

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF AMENDMENTS TO)
THE RULES RELATING TO RULES REG-)
ULATING OPERATOR SERVICES FOR) DOCKET NO. 96R-365T
TELECOMMUNICATIONS SERVICE PRO-)
VIDERS AND TELEPHONE UTILITIES,)
4 CCR 723-18.)

**NOTICE OF PROPOSED RULEMAKING CONCERNING
DISCLOSURES BY OPERATOR SERVICE PROVIDERS**

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Mailed Date: August 15, 1996
Adopted Date: August 13, 1996
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I. BY THE COMMISSION:

Statement

1. The Colorado Public Utilities Commission hereby gives notice of proposed rulemaking concerning amendments to the Rules Regulating Telecommunications Service Providers and Telephone Utilities, 4 Code of Colorado Regulations ("CCR") 723-18.

2. The intent of the proposed rules is to establish benchmark rates for nonoptional operator services and to amend the rules to provide the Commission with the ability to require oral disclosure by nonoptional operator services of such rates, if the Commission approves a rate higher than the benchmark and such disclosure is in the public interest. The proposed rules also permit regulated telecommunications providers to recover costs and attorneys fees incurred as a result of blocking the access of a nonoptional operator

services provider in compliance with a Commission order regarding failure to disclose higher than benchmark rates. These rules are being proposed in response to the provisions of House Bill 1161 (codified at 40-15-302(5), C.R.S.) which became effective on August 6, 1996.

3. A copy of the proposed rules (*i.e.*, proposed amendments to 4 CCR 723-18) is attached to this notice of proposed rulemaking. The statutory authority for the proposed rules is found at 40-2-108 and 40-15-302(5), C.R.S.

4. The Commission will conduct a hearing on the proposed rules and related issues beginning at 9:00 a.m. on October 11, 1996. The hearing will be conducted by an Administrative Law Judge in a Commission hearing room located on Office Level (OL2), 1580 Logan Street, Denver, Colorado. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. Interested persons may file written comments before the hearing. All submissions will be considered by the Commission.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Secretary of State for publication in the September 10, 1996 copy of *The Colorado Register*. At the time of filing with the Secretary of State, this notice shall also be filed with the Office of Regulatory Reform.

2. Hearing on the proposed rules and related matters shall be held beginning at:

DATE: October 11, 1996

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

At the time set for hearing, interested persons may submit written comments and present these orally unless the Commission deems oral comments unnecessary.

3. Interested persons may file written comments in this Docket before hearing. All submissions will be considered.

4. This Order is effective on its Mailed Date.

B. ADOPTED IN OPEN MEETING August 13, 1996.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER VINCENT MAJKOWSKI
ABSENT BUT CONCURRING.

DAB:srs

THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

RULES REGULATING OPERATOR SERVICES
FOR TELECOMMUNICATIONS SERVICE PROVIDERS
AND TELEPHONE UTILITIES
4 CCR 723-18

BASIS, PURPOSE, AND STATUTORY AUTHORITY. The basis and purpose for these amendments to the rules is to implement new requirements for oral disclosure for rates above Commission-determined benchmark rates. The amendments to the rules also grant additional relaxed regulatory treatment to providers relating to cost study requirements for providers whose rates are at or below the benchmark levels. The statutory authority for these amendments is provided in 40-15-302, C.R.S.

723-18-5.3.7 Rules 4 and 5 of the Commission's Rules Prescribing Principles for Costing and Pricing of Regulated Telecommunications Services of Telecommunications Service Providers (4 CCR 723-30) pertaining to the requirement that cost studies be provided for every rate proposal filed with the Commission shall be waived if such rate proposal is in compliance with Rule 5.4.3 of these rules.

723-18-5.4.3 In the absence of a specific order by the Commission, operator service tariff rates filed charged by providers who are not regulated interexchange carriers shall not exceed the highest rates of any regulated interexchange carrier for equivalent operator assisted services authorized by the Commission, wherein the rates to be charged by the provider are at or below the highest rates for any regulated

~~interexchange carrier for equivalent operator assisted services authorized by the Commission, may be allowed, in the Commission's discretion, to become effective by operation of law following the 30 day statutory period.~~

723-18-5.4.4 Operator service tariff rates filed by providers who are not regulated interexchange carriers, wherein the rates to be charged by the provider are above the Commission-determined benchmark rate in Rule 5.4.3 shall be subject to investigation by the Commission in suspension hearings conducted pursuant to the Commission's Rules of Practice and Procedure. A provider proposing rates in excess of the benchmark rates shall be required to prove that such rates are just and reasonable.~~the highest rates for any regulated interexchange carrier for equivalent operator assisted services authorized by the Commission, may be allowed, in the Commission's discretion, to become effective by operation of law where such provider supplies a complete and satisfactory justification for all such rates according to the Commission's Rules of Practice and Procedure and other applicable Commission rules.~~

723-18-5.4.5 In the case where the Commission approves rates for a provider that are higher than the benchmark rate, the Commission may require oral disclosure by the provider of the total charges for the call and that such charges are higher than the benchmark rate to the person responsible for payment of the telephone call, if the Commission determines that such disclosure is in the public interest. This disclosure shall be made at no charge to the caller and before the call is connected, allowing the caller to disconnect before incurring any charges.

723-18-5.4.6 If the Commission finds, after notice and opportunity for hearing, that a nonoptional operator service provider has violated an order adopted pursuant to Rule 5.4.5, the Commission may, in addition to such other enforcement powers as may be authorized by statute, order any regulated telecommunications service provider to block access to the nonoptional operator services provider for all intrastate operator-handled calls. A regulated telecommunications provider that blocks the access of a nonoptional operator services provider in compliance with an order of the Commission and incurs attorney fees or costs to defend such action shall be entitled to recover its costs and attorney fees in each

such proceeding.

723-18-5.4.57 Any provider who is not a regulated interexchange carrier, but whose current Commission-approved tariffs are in accordance with Rule 5.4.3 at the date of promulgation of this Rule, will be allowed to have its current tariffs remain in effect without further filings or proceedings.

723-18-5.4.68 Any provider who is not a regulated interexchange carrier described in Rule 5.4.4 must refile its new, proposed tariff rates within 60 days after promulgation of this rule. The filing must contain sufficient information for the Commission to determine if the provider's rates are just and reasonable. If the provider fails to meet this 60 day filing requirement, its tariffs will be deemed invalid and it will not be allowed to legally collect revenues for any Colorado intrastate calls. Upon filing of proposed rates under this rule, the current Commission-approved rates will be allowed to remain in effect until the Commission approves new rates.

~~6.3 Providers of operator services shall regularly publish and make available at no cost to inquiring consumers written materials that describe any recent changes in operator services and in the choices available to consumers in that market.~~

723-18-6.43 No Location or premise surcharges shall be charged by an operator service provider on behalf of an aggregator.

723-18-6.54 For the purpose of Rules 6.1.1 through 6.1.3, the customer is the person who will be billed for the call.

723-18-6.54.1 In cases where the operator service utilizes automated, or store-and-forward, equipment, and is technologically incapable of compliance with Rules 6.1.1 through 6.1.3 on collect or third number billed calls, those providers must seek a waiver of this Rule until such compliance may be accomplished.

723-18-6.54.2 Operator services provided using automated, or store-and-forward, equipment must provide the capability for accepting

charges on a collect or third number billed call through a positive response by the billed party. No charges will be allowed wherein the customer has not provided a positive response to the equipment.

723-18-6.65 The provisions of Rules 6.1.8, 6.1.9, and 6.2, ~~and 6.3~~ shall not apply to nonoptional operator services as described in Rule 3.1.3.