

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

5 RULES PRESCRIBING
6 THE HIGH COST SUPPORT MECHANISM
7 AND
8 PRESCRIBING THE PROCEDURES FOR
9 THE COLORADO HIGH COST ADMINISTRATION FUND

10 4 CODE OF COLORADO REGULATIONS (CCR) 723-41

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

12 These rules are issued under the general authority of
13 §§ 40-2-108(2) C.R.S., § 40-3-102 C.R.S. and § 40-15-208
14 C.R.S. They establish the process to be used and the
15 information required by the Commission to implement the
16 provisions of § 40-15-208 C.R.S. ~~__(SB 98-177).¹ Pursuant to~~
17 ~~§§ 40-15-502 et seq. C.R.S., the General Assembly of the State~~
18 ~~of Colorado mandated that competition in the local exchange~~
19 ~~telecommunications market be implemented on or before~~
20 ~~July 1, 1996. SB 98-177 requires that, as of July 1, 1998,~~
21 ~~the Colorado High Cost Fund ("CHCF"), as previously~~
22 ~~established in § 40-15-208 is to be abolished, and a new~~
23 ~~mechanism for the support of universal service, to be referred~~
24 ~~to as the "High Cost Support Mechanism" ("HCSM"), shall~~

~~1 Senate Bill 98-177 was signed into law by Governor Roy
Romer on May 18, 1998 at 12:21 p.m.~~

1 ~~operate in accordance with rules adopted by the Commission.~~
2 ~~SB 98-177 also creates the Colorado High Cost Administration~~
3 ~~Fund, ("Fund") which is to be used to reimburse the Commission~~
4 ~~and its contractors for expenses incurred in the~~
5 ~~administration of the HCSM as determined by rules of the~~
6 ~~Commission. SB 98-177 mandates that as of July 1, 1998, any~~
7 ~~unencumbered moneys remaining in the CHCF are to be~~
8 ~~transferred to the Fund.~~

9 Pursuant to Sections 40-15-502 et seq. C.R.S., the
10 General Assembly of the State of Colorado mandated that local
11 exchange telecommunications markets be open to competition
12 while maintaining the goal of affordable and just and
13 reasonably priced basic service. To accomplish that goal the
14 General Assembly directed the Commission to establish a system
15 of universal service support mechanisms to be funded on a
16 nondiscriminatory, competitively neutral basis.

17 ~~The Commission had, as of April 30, 1998, revised Rule 41~~
18 ~~of 4 CCR for the purpose of prescribing the procedures for~~
19 ~~administering the Colorado High Cost Fund. Portions of that~~
20 ~~Rule are now incompatible with SB 98-177. On May 23, 2001 the~~
21 Federal Communications Commission released its Fourteenth
22 Report and Order, Twenty-Second Order on Reconsideration and
23 Further Notice of Proposed Rulemaking in CC Docket No. 96-45.
24 In this Order the FCC modified its rules for providing high-
25 cost universal service support to rural telephone companies
26 for the next five years based upon the proposals made by the
27 Rural Task Force established by the Federal-State Joint Board
28 on Universal Service. These rule are also intended to be
29 consistent with the FCC's May 23, 2001 order. These
30 amendments are necessary to ensure that eligible providers
31 continue to receive support under the HCSM and that the

1 Commission and its contractors are reimbursed for any expenses
2 incurred.

3 **RULE (4 CCR) 723-41-1. APPLICABILITY.**

4 ~~Part I of these rules contain the permanent provisions~~
5 ~~regulating the HCSM, and are applicable to all~~
6 ~~telecommunications service providers in Colorado, except that~~
7 ~~the support mechanism of Rule 9 is applicable to any non-rural~~
8 ~~telecommunications service provider and further, Rule 9 is~~
9 ~~applicable to rural telecommunications service providers only~~
10 ~~by the operation of Rule 4.2. Part II of these rules contain~~
11 ~~the temporary provisions providing for the transition from the~~
12 ~~CHCF mechanism that was in effect prior to July 1, 1996 to the~~
13 ~~HCSM mechanisms in Part I. Part II is applicable to rural~~
14 ~~telecommunications service providers. These rules and~~
15 ~~regulations govern the operation of the Colorado High Cost~~
16 ~~Support Mechanism ("HCSM") and the Colorado High Cost~~
17 ~~Administration Fund and shall apply to all providers of~~
18 ~~intrastate telecommunications services.~~

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22 723-41-3.1 The HCSM shall operate on a calendar year
23 basis. The Commission shall, by November 30 of each year,
24 adopt a budget for the HCSM containing:

25 A) the proposed benchmarks;

26 B) the proposed contributions to be collected through a
27 rate element assessment by each telecommunications provider;
28 and

29 C) the proposed total amount of the HCSM from which
30 distributions are to be made for the following calendar year.

1 ~~723-41-3.2~~ The HCSM distributions of support shall
2 not exceed sixty million dollars during each of the calendar
3 years 1998 and 1999; except as provided in ~~§ 40-15-~~
4 ~~208(2)(d)(I)~~.

5 ~~723-41-3.2.1~~ If the total budget amount for
6 support distributions prepared pursuant to Rule 3.1 exceeds
7 the maximum of Rule 3.2, support distributions to non-rural
8 eligible providers shall be reduced accordingly.

9 ~~723-41-3.2.2~~ Rule 3.2, and all its subsections, is
10 repealed effective January 1, 2000.

11 723-41-3.3~~2~~2 If the budget prepared pursuant to Rule
12 3.1 and submitted to the General Assembly pursuant to Rule
13 10.16 contains a proposal for an increase in any of the
14 amounts listed in Rule 3.1 A) through C), such increase shall
15 be suspended until March 31 of the following year.

16 **RULE (4 CCR) 723-41-4. TRANSITION RESERVED FOR FUTURE USE.**

17 ~~723-41-4.1~~ The mechanism for making payments into the
18 HCSM established in Rule 7 of Part I shall take effect by
19 ~~further order of the Commission.~~

20 ~~723-41-4.2~~ Rural Telecommunications Service Providers
21 may only continue to draw support in accordance with Part II
22 of this Rule until the earliest occurrence of one of the
23 following three events:

24 ~~723-41-4.2.1~~ July 1, 2003; or

25 ~~723-41-4.2.2~~ When another provider holding a
26 Certificate to Provide Local Exchange telecommunications
27 service and operating authority within the provider's service
28 territory, pursuant to the Commission's Rules Regulating the
29 Authority to Offer Local Exchange Telecommunications Services,

1 ~~4 CCR-723-35, is found by the Commission to be eligible to~~
2 ~~receive support from the HCSM pursuant to Rule 8; or~~
3 ~~————— 723-41-4.2.3 ——— The Commission, by order, has adopted~~
4 ~~a Proxy Cost Model for Rural Telecommunications Service~~
5 ~~Providers, and the Rural Telecommunications Service Provider~~
6 ~~elects into the mechanism established pursuant to Part I of~~
7 ~~this Rule.~~

8 ~~723-41-4.3 ——— Small LECs designated as an Eligible~~
9 ~~Provider as of July 1, 1996, and thus able to draw from the~~
10 ~~HCSM established in Part II of Rule 4 CCR 723-27 and now~~
11 ~~codified in Part II of this Rule, and Rural Telecommunications~~
12 ~~Service Providers who are not receiving HCSM support, may, at~~
13 ~~any time, apply to draw support in accordance with Part II of~~
14 ~~this Rule subject to the time limits delineated in Rule 4.2.~~

15 ~~723-41-4.4 ——— Once a Rural Telecommunications Service~~
16 ~~Provider commences drawing support under Part I of these~~
17 ~~Rules, such provider must comply with the Part I Rules and may~~
18 ~~not return to drawing support under the Part II Rules.~~

19 ~~————— 723-41-4.5 ——— Part II of this Rule is repealed effective~~
20 ~~July 1, 2003.~~

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24 723-41-7.2.2 Eligible Provider Reporting
25 Requirements.

26 723-41-7.2.2.1 Each Eligible Provider receiving
27 support pursuant to Rule 9.2 shall provide to the
28 Administrator a verified accounting of: 1) the actual number
29 of Primary Residential and Single-Line Business Access Lines
30 served by such provider in each Geographic Area as of the last
31 day of each month; and 2) the actual amount of contributions

1 collected in the month. ~~For Eligible Providers receiving~~
2 ~~support pursuant to Part I of these Rules, the~~ An appropriate
3 form is to be completed and returned to the Administrator by
4 the 15th day of the subsequent month., ~~and for~~

5 723-41-7.2.2.1.1 In completing the form
6 Eligible Providers shall be guided by the following: An
7 Eligible Provider that is the provider of last resort ("POLR")
8 and is providing service will always receive HCSM support. If
9 a competitive Eligible Provider, wireless or wireline,
10 commences primary line service such that the POLR is no longer
11 providing service, then the support is ported to the
12 Competitive Eligible Provider. If an Eligible Provider that
13 is the POLR, subsequently regains the customer and begins
14 providing service, then only the Eligible Provider that is the
15 POLR will receive the HCSM support.

16 723-41-7.2.2.2 For Eligible Providers receiving
17 support pursuant to ~~Part II~~ Rule 9.3 of these Rules, an
18 appropriate form is to be completed and returned to the
19 Administrator:

20 723-41-7.2.2.2.1 if no competitive
21 Eligible Provider has been designated in the incumbent rural
22 Eligible Provider's study area, as part of that provider's
23 annual report; or

24 723-41-7.2.2.2.2 if one or more Eligible
25 Providers has been designated in a Geographic Support Area, by
26 the 15th day of the subsequent month.

27 723-41-7.2.3 Revenue Benchmark Reporting
28 Requirements. Each Eligible Provider, receiving support
29 pursuant to ~~Part I~~ Rule 9.2 of these Rules, shall provide to
30 the Administrator a verified accounting of such revenues as
31 are determined necessary for establishing the Residential and

1 Business Revenue Benchmarks on a form supplied by the
2 Administrator. This worksheet shall be due March 31, of each
3 year, containing data for the prior calendar year.

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7 **RULE (4 CCR) 723-41-9. SUPPORT VIA THE HCSM.**

8 723-41-9.1 The Commission shall establish Geographic
9 Areas for the State by order. Such Geographic Areas may be
10 revised at the discretion of the Commission.

11 723-41-9.1.1 Disaggregation and Targeting of
12 Colorado High-Cost Support by Rural Incumbent Local Exchange
13 Providers.

14 The disaggregation plan selected by a rural incumbent Eligible
15 Provider for targeting Colorado high-cost support shall be the
16 same plan as that selected by the provider and approved by the
17 Commission pursuant to Rule 4 CCR 723-42-10.

18 723-41-9.2 Support via the HCSM applicable to Non-
19 Rural Geographic Areas shall be calculated as follows:

20 723-41-9.2.1 By order, the Commission shall: 1)
21 adopt a Proxy Cost Model; and 2) publish the Intrastate Proxy
22 Cost for each non-rural Geographic Area. The Proxy Cost Model
23 and the resultant Intrastate Proxy Costs shall be updated as
24 necessary. The Commission shall ensure that the HCSM operates
25 such that the basic local exchange service supported bears no
26 more than its reasonable share of the joint and common costs
27 of facilities used to provide those services.

28 723-41-9.2.2 Where the per line Intrastate Proxy
29 Cost exceeds the applicable Revenue Benchmark in that
30 particular non-rural Geographic Area, the Commission shall

1 | designate certain non-rural Geographic Areas as Geographic
2 | Support Areas.

3 | 723-41-9.2.3 Amount of Support: Each Eligible
4 | Provider shall receive support from the HCSM based on the
5 | number of Primary Residential and Single-Line Business Access
6 | Lines it serves in the non-rural high cost Geographic Support
7 | Areas, as designated by the Commission, multiplied by the
8 | difference between the per line Intrastate Proxy Cost in such
9 | Geographic Support Area and the applicable per Access Line
10 | Revenue Benchmark as determined by the Commission. The amount
11 | of support shall be reduced by any other amount of support
12 | received by such provider or for which such provider is
13 | eligible under support mechanisms established by the federal
14 | government and/or this State.

15 | ~~723-41-9.4.1 If the HCSM budget prepared by~~
16 | ~~Commission pursuant to Rule 3.2 exceeds any statutory~~
17 | ~~budgetary cap, the amount of support intended for non-rural~~
18 | ~~eligible providers shall be reduced as necessary by increasing~~
19 | ~~the Revenue Benchmarks. The benchmarks shall be increased~~
20 | ~~equally in each Geographic Support Area and the benchmarks~~
21 | ~~shall be increased so as to maintain the relative relationship~~
22 | ~~between the Residential Benchmark and the Business Benchmark.~~

23 | 723-41-9.2.4 Revenue Benchmarks. Separate Revenue
24 | Benchmarks shall be determined for residential and business
25 | supported Access Lines for each Geographic Area according to
26 | the formulae defined in Rule 2.15.

1 723-41-9.3 Support via the HCSM applicable to Rural
2 Geographic Areas (areas served by incumbent rural
3 telecommunication service providers) shall be calculated as
4 follows:

5 723-41-9.3.1 By order, the Commission shall: 1)
6 determine the amount of support per Access Line as determined
7 by the Commission pursuant to Rule 18 (based upon the filing
8 of the incumbent rural Eligible Provider serving that area and
9 as modified pursuant to Rule 18.6); and 2) publish the support
10 per access line, disaggregated into such Geographic Support
11 Areas as may be designated by the Commission. The Commission
12 shall ensure that the HCSM operates such that the basic local
13 exchange service supported bears no more than its reasonable
14 share of the joint and common costs of facilities used to
15 provide those services.

16 723-41-9.3.2 Amount of Support: Each Eligible
17 Provider shall receive support from the HCSM in an area served
18 by an incumbent Rural Telecommunications Provider based upon
19 the number of Access Lines the Eligible Provider serves in
20 those high cost Geographic Support Areas, as designated by the
21 Commission, multiplied by the applicable support per Access
22 Line.

23 723-41-9.3.3 Additional Procedures Governing the
24 Operation of Disaggregated Support:

25 723-41-9.3.3.1 The disaggregation and targeting
26 plan adopted under Rule 9.1.1 shall be subject to the
27 following general requirements:

28 723-41.9.3.3.1.1 Support available to
29 the rural incumbent local exchange carrier's study area under
30 its disaggregation plan shall equal the total support
31 available to the study area without disaggregation.

1 723-41.9.3.3.1.2 The ratio of per-line
2 support between disaggregation zones for each disaggregated
3 category of support shall remain fixed over time, except as
4 changes are allowed pursuant to Rule 723-42-10.2 and 10.3.

5 723-41.9.3.3.1.3 The ratio of per-line
6 support shall be publicly available.

7 723-41-9.3.3.1.4 Per-line support
8 amounts for each disaggregation zone shall be recalculated
9 whenever the rural incumbent Eligible Provider's total annual
10 support amount changes (including when the support amount is
11 phased-down per Rule 41-18.6.1.2) using the changed support
12 amount and access line counts at that point in time.

13 723-41-9.3.3.1.5 Per-line support for
14 each category of support in each disaggregation zone shall be
15 determined such that the ratio of support between
16 disaggregation zones is maintained and that the product of all
17 of the rural incumbent Eligible Provider's Access Lines for
18 each disaggregation zone multiplied by the per-line support
19 for those zones when added together equals the sum of the
20 rural incumbent Eligible Provider's total support.

21 723-41.9.3.3.1.6 Until a competitive
22 Eligible Provider is designated in a study area, the quarterly
23 payments to the rural incumbent Eligible Provider will be made
24 based on total annual amounts for its study area divided by 4.

25 723-41.9.3.3.1.7 When a competitive
26 Eligible Provider is designated anywhere in a rural incumbent
27 Eligible Provider's study area, the per-line amounts used to
28 determine the competitive Eligible Provider's disaggregated
29 support shall be based on the rural incumbent Eligible
30 Provider's then-current total support levels, lines, and
31 disaggregated support relationships.

1 723-41.9.4 Reserved for future use.

2 723-41-9.5 Reserved for future use.

3 723-41-9.6 Process for Payments. The Administrator
4 will arrange payments to be made to Eligible Providers, which
5 are net recipients from the HCSM, within 30 days of the last
6 calendar day of each quarter.

7 723-41-9.7 Reconciliation. Following receipt of each
8 Eligible Provider's report to the Administrator pursuant to
9 Rule 7.2.2, the Administrator shall reconcile the estimated
10 disbursements previously authorized for such Eligible Provider
11 for the period for which the report provides information to
12 the actual disbursements to which such provider is entitled
13 (as calculated by Rule 723-41-9.42 and 9.3), and shall send a
14 statement of such reconciliation to each Eligible Provider
15 within 60 days after the receipt of the report. The statement
16 shall show if the provider is entitled to additional amounts
17 from the HCSM, or if the Eligible Provider has received more
18 than the amount of its HCSM entitlement. Such reconciling
19 amounts shall be used by the Administrator in setting the
20 Eligible Provider's entitlements in subsequent quarters.

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24 723-41-10.14 The Fund and the HCSM records covering
25 both collections and disbursements shall be audited ~~at the end~~
26 ~~of fiscal year 1998-1999~~ periodically at the discretion of the
27 Commission by an independent external auditor chosen by the
28 Commission. The costs for conducting audits shall be included
29 in the computation of HCSM requirements. ~~Thereafter, the Fund~~
30 ~~and the HCSM shall be audited in the same manner at least once~~
31 ~~every other year.~~

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723-41-10.16 A written annual report of the HCSM, prepared by the Administrator, shall be submitted to the General Assembly committees of reference in the Senate and House of Representatives that are assigned to hear telecommunications issues, in accordance with Section 24-1-136, C.R.S., by December 1 of each year. A copy of the Administrator's annual report of the HCSM shall be provided to the Legislative Audit Committee and to each telecommunications service provider which contributes to the HCSM. The Administrator may satisfy the latter requirement by notifying the telecommunications service provider of the availability of the annual report via an e-mail message directing the provider to the report on the Commission's web site. The report shall account for the operation of the HCSM during the preceding calendar year and contain the following information, at a minimum:

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4 CCR 723-41-PART II

~~[NOTE. Pursuant to Rule 723-41-4.5, Part II is repealed effective July 1, 2003]~~

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1 **RULE (4 CCR) 723-41-18. ~~TRANSITIONAL~~ CALULATION OF COLORADO**
2 **HIGH COST FUND SUPPORT PER ACCESS LINE FOR INCUMBENT RURAL**
3 **TELECOMMUNICATIONS SERVICE PROVIDERS.**

4 During the transition period, Incumbent Rural
5 Telecommunications Service Providers, who are not Average
6 Schedule Rural Telecommunications Service Providers, shall be
7 eligible, upon proper showing, for support from the HCSM for
8 high costs in three areas: a) loops, b) local switching, and
9 3) exchange trunks. Incumbent Average Schedule Rural
10 Telecommunications Service Providers shall be eligible, upon
11 proper showing, for support from the HCSM for high costs as
12 determined by Rule 18.6.1.

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16 **723-41-18-6. COLORADO HIGH COST FUND ADMINISTRATION.**

17 723-41-18-6.1 The Commission, acting as Administrator,
18 and pursuant to this Part II of the Rules, shall determine and
19 establish by Order, for each Rural Telecommunications Service
20 Provider, the HCSM support revenue requirement (support per
21 Access Line) that will be effective for a period of up to six
22 years beginning with the date of the Order.

23 723-41-18.6.1.1 At any time, upon the
24 request and proper support as part of a general rate
25 proceeding by a Rural Telecommunications Service Provider, the
26 Commission, acting as Administrator, may revise the HCSM
27 support revenue requirement that will be effective for a
28 period of up to six years beginning with the date established
29 by order. Further, as a result of a show cause, complaint or
30 other proceeding, the Commission, acting as Administrator, may
31 revise the HCSM support revenue requirement that will be

1 | effective for a period of up to six years beginning with the
2 | date established by order.

3 | 723-41-18.6.1.2 Once established or
4 | revised, no further qualification will be required during the
5 | six-year funding period. During the funding period, the
6 | amount of HCSM support per Access Line will be phased down.
7 | Funding will be fixed for the first two years (any 12 month
8 | period) at 100% of the funding level established. Following
9 | the first two years, the support amount will decline and be
10 | phased out by year seven. The following is the phase out
11 | schedule:

YEAR 1	100%	YEAR 4	65%	YEAR 7	0%
YEAR 2	100%	YEAR 5	40%		
YEAR 3	82.5%	YEAR 6	20%		

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15 | 723-41-18.6.1.3 The Commission may grant a
16 | Rural Telecommunications Service Provider's request for waiver
17 | from these Rules for good cause shown, pursuant to Rule 15 of
18 | these Rules. Any HCSM support amount so granted shall be in
19 | the amounts and for the periods expressly approved by
20 | Commission order.

21 | 723-41-18.6.1.4 Reserved for future use.
22 | ~~During the HCSM funding period, switched access rates for~~
23 | ~~companies receiving HCSM, will be adjusted annually to reflect~~
24 | ~~a sharing of access minute demand growth, which occurred~~
25 | ~~during the most recent 12 month period when compared to the 12~~
26 | ~~month period immediately preceding for which billed demand~~
27 | ~~data is available. The following percentages of sharing will~~
28 | ~~be used:—~~

~~Percentage of Annual Demand Growth~~

~~(to be used in adjusting access rates)~~

~~YEAR 1 N/A YEAR 4 75% YEAR 7 0%~~

~~YEAR 2 75% YEAR 5 50%~~

~~YEAR 3 75% YEAR 6 50%~~

~~For each year of the HCSM funding period, the applicable percentage from the above table will be multiplied by the actual change (increase or decrease) in access minute demand for the most recent 12-month period as compared to the previous 12-month period immediately preceding for which billed demand data is available, to determine the access minute adjustment amount. The amount determined will then be added to or subtracted from the prior 12-month period adjusted switched access minute demand to determine the current period's adjusted access minute demand. The current period's adjusted switched access demand will then be utilized to revise the switched access rate elements using the access revenue requirements for each element, from the base year rate determination. The switched access rate adjustments shall be filed with the Commission with a proposed effective date no later than 60 days following the anniversary of the effective date of the HCSM funding period.~~

~~723-41-18.6.1.5 For each Average Schedule Rural Telecommunications Service Provider, a surrogate switched access revenue requirement will be used as the "frozen switched access revenue requirement" as described in Rule 18.6.1.4. This surrogate revenue requirement will be calculated by taking the base year Average Schedule access rates times the base year access demand.~~