Decision No. C06-0441

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06R-244T

RULES PRESCRIBING THE HIGH COST SUPPORT MECHANISM AND PRESCRIBING THE PROCEDURES FOR THE COLORADO HIGH COST ADMINISTRATION FUND.

ORDER ADOPTING EMERGENCY RULES

Mailed Date: April 24, 2006
Adopted Date: April 19, 2005

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of an emergency amendment to the Rules Prescribing the High Cost Support Mechanism and Prescribing the Procedures for the Colorado High Cost Administration Fund, 4 *Code of Colorado Regulations* 723-2-2855. For the reasons set forth in this decision, we now adopt on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth in § 24-4-103, C.R.S.) an amendment to Rule 2855, *et al*, the effective period of the setting of the High Cost Support Mechanism support for rural carriers appended to this Order as Attachment A. We take this action in accordance with the provisions of § 40-15-208(6), C.R.S., to re-implement House Bill 05-1203, *CONCERNING THE EQUITABLE DISTRIBUTION BY THE PUBLIC UTILITIES COMMISSION OF HIGH COST SUPPORT MECHANISM FUNDING TO ELIGIBLE PROVIDERS*, passed by the Colorado General Assembly during its regular 2005 session. This legislation added two new definitions to § 40-15-102, C.R.S.:

> a) (6.5) "Distributed equitably" means that distribution by the commission of high cost support mechanism funding to eligible providers shall be accomplished using regulatory principles that are neutral in their effect, that do

not favor one class of providers over another, and that do not cause any eligible telecommunications provider to experience a reduction in its high cost support mechanism support revenue requirement based upon commission rules that are not applicable to other telecommunications providers.

b) (19.3) "Nondiscriminatory and competitively neutral basis" means that decisions by the commission concerning the distribution of high cost support mechanism funding to eligible providers shall be made using regulatory principles that are neutral in their effect, that do not favor one class of providers over another, and that do not result in the imposition of regulatory requirements or costs on one class of eligible providers that are not imposed on others.

2. We previously issued an emergency rule, *See* Docket No. 05R-381T and Decision No. C05-1071, to effectuate this change. Those rules expired on April 5, 2006 without permanent rules in place. Therefore it is necessary to re-issue these emergency rules to eliminate certain Colorado High Cost Support provisions contained in Rule 2855(f) applicable to only Rural Telecommunication Service Providers.

3. We adopt the attached amendment to the rule as an emergency rule in accordance with the provisions of § 24-4-103(6), C.R.S. Immediate adoption of the amendment to the rule is necessary in order to comply with House Bill 05-1203. Failure to adopt this amendment to the rule on an emergency basis would delay action on this matter for several months. Further, compliance with the rulemaking requirements associated with permanent rules, as set forth in § 24-4-103, C.R.S., would be contrary to the public interest.

4. Therefore, emergency adoption of the attached rule is appropriate. The statutory authority for adoption of these rules is set forth in §§ 40-2-108, 40-3-101, 40-4-101, and 24-4-103(6), C.R.S. The amendment to the rule attached to this order shall become effective on the effective date of this order, and shall remain in effect until the permanent rule becomes effective or for 210 days, whichever period is less.

5. We find it necessary to adopt emergency rules until permanent rules are adopted by the Commission.

II. ORDER

A. The Commission Orders That:

1. The rule appended to this Decision as Attachment A is hereby adopted as an emergency rule consistent with the above discussion.

2. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING April 19, 2006.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

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2855. Calculation of Support per Access Line for Rural ILECs.

Incumbent rural providers, who are not average schedule rural providers, shall be eligible for support from the HCSM for high costs in three areas: loops; local switching; and exchange trunks, upon a proper showing. Incumbent average schedule rural providers shall be eligible for support from the HCSM for high costs as determined by subparagraph (f)(I), upon a proper showing.

(a) Support for high loop costs. The HCSM revenue requirement for high loop costs of rural providers who are not average schedule rural providers shall be determined as follows:

(I) For rural providers with an average unseparated loop cost per working loop less than or equal to 115 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) Zero; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange subscriber line usage (SLU) multiplied times the provider's average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

(II) For rural providers with an average unseparated loop cost per working loop in excess of 115 percent but not greater than 150 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) The difference between the rural provider's average unseparated loop cost per working loop and 115 percent of the national average unseparated loop cost per working loop, times 0.10; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange SLU times 115 percent of the national average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

(III) For rural providers with an average unseparated loop cost per working loop greater than 150 percent of the national average unseparated loop cost per working loop, the HCSM revenue requirement for high loop costs shall be the sum of:

(A) The difference between 150 percent of the national average unseparated loop cost per working loop and 115 percent of the national average unseparated loop cost per working loop, times 0.10; and

(B) The difference between 0.265 and twice the rural provider's intrastate interexchange SLU times 115 percent of the national average unseparated loop cost per working loop, provided the difference between 0.265 and twice the provider's SLU is greater than zero.

(b) Support for high local switching costs. Rural providers who are not average schedule rural providers shall be eligible for support for high local switching costs. The HCSM revenue requirement for high local switching cost support shall be determined as follows:

(I) For rural providers with an average unseparated local switching equipment investment per working loop less than or equal to the Colorado average unseparated local switching investment per working line as determined by paragraph 2854(f), the HCSM revenue requirement for local switching cost support shall be zero.

(II) For rural providers with an average unseparated local switching equipment investment per working loop in excess of the Colorado average unseparated local switching equipment investment per working loop as determined in paragraph 2854(f), the revenue requirement for high local switching cost support shall be calculated by creating a new service category in the separations study and apportioning the costs of the provider to this service generally following 47 C.F.R., Part 36. The service category for the HCSM high local switching cost support shall be assigned a portion of Category 3 of local switching equipment investment.

(A) The percentage of Category 3 allocated to the HCSM service category shall be known as the "Colorado High Local Switching Cost Allocation Factor" and shall be calculated as one minus the sum of:

(i) The interstate factor(s);

(ii) The intrastate factor(s) of subparagraph 2415(b)(I)(C); and

(iii) The local exchange factor.

(B) The local exchange factor for each rural provider shall be calculated as the:

(i) Colorado average unseparated local switching equipment Category 3 investment per working loop, as determined by paragraph 2854(f);

(ii) Multiplied by the rural provider's local DEM percentage;

(iii) Divided by the rural provider's average investment per working loop.

(C) The Colorado High Local Switching Cost Allocation Factor shall not be less than zero. If, by the application of the formula of subparagraph (b)(II), the Colorado High Local Switching Cost Allocation Factor is less than zero, the factors (ii) and (iii) of subparagraph (II)(A) shall be reduced proportionally.

(c) Support for high exchange trunk costs. Rural providers who are not average schedule rural providers shall be eligible for support for high exchange trunk costs. The HCSM revenue requirement for high exchange trunk cost support shall be determined as follows:

(I) For rural providers with an average unseparated exchange trunk investment per working loop less than or equal to the Colorado average unseparated exchange truck investment per working loop, as determined by paragraph 2854(f), the HCSM revenue requirement for exchange trunk cost support shall be zero.

(II) For rural providers with an average unseparated exchange trunk equipment investment per working loop in excess of the Colorado average unseparated exchange truck investment per working loop, as determined in paragraph 2854(f), the revenue requirement for high exchange trunk cost support shall be calculated by apportioning the costs of the rural provider to the HCSM service category as established in paragraph (b) of the rural provider's separations study following 47 C.F.R., Part 36, as modified by the rules found in rule 2415. The HCSM service category shall be assigned a portion of the investments of Cable and Wire Facilities, Category 2 Exchange Trunk, 47 C.F.R. § 36.155 and a portion of Category 4.12, Exchange Trunk Circuit Equipment, 47 C.F.R. § 36.126(c)(2).

(A) The percentage allocated to the HCSM service category shall be calculated separately for each of these types of investments as one minus the sum of:

(i) The interstate factor(s), for exchange trunk;

(ii) The intrastate factor(s) for exchange trunk; and

(iii) The local factor for exchange trunk.

(B) The local factor for Category 2 exchange trunk for Cable and Wire Facilities for each rural provider shall be calculated as the Colorado average unseparated investment per working loop as determined by paragraph (f) of this rule, times the rural provider's local relative number of minutes of use percentage divided by the rural provider's average investment per working loop.

(C) The local transport allocation factor for Category 4.12 Exchange Trunk Circuit Equipment, for each rural provider shall be calculated as the Colorado average unseparated investment per working loop, as determined by paragraph 2854(f), times the rural provider's local relative number of minutes of use percentage divided by the rural provider's average investment per working loop.

(d) Support for high costs of average schedule rural providers.

(I) The HCSM support requirement for high cost support for average schedule rural providers shall be determined as the remainder, if positive, of the following process:

(A) First, the total company revenue requirement for the average schedule rural provider shall be determined;

(B) Next, a value known as the "imputed local network services revenues" shall be calculated by the Administrator as the average of the local network services revenues, 47 C.F.R. §§ 32.5000 through 32.5069 for all rural providers who are not average schedule rural providers, excluding any HCSM revenues;

(C) Then, the following revenues shall be subtracted from the revenue requirement of subparagraph (d)(I)(A):

(i) All interstate activities and Universal Service Fund (USF) support;

(ii) Intrastate network access services;

(iii) Long distance network services;

(iv) All miscellaneous revenues; and

(v) The "imputed local network services revenues".

(e) Local network services Tariff cap. In no event shall the local network services revenue requirement, as defined in 47 C.F.R. §§ 32.5000 through 32.5069 (1995) for rural providers exceed 130 percent of the average of such revenue requirement for local exchange providers that are not rural providers. Such excess shall be considered as a part of the rural provider's HCSM support revenue requirement.

(f) Colorado High Cost Fund Administration.

(I) The Commission, acting as Administrator, and pursuant to rules 2854 and 2855, shall determine and establish by order, for each rural provider, the HCSM support revenue requirement that will remain effective for a period of ~~up to six~~ one year~~s~~ beginning with the date of the order.

(A) At any time, upon the request and proper support as part of a general rate proceeding by a rural provider, the Commission, acting as Administrator, may revise the HCSM support revenue requirement that will be effective for a period of ~~up to six~~ one year~~s~~ beginning with the date established by the Commission order. As a result of a formal complaint or other proceeding, the Commission, acting as Administrator, may revise the HCSM support revenue requirement that will be effective for a period of ~~up to six~~ one year~~s~~ beginning with the date established by the Commission's order.

~~(B) Once established or revised, no further qualification shall be required during the six-year funding period. During the funding period, the amount of HCSM support per access line shall be phased down. Funding shall be fixed for the first two years (any 12-month period) at 100 percent of the funding level established. Following the first two years, the support amount shall decline and be phased out by year seven. The following is the phase-out schedule:~~

~~Year~~	~~Percent of Funding~~
~~1~~	~~100%~~
~~2~~	~~100%~~
~~3~~	~~82.5%~~
~~4~~	~~65%~~
~~5~~	~~40%~~
~~6~~	~~20%~~
~~7~~	~~0%~~

(~~C~~B) Any HCSM support established through a Commission-granted variance from these rules shall be in the amounts and for the time period(s) expressly approved by the Commission's order.

2856. – 2869. [Reserved].