

Decision No. C21-0515

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 21R-0394T

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IN THE MATTER OF PROPOSED AMENDMENTS TO RULES IN 4 CODE OF COLORADO REGULATIONS 723-2 IMPLEMENTING SB 21-154 REGARDING THE CREATION OF A STATEWIDE 9-8-8 SURCHARGE.

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**NOTICE OF PROPOSED RULEMAKING**

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Mailed Date: August 30, 2021  
Adopted Date: August 18, 2021

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**I. BY THE COMMISSION**

**A. Statement**

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking to amend the Rules Regulating Telecommunications Services and Providers of Telecommunications Services contained in 4 *Code of Colorado Regulations* 723-2-2800 through 2819, and 2010 (9-8-8 Rules).

2. The changes proposed are reflective of the changes to the Colorado statute realized by the enactment of Senate Bill (SB) 21-154. The proposed rules are included as Attachments A and B to this Decision. We welcome comments from interested participants. To the extent a participant disagrees with the proposed rules, comments should include suggested rule revisions, in legislative format.

3. Consistent with the below discussion, this matter is set for hearing and referred to an Administrative Law Judge (ALJ) for a recommended decision.

**B. Senate Bill 21-154**

4. On October 17, 2020, the United States Congress passed the “National Suicide Hotline Designation Act of 2020,” which designates 9-8-8 as the number for the National Suicide Prevention Lifeline to aid rapid access to suicide prevention and mental health support services. On June 28, 2021, Governor Jared Polis signed SB 21-154, which provides for the implementation of 9-8-8 as the number for crisis response services in Colorado, creates the 9-8-8 Crisis Hotline Enterprise (Enterprise), and provides for a 9-8-8 Surcharge through the addition of §§ 27-64-101-105 and 40-17.5-101-105, C.R.S., and changes to § 24-75-402, C.R.S.

5. In addition to numerous other requirements related to the establishment, funding, and administration of the Enterprise and the 9-8-8 Crisis Hotline, SB 21-154 directs the

Commission to collect the 9-8-8 Surcharge from service suppliers, and it directs the Commission to promulgate rules for such remittances and for audits of service suppliers relating to the collection and remittance of 9-8-8 Surcharges. Many of SB 21-154's requirements relating to remittance and audit processes are similar to those contained in § 29-11-103, C.R.S., which require remittance and audit processes for the 9-1-1 Statewide Surcharge, and which are included in the ongoing rulemaking in Proceeding No. 21R-0099T.

**C. Proposed Rule Changes**

6. An overview of the changes proposed by the Commission fall into general categories described in this Decision. We invite interested stakeholders to comment on the proposed rules and provide additional suggested changes.

**1. Introductory Section Preceding Rule 2800 and Applicability**

7. The proposed introductory text preceding Rule 2800 and Rule 2800 itself are intended to identify the purpose of the 9-8-8 Rules to include the requirements enacted by SB 21-154, and reflect the statutory authority for promulgation of the 9-8-8 Rules. Specifically, the basis and purpose of the proposed rules provide for the following, as required under SB 21-154: (1) prescribe the process for the collection and remittance of 9-8-8 Surcharge funds; and (2) establish procedures for the conducting of audits of service providers' practices regarding the collection, payment, and remittance of 9-8-8 surcharges. The proposed introductory text provides the statutory citations and references given authority vested in the Commission per SB 21-154.

8. Proposed Rule 2800 indicates the applicability of the new and revised sections of the remainder of the proposed rules.

## 2. Rule 2801: Definitions

9. We propose creating definitions for “9-8-8,” “9-8-8 access connection,” “9-8-8 surcharge,” the “Enterprise,” “9-8-8 Originating Service Provider,” and the “prepaid wireless 9-8-8 charge.” The addition of these definitions to Rule 2801 mirror the addition of these definitions to the statute and facilitate the addition of new sections for the implementation of SB 21-154.<sup>1</sup>

## 3. Rule 2802: Administration of the 9-8-8 Crisis Hotline Cash Fund

10. Among its requirements, §§ 27-64-103 and 40-17.5-102 through 103, C.R.S., include that: (1) the Commission collaborate with the Enterprise in the Enterprise’s establishment of the 9-8-8 Surcharge each year on or before October 1; and (2) the Commission, by January 1, 2022, be prepared to receive remittances from originating service providers from the 9-8-8 surcharge created by § 29-64-103, C.R.S., and authorized per 9-8-8 access connection per month as established by the Enterprise.

11. The proposed rule aims to accomplish the following, as required by statute:
- a) Set forth that the Commission will collaborate with the Enterprise to assist the Enterprise in its annual establishment of the 9-8-8 Surcharge and the prepaid wireless 9-8-8 charge;<sup>2</sup>
  - b) Set forth processes and procedures by which the originating service providers will collect and remit to the Commission the 9-8-8 Surcharge;<sup>3</sup> and
  - c) Set forth processes and procedures by which the 9-8-8 Surcharges remitted to the Commission will be transmitted to the Enterprise.

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<sup>1</sup> See §§ 40-17.5-102 and 103, C.R.S.

<sup>2</sup> See § 27-64-103(4)(a) and (b), C.R.S.

<sup>3</sup> See § 40-17.5-103(5)(e), C.R.S.

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

12. Section 40-17.5-103, C.R.S., requires the Commission to promulgate rules regarding the Commission's procedures for the audit of a service supplier's books and records concerning the collection and remittance of the 9-8-8 Surcharge. Proposed Rule 2803 establishes the process by which audits of 9-8-8 originating service providers may be conducted by the Commission.

13. It also establishes in Commission rules the obligation of 9-8-8 originating service providers to keep records of their 9-8-8 Surcharge collections and remittances, sets forth the late payment penalty of 15 percent of the estimated delinquent remittance, and 1 percent per month interest required by § 40-17.5-103(5)(b), C.R.S.

**D. Conclusion**

14. The statutory authority for the rules proposed here is found at §§ 24-4-101 *et seq.*; 27-64-103; 40-2-108; 40-4-101; 40-15-101, 107, 201, 202, 302, 401, 501, 502, 503, and 503.5; and 40-17.5-102 and 103, C.R.S.

15. The proposed rules in legislative (*i.e.*, ~~strikeout~~/underline) format (Attachment A) and final format (Attachment B) are available through the Commission's Electronic Filings (E-Filings) system at:

[https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=21R-0394T](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=21R-0394T)

16. The Commission encourages and invites public comment on all proposed rules. We request that commenters propose any changes in legislative redline format.

17. This matter is referred to an ALJ for the issuance of a recommended decision.

18. The ALJ will conduct a hearing on the proposed rules and related issues on October 5, 2021. Interested persons may submit written comments on the rules and present these orally at the hearing, unless the ALJ deems oral presentations unnecessary.

19. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that comments be filed no later than September 20, 2021, and that any pre-filed comments responsive to the initial comments be submitted no later than September 28, 2021. The Commission prefers that comments be filed using its E-Filing System at <https://www.dora.state.co.us/pls/efi/EFI.homepage>.

**II. ORDER**

**A. The Commission Orders That:2**

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) attached hereto, shall be filed with the Colorado Secretary of State for publication in the September 10, 2021, edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge for the issuance of a recommended decision.

3. A hearing on the proposed rules and related matters shall be held as follows:

- DATE            October 5, 2021
- TIME:           9:00 a.m. until not later than 5:00 p.m.
- PLACE:         By video conference using Zoom at a link in the calendar of events on the Commission's website, available at:  
  
                    <https://puc.colorado.gov/>.

4. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Administrative Law Judge deems oral comments unnecessary.

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than September 20, 2021, and that any pre-filed comments responsive to the initial comments be submitted no later than September 28, 2021. The Commission will consider all submissions, whether oral or written.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
August 18, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners