing body deems relevant to its request to change its number of concurrent sessions.

(III) No public notice shall be required in conjunction with this application.

2152. Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices

(a) Either the Commission or one or more governing bodies may conduct an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges. Audits of originating service provider's books regarding the collection and remittance of state 9-1-1 surcharges may only be initiated by the Commission.

- (I) Unless otherwise approved for Commission funding of the audit, as described in rule 2153, the governing body or bodies initiating the audit shall pay all expenses related to the audit.
 - (II) All expenses related to audits initiated by the Commission shall be paid for by the Commission from the administrative retention fund authorized by § 29-11-102.3(3)(c)(II), C.R.S.
 - (III) Originating service providers shall make relevant records available to auditors at no charge.
 - (IV) Governing bodies conducting audits pursuant to this section must have an audit and appeals procedure in place, adopted by ordinance or resolution, as appropriate.
 - (V) Audits initiated by the Commission shall be limited to the collection and remittance of emergency telephone charges and state 9-1-1 surcharges.
 - (VI) Audits initiated by governing bodies shall be limited to the collection and remittance of emergency telephone.
 - (VII) Any delinquent remittance of state 9-1-1 surcharges received by the Commission, including penalties and interest, shall be deposited into the 9-1-1 surcharge trust cash fund and distributed as prescribed in rule 2151.
- (b) All originating service providers must collect and remit properly established emergency telephone charges.
- (I) A properly established emergency telephone charge is one that is set at a rate that is no greater than the threshold established pursuant to rule 2148 or approved by the Commission in response to an application, as described in rule 2147.
 - (A) Changes to a local emergency telephone charge must have an effective date of either February 1 or June 1.
 - (B) Governing bodies must notify carriers of any change to the emergency telephone charge at least 60 days in advance of the effective date of the change.
 - (II) Originating service providers shall not bill or collect emergency telephone charges from 9-1-1 access connections purchased by state or local government entities.
 - (III) Originating service providers must remit emergency telephone charges to the appropriate 9-1-1 governing bodies no later than the last day of the month following the month in which the charges were collected. Each governing body may establish payment procedures and schedules that vary from these rules, in which case the originating service provider must follow those procedures and schedules.
 - (IV) Originating service providers must include with their remittance to the appropriate governing bodies a report in such form as required by each governing body.

- (V) Originating service providers may retain no more than two percent of each emergency telephone charge collected.
- (VI) Emergency telephone charge remittances must be based on the actual number of 9-1-1 access connections within the governing body's jurisdiction.
- (VII) Failure to bill a customer for a properly established emergency telephone charge does not relieve the originating service provider from the obligation to remit the surcharge. An originating service provider is only responsible for remittance of emergency telephone charges successfully collected from a customer.
- (c) Originating service providers shall bill, collect, and remit the state 9-1-1 surcharge in accordance with rule 2150.
- (d) Originating service providers must list separately the emergency telephone charge and state 9-1-1 surcharge on the customer's bill if fees and charges are listed on the customer's bill.
- (e) Originating service providers shall provide governing bodies billing examples from a reasonable number of randomly selected addresses for verification of collection and remittance, and these billing examples shall be provided at no charge without disclosing any customer-identifying information.
- (f) Originating service providers shall maintain a record of the amount of each emergency telephone charge and state 9-1-1 surcharge collected and remitted by service user address for three years after the time that it was remitted.
- (g) If an originating service provider fails to file a report and remit emergency telephone charges in a timely manner, the governing body or the Commission may assess the originating service provider for the delinquent remittance in the following manner.

 - (I) The governing body or the Commission shall estimate delinquent remittance based on available information.
 - (II) The governing body or the Commission shall issue notice of assessment to the originating service provider within three years of the original due date of the remittance, unless the three-year period is extended, in writing, in accordance with this rule.
 - (III) Before the expiration of the three-year period, the governing body or the Commission, and the originating service provider may extend the period for assessment by agreement, in writing. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The governing body and originating service provider shall provide the Commission the written notice of extension prior to the expiration of the initial three-year period or any prior extension. Any party seeking extension from the Commission shall do so by filing a petition.
 - (IV) The governing body or the Commission shall impose an additional 15 percent penalty in addition to the estimated amount of the delinquent remittance.

- (V) The governing body or the Commission shall assess an additional one percent interest monthly, assessed against the original principal owed, from the original due date until the delinquent remittance has been paid by the originating service provider.
- (VI) If the assessment was properly noticed within three years of the original due date of the remittance, or prior to the expiration of the period of time agreed to by the Commission and originating service provider in writing, the governing body or the Commission may file a lien, issue a distraint warrant, institute a suit for collection, or take other action to collect the amount up to one year after the expiration of said time period.
- (h) As an alternative to initiating an audit, a governing body or bodies may request that the Commission engage in informal mediation with the originating service provider, as described in rule 1301. Such requests shall be directed to the Commission's 9-1-1 program manager or other staff member designated for this purpose.

2153. Governing Body Funding Petition Requirements.

- (a) The governing body or bodies initiating an audit may petition the Commission for funding of the audit from the administrative fund authorized by § 29-11-102.3(3)(c)(II), C.R.S. Such petitions shall be submitted in accordance with rule 2003 and this rule and shall provide for a 14 days notice upon the Commission's acceptance of the petition, unless the petitioner requests a different notice and intervention period.
- (b) The governing body or bodies must submit petitions for funding of audits and receive Commission approval for the funding requested no less than 60 days prior to the audit being conducted.
- (c) Petitions for funding shall include, at a minimum:
- (I) the scope of audit review anticipated;
 - (II) the amount of funding sought to conduct the audit;
 - (III) supporting information for the auditor selected, including credentials and selection criteria; and
 - (IV) any alleged discrepancies or concerns that instigated the audit.
- (d) The governing body or bodies submitting the petition must provide the petition to the 9-1-1 Advisory Task Force created by rule 2145.
- (e) Upon acceptance of the petition and consideration of intervention filings, the Commission may narrow or expand the scope of the audit and provide a funding cap for reimbursement if necessary.
- (f) Any governing body that commences an audit during the pendency of a funding petition for that audit under consideration by the Commission proceeds at its own risk and may not be reimbursed fully, if at all, depending on the outcome of the petition.

2154. Audit Notification Requirements

- (a) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any audits initiated pursuant to these rules no later than 15 days from the initiation of the audit.
- (b) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any extension agreed to in writing.
- (c) The 9-1-1 Advisory Task Force shall publish the following:
 - (I) identification of audits conducted by staff of the Commission or a governing body, including whether the audit is ongoing, complete, and the outcome;
 - (II) identification of any Commission proceedings regarding notices of assessment or civil penalty assessments; and
 - (III) identification of individual entities subject to audit and the timeline of any audit periods, including whether extensions have been agreed to in writing either directly with a governing body, or as granted by the Commission.

2155. Disputes Regarding the Emergency Telephone Charge and 9-1-1 Surcharge.

- (a) Notice of Assessment
 - (I) The director of the Commission, or his or her designee shall have the authority to issue a notice of assessment under this rule and for delinquent remittance or other violations as provided in § 29-7-103, C.R.S., alone or in combination with civil penalties as provided in rule 2010 and paragraph (b) of this rule. Additional penalties for other violations of this rule or rule 2150 may incur additional penalties as outlined in rule 2011.
 - (II) The notice of assessment shall include all penalty and interest calculations.
 - (III) The originating service provider cited in the notice of assessment may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. Any notice of assessment not admitted within the 30-day period shall be immediately referred to an Administrative Law Judge for hearing. At any hearing contesting an alleged assessment, the designee of the director of the Commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.
 - (IV) Unless a proceeding has commenced through a notice of assessment or show cause proceeding as discussed in this rule, an originating service provider may seek revisions to any final audit report directly with the director of the commission or his or her designee by providing information warranting the correction in writing. If the director or his or her designee reject the requested revision, the operating service provider may file a petition under rule 2003. The petition shall include, at a minimum, the audit report in question, the requested revisions, and supporting information regarding the requested change.

The designee of the director of the commission shall be a necessary party to any such petition.

(b) Civil penalties for delinquent or miscalculated payments.

- (I) No civil penalty assessment notice shall be issued in addition to a notice of assessment for the first instance of delinquent or miscalculated payments in any 12-month period if there are no other violations alleged.
- (II) In the event the originating service provider is issued more than one assessment notices in any 12-month period, the director of the commission, or his or her designee may request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the second notice of assessment in the 12-month period.
- (III) In the event the originating service provider is issued three or more assessment notices in any 24-month period, the director of the commission, or his or her designee shall request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the notice of assessment in the 24-month period.
- (IV) The request that the Commission issue a decision to show cause provided with any notice of assessment shall include all penalty and interest calculations, and information relied on, along with separate statements for each alleged violation, if any, and the maximum penalty amount provided. If civil penalties are included in the assessment, information included shall also comply with rule 2010.
- (V) The originating service provider cited in the notice of assessment, and any accompanying request for the Commission to issue a decision to show cause, may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. At any hearing contesting an alleged assessment, the designee of the director of the commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.

21562. – 2159. [Reserved].

* * * *

[Indicates omission of unaffected rules]

2827. Administration of the Colorado Telephone Users with Disabilities Fund.

- (a) Fund administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each commercial and residential access line in a uniform amount. In order to adjust the uniform charge, the Commission requires certain information.
 - (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) The monthly uniform charge, per telephone access line, as determined by the Commission, shall not exceed 15 cents.
 - (III) All voice service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 registration form. AThis form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Voice service providers shall provide an updated form within 15 days of any change in the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.
- (b) Uniform charge.
- (I) All voice service providers shall collect and remit the TRS charge assessed on each telephone access line for which the primary service address, if known, or billing address, if service address is unknown, is within the state of Colorado. Such charges shall be billed monthly and remitted as directed to the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (c).
 - (II) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed monthly to each access line provided by each voice service provider. Each multiline voice communication service that is capable of simultaneous outbound calling shall constitute a separate telephone access line; however, the number of telephone access lines for which a customer may be assessed a monthly charge cannot exceed the number of outbound voice calls that the voice service provider has enabled and activated to be made simultaneously.
 - (III) A seller of prepaid wireless service shall collect a prepaid wireless TRS charge from a consumer, pursuant to § 29-11-102.7, C.R.S. and remit the charge to the Department of Revenue. The Department of Revenue shall transmit the money collected to the State Treasurer for deposit into the Colorado Telephone Users with Disabilities Fund, created in § 40-17-104(1), C.R.S.
 - (IV) The TRS charge shall not be assessed or collected on any federally supported Lifeline service or customer. Each provider exempt from collecting the uniform charge on a Lifeline customer shall maintain complete documentation and shall make such documentation available to the Commission upon request.
 - (V) The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each voice service provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Surcharge."
 - (VI) Each voice service 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 voice service providers for administrative costs in imposing and collecting the uniform charge.~~

- (VII) ~~Prior Effective to January 1, 2017~~2021, each voice service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following month ~~and as directed by the Commission, the amount the provider collected for the previous month, less the applicable vendor fee.~~ If the last day of the month is a legal holiday, then the remittance shall be due the next business day.
- (VIII) ~~Beginning January 1, 2017, each voice service provider shall remit no later than 30 days after the end of each quarter and as directed by the Commission, the amount collected for the three months in the prior quarter, less the applicable vendor fee.~~ Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (c) Combined Colorado ~~T~~telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance form.
- (I) Each remittance shall be accompanied by a completed Colorado ~~t~~Telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.
- (A) The combined Colorado ~~t~~Telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance 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.
- (B) Regardless of the method of payment, ~~T~~the combined Colorado ~~t~~Telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.
- (C) Voice service providers shall submit all surcharge remittances along with the Relay Service Surcharge form to the TRS custodial receiver directly. ~~The Colorado Relay Service Surcharge form shall also be filed with the Commission through the E-Filings System.~~
- (D) If payments are made by check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

* * * *

[indicates omission of unaffected rules]

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 services, as provided in rule 2103;
 - (II) for the issuance of a LOR for services, as provided in rule 2103;
 - (III) to amend a CPCN or LOR, as provided in rule 2105;
 - (IV) to change exchange area boundaries, as provided in rule 2106;
 - (V) to discontinue the provisioning of basic emergency service, switched access service, or basic local exchange service provided by an ETC, EP, or HCSM recipient, as provided in rule 2109;
 - (VI) to transfer or encumber a CPCN, LOR, or assets, or to merge a provider with another entity, as provided in rule 2110;
 - (VII) to amend a tariff on less than statutory notice, as provided in subparagraph 2122;
 - (VIII) for certification as a basic emergency service provider, as provided in rule 2132;
 - (IX) for approval of a change to an emergency telephone charge in excess of the threshold set by the Commission, as provided in rule 2147;
 - (X) for approval of an increase in the number of concurrent sessions associated with a 9-1-1 governing body for purposes of determining distribution percentages from the 9-1-1 surcharge trust cash fund, as provided in rule 2151;

- (XI) for designation as a POLR, as provided in rules 2183 and 2184;
 - (XII) for relinquishment of the designation as a POLR, ETC, or EP, as provided in rule 2186;
 - (XIII) for designation as an ETC, as provided in rule 2187;
 - (XIV) for approval of a disaggregation of a study area of a rural ILEC, as provided in rule 2189;
 - (XV) for reclassification of a Part II service to a Part III service, as provided in rule 2203;
 - (XVI) for deregulation of Part III Services, as provided in rule 2204;
 - (XVII) for approval of a refund plan, as provided in rule 2305; or
 - (XVIII) 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 attachments:
- (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, 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, 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; and
 - (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; and
- (XI) 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) 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. 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 customer class(es) will be affected and the monthly customer rate impact by customer class, if customers' rates are affected by the application;
 - (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 proceeding number, 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; and
 - (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) Filings shall be made in accordance with rule 1204.

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 2107;

- (IV) for arbitration of an interconnection agreement, as provided in rules 2562 through 2579;
 - (V) for use of N-1-1 abbreviated dialing codes, as provided in paragraph 2742(e); or
 - (VI) for approval of funding of an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges, filed by a governing body or bodies as provided in paragraph 2152(g).
- (b) Unless otherwise noted in specific rules, all petitions shall include, the information contained in paragraph 2002(b).
 - (c) 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 same information as required by paragraph 2002(d).
 - (d) Filings should be made in accordance with rule 1204.

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[indicates omission of unaffected rules]

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.; § 29-11-103(7)(b) and (c), 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., or for delinquent payments, penalties, and interest as described in § 29-11-103(7)(b) and (c), 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 paragraph 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. 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
Rule 2109(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	\$2000
Rule 2110, text preceding (a) only	Applications to Transfer or Encumber	\$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	\$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	\$2000
Rule 2136	Obligations of Basic Emergency Service Providers	\$2000
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	\$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	\$2000

Rule 2143	Diverse Routing and Priority Service Restoration	\$2000
Rule 2150	Administration of the 9-1-1 Surcharge Trust Cash Fund	\$2000
Rule 2152	Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices	\$2000
Rule 2186(a),(d), (e) and (f)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2742	Abbreviated Dialing Codes	\$2000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000
Rule 2337(a)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
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 (TBD)	Timely or Completely Filing or Making Appropriate Payments to the HCSCM Fund	\$100
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[indicates omission of unaffected rules]

Basic Emergency Service

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) define and describe basic emergency service as regulated by § 40-15-201, C.R.S.; (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 originating service providers and other BESPs; (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; (6) explicitly recognize the potential for multiple BESPs in Colorado; (7) prescribe the process for the establishment of the annual threshold, surcharge, and prepaid wireless 9-1-1 charge amounts; (8) prescribe the processes for the collection and distribution of 9-1-1 surcharge funds; (9) establish procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of emergency telephone charges and 9-1-1 surcharges; and (10) establishing annual reporting requirements for 9-1-1 governing bodies.

The statutory authority for the promulgation of these rules is found at §§ 29-11-101.5; 29-11-102; 29-11-102.3; 29-11-102.5(2)(c); 29-11-102.7(2); 29-11-103; 29-11-106(3); 40-2-108; 40-3-102; 40-3-103; 40-4-101(1) and (2); 40-15-201; 40-15-301; and 40-15-503(2)(g), C.R.S.

2130. Applicability.

- (a) Except as otherwise provided, rules 2130 through 2159 apply to BESPs.
- (b) Rules 2147, 2151, 2153, 2154, and 2156 apply to 9-1-1 governing bodies.
- (c) Rules 2152 and 2155 apply to originating service providers.

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 access connection" means any communications service including wireline, wireless cellular, interconnected voice-over-internet-protocol, or satellite in which connections are enabled, configured, or capable of making 9-1-1 calls. The term does not include facilities-based

broadband services. The number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.

- (c) "9-1-1 call" means a request for emergency assistance from the public by dialing 9-1-1 or addressing the ESInet regardless of the technology used, and may include voice, text, images, and video, whether originated by wireline, wireless, satellite, or other means.
- (d) "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 selective router or functional equivalent and subsequently connects to a Public Safety Answering Point (PSAP). These may include, but are not limited to, point-to-point private line facilities owned, leased or otherwise acquired by a BESEP. 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.
- (e) "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.
- (f) "9-1-1 selective router" means the telecommunications switch or functional equivalent dedicated to aggregation of 9-1-1 call traffic from public networks and proper routing of 9-1-1 call traffic to PSAPs.
- (g) "9-1-1 service" means the service by which a 9-1-1 call is routed and transported from the end user placing a 9-1-1 call to the PSAP serving the caller's location. 9-1-1 service also includes any related caller location information routed to the PSAP, if any.
- (h) "9-1-1 surcharge" or "state 9-1-1 surcharge" means the surcharge established pursuant to § 29-11-102.3, C.R.S.
- (i) "Automatic Location Identification" (ALI) means the automatic display, on equipment at the PSAP, of the telephone number and location of the caller. ALI data includes non-listed and non-published numbers and addresses, and other information about the caller's location.
- (j) "ALI 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.
- (k) "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, provided to the governing body or PSAP or a specific geographic area. ALI service does not include the provision of ALI by originating service providers, PSAPs, 9-1-1 governing bodies, or local governments.
- (l) "Automatic Number Identification" (ANI) means the automatic display of the caller's telephone number at the PSAP.

- (m) "Basic emergency service" means the aggregation and transportation of a 9-1-1 call directly to a point of interconnection with a governing body or PSAP, regardless of the technology used to provide the service. The aggregation of calls means the collection of 9-1-1 calls from one or more originating service providers or intermediary aggregation service providers for the purpose of selectively routing and transporting 9-1-1 calls directly to a point of interconnection with a governing body or PSAP. The offering or providing of ALI service or selective routing directly to a governing body or PSAP by any person is also a basic emergency service. Basic emergency service does not include:
- (I) the portion of a 9-1-1 call provided by an originating service provider;
 - (II) the services provided by an intermediary aggregation service provider;
 - (III) the delivery of a 9-1-1 call from the originating service provider or an intermediary aggregation service provider to a point of interconnection with the BESP;
 - (IV) the delivery of a 9-1-1 call from the point of interconnection between the BESP and a PSAP to the PSAP facility that receives and processes the 9-1-1 call; or
 - (V) the delivery of text-to-9-1-1 via interim methods.
- (n) "Basic Emergency Service Provider" (BESP) means any person certificated by the Commission to provide basic emergency service.
- (o) "Concurrent session" means a channel for an inbound simultaneous 9-1-1 call.
- (p) "Demarcation point" means the physical point where the responsibility of a portion of a network changes from one party to another.
- (q) "Emergency notification service" (ENS) means a service in which, upon activation by a public safety agency:
- (I) the 9-1-1 database or a database which may be derived in whole or in part 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.).
 - (IV) ENS may also include the transmission of messages to individuals by other means, including text messages, e-mail, facsimile, or other mass alerting method or system.
- (r) "Emergency telephone charge" means a charge established by a governing body pursuant to § 29-11-102(2)(a), C.R.S., or established by § 29-11-102.5(2)(a), C.R.S., to pay for the expenses authorized in § 29-11-104, C.R.S.

- (s) "Enhanced 9-1-1" (E9-1-1) means 9-1-1 service that includes the association of ANI and ALI (including non-listed and non-published numbers and addresses), and selective routing.
- (t) "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.
- (u) "Governing body" means the organization responsible for establishing, collecting, and disbursing the emergency telephone charge in a specific geographic area, pursuant to §§ 29-11-102, 103, and 104, C.R.S.
- (v) "Intermediary aggregation service provider" means a person that aggregates and transports 9-1-1 calls for one or more originating service providers for delivery to a BESP selective router or the functional equivalent of such a router.
- (w) "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.
- (x) "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.
- (y) "Originating service provider" (OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services supplying the ability to place 9-1-1 calls.
- (z) "Public Safety Answering Point" (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP.
- (aa) "Selective routing" means the capability of routing a 9-1-1 call to a designated PSAP based upon the location of the end user, as indicated by the ten-digit telephone number of the fixed location subscriber dialing 9-1-1, the p-ANI (ESRK or ESQK), or otherwise permitted by FCC rule, regulation, or order.

* * * *

[indicates omission of unaffected rules]

2136. Obligations of Basic Emergency Service Providers.

- (a) A BESP certificated by the Commission, shall obtain facilities from or interconnect with all originating service providers telecommunications providers who have customers in areas served by the BESP. BESP's shall interconnect with all other BESP's.
- (b) At the request of an originating service provider, intermediary aggregation service provider, or other BESP, a BESP shall provide and/or arrange for the necessary facilities to interconnect, route and transport 9-1-1 calls and ALI from originating service provider, intermediary aggregation service provider, or other BESP's 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 originating service provider or intermediary aggregation service provider 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 originating service provider or intermediary aggregation service provider 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 service. These rates shall be averaged over the entire geographic areas the BESP is certificated to serve, except as otherwise provided in subparagraph 2143(a)(III).
- (d) A BESP shall render a single monthly bill for its tariff services provided to the appropriate governing body. The monthly bill shall be sufficiently detailed to allow the governing body to determine that it is being billed properly based on the billing increments as approved by the Commission.
- (e) The BESP shall coordinate with the 9-1-1 Advisory Task Force to establish a process for ensuring units used for tariff pricing are accurate and up-to-date.
- (f) BESP's shall ensure, to the extent possible and in the most efficient manner, that telecommunication services are available for transmitting 9-1-1 calls from deaf, hard of hearing, and persons with speech impairments to the appropriate PSAP.
- (g) A BESP shall ensure that all basic emergency service facilities, and interconnections between it and the originating service providers and intermediary aggregation service providers are engineered, installed, maintained and monitored in order to provide a minimum of two circuits and a minimum P.01 grade of service (one percent or less blocking during the busy hour), or such other minimum grade of service requirements approved by the Commission.
- (h) Where a BESP obtains facilities from a basic local exchange carrier for delivery of 9-1-1 calls to a PSAP, the rates for such facilities shall be reflected in a tariff or agreement filed for approval with the Commission. Such tariffs or agreements shall ensure that such facilities 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. The basic local exchange carrier providing such facilities shall not be considered a BESP. The provisions of this rule shall not apply to routing arrangements implemented pursuant to paragraph 2143(d).

- (i) To expedite the restoration of service following a 9-1-1 outage, each BESP shall designate a telephone number for PSAPs and originating service 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.
- (j) A BESP shall keep on file with the Commission its contingency plan as described in paragraph 2143(d).
- (k) BESP's shall identify service providers supplying service within a governing body or PSAP's service area, or statewide, to the extent that the BESP possesses such information, in response to a request from a governing body, PSAP, or the Commission.
- (l) A BESP shall report to the Commission a list of every PSAP serviced by the BESP with the number of concurrent sessions provided to each PSAP. This report shall be updated and filed annually with the Commission by June 1 of each year.

2137. [Reserved].

2138. Obligations of Payphone Providers.

All payphone providers must ensure that access to dial tone, emergency calls, and telecommunications relay service calls for the deaf, hard of hearing, and individuals with speech impairments is available from all payphones at no charge to the caller, pursuant to 47 C.F.R. 64.1330(b).

2139. – 2140. [Reserved].

2141. Multi-line Telephone Systems (MLTS) Complaint Portal.

- (a) The Commission maintains an online portal by which members of the public or other interested parties may report violations of federal law or regulation regarding the 9-1-1 capabilities of multi-line telephone systems in Colorado. This includes but is not limited to reports of violations of 47 U.S.C. § 623.
- (b) The Commission shall relay all complaints received via this portal to the appropriate federal enforcement agency or agencies in a timely manner.

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[indicates omission of unaffected rules]

2147. Applications by the Governing Body for Approval of an Emergency Telephone Charge in Excess of the Threshold Established by the Commission.

- (a) A governing body requesting approval pursuant to § 29-11-102(2)(c), C.R.S., for an emergency telephone charge in excess of the limit established by the Commission through the procedure described in rule 2148, shall file an application with this Commission.
- (b) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure and with rule 1204. The Commission may provide a form for this purpose, consistent with these rules. Applications must contain the following information:
 - (I) the name and address of the applicant;
 - (II) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (III) the name, address, telephone 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 (II);
 - (IV) a statement indicating the town, city, or virtual forum and any alternate town, city, or virtual forum where the applicant prefers any hearings be held;
 - (V) a statement that the applicant agrees to respond to all questions propounded by the Commission or Commission staff concerning the application;
 - (VI) a statement that the applicant shall permit the Commission or Commission staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VII) 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;
 - (VIII) acknowledgment that, by signing the application, the applying governing body 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 governing body shall not commence the requested action until the applying governing body complies with applicable Commission rules and with any conditions established by Commission order granting the application; and
 - (C) if a hearing is held, the applying governing body shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and

- (D) in lieu of the statements contained in subparagraphs (b)(VIII)(A) through (C) of this rule, an applying governing body may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(VIII)(A) through (C) of this rule.
 - (IX) an attestation which is made under penalty of perjury; which is signed by an officer, employee, agent, or an attorney for the applying governing body, as appropriate, who is authorized to act on behalf of the applying governing body; and which states that the contents of the application are true, accurate, and correct; and which attests that within the last 18 months the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S., that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with 29-11-104(5), C.R.S.;
 - (X) a report showing actual revenues and expenses for at least three previous years;
 - (XI) a five-year projected budget for the governing body with the proposed emergency telephone charge, including proposed capital expenses;
 - (XII) documentation of all budgetary line items in excess of \$50000;
 - (XIII) any current intergovernmental agreement or equivalent document authorizing the governing body to collect and use emergency telephone charge funds;
 - (XIV) a resolution or equivalent decision by the governing body authorizing its agent to pursue approval for the requested emergency telephone charge;
 - (XV) a copy of the most recent audit performed of the governing body's finances, or the online address where a copy of such an audit may be found, or a statement that the governing body is exempt from audit requirements;
 - (XVI) a draft public notice and a statement regarding where the governing body proposes to publish the notice; and
 - (XVII) any additional supporting or explanatory documentation which may assist in the evaluation of the application.
- (c) Notice. Notwithstanding paragraph 2002(d), this rule shall establish the notice procedure for governing bodies applying for approval of an emergency telephone charge in excess of the amount established pursuant to § 29-11-102(2), C.R.S. Within three days after the Commission issues notice of the application, the applicant shall publish a notice of the application in at least one newspaper of general circulation in the area of applicability in at least one edition. The notice shall also be made available for a period of no less than two weeks on the governing body's website, if one exists. The notice shall include:
- (I) the name, address and telephone number of the requesting governing body and the Colorado Public Utilities Commission;

- (II) a statement that the governing body has filed with the Colorado Public Utilities Commission an application to change its currently effective emergency telephone charge, and identify both the current and proposed emergency telephone charge;
 - (III) the proceeding number and the deadline for interventions or objections;
 - (IV) the proposed effective date of the new charge;
 - (V) a statement of the purpose of the application, including an explanation of the proposed changes;
 - (VI) a statement that the application is available for inspection at the office of the governing body utility and at the Colorado Public Utilities Commission; and
 - (VII) 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.
- (d) 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. Process for the Establishment of Annual Emergency Telephone Charge Threshold, State 9-1-1 Surcharge Rate, Wireless Prepaid 9-1-1 Surcharge Rate, and Associated Fund Distribution Schedules.

- (a) On or before August 1 of each year, the Commission shall initiate a proceeding to be concluded on or before October 1 to establish the emergency telephone charge threshold, a statewide 9-1-1 surcharge, a wireless prepaid 9-1-1 charge, a distribution schedule for the funds raised by the state 9-1-1 surcharge, and a distribution schedule for the funds raised by the wireless prepaid 9-1-1 charge for the following calendar year.
 - (I) The emergency telephone charge threshold:
 - (A) shall take into account inflation through the consideration of historical data and future projections; and
 - (B) shall take into account the needs of governing bodies through the consideration of historical data, inflation rates, the rate of increase of the average emergency telephone charge, comments provided under this rule, and other factors the Commission deems relevant.
 - (II) The 9-1-1 surcharge:
 - (A) shall not exceed fifty cents per month per 9-1-1 access connection;
 - (B) shall be calculated to meet the needs of governing bodies to operate the 9-1-1 system by considering historical data, costs to the 9-1-1 governing body of basic

emergency service tariffs, comments provided under this rule, and other factors the Commission deems relevant; and

- (C) shall be uniform, regardless of the technology used to provide the 9-1-1 access connection.
 - (III) The wireless prepaid 9-1-1 charge shall be calculated by determining the average of all local emergency telephone charges as they existed on July 1 of that year plus the amount of the statewide 9-1-1 surcharge established by the Commission for the upcoming year.
 - (IV) The distribution schedule for the funds raised by the state 9-1-1 surcharge shall be based on the number of concurrent sessions at all of the PSAPs associated with a governing body as a percentage of the total number of concurrent sessions statewide.
 - (V) The distribution schedule for the funds raised by wireless prepaid 9-1-1 charge shall be based on the wireless 9-1-1 call volume at all of the PSAPs associated with a governing body as a percentage of the total number of wireless 9-1-1 calls received by all PSAPs statewide.
- (b) The decision initiating this proceeding shall be accompanied by proposed amounts and distribution schedules as described in (a) (I) through (V) for comment.
 - (c) The wireless prepaid 9-1-1 charge rate and wireless prepaid 9-1-1 distribution schedule shall be transmitted to the Colorado Department of Revenue on or before October 1.
 - (d) The new rates and distribution schedules established by this proceeding shall take effect on the following January 1.

2149. Annual Data Collection from 9-1-1 Governing Bodies.

- (a) No more than once per year, the Commission may issue a request for data to all 9-1-1 governing bodies. This data request shall include:
 - (I) an accurate and current description or GIS data set representing the boundaries of the 9-1-1 governing body's jurisdiction; and
 - (II) other information necessary for the completion of annual data requests from the Federal Communications Commission, the National 9-1-1 Program, or other federal bodies, including but not limited to:
 - (A) the current emergency telephone charge rate set by the 9-1-1 governing body;
 - (B) the number of employees at all of the governing body's associated PSAPs, and how many are funded with either emergency telephone charge revenue, state 9-1-1 surcharge revenue, or wireless prepaid 9-1-1 charge revenue;
 - (C) the total cost of providing emergency telephone service at all of the governing body's PSAPs;

- (D) the total annual revenues received from emergency telephone charge remittances, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, broken down by source;
- (E) a statement indicating whether any 9-1-1 funds, including emergency telephone charge funds, state 9-1-1 surcharge funds, or wireless prepaid 9-1-1 charge funds, were used for purposes other than those allowed pursuant to § 29-11-104, C.R.S.;
- (F) that amount of funding the governing body has spent in preparation for the implementation of next generation 9-1-1;
- (G) that amount of funding the governing body has spent on cybersecurity programs at its PSAPs;
- (H) that sources, beyond emergency telephone charge remittance, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, are used to fund the equipment and operations of the governing body's associated PSAPs, and an estimate of what percentage each source represents as a total of the cost of operating and equipping the PSAP;
- (I) the number of call taker equipment positions at each of the PSAPs associated with the 9-1-1 governing body; and
- (J) total number of text-to-911 calls received by all PSAPs associated with the 9-1-1 governing body.

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

- (a) This rule does not apply to 9-1-1 access connections provided via prepaid wireless telecommunications services or emergency telephone charges remitted to governing bodies pursuant to § 29-11-102, C.R.S. The 9-1-1 surcharge is a statewide surcharge applied to all 9-1-1 access connections in the state of Colorado, and is separate from local emergency telephone charges that originating service providers are required to collect and remit pursuant to 29-11-102 C.R.S., the wireless prepaid 9-1-1 charge imposed upon retail transactions of prepaid wireless service pursuant to 29-11-102.5 C.R.S. and 1 CCR 201-5, Special Rule 43, the Colorado telecommunications relay service charge imposed pursuant to 40-17-101 C.R.S., et seq., and 4 CCR 723-2-2827(b), and the prepaid wireless TRS charge imposed pursuant to 29-11-102.7, C.R.S., and 201-5, Special Rule 43.
- (b) The Commission shall determine, and by appropriate order, impose a uniform 9-1-1 surcharge on each 9-1-1 access connection per month. The surcharge amount will be available on the Commission's web site at least 60 days prior to its effective date.
- (c) All originating service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 surcharge registration form. This form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Originating service providers shall provide an updated form within 15 days of any

change of the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.

- (d) 9-1-1 surcharge.
- (I) Effective January 1, 2021, all originating service providers shall collect and remit the 9-1-1 surcharge assessed upon each service user whose primary service address, if known, or billing address, if service address is unknown, is within the State of Colorado. The surcharge shall be assessed on each 9-1-1 access connection provided to that service user. Such charges shall be collected monthly and remitted as directed by the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (e).
 - (II) With respect to multi line telephone systems, the number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
 - (III) If the originating service provider lists fees separately on its billing to the customer, the 9-1-1 surcharge shall be listed separately as the "Colorado 911 Surcharge." The listing for this charge and the local emergency telephone charge authorized by § 29-11-102, C.R.S. may not be combined on the bill presented to the customer.
 - (IV) The 9-1-1 surcharge is the liability of the service user and not of the originating service provider, except that the originating service provider is liable to remit all 9-1-1 surcharges that the originating service provider collects from service users. An originating service provider is liable only for the 9-1-1 surcharge collected until it is remitted to the Commission. The amount remitted by the originating service provider must reflect the state 9-1-1 surcharges actually collected on the number of 9-1-1 access connections provided in Colorado by the originating service provider.
 - (V) Each originating service provider may retain from the total 9-1-1 surcharges collected and timely remitted, a vendor fee in the amount of one percent of the total monthly charges collected by such provider.
 - (VI) Each originating service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following month. If the last day of the month is a legal holiday, then the remittance shall be due the next business day.
 - (VII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (e) Combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.
- (I) Each remittance shall be accompanied by a completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.

- (A) The combined Colorado telecommunications relay service and 9-1-1 surcharge remittance 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.
 - (B) Regardless of the method of payment, the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.
 - (C) Originating service providers shall submit all surcharge remittances to the custodial receiver directly.
 - (D) If payments are made by physical check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.
- (f) All remittances of 9-1-1 surcharges received by the Commission pursuant to this section shall be deposited in the 9-1-1 surcharge trust cash fund established pursuant to § 29-11-102.3(3)(c)(I), C.R.S.

2151. Use and Distribution of 9-1-1 Surcharge Trust Cash Fund

- (a) The Commission may withdraw from the 9-1-1 surcharge trust cash fund an amount up to four percent of the total amount of the fund necessary for direct and indirect costs of administering the collection and remittance of the 9-1-1 surcharge, including costs related to conducting audits of service suppliers. Any funds withdrawn by the Commission for this purpose must be returned to the 9-1-1 trust cash fund if the Commission determines that the funds are not necessary to pay administrative costs.
- (b) Information from the BESP listing each governing body and the number of concurrent sessions being purchased by each shall be considered regarding the distribution percentages for the remaining funds in the 9-1-1 surcharge trust cash fund, as described in rule 2148. Reductions in the number of concurrent sessions being purchased by each governing body shall be reflected in the calculation. Increases in the number of concurrent sessions shall only be reflected in the calculation following an application process as described in paragraph (e).
- (c) On a monthly basis, the Commission shall distribute to each governing body the total funds received into the 9-1-1 surcharge trust cash fund, less the administrative retention fee authorized in paragraph (a), in percentages as determined by the method described in subparagraph 2148 (a) (IV). These distributions shall be made via ACH bank transfer to each governing body.
- (d) For the purposes of subparagraph 2148 (a)(IV), the number of concurrent sessions at each governing body, may only be adjusted annually at the time that the Commission establishes the formula for distribution for the following calendar year.

- (e) A 9-1-1 governing body may file an application to adjust its number of concurrent sessions for the purposes of the distribution of funds under this section no more than once per year.
 - (I) Applications for adjustment of the number of concurrent sessions must be approved by the Commission by August 1 in order to be considered in the distribution formula to be set on October 1. Applications approved after August 1 will be considered for the next distribution to be established in the following year.
 - (II) Applications for this purpose shall be filed with this Commission and processed in accordance with the Commission's Rules of Practice and Procedure and with rules 1204 and 2002. The Commission may provide a form for this purpose, consistent with these rules. In addition to the information required by paragraph (b) of rule 2002, applications must contain the following information:
 - (A) the current number of concurrent sessions at each of the PSAP(s) associated with the governing body;
 - (B) the total volume of calls delivered to the PSAP(s) associated with the governing body via the existing concurrent sessions over the previous 12 months of operation;
 - (C) peak volume statistics relevant to the governing body's request to change its number of concurrent sessions; and
 - (D) any other information that the governing body deems relevant to its request to change its number of concurrent sessions.
 - (III) No public notice shall be required in conjunction with this application.

2152. Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices

- (a) Either the Commission or one or more governing bodies may conduct an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges. Audits of originating service provider's books regarding the collection and remittance of state 9-1-1 surcharges may only be initiated by the Commission.
 - (I) Unless otherwise approved for Commission funding of the audit, as described in rule 2153, the governing body or bodies initiating the audit shall pay all expenses related to the audit.
 - (II) All expenses related to audits initiated by the Commission shall be paid for by the Commission from the administrative retention fund authorized by § 29-11-102.3(3)(c)(II), C.R.S.
 - (III) Originating service providers shall make relevant records available to auditors at no charge.

- (IV) Governing bodies conducting audits pursuant to this section must have an audit and appeals procedure in place, adopted by ordinance or resolution, as appropriate.
 - (V) Audits initiated by the Commission shall be limited to the collection and remittance of emergency telephone charges and state 9-1-1 surcharges.
 - (VI) Audits initiated by governing bodies shall be limited to the collection and remittance of emergency telephone.
 - (VII) Any delinquent remittance of state 9-1-1 surcharges received by the Commission, including penalties and interest, shall be deposited into the 9-1-1 surcharge trust cash fund and distributed as prescribed in rule 2151.
- (b) All originating service providers must collect and remit properly established emergency telephone charges.
- (I) A properly established emergency telephone charge is one that is set at a rate that is no greater than the threshold established pursuant to rule 2148 or approved by the Commission in response to an application, as described in rule 2147.
 - (A) Changes to a local emergency telephone charge must have an effective date of either February 1 or June 1.
 - (B) Governing bodies must notify carriers of any change to the emergency telephone charge at least 60 days in advance of the effective date of the change.
 - (II) Originating service providers shall not bill or collect emergency telephone charges from 9-1-1 access connections purchased by state or local government entities.
 - (III) Originating service providers must remit emergency telephone charges to the appropriate 9-1-1 governing bodies no later than the last day of the month following the month in which the charges were collected. Each governing body may establish payment procedures and schedules that vary from these rules, in which case the originating service provider must follow those procedures and schedules.
 - (IV) Originating service providers must include with their remittance to the appropriate governing bodies a report in such form as required by each governing body.
 - (V) Originating service providers may retain no more than two percent of each emergency telephone charge collected.
 - (VI) Emergency telephone charge remittances must be based on the actual number of 9-1-1 access connections within the governing body's jurisdiction.
 - (VII) Failure to bill a customer for a properly established emergency telephone charge does not relieve the originating service provider from the obligation to remit the surcharge. An originating service provider is only responsible for remittance of emergency telephone charges successfully collected from a customer.

- (c) Originating service providers shall bill, collect, and remit the state 9-1-1 surcharge in accordance with rule 2150.
- (d) Originating service providers must list separately the emergency telephone charge and state 9-1-1 surcharge on the customer's bill if fees and charges are listed on the customer's bill.
- (e) Originating service providers shall provide governing bodies billing examples from a reasonable number of randomly selected addresses for verification of collection and remittance, and these billing examples shall be provided at no charge without disclosing any customer-identifying information.
- (f) Originating service providers shall maintain a record of the amount of each emergency telephone charge and state 9-1-1 surcharge collected and remitted by service user address for three years after the time that it was remitted.
- (g) If an originating service provider fails to file a report and remit emergency telephone charges in a timely manner, the governing body or the Commission may assess the originating service provider for the delinquent remittance in the following manner.
 - (I) The governing body or the Commission shall estimate delinquent remittance based on available information.
 - (II) The governing body or the Commission shall issue notice of assessment to the originating service provider within three years of the original due date of the remittance, unless the three-year period is extended, in writing, in accordance with this rule.
 - (III) Before the expiration of the three-year period, the governing body or the Commission, and the originating service provider may extend the period for assessment by agreement, in writing. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The governing body and originating service provider shall provide the Commission the written notice of extension prior to the expiration of the initial three-year period or any prior extension. Any party seeking extension from the Commission shall do so by filing a petition.
 - (IV) The governing body or the Commission shall impose an additional 15 percent penalty in addition to the estimated amount of the delinquent remittance.
 - (V) The governing body or the Commission shall assess an additional one percent interest monthly, assessed against the original principal owed, from the original due date until the delinquent remittance has been paid by the originating service provider.
 - (VI) If the assessment was properly noticed within three years of the original due date of the remittance, or prior to the expiration of the period of time agreed to by the Commission and originating service provider in writing, the governing body or the Commission may file a lien, issue a distraint warrant, institute a suit for collection, or take other action to collect the amount up to one year after the expiration of said time period.
- (h) As an alternative to initiating an audit, a governing body or bodies may request that the Commission engage in informal mediation with the originating service provider, as described in

rule 1301. Such requests shall be directed to the Commission's 9-1-1 program manager or other staff member designated for this purpose.

2153. Governing Body Funding Petition Requirements.

- (a) The governing body or bodies initiating an audit may petition the Commission for funding of the audit from the administrative fund authorized by § 29-11-102.3(3)(c)(II), C.R.S. Such petitions shall be submitted in accordance with rule 2003 and this rule and shall provide for a 14 days notice upon the Commission's acceptance of the petition, unless the petitioner requests a different notice and intervention period.
- (b) The governing body or bodies must submit petitions for funding of audits and receive Commission approval for the funding requested no less than 60 days prior to the audit being conducted.
- (c) Petitions for funding shall include, at a minimum:
 - (I) the scope of audit review anticipated;
 - (II) the amount of funding sought to conduct the audit;
 - (III) supporting information for the auditor selected, including credentials and selection criteria; and
 - (IV) any alleged discrepancies or concerns that instigated the audit.
- (d) The governing body or bodies submitting the petition must provide the petition to the 9-1-1 Advisory Task Force created by rule 2145.
- (e) Upon acceptance of the petition and consideration of intervention filings, the Commission may narrow or expand the scope of the audit and provide a funding cap for reimbursement if necessary.
- (f) Any governing body that commences an audit during the pendency of a funding petition for that audit under consideration by the Commission proceeds at its own risk and may not be reimbursed fully, if at all, depending on the outcome of the petition.

2154. Audit Notification Requirements

- (a) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any audits initiated pursuant to these rules no later than 15 days from the initiation of the audit.
- (b) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any extension agreed to in writing.
- (c) The 9-1-1 Advisory Task Force shall publish the following:
 - (I) identification of audits conducted by staff of the Commission or a governing body, including whether the audit is ongoing, complete, and the outcome;

- (II) identification of any Commission proceedings regarding notices of assessment or civil penalty assessments; and
- (III) identification of individual entities subject to audit and the timeline of any audit periods, including whether extensions have been agreed to in writing either directly with a governing body, or as granted by the Commission.

2155. Disputes Regarding the Emergency Telephone Charge and 9-1-1 Surcharge.

(a) Notice of Assessment

- (I) The director of the Commission, or his or her designee shall have the authority to issue a notice of assessment under this rule and for delinquent remittance or other violations as provided in § 29-7-103, C.R.S., alone or in combination with civil penalties as provided in rule 2010 and paragraph (b) of this rule. Additional penalties for other violations of this rule or rule 2150 may incur additional penalties as outlined in rule 2011.
- (II) The notice of assessment shall include all penalty and interest calculations.
- (III) The originating service provider cited in the notice of assessment may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. Any notice of assessment not admitted within the 30-day period shall be immediately referred to an Administrative Law Judge for hearing. At any hearing contesting an alleged assessment, the designee of the director of the Commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.
- (IV) Unless a proceeding has commenced through a notice of assessment or show cause proceeding as discussed in this rule, an originating service provider may seek revisions to any final audit report directly with the director of the commission or his or her designee by providing information warranting the correction in writing. If the director or his or her designee reject the requested revision, the operating service provider may file a petition under rule 2003. The petition shall include, at a minimum, the audit report in question, the requested revisions, and supporting information regarding the requested change. The designee of the director of the commission shall be a necessary party to any such petition.

(b) Civil penalties for delinquent or miscalculated payments.

- (I) No civil penalty assessment notice shall be issued in addition to a notice of assessment for the first instance of delinquent or miscalculated payments in any 12-month period if there are no other violations alleged.
- (II) In the event the originating service provider is issued more than one assessment notices in any 12-month period, the director of the commission, or his or her designee may request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the second notice of assessment in the 12-month period.

- (III) In the event the originating service provider is issued three or more assessment notices in any 24-month period, the director of the commission, or his or her designee shall request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the notice of assessment in the 24-month period.
- (IV) The request that the Commission issue a decision to show cause provided with any notice of assessment shall include all penalty and interest calculations, and information relied on, along with separate statements for each alleged violation, if any, and the maximum penalty amount provided. If civil penalties are included in the assessment, information included shall also comply with rule 2010.
- (V) The originating service provider cited in the notice of assessment, and any accompanying request for the Commission to issue a decision to show cause, may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. At any hearing contesting an alleged assessment, the designee of the director of the commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.

2156. – 2159. [Reserved].

* * * *

[Indicates omission of unaffected rules]

2827. Administration of the Colorado Telephone Users with Disabilities Fund.

- (a) Fund administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each commercial and residential access line in a uniform amount. In order to adjust the uniform charge, the Commission requires certain information.
 - (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) The monthly uniform charge, per telephone access line, as determined by the Commission, shall not exceed 15 cents.
 - (III) All voice service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 registration form. This form is available from the Commission or on its website and shall be filed through the Commission's E-Fiing System. Voice service providers shall provide an updated form within 15 days of any change in the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.
- (b) Uniform charge.

- (I) All voice service providers shall collect and remit the TRS charge assessed on each telephone access line for which the primary service address, if known, or billing address, if service address is unknown, is within the state of Colorado. Such charges shall be billed monthly and remitted as directed to the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (c).
 - (II) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed monthly to each access line provided by each voice service provider. Each multiline voice communication service that is capable of simultaneous outbound calling shall constitute a separate telephone access line; however, the number of telephone access lines for which a customer may be assessed a monthly charge cannot exceed the number of outbound voice calls that the voice service provider has enabled and activated to be made simultaneously.
 - (III) A seller of prepaid wireless service shall collect a prepaid wireless TRS charge from a consumer, pursuant to § 29-11-102.7, C.R.S. and remit the charge to the Department of Revenue. The Department of Revenue shall transmit the money collected to the State Treasurer for deposit into the Colorado Telephone Users with Disabilities Fund, created in § 40-17-104(1), C.R.S.
 - (IV) The TRS charge shall not be assessed or collected on any federally supported Lifeline service or customer. Each provider exempt from collecting the uniform charge on a Lifeline customer shall maintain complete documentation and shall make such documentation available to the Commission upon request.
 - (V) The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each voice service provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Surcharge."
 - (VI) Each voice service 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.
 - (VII) Effective January 1, 2021, each voice service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following month. If the last day of the month is a legal holiday, then the remittance shall be due the next business day.
 - (VIII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (c) Combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.
- (I) Each remittance shall be accompanied by a completed Colorado telecommunications relay service and 9-1-1 surcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.

- (A) The combined Colorado telecommunications relay service and 9-1-1 surcharge remittance 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.
- (B) Regardless of the method of payment, the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.
- (C) Voice service providers shall submit all surcharge remittances to the TRS custodial receiver directly.
- (D) If payments are made by check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21R-0099T

IN THE MATTER OF THE PROPOSED RULES REGARDING THE IMPLEMENTATION OF HOUSE BILL 20-1293 AND THE 9-1-1 STATEWIDE SURCHARGE MECHANISM PURSUANT TO 4 CODE OF COLORADO REGULATIONS 723-2.

**DECISION DENYING EXCEPTIONS TO
DECISION NO. R21-0297 AND ADOPTING RULES**

Mailed Date: July 29, 2021

Adopted Date: July 21, 2021

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

1. Through this Decision, the Commission denies the exceptions filed on June 9, 2021 by the Boulder Regional Emergency Telephone Authority (BRETSA) to Decision No. R21-0297, issued May 14, 2021, by Administrative Law Judge (ALJ) Robert I. Garvey (Recommended Decision).

2. The Commission adopts revised rules implementing the provisions of House Bill (HB) 21-1293 (911 Funding Rules), located within the Commission's Rules Regulating Telecommunications Service and Providers of Telecommunications Service, 4 *Code of Colorado Regulations* (CCR) 723-2 (Telecom Rules) at 4 CCR 723-2-2002 *et seq.* The adopted 911 Funding Rules are attached to this Decision in legislative format (*i.e.*, strikeout/underline) as Attachment A, and in final format as Attachment B.

B. Background

3. On July 10, 2020, Governor Jared Polis signed HB 20-1293, which provided comprehensive updates to Colorado 9-1-1 funding through changes in §§ 24-33.5-2103, 25-3.5-903, 29-11-100 to -107, 39-21-113 and 119.5, and 40-2-131, C.R.S. Among its revisions, HB 20-1293 provides the Commission with additional authorities and duties in regulating 9-1-1 service funding in the state, immediately requiring the Commission to set a new statewide 9-1-1 surcharge by October 1, 2020, to take effect on January 1, 2021.

4. In order to implement HB 20-1293 timely, temporary rules were implemented in Proceeding No. 20R-0335T to establish, by October 1, 2020, the process by which the Commission would propose and approve the threshold at which Applications are required for increasing Emergency Telephone Charges by a Governing body; the rate of the state

9-1-1 Surcharge; the wireless prepaid 9-1-1 charge; and a distribution schedule for the disbursement of state 9-1-1 surcharge funds to the 9-1-1 governing bodies.¹ Temporary rules further established the processes for remittance and distribution procedures required by HB 20-1293 to take effect no later than January 1, 2021.²

5. While temporary rules provided processes for the necessary and timely implementation of HB 20-1293 in the near term, at the same time the Commission commenced stakeholder processes through workshops conducted by Staff of the Commission (Staff) from October of 2020 through January of 2021 to seek input on permanent implementation of the requirements of HB 20-1293.

6. On March 4, 2021, the Commission commenced this rulemaking through a Notice of Proposed Rulemaking (NOPR) issued as Decision No. C21-0118. Based on input from the stakeholder workshop process, the NOPR proposed to amend several existing sections of the rules as well as to establish several new sections to implement the provisions of HB 20-1293. The NOPR largely proposed suggested consensus revisions resulting from the stakeholder workshops, including permanent adoption of the processes provided through the temporary rules to reach determinations required by October 1, and January 1, in addition to the processes to resolve disputes, provide audit, and if necessary, impose penalties required by HB 20-1293.

7. The NOPR adopted a schedule for filing comments and invited interested participants to file initial comments no later than March 22, 2021 and requested reply comments no later than April 5, 2021. The Commission referred this matter to an ALJ to preside over rulemaking hearings and for the issuance of a recommended decision. A public rulemaking

¹ See Decision No. C20-0599, issued August 17, 2020, Proceeding No. 20R-0335T; and Decision No. C20-0690, September 29, 2020, Proceeding No. 20M-0337T.

² See Proceeding No. 20R-0480T, Decision No. C20-0795, issued November 10, 2020.

hearing was scheduled for April 19, 2021. At the conclusion of the hearing, additional written comments and replies to comments were allowed.

8. In Decision No. R21-0297, issued on May 20, 2021, the ALJ issued a Recommended Decision proposing adopted rules. In his Recommended Decision, the assigned ALJ commended participants and Staff, noting that almost all issues had been resolved prior to the rulemaking hearing. The Recommended Decision therefore proposes adoption of rules that are significantly similar to the rules initially proposed in the NOPR based on stakeholder workshops, but also incorporated changes considering comments made through the rulemaking proceeding.

C. Exceptions to Recommended Decision

9. On June 9, 2021, BRETSA filed exceptions to the Recommended Decision and to the proposed rules attached to that decision. Specifically, BRETSA objected to provisions related to Rules 2149(a)(II) and 2151(e)(I). BRETSA's arguments are twofold and consistent with its arguments that were considered and rejected by the ALJ: (1) BRETSA objects to the listed reporting requirements in Rule 2149(a)(II)(A) through (J), arguing that these reporting requirements are not required by state law and could become inconsistent with federal reporting, or otherwise create unintended consequences; and (2) BRETSA requests that the Commission extend the deadline for annual approval of a request for an increase in concurrent sessions from August 1 to October 1 each year.

10. No other participants filed exceptions to the Recommended Decision.

1. Rule 2149 – Annual Data Collection from 9-1-1 Governing Bodies

11. Rule 2149 implements provisions of § 29-11-102(3) and (4), C.R.S., which requires governing bodies: (1) to keep on file with the Commission, an accurate and current

description or geographic information system (GIS) data set representing the boundaries of its governing body jurisdiction(s), or other GIS layers as required; and (2) to comply with annual reporting requirements established by the Commission in order to assist the Commission in meeting federal reporting requirements and data requests and to gather information for inclusion in the annual report to the Colorado Legislature (Legislature) described in § 40-2-131, C.R.S.

12. Section 40-2-131, C.R.S., requires that each September 15, the Commission publish a “State of 911” report to the General Assembly. The report must provide an overall understanding of the state of 9-1-1 service in Colorado and must address, at a minimum, a series of listed requirements, including the current statewide structure, technology, and general operations of 9-1-1 service in Colorado;³ 9-1-1 network reliability and resilience;⁴ state planning for, transition to, and implementation of next generation 9-1-1;⁵ and a discussion of 9-1-1 funding and fiscal outlook, including current funding sources and whether they are adequate for 9-1-1 service in the state, and potential funding mechanisms for the transition to and implementation of next generation 9-1-1.⁶

13. Through his Recommended Decision, the ALJ recommends including a list of enumerated reporting requirements in Rule 2149(a)(II)(A) through (J) that address funding and 9-1-1 system operations. The ALJ rejected BRETSA’s arguments that recommended deleting in their entirety, data elements required in the annual data collection found in Rule 2149(a)(II). The ALJ found that the listed elements are required by an annual State of 9-1-1 Report to the General Assembly in § 40-2-131, C.R.S. However, the ALJ agreed to remove a previously included

³ § 40-2-131(1)(b), C.R.S.

⁴ § 40-2-131(1)(c), C.R.S.

⁵ § 40-2-131(1)(f), C.R.S.

⁶ § 40-2-131(1)(g), C.R.S.

Rule 2149(a)(II)(K), that required “other information as recommended by the 9-1-1 Advisory Task Force.” BRETSA argued this requirement was improper “because it delegates authority to the Task Force.” The ALJ agreed to strike the listed requirement in subsection (K) “to avoid the appearance of the Commission improperly delegating authority to the Task Force,” but noted that the list was not exhaustive of the information the Commission could request.⁷

a. Exceptions

14. Through its Exceptions, BRETSA renews its arguments that Rule 2149(a)(II)(A)-(J) should be deleted. Consistent with arguments rejected before the ALJ, BRETSA claims that, because the list of items requested by federal agencies from the Commission may change over time, the list of items included in the Commission’s annual data collection from the 9-1-1 governing bodies in Section 2149(a)(II)(A)-(J) may become over- or under-inclusive. BRETSA further argues that these data elements are not all required for the Commission’s annual State of 9-1-1 Report to the General Assembly in § 40-2-131, C.R.S.

15. BRETSA also disagrees with the commentary provided by the ALJ in the Recommended Decision in striking language in Rule 2149(a)(II)(K), claiming that the ALJ’s reasoning is improper because it “may be taken to hold” that the Commission’s authority to propound data requests from Governing Bodies is not circumscribed by statute.

b. Findings and Conclusions

16. We disagree with BRETSA’s arguments, which were considered and properly rejected by the ALJ. The enumerated list of data elements in Rule 2149(a)(II) are both relevant

⁷ Recommended Decision, at ¶ 51.

and necessary for the completion of the Commission's annual State of 9-1-1 Report to the General Assembly. That federal requirements may change does not affect the importance of the listed items for the Commission to appropriately report 9-1-1 funding and other information as required by § 40-2-131, C.R.S. We are not convinced that speculative unintended consequences should deter the Commission from having the rule include important and necessary information that it will expect in governing body reports.

17. The majority of the data elements include those related to the funding of 9-1-1 services in Colorado,⁸ as required for inclusion in the State of 9-1-1 Report under § 40-2-131(1)(g), C.R.S. Through the proposed rule, the reports must include, among other enumerated items, the current emergency telephone charge rate; number of employees funded with state funding mechanisms; total costs of service; total revenues received from state funding mechanisms; the amount of funding spent on next generation 9-1-1 and cybersecurity programs; and the sources beyond state funding to fund operations and equipment. The collection of this information is necessary to provide an accurate funding and fiscal outlook to the General Assembly.

18. In addition, data element (E) that requires a statement indicating whether any 9-1-1 funds “were used for purposes other than those allowed pursuant to § 29-11-104, C.R.S.” is pertinent for the same reason; *i.e.*, for the Commission to provide an appropriate and accurate funding and fiscal outlook to the General Assembly. For example, if 9-1-1 funds are being used for purposes other than those designated in statute, that has a direct impact on whether or not

⁸ Specifically, elements listed in Rule 2149(a)(II) (A) – (D) and (F) – (H).

9-1-1 funding will be available for the purposes enumerated in § 29-11-104, C.R.S.⁹ This information is pertinent to the required report to the Legislature on the 9-1-1 funding and fiscal outlook, including whether funding sources are adequate for 9-1-1 service in the state.¹⁰

19. Items required in Rule 2149(a)(II)(I) and (J) that request the number of call taker positions at each Public Safety Answering Point (PSAP) and the total number of text-to-911 calls received at the PSAPs, respectively, are relevant to the requirement in § 40-2-131(1)(b), C.R.S., which requires the Commission to include in its annual State of 9-1-1 Report to the General Assembly “[t]he current statewide structure, technology, and *general operations* of 911 service in Colorado” [emphasis added].

20. We agree with the ALJ that the enumerated elements required in proposed Rule 2149(a)(II) are relevant to the requirements in § 40-2-131, C.R.S., in providing the required report to the General Assembly each September 15. Because these elements are pertinent to state reporting requirements, whether at some point they are over or under-inclusive for federal reporting purposes is immaterial. We therefore reject BRETSA’s arguments that the rule should be revised for the same reasons articulated in the Recommended Decision.

21. We also disagree with BRETSA that the *dicta* in striking proposed Rule 2149(a)(II)(K) will be misconstrued. The ALJ’s reasoning clearly states that proposed Rule 2149(a)(II)(K) was removed to avoid the appearance of improper delegation of authority to

⁹ We also disagree that Rule 2149(a)(II)(E) should be deleted because of the hypothetical scenario proposed by BRETSA that responding to this question may put governing bodies or the state in jeopardy of being ineligible to receive funding. The current federal 9-1-1 grant program in which Colorado is participating required Commission Staff to certify that funds have not been diverted for certain purposes. *See* Federal grant opportunity NHTSA-NTIA-911-GRANT-PROGRAM-2018 (stating that “no taxing jurisdiction in the State that will receive 911 grant funds has diverted any portion of the designated 911 charges for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application.”). Being unable to certify to that no 9-1-1 governing bodies have diverted any 9-1-1 funds would make the state ineligible for future grant opportunities.

¹⁰ § 40-2-131(1)(g), C.R.S.

the Task Force. We therefore deny exceptions on this point as well and decline to revise or otherwise clarify the Recommended Decision.

2. Rule 2151 – Use and Distribution of 9-1-1 Surcharge Trust Cash Fund

22. Proposed Rule 2151(e) describes the process by which a governing body may file an application with the Commission to increase its number of concurrent sessions for the purposes of the distribution of funds under this rule. As proposed in the NOPR, Rule 2151(e)(I) required such applications to be filed with the Commission by June 1 of each year to be considered in the revision of the percentages for distribution of funds, which statute requires completion by October 1 of each year.¹¹ Applications received after June 1 would be considered in the following year's percentages for fund distribution.

23. In its comments to the NOPR, BRETSA argued that this June 1 filing deadline should be replaced with an October 1 deadline. In the Recommended Decision, ALJ Garvey agreed that a later deadline would be more appropriate than a June 1 filing deadline, but found that it was unreasonable for the deadline to be October 1, which is the same date that the percentage schedule is statutorily due to be issued by the Commission. As a result, the rules attached to the Recommended Decision recommend revising this June 1 filing deadline to a grant deadline of August 1, partially acceding to BRETSA's request but still giving Commission Staff time to include those changes in the percentage calculations to be considered by the Commission and issued by October 1.

a. Exceptions

24. BRETSA argues in its Exceptions that the calculation of the percentages is a "simple matter." Based on this reasoning, BRETSA argues that the deadline should be closer to

¹¹ See § 29-11-102.3(3)(c)(III), C.R.S.

October 1 than the August 1 deadline established in the Recommended Decision but does not provide a proposed date that it believes should be acceptable.

b. Findings and Conclusions

25. We disagree that the August 1 deadline in Rule 2151(e)(I), should be moved to a date closer to October 1. Proposed Rule 2148(a) requires the Commission to initiate a proceeding on or before August 1 of each year to, among other things, establish the percentages for distribution of 9-1-1 surcharge funds in the following calendar year. These percentages are established based on the number of concurrent sessions being purchased by each governing body. Moving the deadline to increase the number of concurrent sessions for which a governing body is receiving funds to a date beyond August 1 each year would likely result in the Commission and its Staff having to simultaneously conduct both the proceeding establishing the percentages, and one or more proceedings regarding applications affecting those percentages. This is inefficient and unnecessary. Any concurrent session changes approved by the Commission after August 1 can be considered in the following year's calculations, and the rule provides ample notice of the timeframe by which concurrent session applications will be considered in a given year's October 1 calculations.

26. We find the grant of the deadline of August 1 established by the Recommended Decision to be appropriate. BRETSA's exceptions are denied.

II. ORDER

A. The Commission Orders That:

1. The exceptions to Recommended Decision No. R21-0297, filed by Boulder Regional Emergency Telephone Service Authority on June 9, 2021, are denied, consistent with the discussion above.

2. The Rules Implementing House Bill 20-1293 and the Mechanism for the 9-1-1 Statewide Surcharge Mechanism, 4 *Code of Colorado Regulations* 723-2, contained in legislative (*i.e.*, strikeout/underline) format (Attachment A), and final format (Attachment B) are adopted, with additional non-substantive changes to correct typographical errors, and are available through the Commission's Electronic Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=21R-0099T

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

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

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 21, 2021.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

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PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

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[indicates omission of unaffected rules]

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 services, as provided in rule 2103;
 - (II) for the issuance of a LOR for services, as provided in rule 2103;
 - (III) to amend a CPCN or LOR, as provided in rule 2105;
 - (IV) to change exchange area boundaries, as provided in rule 2106;
 - (V) to discontinue the provisioning of basic emergency service, switched access service, or basic local exchange service provided by an ETC, EP, or HCSM recipient, as provided in rule 2109;
 - (VI) to transfer or encumber a CPCN, LOR, or assets, or to merge a provider with another entity, as provided in rule 2110;
 - (VII) to amend a tariff on less than statutory notice, as provided in subparagraph 2122;
 - (VIII) for certification as a basic emergency service provider, as provided in rule 2132;
 - (IX) for approval of a change to an emergency telephone charge in excess of the threshold set by the Commission, as provided in rule 2147;
 - (X) for approval of an increase in the number of concurrent sessions associated with a 9-1-1 governing body for purposes of determining distribution percentages from the 9-1-1 surcharge trust cash fund, as provided in rule 2151;

- ~~(XI)~~ for designation as a POLR, as provided in rules 2183 and 2184;
 - (XII) for relinquishment of the designation as a POLR, ETC, or EP, as provided in rule 2186;
 - (XIII) for designation as an ETC, as provided in rule 2187;
 - ~~(XIV)~~ for approval of a disaggregation of a study area of a rural ILEC, as provided in rule 2189;
 - (XV) for reclassification of a Part II service to a Part III service, as provided in rule 2203;
 - ~~(XVI)~~ for deregulation of Part III Services, as provided in rule 2204;
 - (XVII) for approval of a refund plan, as provided in rule 2305; or
 - (XVIII) 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 attachments:
- (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, 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, 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; and
 - (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; and
- (XI) 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) 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. 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 customer class(es) will be affected and the monthly customer rate impact by customer class, if customers' rates are affected by the application;
 - (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 proceeding number, 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; and
 - (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) Filings shall be made in accordance with rule 1204.

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 2107;

- (IV) for arbitration of an interconnection agreement, as provided in rules 2562 through 2579;
~~or~~
 - (V) for use of N-1-1 abbreviated dialing codes, as provided in ~~rules-paragraph~~ 2742(e); or
 - (VI) for approval of funding of an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges, filed by a governing body or bodies as provided in paragraph 2152(g).-
- (b) Unless otherwise noted in specific rules, all petitions shall include, the information contained in paragraph 2002(b).
 - (c) 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 same information as required by paragraph 2002(d).
 - (d) Filings should be made in accordance with rule 1204.

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[indicates omission of unaffected rules]

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.; § 29-11-103(7)(b) and (c), C.R.S. and paragraph 1302(b), 4 Code of Colorado Regulations 723-1~~3~~⁵; 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., or for delinquent payments, penalties, and interest as described in § 29-11-103(7)(b) and (c), 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 paragraph 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. 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
Rule 2109(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	\$2000
Rule 2110, text preceding (a) only	Applications to Transfer or Encumber	\$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	\$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	\$2000
<u>Rule 2136</u>	<u>Obligations of Basic Emergency Service Providers</u>	<u>\$2000</u>
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	\$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	\$2000

Rule 2143	Diverse Routing and Priority Service Restoration	\$2000
<u>Rule 2150</u>	<u>Administration of the 9-1-1 Surcharge Trust Cash Fund</u>	<u>\$2000</u>
<u>Rule 2152</u>	<u>Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices</u>	<u>\$2000</u>
Rule 2186(a),(d), (e) and (f)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2742	Abbreviated Dialing Codes	\$2000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000
Rule 2337(a)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
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 (TBD)	Timely or Completely Filing or Making Appropriate Payments to the HCSM Fund	\$100
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[indicates omission of unaffected rules]

Basic Emergency Service

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) define and describe basic emergency service as regulated by § 40-15-201, C.R.S.; (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 originating service providers and other BESPs; (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; (7) prescribe the process for the establishment of the annual threshold, surcharge, and prepaid wireless 9-1-1 charge amounts; (8) prescribe the processes for the collection and distribution of 9-1-1 surcharge funds; (9) establish procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of emergency telephone charges and 9-1-1 surcharges; and (10) establishing annual reporting requirements for 9-1-1 governing bodies.

The statutory authority for the promulgation of these rules is found at §§ 29-11-101.5; 29-11-102(2)(b); 29-11-102.3; 29-11-102.5(2)(c); 29-11-102.7(2); 29-11-103; 29-11-106(3); 40-2-108; 40-3-102; 40-3-103; 40-4-101(1) and (2); 40-15-201; 40-15-301; and 40-15-503(2)(g), -C.R.S.

2130. Applicability.

- (a) Except as otherwise provided, rules 2130 through 2159 apply to BESPs.
- (b) ~~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. Rules 2147, 2151, 2153, 2154, and 2156 apply to 9-1-1 governing bodies.~~
- (c) Rules 2152 and 2155 apply to originating service providers.

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 access connection" means any communications service including wireline, wireless cellular, interconnected voice-over-internet-protocol, or satellite in which connections are enabled, configured, or capable of making 9-1-1 calls. The term does not include facilities-based broadband services. The number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
- (c) "9-1-1 call" means a request for emergency assistance from the public by dialing 9-1-1 or addressing the E911 regardless of the technology used, and may include voice, text, images, and video, whether originated by wireline, wireless, satellite, or other means.
- (db) "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 selective router or functional equivalent and subsequently connects to a Public Safety Answering Point (PSAP). These may include, but are not limited to, point-to-point private line 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.
- (ee) "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.
- (fd) "9-1-1 selective router" means the telecommunications switch or functional equivalent dedicated to aggregation of 9-1-1 call traffic from public networks and proper routing of 9-1-1 call traffic to PSAPs.
- (ge) "9-1-1 service" means the service by which a 9-1-1 call is routed and transported from the end user placing a 9-1-1 call to the PSAP serving the caller's location. 9-1-1 service also includes any related caller location information routed to the PSAP, if any.
- (h) "9-1-1 surcharge" or "state 9-1-1 surcharge" means the surcharge established pursuant to § 29-11-102.3, C.R.S.
- (if) "Automatic Location Identification" (ALI) means the automatic display, on equipment at the PSAP, of the telephone number and location of the caller. ALI data includes non-listed and non-published numbers and addresses, and other information about the caller's location.
- (ig) "ALI 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.
- (kh) "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, provided to the governing body or PSAP or a specific geographic area. ALI service does not include the provision of ALI by originating service providers, PSAPs, 9-1-1 governing bodies, or local governments.

- (~~li~~) "Automatic Number Identification" (ANI) means the automatic display of the caller's telephone number at the PSAP.
- (~~jm~~) "Basic emergency service" means the aggregation and transportation of a 9-1-1 call directly to a point of interconnection with a governing body or PSAP, regardless of the technology used to provide the service. The aggregation of calls means the collection of 9-1-1 calls from one or more originating service providers or intermediary aggregation service providers for the purpose of selectively routing and transporting 9-1-1 calls directly to a point of interconnection with a governing body or PSAP. The offering or providing of ALI service or selective routing directly to a governing body or PSAP by any person is also a basic emergency service. Basic emergency service does not include:
- (I) the portion of a 9-1-1 call provided by an originating service provider;
 - (II) the services provided by an intermediary aggregation service provider;
 - (III) the delivery of a 9-1-1 call from the originating service provider or an intermediary aggregation service provider to a point of interconnection with the BESP;
 - (IV) the delivery of a 9-1-1 call from the point of interconnection between the BESP and a PSAP to the PSAP facility that receives and processes the 9-1-1 call; or
 - (V) the delivery of text-to-9-1-1 via interim methods.
- (~~kn~~) "Basic Emergency Service Provider" (BESP) means any person certificated by the Commission to provide basic emergency service.
- (o) "Concurrent session" means a channel for an inbound simultaneous 9-1-1 call.
- (~~pt~~) "Demarcation point" means the physical point where the responsibility of a portion of a network changes from one party to another.
- (~~mq~~) "Emergency notification service" (ENS) means a service in which, upon activation by a public safety agency:
- (I) the 9-1-1 database or a database which may be derived in whole or in part 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.).
 - (IV) ENS may also include the transmission of messages to individuals by other means, including text messages, e-mail, facsimile, or other mass alerting method or system.

- (~~ra~~) "Emergency telephone charge" means a charge established by a governing body pursuant to § 29-11-102(2)(a), C.R.S., or established by § 29-11-102.5(2)(a), C.R.S., to pay for the expenses authorized in § 29-11-104, C.R.S.
- (~~se~~) "Enhanced 9-1-1" (E9-1-1) means 9-1-1 service that includes the association of ANI and ALI (including non-listed and non-published numbers and addresses), and selective routing.
- (~~tp~~) "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.
- (~~uq~~) "Governing body" means the organization responsible for establishing, collecting, and disbursing the emergency telephone charge in a specific geographic area, pursuant to §§ 29-11-102, 103, and 104, C.R.S.
- (~~vf~~) "Intermediary aggregation service provider" means a person that aggregates and transports 9-1-1 calls for one or more originating service providers for delivery to a BESP selective router or the functional equivalent of such a router.
- (~~ws~~) "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.
- (~~xt~~) "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.
- (~~yt~~) "Originating service provider" (OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services supplying the ability to place 9-1-1 calls.
- (~~zv~~) "Public Safety Answering Point" (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP.
- (~~aaaw~~) "Selective routing" means the capability of routing a 9-1-1 call to a designated PSAP based upon the location of the end user, as indicated by the ten-digit telephone number of the fixed location subscriber dialing 9-1-1, the p-ANI (ESRK or ESQK), or otherwise permitted by FCC rule, regulation, or order.

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[indicates omission of unaffected rules]

2136. Obligations of Basic Emergency Service Providers.

- (a) A BESP certificated by the Commission, shall obtain facilities from or interconnect with all originating service providers telecommunications providers who have customers in areas served by the BESP. BESP's shall interconnect with all other BESP's.
- (b) At the request of an originating service provider, intermediary aggregation service provider, or other BESP, a BESP shall provide and/or arrange for the necessary facilities to interconnect, route and transport 9-1-1 calls and ALI from originating service provider, intermediary aggregation service provider, or other BESP's 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 originating service provider or intermediary aggregation service provider 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 originating service provider or intermediary aggregation service provider 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 service. These rates shall be averaged over the entire geographic areas the BESP is certificated to serve, except as otherwise provided in subparagraph 2143(a)(III).
- (d) A BESP shall render a single monthly bill for its tariff services provided to the appropriate governing body. The monthly bill shall -be sufficiently detailed to allow the governing body to determine that it is being billed properly based on the billing increments as approved by the Commission.
- (e) The BESP shall coordinate with the 9-1-1 Advisory Task Force to establish a process for ensuring units used for tariff pricing are accurate and up-to-date.
- (f) BESP's shall ensure, to the extent possible and in the most efficient manner, that telecommunication services are available for transmitting 9-1-1 calls from deaf, hard of hearing, and persons with speech impairments to the appropriate PSAP.
- (g) A BESP shall ensure that all basic emergency service facilities, and interconnections between it and the originating service providers and intermediary aggregation service providers are engineered, installed, maintained and monitored in order to provide a minimum of two circuits and a minimum P.01 grade of service (one percent or less blocking during the busy hour), or such other minimum grade of service requirements approved by the Commission.
- (h) Where a BESP obtains facilities from a basic local exchange carrier for delivery of 9-1-1 calls to a PSAP, the rates for such facilities shall be reflected in a tariff or agreement filed for approval with the Commission. Such tariffs or agreements shall ensure that such facilities 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. The basic local exchange carrier providing such facilities shall not be considered a BESP. The provisions of this rule shall not apply to routing arrangements implemented pursuant to paragraph 2143(d).

- (i) To expedite the restoration of service following a 9-1-1 outage, each BESP shall designate a telephone number for PSAPs and originating service 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.
- (j) A BESP shall keep on file with the Commission its contingency plan as described in paragraph 2143(d).
- (k) BESP's shall identify service providers supplying service within a governing body or PSAP's service area, or statewide, to the extent that the BESP possesses such information, in response to a request from a governing body, PSAP, or the Commission.
- (l) A BESP shall report to the Commission a list of every PSAP serviced by the BESP with the number of concurrent sessions provided to each PSAP. This report shall be updated and filed annually with the Commission by June 1 of each year.

2137. [Reserved].

2138. Obligations of Payphone Providers.

All payphone providers must ensure that access to dial tone, emergency calls, and telecommunications relay service calls for the deaf, hard of hearing, and individuals with speech impairments is available from all payphones at no charge to the caller, pursuant to 47 C.F.R. 64.1330(b).

2139. – 2140. [Reserved].

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

(a) The Commission maintains an online portal by which members of the public or other interested parties may report violations of federal law or regulation regarding the 9-1-1 capabilities of multi-line telephone systems in Colorado. This includes but is not limited to reports of violations of 47 U.S.C. § 623.

~~(a) — For purposes of this rule:~~

~~(l) — "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.~~

~~(ll) — "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) ~~The Commission shall relay all complaints received via this portal to the appropriate federal enforcement agency or agencies in a timely manner. 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 9-1-1 service 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 9-1-1 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 9-1-1 service 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 9-1-1 telecommunicator 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 9-1-1 your phone number and exact location. This telephone does not automatically give 9-1-1 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 9-1-1 service is not required.~~

* * * *

[indicates omission of unaffected rules]

2147. Applications by the Governing Body for Approval of an Emergency Telephone Charge in Excess of the Threshold Established by the Commission.

- (a) A governing body requesting approval pursuant to § 29-11-102(2)(bc), C.R.S., for an emergency telephone charge in excess of the limit established by ~~§ 29-11-102(2), C.R.S.,~~the Commission through the procedure described in rule 2148, shall file an application with this Commission pursuant to ~~4 CCR 723-2-2002, paragraphs (a) through (c) and (e).~~ The Commission may provide a form for this purpose, consistent with these rules.
- (b) ~~All a~~Applications shall include an attestation that the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S. within the last 18 months, that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with § 29-11-104(5), C.R.S. be processed in accordance with the Commission's Rules Regulating Practice and Procedure and with rule 1204. The Commission may provide a form for this purpose, consistent with these rules. Applications must contain the following information:
- (I) the name and address of the applicant;
 - (II) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (III) the name, address, telephone 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 (II);
 - (IV) a statement indicating the town, city, or virtual forum and any alternate town, city, or virtual forum where the applicant prefers any hearings be held;
 - (V) a statement that the applicant agrees to respond to all questions propounded by the Commission or Commission staff concerning the application;
 - (VI) a statement that the applicant shall permit the Commission or Commission staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VII) 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;
 - (VIII) acknowledgment that, by signing the application, the applying governing body 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 governing body shall not commence the requested action until the applying governing body complies with applicable Commission rules and with any conditions established by Commission order granting the application; and

- (C) if a hearing is held, the applying governing body shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and
 - (D) in lieu of the statements contained in subparagraphs (b)(VIII)(A) through (C) of this rule, an applying governing body may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(VIII)(A) through (C) of this rule.
 - (IX) an attestation which is made under penalty of perjury; which is signed by an officer, employee, agent, or an attorney for the applying governing body, as appropriate, who is authorized to act on behalf of the applying governing body; and which states that the contents of the application are true, accurate, and correct; and which attests that within the last 18 months the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S., that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with 29-11-104(5), C.R.S.;
 - (X) a report showing actual revenues and expenses for at least three previous years;
 - (XI) a five-year projected budget for the governing body with the proposed emergency telephone charge, including proposed capital expenses;
 - (XII) documentation of all budgetary line items in excess of \$50000;
 - (XIII) any current intergovernmental agreement or equivalent document authorizing the governing body to collect and use emergency telephone charge funds;
 - (XIV) a resolution or equivalent decision by the governing body authorizing its agent to pursue approval for the requested emergency telephone charge;
 - (XV) a copy of the most recent audit performed of the governing body's finances, or the online address where a copy of such an audit may be found, or a statement that the governing body is exempt from audit requirements;
 - (XVI) a draft public notice and a statement regarding where the governing body proposes to publish the notice; and
 - (XVII) any additional supporting or explanatory documentation which may assist in the evaluation of the application.
- ~~(c) Documentation to be included in the application shall be supporting attachments of budget information, cost information and such other information the Commission may rely upon for justification of the proposed increase in emergency telephone charge. The attached information should include present and proposed emergency telephone charge remittance estimates, all other revenue sources and amounts, and any other information that may be used to justify the proposed increase in the emergency telephone charge.~~

(ce) Notice. Notwithstanding paragraph 2002(d), this rule shall establish the notice procedure for governing bodies applying for approval of an emergency telephone charge in excess of the amount established pursuant to § 29-11-102(2), C.R.S. Within three days after the Commission issues notice of the application, the applicant shall publish a notice of the application in at least one newspaper of general circulation in the area of applicability in at least one edition. The notice shall also be made available for a period of no less than two weeks on the governing body's website, if one exists. The notice shall include:

- (I) the name, address and telephone number of the requesting governing body and the Colorado Public Utilities Commission;
- (II) a statement that the governing body has filed with the Colorado Public Utilities Commission an application to change its currently effective emergency telephone charge, and identify both the current and proposed emergency telephone charge;
- (III) the proceeding number and the deadline for interventions or objections;
- (IV) the proposed effective date of the new charge;
- (V) a statement of the purpose of the application, including an explanation of the proposed changes;
- (VI) a statement that the application is available for inspection at the office of the governing body utility and at the Colorado Public Utilities Commission; and
- (VII) 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.

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

(a) On or before August 1 of each year, the Commission shall initiate a proceeding to be concluded on or before October 1 to establish the emergency telephone charge threshold, a statewide 9-1-1 surcharge, a wireless prepaid 9-1-1 charge, a distribution schedule for the funds raised by the state 9-1-1 surcharge, and a distribution schedule for the funds raised by the wireless prepaid 9-1-1 charge for the following calendar year.

(I) The emergency telephone charge threshold:

(A) shall take into account inflation through the consideration of historical data and future projections; and

(B) shall take into account the needs of governing bodies through the consideration of historical data, inflation rates, the rate of increase of the average emergency telephone charge, comments provided under this rule, and other factors the Commission deems relevant.

(II) The 9-1-1 surcharge:

(A) shall not exceed fifty cents per month per 9-1-1 access connection;

(B) shall be calculated to meet the needs of governing bodies to operate the 9-1-1 system by considering historical data, costs to the 9-1-1 governing body of basic emergency service tariffs, comments provided under this rule, and other factors the Commission deems relevant; and

(C) shall be uniform, regardless of the technology used to provide the 9-1-1 access connection.

(III) The wireless prepaid 9-1-1 charge shall be calculated by determining the average of all local emergency telephone charges as they existed on July 1 of that year plus the amount of the statewide 9-1-1 surcharge established by the Commission for the upcoming year.

(IV) The distribution schedule for the funds raised by the state 9-1-1 surcharge shall be based on the number of concurrent sessions at all of the PSAPs associated with a governing body as a percentage of the total number of concurrent sessions statewide.

(V) The distribution schedule for the funds raised by wireless prepaid 9-1-1 charge shall be based on the wireless 9-1-1 call volume at all of the PSAPs associated with a governing body as a percentage of the total number of wireless 9-1-1 calls received by all PSAPs statewide.

(b) The decision initiating this proceeding shall be accompanied by proposed amounts and distribution schedules as described in (a) (I) through (V) for comment.

(c) The wireless prepaid 9-1-1 charge rate and wireless prepaid 9-1-1 distribution schedule shall be transmitted to the Colorado Department of Revenue on or before October 1.

(d) The new rates and distribution schedules established by this proceeding shall take effect on the following January 1.

2149. Annual Data Collection from 9-1-1 Governing Bodies.

(a) No more than once per year, the Commission may issue a request for data to all 9-1-1 governing bodies. This data request shall include:

(I) an accurate and current description or GIS data set representing the boundaries of the 9-1-1 governing body's jurisdiction; and

- (II) other information necessary for the completion of annual data requests from the Federal Communications Commission, the National 9-1-1 Program, or other federal bodies, including but not limited to:
- (A) the current emergency telephone charge rate set by the 9-1-1 governing body;
 - (B) the number of employees at all of the governing body's associated PSAPs, and how many are funded with either emergency telephone charge revenue, state 9-1-1 surcharge revenue, or wireless prepaid 9-1-1 charge revenue;
 - (C) the total cost of providing emergency telephone service at all of the governing body's PSAPs;
 - (D) the total annual revenues received from emergency telephone charge remittances, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, broken down by source;
 - (E) a statement indicating whether any 9-1-1 funds, including emergency telephone charge funds, state 9-1-1 surcharge funds, or wireless prepaid 9-1-1 charge funds, were used for purposes other than those allowed pursuant to § 29-11-104, C.R.S.;
 - (F) that amount of funding the governing body has spent in preparation for the implementation of next generation 9-1-1;
 - (G) that amount of funding the governing body has spent on cybersecurity programs at its PSAPs;
 - (H) that sources, beyond emergency telephone charge remittance, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, are used to fund the equipment and operations of the governing body's associated PSAPs, and an estimate of what percentage each source represents as a total of the cost of operating and equipping the PSAP;
 - (I) the number of call taker equipment positions at each of the PSAPs associated with the 9-1-1 governing body; and
 - (J) total number of text-to-911 calls received by all PSAPs associated with the 9-1-1 governing body.

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

- (a) This rule does not apply to 9-1-1 access connections provided via prepaid wireless telecommunications services or emergency telephone charges remitted to governing bodies pursuant to § 29-11-102, C.R.S. The 9-1-1 surcharge is a statewide surcharge applied to all 9-1-1 access connections in the state of Colorado, and is separate from local emergency telephone charges that originating service providers are required to collect and remit pursuant to 29-11-102 C.R.S., the wireless prepaid 9-1-1 charge imposed upon retail transactions of prepaid wireless service pursuant to 29-11-102.5 C.R.S. and 1 CCR 201-5, Special Rule 43, the Colorado

telecommunications relay service charge imposed pursuant to 40-17-101 C.R.S., et seq., and 4 CCR 723-2-2827(b), and the prepaid wireless TRS charge imposed pursuant to 29-11-102.7, C.R.S., and 201-5, Special Rule 43.

- (b) The Commission shall determine, and by appropriate order, impose a uniform 9-1-1 surcharge on each 9-1-1 access connection per month. The surcharge amount will be available on the Commission's web site at least 60 days prior to its effective date.
- (c) All originating service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 surcharge registration form. This form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Originating service providers shall provide an updated form within 15 days of any change of the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.
- (d) 9-1-1 surcharge.
- (I) Effective January 1, 2021, all originating service providers shall collect and remit the 9-1-1 surcharge assessed upon each service user whose primary service address, if known, or billing address, if service address is unknown, is within the State of Colorado. The surcharge shall be assessed on each 9-1-1 access connection provided to that service user. Such charges shall be collected monthly and remitted as directed by the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (e).
- (II) With respect to multi line telephone systems, the number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
- (III) If the originating service provider lists fees separately on its billing to the customer, the 9-1-1 surcharge shall be listed separately as the "Colorado 911 Surcharge." The listing for this charge and the local emergency telephone charge authorized by § 29-11-102, C.R.S. may not be combined on the bill presented to the customer.
- (IV) The 9-1-1 surcharge is the liability of the service user and not of the originating service provider, except that the originating service provider is liable to remit all 9-1-1 surcharges that the originating service provider collects from service users. An originating service provider is liable only for the 9-1-1 surcharge collected until it is remitted to the Commission. The amount remitted by the originating service provider must reflect the state 9-1-1 surcharges actually collected on the number of 9-1-1 access connections provided in Colorado by the originating service provider.
- (V) Each originating service provider may retain from the total 9-1-1 surcharges collected and timely remitted, a vendor fee in the amount of one percent of the total monthly charges collected by such provider.
- (VI) Each originating service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following

month. If the last day of the month is a legal holiday, then the remittance shall be due the next business day.

(VII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.

(e) Combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.

(I) Each remittance shall be accompanied by a completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.

(A) The combined Colorado telecommunications relay service and 9-1-1 surcharge remittance 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.

(B) Regardless of the method of payment, the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.

(C) Originating service providers shall submit all surcharge remittances to the custodial receiver directly.

(D) If payments are made by physical check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.

(f) All remittances of 9-1-1 surcharges received by the Commission pursuant to this section shall be deposited in the 9-1-1 surcharge trust cash fund established pursuant to § 29-11-102.3(3)(I), C.R.S.

2151. Use and Distribution of 9-1-1 Surcharge Trust Cash Fund.

(a) The Commission may withdraw from the 9-1-1 surcharge trust cash fund an amount up to four percent of the total amount of the fund necessary for direct and indirect costs of administering the collection and remittance of the 9-1-1 surcharge, including costs related to conducting audits of service suppliers. Any funds withdrawn by the Commission for this purpose must be returned to the 9-1-1 trust cash fund if the Commission determines that the funds are not necessary to pay administrative costs.

(b) Information from the BESP listing each governing body and the number of concurrent sessions being purchased by each shall be considered regarding the distribution percentages for the remaining funds in the 9-1-1 surcharge trust cash fund, as described in rule 2148. Reductions in

the number of concurrent sessions being purchased by each governing body shall be reflected in the calculation. Increases in the number of concurrent sessions shall only be reflected in the calculation following an application process as described in paragraph (e).

(c) On a monthly basis, the Commission shall distribute to each governing body the total funds received into the 9-1-1 surcharge trust cash fund, less the administrative retention fee authorized in paragraph (a), in percentages as determined by the method described in subparagraph 2148 (a) (IV). These distributions shall be made via ACH bank transfer to each governing body.

(d) For the purposes of subparagraph 2148 (a)(IV), the number of concurrent sessions at each governing body, may only be adjusted annually at the time that the Commission establishes the formula for distribution for the following calendar year.

(e) A 9-1-1 governing body may file an application to adjust its number of concurrent sessions for the purposes of the distribution of funds under this section no more than once per year.

(I) Applications for adjustment of the number of concurrent sessions must be approved by the Commission by August 1 in order to be considered in the distribution formula to be set on October 1. Applications approved after August 1 will be considered for the next distribution to be established in the following year.

(II) Applications for this purpose shall be filed with this Commission and processed in accordance with the Commission's Rules of Practice and Procedure and with rules 1204 and 2002. The Commission may provide a form for this purpose, consistent with these rules. In addition to the information required by paragraph (b) of rule 2002, applications must contain the following information:

(A) the current number of concurrent sessions at each of the PSAP(s) associated with the governing body;

(B) the total volume of calls delivered to the PSAP(s) associated with the governing body via the existing concurrent sessions over the previous 12 months of operation;

(C) peak volume statistics relevant to the governing body's request to change its number of concurrent sessions; and

(D) any other information that the governing body deems relevant to its request to change its number of concurrent sessions.

(III) No public notice shall be required in conjunction with this application.

2152. Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices.

(a) Either the Commission or one or more governing bodies may conduct an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges. Audits of originating service provider's books regarding the collection and remittance of state 9-1-1 surcharges may only be initiated by the Commission.

- (I) Unless otherwise approved for Commission funding of the audit, as described in rule 2153, the governing body or bodies initiating the audit shall pay all expenses related to the audit.
 - (II) All expenses related to audits initiated by the Commission shall be paid for by the Commission from the administrative retention fund authorized by § 29-11-102.3(3)(c)(II), C.R.S.
 - (III) Originating service providers shall make relevant records available to auditors at no charge.
 - (IV) Governing bodies conducting audits pursuant to this section must have an audit and appeals procedure in place, adopted by ordinance or resolution, as appropriate.
 - (V) Audits initiated by the Commission shall be limited to the collection and remittance of emergency telephone charges and state 9-1-1 surcharges.
 - (VI) Audits initiated by governing bodies shall be limited to the collection and remittance of emergency telephone.
 - (VII) Any delinquent remittance of state 9-1-1 surcharges received by the Commission, including penalties and interest, shall be deposited into the 9-1-1 surcharge trust cash fund and distributed as prescribed in rule 2151.
- (b) All originating service providers must collect and remit properly established emergency telephone charges.
- (I) A properly established emergency telephone charge is one that is set at a rate that is no greater than the threshold established pursuant to rule 2148 or approved by the Commission in response to an application, as described in rule 2147.
 - (A) Changes to a local emergency telephone charge must have an effective date of either February 1 or June 1.
 - (B) Governing bodies must notify carriers of any change to the emergency telephone charge at least 60 days in advance of the effective date of the change.
 - (II) Originating service providers shall not bill or collect emergency telephone charges from 9-1-1 access connections purchased by state or local government entities.
 - (III) Originating service providers must remit emergency telephone charges to the appropriate 9-1-1 governing bodies no later than the last day of the month following the month in which the charges were collected. Each governing body may establish payment procedures and schedules that vary from these rules, in which case the originating service provider must follow those procedures and schedules.
 - (IV) Originating service providers must include with their remittance to the appropriate governing bodies a report in such form as required by each governing body.

- (V) Originating service providers may retain no more than two percent of each emergency telephone charge collected.
- (VI) Emergency telephone charge remittances must be based on the actual number of 9-1-1 access connections within the governing body's jurisdiction.
- (VII) Failure to bill a customer for a properly established emergency telephone charge does not relieve the originating service provider from the obligation to remit the surcharge. An originating service provider is only responsible for remittance of emergency telephone charges successfully collected from a customer.
- (c) Originating service providers shall bill, collect, and remit the state 9-1-1 surcharge in accordance with rule 2150.
- (d) Originating service providers must list separately the emergency telephone charge and state 9-1-1 surcharge on the customer's bill if fees and charges are listed on the customer's bill.
- (e) Originating service providers shall provide governing bodies billing examples from a reasonable number of randomly selected addresses for verification of collection and remittance, and these billing examples shall be provided at no charge without disclosing any customer-identifying information.
- (f) Originating service providers shall maintain a record of the amount of each emergency telephone charge and state 9-1-1 surcharge collected and remitted by service user address for three years after the time that it was remitted.
- (g) If an originating service provider fails to file a report and remit emergency telephone charges in a timely manner, the governing body or the Commission may assess the originating service provider for the delinquent remittance in the following manner.

 - (I) The governing body or the Commission shall estimate delinquent remittance based on available information.
 - (II) The governing body or the Commission shall issue notice of assessment to the originating service provider within three years of the original due date of the remittance, unless the three-year period is extended, in writing, in accordance with this rule.
 - (III) Before the expiration of the three-year period, the governing body or the Commission, and the originating service provider may extend the period for assessment by agreement, in writing. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The governing body and originating service provider shall provide the Commission the written notice of extension prior to the expiration of the initial three-year period or any prior extension. Any party seeking extension from the Commission shall do so by filing a petition.
 - (IV) The governing body or the Commission shall impose an additional 15 percent penalty in addition to the estimated amount of the delinquent remittance.

- (V) The governing body or the Commission shall assess an additional one percent interest monthly, assessed against the original principal owed, from the original due date until the delinquent remittance has been paid by the originating service provider.
- (VI) If the assessment was properly noticed within three years of the original due date of the remittance, or prior to the expiration of the period of time agreed to by the Commission and originating service provider in writing, the governing body or the Commission may file a lien, issue a distraint warrant, institute a suit for collection, or take other action to collect the amount up to one year after the expiration of said time period.
- (h) As an alternative to initiating an audit, a governing body or bodies may request that the Commission engage in informal mediation with the originating service provider, as described in rule 1301. Such requests shall be directed to the Commission's 9-1-1 program manager or other staff member designated for this purpose.

2153. Governing Body Funding Petition Requirements.

- (a) The governing body or bodies initiating an audit may petition the Commission for funding of the audit from the administrative fund authorized by § 29-11-102.3(3)(c)(II), C.R.S. Such petitions shall be submitted in accordance with rule 2003 and this rule and shall provide for a 14 days notice upon the Commission's acceptance of the petition, unless the petitioner requests a different notice and intervention period.
- (b) The governing body or bodies must submit petitions for funding of audits and receive Commission approval for the funding requested no less than 60 days prior to the audit being conducted.
- (c) Petitions for funding shall include, at a minimum:
- (I) the scope of audit review anticipated;
 - (II) the amount of funding sought to conduct the audit;
 - (III) supporting information for the auditor selected, including credentials and selection criteria; and
 - (IV) any alleged discrepancies or concerns that instigated the audit.
- (d) The governing body or bodies submitting the petition must provide the petition to the 9-1-1 Advisory Task Force created by rule 2145.
- (e) Upon acceptance of the petition and consideration of intervention filings, the Commission may narrow or expand the scope of the audit and provide a funding cap for reimbursement if necessary.
- (f) Any governing body that commences an audit during the pendency of a funding petition for that audit under consideration by the Commission proceeds at its own risk and may not be reimbursed fully, if at all, depending on the outcome of the petition.

2154. Audit Notification Requirements.

- (a) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any audits initiated pursuant to these rules no later than 15 days from the initiation of the audit.
- (b) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any extension agreed to in writing.
- (c) The 9-1-1 Advisory Task Force shall publish the following:
 - (I) identification of audits conducted by staff of the Commission or a governing body, including whether the audit is ongoing, complete, and the outcome;
 - (II) identification of any Commission proceedings regarding notices of assessment or civil penalty assessments; and
 - (III) identification of individual entities subject to audit and the timeline of any audit periods, including whether extensions have been agreed to in writing either directly with a governing body, or as granted by the Commission.

2155. Disputes Regarding the Emergency Telephone Charge and 9-1-1 Surcharge.

- (a) Notice of Assessment
 - (I) The director of the Commission, or his or her designee shall have the authority to issue a notice of assessment under this rule and for delinquent remittance or other violations as provided in § 29-7-103, C.R.S., alone or in combination with civil penalties as provided in rule 2010 and paragraph (b) of this rule. Additional penalties for other violations of this rule or rule 2150 may incur additional penalties as outlined in rule 2011.
 - (II) The notice of assessment shall include all penalty and interest calculations.
 - (III) The originating service provider cited in the notice of assessment may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. Any notice of assessment not admitted within the 30-day period shall be immediately referred to an Administrative Law Judge for hearing. At any hearing contesting an alleged assessment, the designee of the director of the Commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.
 - (IV) Unless a proceeding has commenced through a notice of assessment or show cause proceeding as discussed in this rule, an originating service provider may seek revisions to any final audit report directly with the director of the commission or his or her designee by providing information warranting the correction in writing. If the director or his or her designee reject the requested revision, the operating service provider may file a petition under rule 2003. The petition shall include, at a minimum, the audit report in question, the requested revisions, and supporting information regarding the requested change.

The designee of the director of the commission shall be a necessary party to any such petition.

(b) Civil penalties for delinquent or miscalculated payments.

- (I) No civil penalty assessment notice shall be issued in addition to a notice of assessment for the first instance of delinquent or miscalculated payments in any 12-month period if there are no other violations alleged.
- (II) In the event the originating service provider is issued more than one assessment notices in any 12-month period, the director of the commission, or his or her designee may request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the second notice of assessment in the 12-month period.
- (III) In the event the originating service provider is issued three or more assessment notices in any 24-month period, the director of the commission, or his or her designee shall request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the notice of assessment in the 24-month period.
- (IV) The request that the Commission issue a decision to show cause provided with any notice of assessment shall include all penalty and interest calculations, and information relied on, along with separate statements for each alleged violation, if any, and the maximum penalty amount provided. If civil penalties are included in the assessment, information included shall also comply with rule 2010.
- (V) The originating service provider cited in the notice of assessment, and any accompanying request for the Commission to issue a decision to show cause, may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. At any hearing contesting an alleged assessment, the designee of the director of the commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.

21562. – 2159. [Reserved].

* * * *

[Indicates omission of unaffected rules]

2827. Administration of the Colorado Telephone Users with Disabilities Fund.

- (a) Fund administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each commercial and residential access line in a uniform amount. In order to adjust the uniform charge, the Commission requires certain information.
 - (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) The monthly uniform charge, per telephone access line, as determined by the Commission, shall not exceed 15 cents.
 - (III) All voice service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 registration form. AThis form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Voice service providers shall provide an updated form within 15 days of any change in the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.
- (b) Uniform charge.
- (I) All voice service providers shall collect and remit the TRS charge assessed on each telephone access line for which the primary service address, if known, or billing address, if service address is unknown, is within the state of Colorado. Such charges shall be billed monthly and remitted as directed to the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (c).
 - (II) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed monthly to each access line provided by each voice service provider. Each multiline voice communication service that is capable of simultaneous outbound calling shall constitute a separate telephone access line; however, the number of telephone access lines for which a customer may be assessed a monthly charge cannot exceed the number of outbound voice calls that the voice service provider has enabled and activated to be made simultaneously.
 - (III) A seller of prepaid wireless service shall collect a prepaid wireless TRS charge from a consumer, pursuant to § 29-11-102.7, C.R.S. and remit the charge to the Department of Revenue. The Department of Revenue shall transmit the money collected to the State Treasurer for deposit into the Colorado Telephone Users with Disabilities Fund, created in § 40-17-104(1), C.R.S.
 - (IV) The TRS charge shall not be assessed or collected on any federally supported Lifeline service or customer. Each provider exempt from collecting the uniform charge on a Lifeline customer shall maintain complete documentation and shall make such documentation available to the Commission upon request.
 - (V) The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each voice service provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Surcharge."
 - (VI) Each voice service 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 voice service providers for administrative costs in imposing and collecting the uniform charge.~~

- (VII) ~~Prior Effective to January 1, 2017~~2021, each voice service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following month ~~and as directed by the Commission, the amount the provider collected for the previous month, less the applicable vendor fee.~~ If the last day of the month is a legal holiday, then the remittance shall be due the next business day.
- (VIII) ~~Beginning January 1, 2017, each voice service provider shall remit no later than 30 days after the end of each quarter and as directed by the Commission, the amount collected for the three months in the prior quarter, less the applicable vendor fee. Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.~~
- (c) Combined Colorado ~~T~~telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance form.
- (I) Each remittance shall be accompanied by a completed Colorado ~~t~~Telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.
- (A) The combined Colorado ~~t~~Telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance 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.
- (B) Regardless of the method of payment, ~~T~~the combined Colorado ~~t~~Telecommunications ~~r~~Relay ~~s~~Service and 9-1-1 ~~S~~urcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.
- (C) Voice service providers shall submit all surcharge remittances along with the Relay Service Surcharge form to the TRS custodial receiver directly. ~~The Colorado Relay Service Surcharge form shall also be filed with the Commission through the E-Filings System.~~
- (D) If payments are made by check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

* * * *

[indicates omission of unaffected rules]

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 services, as provided in rule 2103;
 - (II) for the issuance of a LOR for services, as provided in rule 2103;
 - (III) to amend a CPCN or LOR, as provided in rule 2105;
 - (IV) to change exchange area boundaries, as provided in rule 2106;
 - (V) to discontinue the provisioning of basic emergency service, switched access service, or basic local exchange service provided by an ETC, EP, or HCSM recipient, as provided in rule 2109;
 - (VI) to transfer or encumber a CPCN, LOR, or assets, or to merge a provider with another entity, as provided in rule 2110;
 - (VII) to amend a tariff on less than statutory notice, as provided in subparagraph 2122;
 - (VIII) for certification as a basic emergency service provider, as provided in rule 2132;
 - (IX) for approval of a change to an emergency telephone charge in excess of the threshold set by the Commission, as provided in rule 2147;
 - (X) for approval of an increase in the number of concurrent sessions associated with a 9-1-1 governing body for purposes of determining distribution percentages from the 9-1-1 surcharge trust cash fund, as provided in rule 2151;

- (XI) for designation as a POLR, as provided in rules 2183 and 2184;
 - (XII) for relinquishment of the designation as a POLR, ETC, or EP, as provided in rule 2186;
 - (XIII) for designation as an ETC, as provided in rule 2187;
 - (XIV) for approval of a disaggregation of a study area of a rural ILEC, as provided in rule 2189;
 - (XV) for reclassification of a Part II service to a Part III service, as provided in rule 2203;
 - (XVI) for deregulation of Part III Services, as provided in rule 2204;
 - (XVII) for approval of a refund plan, as provided in rule 2305; or
 - (XVIII) 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 attachments:
- (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, 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, 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; and
 - (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; and
- (XI) 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) 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. 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 customer class(es) will be affected and the monthly customer rate impact by customer class, if customers' rates are affected by the application;
 - (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 proceeding number, 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; and
 - (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) Filings shall be made in accordance with rule 1204.

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 2107;

- (IV) for arbitration of an interconnection agreement, as provided in rules 2562 through 2579;
 - (V) for use of N-1-1 abbreviated dialing codes, as provided in paragraph 2742(e); or
 - (VI) for approval of funding of an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges, filed by a governing body or bodies as provided in paragraph 2152(g).
- (b) Unless otherwise noted in specific rules, all petitions shall include, the information contained in paragraph 2002(b).
 - (c) 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 same information as required by paragraph 2002(d).
 - (d) Filings should be made in accordance with rule 1204.

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[indicates omission of unaffected rules]

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.; § 29-11-103(7)(b) and (c), 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., or for delinquent payments, penalties, and interest as described in § 29-11-103(7)(b) and (c), 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 paragraph 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. 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
Rule 2109(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	\$2000
Rule 2110, text preceding (a) only	Applications to Transfer or Encumber	\$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	\$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	\$2000
Rule 2136	Obligations of Basic Emergency Service Providers	\$2000
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	\$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	\$2000

Rule 2143	Diverse Routing and Priority Service Restoration	\$2000
Rule 2150	Administration of the 9-1-1 Surcharge Trust Cash Fund	\$2000
Rule 2152	Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices	\$2000
Rule 2186(a),(d), (e) and (f)	Relinquishment of Designation as Provider of Last Resort	\$2000
Rule 2305, text preceding (a) only	Refund Plans	\$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	\$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	\$2000
Rule 2533	Submission of Agreement and Amendments for Approval	\$2000
Rule 2742	Abbreviated Dialing Codes	\$2000
Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	\$1000
Rule 2337(a)	Standard Performance Characteristics for Customer Access Lines	\$1000
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
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 (TBD)	Timely or Completely Filing or Making Appropriate Payments to the HCSCM Fund	\$100
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[indicates omission of unaffected rules]

Basic Emergency Service

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) define and describe basic emergency service as regulated by § 40-15-201, C.R.S.; (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 originating service providers and other BESPs; (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; (6) explicitly recognize the potential for multiple BESPs in Colorado; (7) prescribe the process for the establishment of the annual threshold, surcharge, and prepaid wireless 9-1-1 charge amounts; (8) prescribe the processes for the collection and distribution of 9-1-1 surcharge funds; (9) establish procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of emergency telephone charges and 9-1-1 surcharges; and (10) establishing annual reporting requirements for 9-1-1 governing bodies.

The statutory authority for the promulgation of these rules is found at §§ 29-11-101.5; 29-11-102; 29-11-102.3; 29-11-102.5(2)(c); 29-11-102.7(2); 29-11-103; 29-11-106(3); 40-2-108; 40-3-102; 40-3-103; 40-4-101(1) and (2); 40-15-201; 40-15-301; and 40-15-503(2)(g), C.R.S.

2130. Applicability.

- (a) Except as otherwise provided, rules 2130 through 2159 apply to BESPs.
- (b) Rules 2147, 2151, 2153, 2154, and 2156 apply to 9-1-1 governing bodies.
- (c) Rules 2152 and 2155 apply to originating service providers.

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 access connection" means any communications service including wireline, wireless cellular, interconnected voice-over-internet-protocol, or satellite in which connections are enabled, configured, or capable of making 9-1-1 calls. The term does not include facilities-based

broadband services. The number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.

- (c) "9-1-1 call" means a request for emergency assistance from the public by dialing 9-1-1 or addressing the ESInet regardless of the technology used, and may include voice, text, images, and video, whether originated by wireline, wireless, satellite, or other means.
- (d) "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 selective router or functional equivalent and subsequently connects to a Public Safety Answering Point (PSAP). These may include, but are not limited to, point-to-point private line facilities owned, leased or otherwise acquired by a BESEP. 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.
- (e) "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.
- (f) "9-1-1 selective router" means the telecommunications switch or functional equivalent dedicated to aggregation of 9-1-1 call traffic from public networks and proper routing of 9-1-1 call traffic to PSAPs.
- (g) "9-1-1 service" means the service by which a 9-1-1 call is routed and transported from the end user placing a 9-1-1 call to the PSAP serving the caller's location. 9-1-1 service also includes any related caller location information routed to the PSAP, if any.
- (h) "9-1-1 surcharge" or "state 9-1-1 surcharge" means the surcharge established pursuant to § 29-11-102.3, C.R.S.
- (i) "Automatic Location Identification" (ALI) means the automatic display, on equipment at the PSAP, of the telephone number and location of the caller. ALI data includes non-listed and non-published numbers and addresses, and other information about the caller's location.
- (j) "ALI 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.
- (k) "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, provided to the governing body or PSAP or a specific geographic area. ALI service does not include the provision of ALI by originating service providers, PSAPs, 9-1-1 governing bodies, or local governments.
- (l) "Automatic Number Identification" (ANI) means the automatic display of the caller's telephone number at the PSAP.

- (m) "Basic emergency service" means the aggregation and transportation of a 9-1-1 call directly to a point of interconnection with a governing body or PSAP, regardless of the technology used to provide the service. The aggregation of calls means the collection of 9-1-1 calls from one or more originating service providers or intermediary aggregation service providers for the purpose of selectively routing and transporting 9-1-1 calls directly to a point of interconnection with a governing body or PSAP. The offering or providing of ALI service or selective routing directly to a governing body or PSAP by any person is also a basic emergency service. Basic emergency service does not include:
- (I) the portion of a 9-1-1 call provided by an originating service provider;
 - (II) the services provided by an intermediary aggregation service provider;
 - (III) the delivery of a 9-1-1 call from the originating service provider or an intermediary aggregation service provider to a point of interconnection with the BESP;
 - (IV) the delivery of a 9-1-1 call from the point of interconnection between the BESP and a PSAP to the PSAP facility that receives and processes the 9-1-1 call; or
 - (V) the delivery of text-to-9-1-1 via interim methods.
- (n) "Basic Emergency Service Provider" (BESP) means any person certificated by the Commission to provide basic emergency service.
- (o) "Concurrent session" means a channel for an inbound simultaneous 9-1-1 call.
- (p) "Demarcation point" means the physical point where the responsibility of a portion of a network changes from one party to another.
- (q) "Emergency notification service" (ENS) means a service in which, upon activation by a public safety agency:
- (I) the 9-1-1 database or a database which may be derived in whole or in part 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.).
 - (IV) ENS may also include the transmission of messages to individuals by other means, including text messages, e-mail, facsimile, or other mass alerting method or system.
- (r) "Emergency telephone charge" means a charge established by a governing body pursuant to § 29-11-102(2)(a), C.R.S., or established by § 29-11-102.5(2)(a), C.R.S., to pay for the expenses authorized in § 29-11-104, C.R.S.

- (s) "Enhanced 9-1-1" (E9-1-1) means 9-1-1 service that includes the association of ANI and ALI (including non-listed and non-published numbers and addresses), and selective routing.
- (t) "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.
- (u) "Governing body" means the organization responsible for establishing, collecting, and disbursing the emergency telephone charge in a specific geographic area, pursuant to §§ 29-11-102, 103, and 104, C.R.S.
- (v) "Intermediary aggregation service provider" means a person that aggregates and transports 9-1-1 calls for one or more originating service providers for delivery to a BESP selective router or the functional equivalent of such a router.
- (w) "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.
- (x) "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.
- (y) "Originating service provider" (OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services supplying the ability to place 9-1-1 calls.
- (z) "Public Safety Answering Point" (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP.
- (aa) "Selective routing" means the capability of routing a 9-1-1 call to a designated PSAP based upon the location of the end user, as indicated by the ten-digit telephone number of the fixed location subscriber dialing 9-1-1, the p-ANI (ESRK or ESQK), or otherwise permitted by FCC rule, regulation, or order.

* * * *

[indicates omission of unaffected rules]

2136. Obligations of Basic Emergency Service Providers.

- (a) A BESP certificated by the Commission, shall obtain facilities from or interconnect with all originating service providers telecommunications providers who have customers in areas served by the BESP. BESP's shall interconnect with all other BESP's.
- (b) At the request of an originating service provider, intermediary aggregation service provider, or other BESP, a BESP shall provide and/or arrange for the necessary facilities to interconnect, route and transport 9-1-1 calls and ALI from originating service provider, intermediary aggregation service provider, or other BESP's 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 originating service provider or intermediary aggregation service provider 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 originating service provider or intermediary aggregation service provider 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 service. These rates shall be averaged over the entire geographic areas the BESP is certificated to serve, except as otherwise provided in subparagraph 2143(a)(III).
- (d) A BESP shall render a single monthly bill for its tariff services provided to the appropriate governing body. The monthly bill shall be sufficiently detailed to allow the governing body to determine that it is being billed properly based on the billing increments as approved by the Commission.
- (e) The BESP shall coordinate with the 9-1-1 Advisory Task Force to establish a process for ensuring units used for tariff pricing are accurate and up-to-date.
- (f) BESP's shall ensure, to the extent possible and in the most efficient manner, that telecommunication services are available for transmitting 9-1-1 calls from deaf, hard of hearing, and persons with speech impairments to the appropriate PSAP.
- (g) A BESP shall ensure that all basic emergency service facilities, and interconnections between it and the originating service providers and intermediary aggregation service providers are engineered, installed, maintained and monitored in order to provide a minimum of two circuits and a minimum P.01 grade of service (one percent or less blocking during the busy hour), or such other minimum grade of service requirements approved by the Commission.
- (h) Where a BESP obtains facilities from a basic local exchange carrier for delivery of 9-1-1 calls to a PSAP, the rates for such facilities shall be reflected in a tariff or agreement filed for approval with the Commission. Such tariffs or agreements shall ensure that such facilities 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. The basic local exchange carrier providing such facilities shall not be considered a BESP. The provisions of this rule shall not apply to routing arrangements implemented pursuant to paragraph 2143(d).

- (i) To expedite the restoration of service following a 9-1-1 outage, each BESP shall designate a telephone number for PSAPs and originating service 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.
- (j) A BESP shall keep on file with the Commission its contingency plan as described in paragraph 2143(d).
- (k) BESP's shall identify service providers supplying service within a governing body or PSAP's service area, or statewide, to the extent that the BESP possesses such information, in response to a request from a governing body, PSAP, or the Commission.
- (l) A BESP shall report to the Commission a list of every PSAP serviced by the BESP with the number of concurrent sessions provided to each PSAP. This report shall be updated and filed annually with the Commission by June 1 of each year.

2137. [Reserved].

2138. Obligations of Payphone Providers.

All payphone providers must ensure that access to dial tone, emergency calls, and telecommunications relay service calls for the deaf, hard of hearing, and individuals with speech impairments is available from all payphones at no charge to the caller, pursuant to 47 C.F.R. 64.1330(b).

2139. – 2140. [Reserved].

2141. Multi-line Telephone Systems (MLTS) Complaint Portal.

- (a) The Commission maintains an online portal by which members of the public or other interested parties may report violations of federal law or regulation regarding the 9-1-1 capabilities of multi-line telephone systems in Colorado. This includes but is not limited to reports of violations of 47 U.S.C. § 623.
- (b) The Commission shall relay all complaints received via this portal to the appropriate federal enforcement agency or agencies in a timely manner.

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[indicates omission of unaffected rules]

2147. Applications by the Governing Body for Approval of an Emergency Telephone Charge in Excess of the Threshold Established by the Commission.

- (a) A governing body requesting approval pursuant to § 29-11-102(2)(c), C.R.S., for an emergency telephone charge in excess of the limit established by the Commission through the procedure described in rule 2148, shall file an application with this Commission.
- (b) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure and with rule 1204. The Commission may provide a form for this purpose, consistent with these rules. Applications must contain the following information:
 - (I) the name and address of the applicant;
 - (II) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;
 - (III) the name, address, telephone 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 (II);
 - (IV) a statement indicating the town, city, or virtual forum and any alternate town, city, or virtual forum where the applicant prefers any hearings be held;
 - (V) a statement that the applicant agrees to respond to all questions propounded by the Commission or Commission staff concerning the application;
 - (VI) a statement that the applicant shall permit the Commission or Commission staff to inspect the applicant's books and records as part of the investigation into the application;
 - (VII) 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;
 - (VIII) acknowledgment that, by signing the application, the applying governing body 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 governing body shall not commence the requested action until the applying governing body complies with applicable Commission rules and with any conditions established by Commission order granting the application; and
 - (C) if a hearing is held, the applying governing body shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and

- (D) in lieu of the statements contained in subparagraphs (b)(VIII)(A) through (C) of this rule, an applying governing body may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(VIII)(A) through (C) of this rule.
 - (IX) an attestation which is made under penalty of perjury; which is signed by an officer, employee, agent, or an attorney for the applying governing body, as appropriate, who is authorized to act on behalf of the applying governing body; and which states that the contents of the application are true, accurate, and correct; and which attests that within the last 18 months the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S., that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with 29-11-104(5), C.R.S.;
 - (X) a report showing actual revenues and expenses for at least three previous years;
 - (XI) a five-year projected budget for the governing body with the proposed emergency telephone charge, including proposed capital expenses;
 - (XII) documentation of all budgetary line items in excess of \$50000;
 - (XIII) any current intergovernmental agreement or equivalent document authorizing the governing body to collect and use emergency telephone charge funds;
 - (XIV) a resolution or equivalent decision by the governing body authorizing its agent to pursue approval for the requested emergency telephone charge;
 - (XV) a copy of the most recent audit performed of the governing body's finances, or the online address where a copy of such an audit may be found, or a statement that the governing body is exempt from audit requirements;
 - (XVI) a draft public notice and a statement regarding where the governing body proposes to publish the notice; and
 - (XVII) any additional supporting or explanatory documentation which may assist in the evaluation of the application.
- (c) Notice. Notwithstanding paragraph 2002(d), this rule shall establish the notice procedure for governing bodies applying for approval of an emergency telephone charge in excess of the amount established pursuant to § 29-11-102(2), C.R.S. Within three days after the Commission issues notice of the application, the applicant shall publish a notice of the application in at least one newspaper of general circulation in the area of applicability in at least one edition. The notice shall also be made available for a period of no less than two weeks on the governing body's website, if one exists. The notice shall include:
- (I) the name, address and telephone number of the requesting governing body and the Colorado Public Utilities Commission;

- (II) a statement that the governing body has filed with the Colorado Public Utilities Commission an application to change its currently effective emergency telephone charge, and identify both the current and proposed emergency telephone charge;
 - (III) the proceeding number and the deadline for interventions or objections;
 - (IV) the proposed effective date of the new charge;
 - (V) a statement of the purpose of the application, including an explanation of the proposed changes;
 - (VI) a statement that the application is available for inspection at the office of the governing body utility and at the Colorado Public Utilities Commission; and
 - (VII) 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.
- (d) 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. Process for the Establishment of Annual Emergency Telephone Charge Threshold, State 9-1-1 Surcharge Rate, Wireless Prepaid 9-1-1 Surcharge Rate, and Associated Fund Distribution Schedules.

- (a) On or before August 1 of each year, the Commission shall initiate a proceeding to be concluded on or before October 1 to establish the emergency telephone charge threshold, a statewide 9-1-1 surcharge, a wireless prepaid 9-1-1 charge, a distribution schedule for the funds raised by the state 9-1-1 surcharge, and a distribution schedule for the funds raised by the wireless prepaid 9-1-1 charge for the following calendar year.
 - (I) The emergency telephone charge threshold:
 - (A) shall take into account inflation through the consideration of historical data and future projections; and
 - (B) shall take into account the needs of governing bodies through the consideration of historical data, inflation rates, the rate of increase of the average emergency telephone charge, comments provided under this rule, and other factors the Commission deems relevant.
 - (II) The 9-1-1 surcharge:
 - (A) shall not exceed fifty cents per month per 9-1-1 access connection;
 - (B) shall be calculated to meet the needs of governing bodies to operate the 9-1-1 system by considering historical data, costs to the 9-1-1 governing body of basic

emergency service tariffs, comments provided under this rule, and other factors the Commission deems relevant; and

- (C) shall be uniform, regardless of the technology used to provide the 9-1-1 access connection.
 - (III) The wireless prepaid 9-1-1 charge shall be calculated by determining the average of all local emergency telephone charges as they existed on July 1 of that year plus the amount of the statewide 9-1-1 surcharge established by the Commission for the upcoming year.
 - (IV) The distribution schedule for the funds raised by the state 9-1-1 surcharge shall be based on the number of concurrent sessions at all of the PSAPs associated with a governing body as a percentage of the total number of concurrent sessions statewide.
 - (V) The distribution schedule for the funds raised by wireless prepaid 9-1-1 charge shall be based on the wireless 9-1-1 call volume at all of the PSAPs associated with a governing body as a percentage of the total number of wireless 9-1-1 calls received by all PSAPs statewide.
- (b) The decision initiating this proceeding shall be accompanied by proposed amounts and distribution schedules as described in (a) (I) through (V) for comment.
 - (c) The wireless prepaid 9-1-1 charge rate and wireless prepaid 9-1-1 distribution schedule shall be transmitted to the Colorado Department of Revenue on or before October 1.
 - (d) The new rates and distribution schedules established by this proceeding shall take effect on the following January 1.

2149. Annual Data Collection from 9-1-1 Governing Bodies.

- (a) No more than once per year, the Commission may issue a request for data to all 9-1-1 governing bodies. This data request shall include:
 - (I) an accurate and current description or GIS data set representing the boundaries of the 9-1-1 governing body's jurisdiction; and
 - (II) other information necessary for the completion of annual data requests from the Federal Communications Commission, the National 9-1-1 Program, or other federal bodies, including but not limited to:
 - (A) the current emergency telephone charge rate set by the 9-1-1 governing body;
 - (B) the number of employees at all of the governing body's associated PSAPs, and how many are funded with either emergency telephone charge revenue, state 9-1-1 surcharge revenue, or wireless prepaid 9-1-1 charge revenue;
 - (C) the total cost of providing emergency telephone service at all of the governing body's PSAPs;

- (D) the total annual revenues received from emergency telephone charge remittances, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, broken down by source;
- (E) a statement indicating whether any 9-1-1 funds, including emergency telephone charge funds, state 9-1-1 surcharge funds, or wireless prepaid 9-1-1 charge funds, were used for purposes other than those allowed pursuant to § 29-11-104, C.R.S.;
- (F) that amount of funding the governing body has spent in preparation for the implementation of next generation 9-1-1;
- (G) that amount of funding the governing body has spent on cybersecurity programs at its PSAPs;
- (H) that sources, beyond emergency telephone charge remittance, state 9-1-1 surcharge remittances, and wireless prepaid 9-1-1 charge remittances, are used to fund the equipment and operations of the governing body's associated PSAPs, and an estimate of what percentage each source represents as a total of the cost of operating and equipping the PSAP;
- (I) the number of call taker equipment positions at each of the PSAPs associated with the 9-1-1 governing body; and
- (J) total number of text-to-911 calls received by all PSAPs associated with the 9-1-1 governing body.

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

- (a) This rule does not apply to 9-1-1 access connections provided via prepaid wireless telecommunications services or emergency telephone charges remitted to governing bodies pursuant to § 29-11-102, C.R.S. The 9-1-1 surcharge is a statewide surcharge applied to all 9-1-1 access connections in the state of Colorado, and is separate from local emergency telephone charges that originating service providers are required to collect and remit pursuant to 29-11-102 C.R.S., the wireless prepaid 9-1-1 charge imposed upon retail transactions of prepaid wireless service pursuant to 29-11-102.5 C.R.S. and 1 CCR 201-5, Special Rule 43, the Colorado telecommunications relay service charge imposed pursuant to 40-17-101 C.R.S., et seq., and 4 CCR 723-2-2827(b), and the prepaid wireless TRS charge imposed pursuant to 29-11-102.7, C.R.S., and 201-5, Special Rule 43.
- (b) The Commission shall determine, and by appropriate order, impose a uniform 9-1-1 surcharge on each 9-1-1 access connection per month. The surcharge amount will be available on the Commission's web site at least 60 days prior to its effective date.
- (c) All originating service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 surcharge registration form. This form is available from the Commission or on its website and shall be filed through the Commission's E-Filing System. Originating service providers shall provide an updated form within 15 days of any

change of the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.

- (d) 9-1-1 surcharge.
- (I) Effective January 1, 2021, all originating service providers shall collect and remit the 9-1-1 surcharge assessed upon each service user whose primary service address, if known, or billing address, if service address is unknown, is within the State of Colorado. The surcharge shall be assessed on each 9-1-1 access connection provided to that service user. Such charges shall be collected monthly and remitted as directed by the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (e).
 - (II) With respect to multi line telephone systems, the number of 9-1-1 access connections is determined by the configured capacity for simultaneous outbound calling.
 - (III) If the originating service provider lists fees separately on its billing to the customer, the 9-1-1 surcharge shall be listed separately as the "Colorado 911 Surcharge." The listing for this charge and the local emergency telephone charge authorized by § 29-11-102, C.R.S. may not be combined on the bill presented to the customer.
 - (IV) The 9-1-1 surcharge is the liability of the service user and not of the originating service provider, except that the originating service provider is liable to remit all 9-1-1 surcharges that the originating service provider collects from service users. An originating service provider is liable only for the 9-1-1 surcharge collected until it is remitted to the Commission. The amount remitted by the originating service provider must reflect the state 9-1-1 surcharges actually collected on the number of 9-1-1 access connections provided in Colorado by the originating service provider.
 - (V) Each originating service provider may retain from the total 9-1-1 surcharges collected and timely remitted, a vendor fee in the amount of one percent of the total monthly charges collected by such provider.
 - (VI) Each originating service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following month. If the last day of the month is a legal holiday, then the remittance shall be due the next business day.
 - (VII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (e) Combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.
- (I) Each remittance shall be accompanied by a completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.

- (A) The combined Colorado telecommunications relay service and 9-1-1 surcharge remittance 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.
 - (B) Regardless of the method of payment, the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.
 - (C) Originating service providers shall submit all surcharge remittances to the custodial receiver directly.
 - (D) If payments are made by physical check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.
- (f) All remittances of 9-1-1 surcharges received by the Commission pursuant to this section shall be deposited in the 9-1-1 surcharge trust cash fund established pursuant to § 29-11-102.3(3)(c)(I), C.R.S.

2151. Use and Distribution of 9-1-1 Surcharge Trust Cash Fund.

- (a) The Commission may withdraw from the 9-1-1 surcharge trust cash fund an amount up to four percent of the total amount of the fund necessary for direct and indirect costs of administering the collection and remittance of the 9-1-1 surcharge, including costs related to conducting audits of service suppliers. Any funds withdrawn by the Commission for this purpose must be returned to the 9-1-1 trust cash fund if the Commission determines that the funds are not necessary to pay administrative costs.
- (b) Information from the BESP listing each governing body and the number of concurrent sessions being purchased by each shall be considered regarding the distribution percentages for the remaining funds in the 9-1-1 surcharge trust cash fund, as described in rule 2148. Reductions in the number of concurrent sessions being purchased by each governing body shall be reflected in the calculation. Increases in the number of concurrent sessions shall only be reflected in the calculation following an application process as described in paragraph (e).
- (c) On a monthly basis, the Commission shall distribute to each governing body the total funds received into the 9-1-1 surcharge trust cash fund, less the administrative retention fee authorized in paragraph (a), in percentages as determined by the method described in subparagraph 2148 (a) (IV). These distributions shall be made via ACH bank transfer to each governing body.
- (d) For the purposes of subparagraph 2148 (a)(IV), the number of concurrent sessions at each governing body, may only be adjusted annually at the time that the Commission establishes the formula for distribution for the following calendar year.

- (e) A 9-1-1 governing body may file an application to adjust its number of concurrent sessions for the purposes of the distribution of funds under this section no more than once per year.
 - (I) Applications for adjustment of the number of concurrent sessions must be approved by the Commission by August 1 in order to be considered in the distribution formula to be set on October 1. Applications approved after August 1 will be considered for the next distribution to be established in the following year.
 - (II) Applications for this purpose shall be filed with this Commission and processed in accordance with the Commission's Rules of Practice and Procedure and with rules 1204 and 2002. The Commission may provide a form for this purpose, consistent with these rules. In addition to the information required by paragraph (b) of rule 2002, applications must contain the following information:
 - (A) the current number of concurrent sessions at each of the PSAP(s) associated with the governing body;
 - (B) the total volume of calls delivered to the PSAP(s) associated with the governing body via the existing concurrent sessions over the previous 12 months of operation;
 - (C) peak volume statistics relevant to the governing body's request to change its number of concurrent sessions; and
 - (D) any other information that the governing body deems relevant to its request to change its number of concurrent sessions.
 - (III) No public notice shall be required in conjunction with this application.

2152. Audit of Service Providers Regarding Emergency Telephone Charge and 9-1-1 Surcharge Practices.

- (a) Either the Commission or one or more governing bodies may conduct an audit of an originating service provider's books and records regarding collection and remittance of emergency telephone charges. Audits of originating service provider's books regarding the collection and remittance of state 9-1-1 surcharges may only be initiated by the Commission.
 - (I) Unless otherwise approved for Commission funding of the audit, as described in rule 2153, the governing body or bodies initiating the audit shall pay all expenses related to the audit.
 - (II) All expenses related to audits initiated by the Commission shall be paid for by the Commission from the administrative retention fund authorized by § 29-11-102.3(3)(c)(II), C.R.S.
 - (III) Originating service providers shall make relevant records available to auditors at no charge.

- (IV) Governing bodies conducting audits pursuant to this section must have an audit and appeals procedure in place, adopted by ordinance or resolution, as appropriate.
 - (V) Audits initiated by the Commission shall be limited to the collection and remittance of emergency telephone charges and state 9-1-1 surcharges.
 - (VI) Audits initiated by governing bodies shall be limited to the collection and remittance of emergency telephone.
 - (VII) Any delinquent remittance of state 9-1-1 surcharges received by the Commission, including penalties and interest, shall be deposited into the 9-1-1 surcharge trust cash fund and distributed as prescribed in rule 2151.
- (b) All originating service providers must collect and remit properly established emergency telephone charges.
- (I) A properly established emergency telephone charge is one that is set at a rate that is no greater than the threshold established pursuant to rule 2148 or approved by the Commission in response to an application, as described in rule 2147.
 - (A) Changes to a local emergency telephone charge must have an effective date of either February 1 or June 1.
 - (B) Governing bodies must notify carriers of any change to the emergency telephone charge at least 60 days in advance of the effective date of the change.
 - (II) Originating service providers shall not bill or collect emergency telephone charges from 9-1-1 access connections purchased by state or local government entities.
 - (III) Originating service providers must remit emergency telephone charges to the appropriate 9-1-1 governing bodies no later than the last day of the month following the month in which the charges were collected. Each governing body may establish payment procedures and schedules that vary from these rules, in which case the originating service provider must follow those procedures and schedules.
 - (IV) Originating service providers must include with their remittance to the appropriate governing bodies a report in such form as required by each governing body.
 - (V) Originating service providers may retain no more than two percent of each emergency telephone charge collected.
 - (VI) Emergency telephone charge remittances must be based on the actual number of 9-1-1 access connections within the governing body's jurisdiction.
 - (VII) Failure to bill a customer for a properly established emergency telephone charge does not relieve the originating service provider from the obligation to remit the surcharge. An originating service provider is only responsible for remittance of emergency telephone charges successfully collected from a customer.

- (c) Originating service providers shall bill, collect, and remit the state 9-1-1 surcharge in accordance with rule 2150.
- (d) Originating service providers must list separately the emergency telephone charge and state 9-1-1 surcharge on the customer's bill if fees and charges are listed on the customer's bill.
- (e) Originating service providers shall provide governing bodies billing examples from a reasonable number of randomly selected addresses for verification of collection and remittance, and these billing examples shall be provided at no charge without disclosing any customer-identifying information.
- (f) Originating service providers shall maintain a record of the amount of each emergency telephone charge and state 9-1-1 surcharge collected and remitted by service user address for three years after the time that it was remitted.
- (g) If an originating service provider fails to file a report and remit emergency telephone charges in a timely manner, the governing body or the Commission may assess the originating service provider for the delinquent remittance in the following manner.
 - (I) The governing body or the Commission shall estimate delinquent remittance based on available information.
 - (II) The governing body or the Commission shall issue notice of assessment to the originating service provider within three years of the original due date of the remittance, unless the three-year period is extended, in writing, in accordance with this rule.
 - (III) Before the expiration of the three-year period, the governing body or the Commission, and the originating service provider may extend the period for assessment by agreement, in writing. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The governing body and originating service provider shall provide the Commission the written notice of extension prior to the expiration of the initial three-year period or any prior extension. Any party seeking extension from the Commission shall do so by filing a petition.
 - (IV) The governing body or the Commission shall impose an additional 15 percent penalty in addition to the estimated amount of the delinquent remittance.
 - (V) The governing body or the Commission shall assess an additional one percent interest monthly, assessed against the original principal owed, from the original due date until the delinquent remittance has been paid by the originating service provider.
 - (VI) If the assessment was properly noticed within three years of the original due date of the remittance, or prior to the expiration of the period of time agreed to by the Commission and originating service provider in writing, the governing body or the Commission may file a lien, issue a distraint warrant, institute a suit for collection, or take other action to collect the amount up to one year after the expiration of said time period.
- (h) As an alternative to initiating an audit, a governing body or bodies may request that the Commission engage in informal mediation with the originating service provider, as described in

rule 1301. Such requests shall be directed to the Commission's 9-1-1 program manager or other staff member designated for this purpose.

2153. Governing Body Funding Petition Requirements.

- (a) The governing body or bodies initiating an audit may petition the Commission for funding of the audit from the administrative fund authorized by § 29-11-102.3(3)(c)(II), C.R.S. Such petitions shall be submitted in accordance with rule 2003 and this rule and shall provide for a 14 days notice upon the Commission's acceptance of the petition, unless the petitioner requests a different notice and intervention period.
- (b) The governing body or bodies must submit petitions for funding of audits and receive Commission approval for the funding requested no less than 60 days prior to the audit being conducted.
- (c) Petitions for funding shall include, at a minimum:
 - (I) the scope of audit review anticipated;
 - (II) the amount of funding sought to conduct the audit;
 - (III) supporting information for the auditor selected, including credentials and selection criteria; and
 - (IV) any alleged discrepancies or concerns that instigated the audit.
- (d) The governing body or bodies submitting the petition must provide the petition to the 9-1-1 Advisory Task Force created by rule 2145.
- (e) Upon acceptance of the petition and consideration of intervention filings, the Commission may narrow or expand the scope of the audit and provide a funding cap for reimbursement if necessary.
- (f) Any governing body that commences an audit during the pendency of a funding petition for that audit under consideration by the Commission proceeds at its own risk and may not be reimbursed fully, if at all, depending on the outcome of the petition.

2154. Audit Notification Requirements.

- (a) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any audits initiated pursuant to these rules no later than 15 days from the initiation of the audit.
- (b) Governing bodies shall provide written notice to the staff of the Commission and to the 9-1-1 Advisory Task Force of any extension agreed to in writing.
- (c) The 9-1-1 Advisory Task Force shall publish the following:
 - (I) identification of audits conducted by staff of the Commission or a governing body, including whether the audit is ongoing, complete, and the outcome;

- (II) identification of any Commission proceedings regarding notices of assessment or civil penalty assessments; and
- (III) identification of individual entities subject to audit and the timeline of any audit periods, including whether extensions have been agreed to in writing either directly with a governing body, or as granted by the Commission.

2155. Disputes Regarding the Emergency Telephone Charge and 9-1-1 Surcharge.

(a) Notice of Assessment

- (I) The director of the Commission, or his or her designee shall have the authority to issue a notice of assessment under this rule and for delinquent remittance or other violations as provided in § 29-7-103, C.R.S., alone or in combination with civil penalties as provided in rule 2010 and paragraph (b) of this rule. Additional penalties for other violations of this rule or rule 2150 may incur additional penalties as outlined in rule 2011.
- (II) The notice of assessment shall include all penalty and interest calculations.
- (III) The originating service provider cited in the notice of assessment may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. Any notice of assessment not admitted within the 30-day period shall be immediately referred to an Administrative Law Judge for hearing. At any hearing contesting an alleged assessment, the designee of the director of the Commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.
- (IV) Unless a proceeding has commenced through a notice of assessment or show cause proceeding as discussed in this rule, an originating service provider may seek revisions to any final audit report directly with the director of the commission or his or her designee by providing information warranting the correction in writing. If the director or his or her designee reject the requested revision, the operating service provider may file a petition under rule 2003. The petition shall include, at a minimum, the audit report in question, the requested revisions, and supporting information regarding the requested change. The designee of the director of the commission shall be a necessary party to any such petition.

(b) Civil penalties for delinquent or miscalculated payments.

- (I) No civil penalty assessment notice shall be issued in addition to a notice of assessment for the first instance of delinquent or miscalculated payments in any 12-month period if there are no other violations alleged.
- (II) In the event the originating service provider is issued more than one assessment notices in any 12-month period, the director of the commission, or his or her designee may request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the second notice of assessment in the 12-month period.

- (III) In the event the originating service provider is issued three or more assessment notices in any 24-month period, the director of the commission, or his or her designee shall request that the Commission issue a decision to show cause under the rules of practice and procedure, in addition to any civil penalty assessment notice in conjunction with the notice of assessment in the 24-month period.
- (IV) The request that the Commission issue a decision to show cause provided with any notice of assessment shall include all penalty and interest calculations, and information relied on, along with separate statements for each alleged violation, if any, and the maximum penalty amount provided. If civil penalties are included in the assessment, information included shall also comply with rule 2010.
- (V) The originating service provider cited in the notice of assessment, and any accompanying request for the Commission to issue a decision to show cause, may either admit the assessed calculations or may contest the calculations within 30 days of the notice of assessment. At any hearing contesting an alleged assessment, the designee of the director of the commission shall have the burden of demonstrating the accuracy of the calculated amounts by a preponderance of the evidence.

2156. – 2159. [Reserved].

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[Indicates omission of unaffected rules]

2827. Administration of the Colorado Telephone Users with Disabilities Fund.

- (a) Fund administration. The Commission shall determine, and by appropriate order, impose a uniform charge on each commercial and residential access line in a uniform amount. In order to adjust the uniform charge, the Commission requires certain information.
 - (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) The monthly uniform charge, per telephone access line, as determined by the Commission, shall not exceed 15 cents.
 - (III) All voice service providers must register and provide appropriate contact information to the Commission within 30 days of operating in the state of Colorado using the combined Colorado telecommunications relay service and 9-1-1 registration form. This form is available from the Commission or on its website and shall be filed through the Commission's E-Fiing System. Voice service providers shall provide an updated form within 15 days of any change in the information previously provided to the Commission including for any discontinuance of service. All TRS and 9-1-1 registration forms, including any updates, shall be filed in the Commission proceeding opened annually for such purpose.
- (b) Uniform charge.

- (I) All voice service providers shall collect and remit the TRS charge assessed on each telephone access line for which the primary service address, if known, or billing address, if service address is unknown, is within the state of Colorado. Such charges shall be billed monthly and remitted as directed to the Commission using the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form, as discussed in paragraph (c).
 - (II) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed monthly to each access line provided by each voice service provider. Each multiline voice communication service that is capable of simultaneous outbound calling shall constitute a separate telephone access line; however, the number of telephone access lines for which a customer may be assessed a monthly charge cannot exceed the number of outbound voice calls that the voice service provider has enabled and activated to be made simultaneously.
 - (III) A seller of prepaid wireless service shall collect a prepaid wireless TRS charge from a consumer, pursuant to § 29-11-102.7, C.R.S. and remit the charge to the Department of Revenue. The Department of Revenue shall transmit the money collected to the State Treasurer for deposit into the Colorado Telephone Users with Disabilities Fund, created in § 40-17-104(1), C.R.S.
 - (IV) The TRS charge shall not be assessed or collected on any federally supported Lifeline service or customer. Each provider exempt from collecting the uniform charge on a Lifeline customer shall maintain complete documentation and shall make such documentation available to the Commission upon request.
 - (V) The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each voice service provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Surcharge."
 - (VI) Each voice service 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.
 - (VII) Effective January 1, 2021, each voice service provider shall remit the amount the provider collected for the previous month, less the applicable vendor fee, no later than the last day of the following month. If the last day of the month is a legal holiday, then the remittance shall be due the next business day.
 - (VIII) Remittances mailed through the United States Postal Service shall be deemed to be filed on the date of the postmark stamped on the envelope in which the remittance was mailed.
- (c) Combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form.
- (I) Each remittance shall be accompanied by a completed Colorado telecommunications relay service and 9-1-1 surcharge remittance form that includes information for each month remitted. This form is available from the Commission or its website.

- (A) The combined Colorado telecommunications relay service and 9-1-1 surcharge remittance 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.
- (B) Regardless of the method of payment, the combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall be filed with the Commission through its E-Filings System into the proceeding opened for that purpose. The Commission, for good cause shown, may grant a waiver of the E-Filings requirement.
- (C) Voice service providers shall submit all surcharge remittances to the TRS custodial receiver directly.
- (D) If payments are made by check, the completed combined Colorado telecommunications relay service and 9-1-1 surcharge remittance form shall also be enclosed with the check.