

Decision No. C05-1071

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05R-381T

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

ORDER ADOPTING EMERGENCY RULES

Mailed Date: September 7, 2005
Adopted Date: September 7, 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* 723-41. 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 41-18.6, *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 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. Generally, the purpose of this legislation is to eliminate Colorado High Cost Support provisions contained in Rule 41-18.6.1.2 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. 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. Failure to adopt this amendment to the rule on an emergency basis would delay action on this matter for several months. 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 September 21, 2005, 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
September 7, 2005.**

(SEAL)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

723-41-18.5 LOCAL NETWORK SERVICES TARIFF CAP.

In no event shall the local network services revenue requirement, as defined in 47 CFR 32.5000 through 32.5069 (1995), of Rural Telecommunications Service Providers, be in excess of 130 percent of the average, of such revenue requirement for local exchange providers which are not Rural Telecommunications Service Providers. Such excess shall be considered as a part of the Rural Telecommunications Service Providers HCSM support revenue requirement.

723-41-18.6 COLORADO HIGH COST FUND ADMINISTRATION.

723-41-18.6.1 The Commission, acting as Administrator, and pursuant to this Part II of the Rules, shall determine and establish by ~~o~~Order, for each Rural Telecommunications Service Provider, the HCSM support revenue requirement (support per Access Line) that will be effective for a period of ~~up to six~~one years beginning with the date of the ~~o~~Order.

723-41-18.6.1.1 At any time, upon the request and proper support as part of a general rate proceeding by a Rural Telecommunications Service 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 years beginning with the date established by order. Further, as a result of a show cause, 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 years beginning with the date established by order.

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

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

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

723-41-18.6.1.4 [Reserved for future use.]