

1 THE  
2 PUBLIC UTILITIES COMMISSION  
3 OF THE  
4 STATE OF COLORADO

5 RULES PRESCRIBING THE PROCEDURES  
6 FOR DESIGNATING TELECOMMUNICATIONS SERVICE PROVIDERS  
7 AS PROVIDERS OF LAST RESORT  
8 OR AS AN  
9 ELIGIBLE TELECOMMUNICATIONS CARRIER

10 4 CODE OF COLORADO REGULATIONS (CCR) 723-42

11 **BASIS, PURPOSE AND STATUTORY AUTHORITY.**

12 The basis and purpose of these rules is to establish  
13 regulations concerning the designation of providers of last  
14 resort and the obligations that attach to such a designation.  
15 These rules also establish regulations concerning the  
16 designation of providers eligible to receive federal universal  
17 service assistance.

18 These rules are clear and simple and can be understood by  
19 persons expected to comply with them. They do not conflict  
20 with any other provision of law. There are no duplicating or  
21 overlapping rules.

22 The Commission is authorized to promulgate rules  
23 generally by Section 40-2-108, C.R.S., and specifically for  
24 telecommunications services by Sections 40-15-201 and  
25 40-15-301. Statutory authority for promulgating these rules is  
26 further found in Section 40-15-502(6), C.R.S. ~~Finally,~~

Shading denotes Commission amendment.

1 ~~These~~ Rules are consistent with 47 U.S.C. 254 and with 47  
2 C.F.R., Part 54.

3 On May 23, 2001 the Federal Communications Commission  
4 released its Fourteenth Report and Order, Twenty-Second Order  
5 on Reconsideration and Further Notice of Proposed Rulemaking  
6 in CC Docket No. 96-45. In this Order the FCC modified its  
7 rules (Part 54) for providing high-cost universal service  
8 support to rural telephone companies for the following five  
9 years based upon the proposals made by the Rural Task Force  
10 established by the Federal-State Joint Board on Universal  
11 Service. These rules are necessary to ensure that eligible  
12 telecommunication carriers continue to receive support under  
13 the federal universal service program.

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17 **RULE (4 CCR) 723-42-1. APPLICABILITY.**

18 These rules are applicable to all telecommunications service  
19 providers: 1) who are designated as a Provider of Last Resort  
20 or Eligible Telecommunications Carrier; or 2) seeking to be  
21 designated as a Provider of Last Resort or Eligible  
22 Telecommunications Carrier; or 3) seeking to remove a  
23 designation as a Provider of Last Resort or Eligible  
24 Telecommunications Carrier.

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1           723-42-7.4       State Certification of Support for Federal  
2 Support.   As required by Federal Communications Commission  
3 ("FCC") Universal Service regulations found at 47 CFR 54.313  
4 and 54.314, and when appropriate, the Commission will file an  
5 annual certification with the Administrator of the federal  
6 Universal Service Fund ("USF") and the FCC on behalf of each  
7 jurisdictional eligible telecommunications carrier serving  
8 lines in the state, stating that all federal high-cost support  
9 provided to such carriers within that State will be used only  
10 for the provision, maintenance, and upgrading of facilities  
11 and services for which the support is intended.

12           723-42-7.4.1   In making its determination that all  
13 federal high-cost support provided to a carrier will be used  
14 only for the provision, maintenance, and upgrading of  
15 facilities and services for which the support is intended, the  
16 Commission may require from a carrier such information as it  
17 finds necessary and convenient. At a minimum, carriers shall  
18 furnish requested information on a form supplied by the  
19 Commission as part of the carrier's annual report.

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21           .   .   .   .   .  
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23 **RULE (4 CCR) 723-42-10.   DISAGGREGATION   AND   TARGETING   OF**  
24 **SUPPORT BY RURAL INCUMBENT LOCAL EXCHANGE CARRIERS.**

25 All rural incumbent local exchange carriers who have selected  
26 a disaggregation path pursuant to FCC regulations found at 47  
27 CFR Part 54.315 shall file with the Commission as required by  
28 subsections 10.1,10.2, or 10.3.   In study areas in which a

1 competitive carrier has been designated as a competitive  
2 Eligible Telecommunications Carrier prior to the effective  
3 date of the FCC's Rule found at 47 CFR Part 54.315, the rural  
4 incumbent local exchange carrier may only disaggregate support  
5 pursuant to Rule 10.1,10.2, or 10.3.1.3.

6 723-42-10.1 Path 1: Rural Incumbent Local Exchange  
7 Carriers Not Disaggregating and Targeting High-Cost Support:

8 723-42-10.1.1 A carrier's election of this path  
9 becomes effective upon filing by the carrier with the  
10 Commission.

11 723-42-10.1.2 This path shall remain in place for  
12 such carrier for at least four years from the date of filing  
13 with the Commission except as provided in Rule 10.1.3 below.

14 723-42-10.1.3 The Commission may require, on its  
15 own motion, upon petition by an interested party, or upon  
16 petition by the rural incumbent local exchange carrier, the  
17 disaggregation and targeting of support under Rules 10.2 or  
18 10.3.

19 723-42-10.2 Path 2: Rural Incumbent Local Exchange  
20 Carriers Seeking Prior Regulatory Approval for the  
21 Disaggregation and Targeting of Support.

22 723-42-10.2.1 A carrier electing to disaggregate  
23 and target support under this subsection must file a  
24 disaggregation and targeting plan with the Commission.

25 723-42-10.2.2 Under this subsection a carrier may  
26 propose any method of disaggregation and targeting of support  
27 consistent with the general requirements detailed in 47 C.F.R.  
28 § 54.315(e) (effective Oct. 1, 2001).

1 723-42-10.2.3 A disaggregation and targeting plan  
2 under this Rule becomes effective upon approval by the  
3 Commission.

4 723-42-10.2.4 A carrier shall disaggregate and  
5 target support under this path for at least four years from  
6 the date of approval by the Commission except as provided in  
7 Rule 10.2.5 below.

8 723-42-10.2.5 The Commission may require, on its  
9 own motion, upon petition by an interested party, or upon  
10 petition by the rural incumbent local exchange carrier, the  
11 disaggregation and targeting of support in a different manner.

12 723-42-10.2.6 Requests for disaggregation under  
13 Path 2 shall be filed in accordance with Commission Rules of  
14 Practice and Procedure, 4 CCR 723-1, relating to applications.  
15 In addition, such applications shall be served by the  
16 applicant upon all carriers that have obtained either ETC or  
17 EP status in the carrier's study area at the same time they  
18 are filed with the Commission.

19 723-42-10.3 Path 3: Self-Certification of the  
20 Disaggregation and Targeting of Support.

21 723-42-10.3.1 A carrier may file a disaggregation  
22 and targeting plan with the Commission along with a statement  
23 certifying each of the following:

24 723-42-10.3.1.1 It has disaggregated support to  
25 the wire center level; or

26 723-42-10.3.1.2 It has disaggregated support  
27 into no more than two cost zones per wire center; or

28 723-42-10.3.1.3 That the carrier's  
29 disaggregation plan complies with a prior regulatory  
30 determination made by this Commission.

1           723-42-10.3.2 Any disaggregation plan submitted  
2 pursuant to this Rule 10.3 must meet the following  
3 requirements:

4           723-42-10.3.2.1 The plan must be supported by a  
5 description of the rationale used, including the methods and  
6 data relied upon to develop the disaggregation zones, and a  
7 discussion of how the plan complies with the requirements of  
8 this Rule 10.3. Such filing must provide information  
9 sufficient for interested parties to make a meaningful  
10 analysis of how the carrier derived its disaggregation plan.

11           723-42-10.3.2.2 The plan must be reasonably  
12 related to the cost of providing service for each  
13 disaggregation zone within each disaggregated category of  
14 support.

15           723-42-10.3.2.3 The plan must clearly specify  
16 the per-line level of support for each category of high-cost  
17 universal service support provided pursuant to §§ 54.301,  
18 54.303, and/or 54.305 of part 54 of 47 C.F.R., and/or part 36,  
19 subpart F of 47 CFR in each disaggregation zone.

20           723-42-10.3.2.4 If the plan uses a benchmark,  
21 the carrier must provide detailed information explaining what  
22 the benchmark is and how it was determined. The benchmark  
23 must be generally consistent with how the total study area  
24 level of support for each category of costs is derived to  
25 enable a competitive eligible telecommunications carrier to  
26 compare the disaggregated costs used to determine support for  
27 each cost zone.

28           723-42-10.3.3 A carrier's election of this path  
29 becomes effective upon filing by the carrier to the  
30 Commission.

31           723-42-10.3.4 A carrier shall disaggregate and  
32 target support under this path for at least four years from

1 the date of filing with Commission except as provided in Rule  
2 10.3.5 below.

3 723-42-10.3.5 The Commission may require, on its  
4 own motion, upon petition by an interested party, or upon  
5 petition by the rural incumbent local exchange carrier,  
6 modification to the disaggregation and targeting of support  
7 selected under this path.

8 723-42-10.4 Carriers failing to select a  
9 disaggregation path, as described in Rules 10.1, 10.2 or 10.3  
10 above, by the deadline specified in 47 C.F.R. § 54.315, will  
11 not be permitted to disaggregate and target federal high-cost  
12 support unless ordered to do so by the Commission.

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14 **RULE (4 CCR) 723-42-11. USES OF DISAGGREGATION PATHS.**

15 The Commission will use the disaggregation plans of each  
16 incumbent Eligible Telecommunications Carrier established  
17 pursuant to Rule 10 not only for disaggregation of Colorado  
18 HCSM support but also for the disaggregation of the study area  
19 of the rural incumbent local exchange carrier pursuant to 47  
20 CFR Section 54.207 into smaller discrete service areas.

21 723-42-11.1 Filing of Petition. Where necessary the  
22 Commission shall submit a petition to the FCC seeking the  
23 agreement of the FCC in redefining the service area of each  
24 rural incumbent Eligible Telecommunications Carrier as  
25 follows:

26 723-42-11.1.1 Path 1: Rural incumbent Eligible  
27 Telecommunications Carriers Not Disaggregating and Targeting  
28 Support: No filing with the FCC is required.

Shading denotes Commission amendment.

1 723-42-11.1.2 Path 2: Rural incumbent Eligible  
2 Telecommunications Carriers Seeking Prior Regulatory Approval  
3 for the Disaggregation and Targeting of Support:

4 The Commission shall submit its petition to the FCC within 60  
5 calendar days following the issuance of the Commission's final  
6 order in the Carrier's Path 2 disaggregation proceeding.

7 723-42-11.1.3 Path 3: Rural incumbent Eligible  
8 Telecommunications Carriers Self-Certifying Disaggregation and  
9 Targeting of Support: The Commission shall submit its

10 petition to the FCC within 60 calendar days following the  
11 Rural incumbent Eligible Telecommunications Carrier's filing  
12 of election of this Path with the Commission.

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14 **RULE (4 CCR) 723-42-~~10~~12. VARIANCE AND WAIVER.**

15 The Commission may permit variance or waiver from these rules,  
16 if not contrary to law, for good cause shown if it finds that  
17 compliance is impossible, impracticable or unreasonable.

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19 **RULE (4 CCR) 723-42-~~11~~13. INCORPORATION BY REFERENCE.**

20 References in these Rules to Parts 36 and 54, are rules issued  
21 by the FCC and have been incorporated by reference in these  
22 Rules. These rules may be found at 47 C.F.R. revised as of  
23 October 1, ~~2001-1997 as amended by 12 FCC Red 17469 (1997), 62~~  
24 ~~FR 65036 (12/10/97), 63 FR 3830 (01/27/98), and 63 Fr 2094~~  
25 ~~(01/13/98)~~. References to Parts 36 and 54 do not include  
26 later amendments to or editions of these parts. A certified  
27 copy of these parts which have been incorporated by reference  
28 are maintained at the offices of the Colorado Public Utilities  
29 Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203

Shading denotes Commission amendment.



1 and are available for inspection during normal business hours.  
2 Certified copies of the incorporated rules shall be provided  
3 at cost upon request. The Director of the Public Utilities  
4 Commission, or his designee, will provide information  
5 regarding how the incorporated rules may be obtained or  
6 examined. These incorporated rules may be examined at any  
7 state publications depository library.

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