

Decision No. C23-0730

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23R-0522T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE TELECOMMUNICATIONS
RULES IMPLEMENTING HOUSE BILL 23-1051, 4 CODE OF COLORADO REGULATIONS
723-2.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: October 30, 2023

Adopted Date: October 25, 2023

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking (NOPR) to amend the Rules Regulating Telecommunications Providers, Services, and Products contained in 4 *Code of Colorado Regulations* (CCR) 723-2 implementing House Bill (HB) 23-1051.

2. The changes proposed are reflective of the changes to Colorado statute realized by the enactment of HB 23-1051. 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. House Bill 23-1051

4. Pursuant to § 40-15-208, C.R.S., the Commission oversees a High-Cost Support Mechanism (HCSM) fund that helps provide affordable and reliable telecommunication and broadband service for many rural communities in Colorado. According to HB 23-1051, the HCSM currently supports twelve rural telecommunications providers. Prior to the enactment of HB 23-1051, this funding was set to expire on December 1, 2023. However, the HCSM is not scheduled for sunset review until September 1, 2024.

5. In HB 23-1051, the General Assembly found that aligning the expiration date of the HCSM funding with the scheduled sunset date for the HCSM would continue high-cost support funding for telecommunication and broadband services for rural Coloradans until the completion of the sunset review process in 2024.

6. HB 23-1051 amends § 40-15-208(4), C.R.S., to extend the high-cost support mechanism funding for the 12 rural providers through September 1, 2024. The support period for these providers previously ended on December 1, 2023.

C. Proposed Rule Changes

7. Commission Rule 2846 of the Commission's Rules Regulating Telecommunications Providers, Services, and Products contained in 4 CCR 723-2, describes the support through the HCSM and sets forth in paragraph (b) the HCSM support amounts by year and establishes in paragraph (d) that for years 2019 through 2023, distributions of HCSM shall not be based on effective competition determinations as defined by Rule 2205 or § 40-15-207, C.R.S.

8. We propose several limited changes to Rule 2846.

9. First, we propose updating the expiration date of the HCSM funding for the rural providers to September 1, 2024, in subparagraph (b)(I).

10. Second, we propose adding subparagraph (b)(II)(F) to establish that in 2024, the Commission will allocate 100 percent of the HCSM money collected (minus the Commission's administrative costs and distributions to wireline and wireless rural telecommunication providers) to the broadband deployment account, consistent with § 40-15-208(2)(a)(IV), C.R.S.

11. Finally, in paragraph (d), we propose updating the years to read 2019 to 2024, consistent with HB 23-1051.

D. Conclusion

12. The statutory authority for the rules proposed here is found at §§ 24-4-101 *et seq.*; 40-2-108; 40-3-101, -102, -103, -107, -110; 40-4-101; 40-15-101, -201, -203.5, and -208, C.R.S.

13. 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 (Efilings) system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=23R-0522T

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

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

16. The ALJ will conduct a hearing on the proposed rules and related issues on December 18, 2023. Interested persons may submit written comments on the rules and present these orally at the hearing unless the ALJ deems oral presentations unnecessary.

17. 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 November 22, 2023 and that any pre-filed comments responsive to the initial comments be submitted no later than December 4, 2023. 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. **It Is Ordered That:**

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 November 10, 2023, 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 December 18, 2023

TIME: 11:30 a.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/puccalendar>.

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 November 22, 2023, and that any pre-filed comments responsive to the initial comments be submitted no later than December 4, 2023. 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
October 25, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners