

## 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

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[indicates omission of unaffected rules]

#### PROGRAMS

~~2800. – 2819. [Reserved].~~

#### 9-8-8 Surcharge

#### Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to prescribe the process for the collection and remittance of 9-8-8 surcharge funds and to establish the procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of 9-8-8 surcharges.

The statutory authority for the promulgation of these rules is found at §§ 40-17.5-102 and 103, C.R.S.

#### 2800. Applicability.

Rules 2801 through 2803 apply to 9-8-8 originating service providers.

#### 2801. Definitions.

- (a) "9-8-8" means the three-digit abbreviated dialing code used to report a behavioral health crisis.
- (b) "9-8-8 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 988 calls. "988 access connection" does not include facilities-based broadband services. The number of 988 access connections is determined by the configured capacity for simultaneous outbound calling. for example, for a digital signal-1 (ds-1) level service or equivalent that is channelized and split into separate channels for voice communications, the number of 988 access connections would be equal to the number of channels capable of making simultaneous.

- (c) “9-8-8 crisis hotline enterprise” or “enterprise” means the enterprise created in § 27-64-103, C.R.S., created to provide intervention services and crisis care coordination to individuals calling the 9-8-8 crisis hotline, and other purposes.
- (d) “9-8-8 originating service provider” (9-8-8 OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services to any customer in the state that includes the ability to place 9-8-8 calls.
- (e) “9-8-8 surcharge” means the charge established by § 40-17.5-102, C.R.S. and imposed by the enterprise on originating service providers that provide 9-8-8 access connections.
- (f) “Enterprise” means the 9-8-8 Crisis Hotline Enterprise created by § 27-64-103.
- (g) “Prepaid wireless 9-8-8 charge” means the charge established by § 40-17.5-104, C.R.S. and imposed by the enterprise on sellers of prepaid wireless telecommunications service.

**2802. Administration of the 9-8-8 Crisis Hotline Cash Fund.**

- (a) This rule does not apply to 9-8-8 access connections provided via prepaid wireless telecommunications services. The 9-8-8 surcharge is a statewide surcharge applied to all 9-8-8 access connections in the state of Colorado, and is separate from the wireless prepaid 9-8-8 charge pursuant to § 27-64-103(4)(b), C.R.S.
- (b) Annually prior to October 1, the Commission shall collaborate with the Enterprise to assist the Enterprise in its establishment of the 9-8-8 surcharge rate and prepaid wireless 9-8-8 charge rate, including but not limited to providing the Enterprise with relevant information regarding number of statewide 9-8-8 access connections and prepaid wireless transactions. After the Enterprise’s annual establishment of the 9-8-8 surcharge rate to take effect on the following January 1, the Commission will publish the 9-8-8 surcharge rate on its website and notify 9-8-8 originating service providers at least 60 days prior to the effective date of the surcharge.
- (c) 9-8-8 surcharge.
  - (I) Effective January 1, 2022, all 9-8-8 originating service providers shall collect and remit the 9-8-8 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 9-8-8 access connection provided to that service user. Such charges shall be collected monthly and remitted as directed by the Commission using the combined surcharge remittance form.
  - (II) With respect to multi-line telephone systems, the number of 9-8-8 access connections is determined by the configured capacity for simultaneous outbound calling.
  - (III) The 9-8-8 surcharge must be listed separately or on the same line as the 9-1-1 surcharge established in § 29-11-102.3, C.R.S. If combined, the line item must be listed as “state 911 and 988 surcharges”.
  - (IV) The 9-8-8 surcharge is the liability of the service user and not the 9-8-8 originating service provider, except that the 9-8-8 originating service provider is liable to remit all

9-8-8 surcharges that the originating service provider collects from service users. An originating service provider is liable only for the portion of the 9-8-8 surcharge collected until it is remitted to the Commission. The amount remitted by the 9-8-8 originating service provider must reflect the same 9-8-8 surcharges actually collected on the number of 9-8-8 access connections provided in Colorado by the 9-8-8 originating service provider.

- (V) Each 9-8-8 originating service provider may retain from the total 9-8-8 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 9-8-8 originating service provider shall remit the 9-8-8 surcharge 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.
- (d) Combined Colorado telecommunications surcharge remittance form.
- (I) Each remittance of 9-8-8 surcharges shall be accompanied by a completed combined Colorado telecommunications surcharge remittance form, also referred to as the 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 on its website.
    - (A) The combined Colorado telecommunications 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 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) 9-8-8 originating service providers shall submit all 9-8-8 surcharge remittances to the custodial receiver directly.
    - (D) If payments are made by physical check, the completed combined Colorado telecommunications surcharge remittance form shall also be enclosed with the check.
    - (E) All remittances of the 9-8-8 surcharges received by the Commission pursuant to this rule shall be deposited in an 9-8-8 receipt account established for that purpose.

- (e) The Commission may withdraw from the 9-8-8 receipt account an amount up to four percent of the total amount of the fund necessary for the direct and indirect costs of administering the collection and remittance of the 9-8-8 surcharge, including costs related to conducting audits of 9-8-8 originating service providers. Funds deducted for this purpose will be kept in a 9-8-8 administrative retention account created by the Commission until expended. Any funds withdrawn by the Commission for this purpose will be returned to the 9-8-8 trust cash fund if the Commission determines that the funds are not necessary to pay administrative costs.
- (f) On a monthly basis, the Commission shall transfer the amount of funds received into the 9-8-8 receipt account to the 9-8-8 surcharge trust cash fund, less the administrative retention fee authorized in paragraph (e). This transfer shall be made via ACH bank transfer.

**2803. Audit of 9-8-8 Originating Service Providers Regarding 9-8-8 Surcharge Practices.**

- (a) The Commission may conduct an audit of a 9-8-8 originating service provider's books and records regarding the collection and remittance of the 9-8-8 surcharge.
  - (I) All expenses related to audits initiated by the Commission shall be paid for by the Commission from the administrative retention fund as authorized by § 40-17.5-102(3)(c)(II), C.R.S.
  - (II) 9-8-8 originating service providers shall make relevant records available to auditors at no charge.
  - (III) Audits shall be limited to the collection and remittance of the 9-8-8 surcharge. However, audits regarding the collection and remittance of 9-8-8 surcharges may be conducted concurrently with audits regarding the collection and remittance of 9-1-1 surcharges, emergency telephone charges, and telecommunications relay service surcharges.
  - (IV) Any delinquent remittance of 9-8-8 surcharges received by the Commission, including penalties and interest, shall be deposited into the 9-8-8 receipt account and transferred to the 9-8-8 surcharge trust cash fund, less allowable administrative expenses, as prescribed in rule 2802.
- (b) 9-8-8 originating service providers shall maintain a record of the amount of each 9-8-8 surcharge collected and remitted by service user address for three years after the time that it was remitted.
- (c) If a 9-8-8 originating service provider fails to file a combined Colorado telecommunications surcharge remittance form and remit 9-8-8 surcharges in a timely manner, the Commission may assess the 9-8-8 originating service provider for the delinquent remittance in the following manner.
  - (I) The Commission shall estimate delinquent remittance based on available information.
  - (II) The Commission shall issue a notice of assessment to the 9-8-8 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 Commission and the 9-8-8 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. Any party seeking extension from the Commission shall do so by filing a petition.
- (IV) The Commission shall impose an additional 15 percent penalty in addition to the estimated amount of the delinquent remittance.
- (V) 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 9-8-8 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 9-8-8 originating service provider in writing, 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.

**2804. – 2819. [Reserved].**