

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 08C-336T

IN THE MATTER OF ALLEGED VIOLATIONS OF THE RULES RELATING TO THE COLORADO HIGH COST SUPPORT MECHANISM REPORTING REQUIREMENTS FOR TELECOMMUNICATIONS SERVICE PROVIDERS AS PRESCRIBED IN 4 CCR 723-2-2846.

**FORMAL COMPLAINT
AND NOTICE OF HEARING**

Mailed Date: July 31, 2008
Adopted Date: July 30, 2008

I. BY THE COMMISSION

A. Statement and Findings of Fact

1. The entities listed in Attachment A to this Order provide intrastate telecommunications services to the public within the State of Colorado. Therefore, they are required to provide to the Administrator of the Colorado High Cost Support Mechanism (CHCSM), a verified accounting of their retail revenues via the form known as the CHCSM Worksheet or Declaration of *De Minimis* Form (collectively Forms). *See generally*, §§ 40-15-208 and 40-15-502(5), C.R.S.; Rule 2846 of the *Rules Regulating Telecommunications Providers, Services, and Products*, 4 *Code of Colorado Regulations* (CCR) 723-2.

2. Each telecommunications service provider in Colorado is required to file the forms in accordance with Rule 2846(b)(I) on or before March 31, 2008. Providers were notified of the requirement to file the forms by Decision No. C08-0176, mailed February 26, 2008. The entities listed in Attachment A were notified either by e-mail, a telephone call, or written notice in May 2008.

3. On June 11, 2008, the Commission approved a letter to be sent by Director Doug Dean to each of the providers listed on Attachment A. The letter informed the providers that the Commission was considering initiating a formal complaint proceeding against the company for failing to file the form and gave the provider 30 days to comply with the reporting requirement.

B. Discussion

4. The Commission is authorized to establish a mechanism for the support of universal service, also referred to as the CHCSM, which shall operate in accordance with rules adopted by the Commission. *See* § 40-15-208(2)(a), C.R.S.; Rule 2846.

5. Rule 2846(b)(I) states that:

Each telecommunications service provider shall provide to the Administrator a verified accounting of its Retail Revenues, and such other revenues, as the Administrator shall request for purposes of determining contributions and disbursements under these Rules. The accounting shall be submitted via the form known as the HCSM Worksheet. The completed HCSM Worksheet shall be submitted to the Administrator twice a year. The HCSM Worksheet shall be due March 31st of each year, including data for the prior calendar year. The HCSM Worksheet shall be due September 1, of each year, including data for the six-month period from January 1 through June 30 for the current calendar year.

6. After reviewing its records, the Staff of the Commission finds that each of the entities listed in Attachment A may have failed to comply with the reporting requirements stated above. Accordingly, sufficient cause exists to hold a hearing to determine the facts of the matter, to hear material arguments, to receive evidence and testimony, and to determine what order or requirement, if any, shall be imposed by the Commission.

7. If the Commission determines that it is appropriate to do so, the Commission may issue a decision including, but not limited to: (a) an order to cease and desist the provisioning of telecommunications services in the State of Colorado; (b) an order that revokes, wholly or in

part, the company's Certificate of Public Convenience and Necessity to provide local exchange services and/or Letter of Registration for emerging competitive telecommunications services; (c) an order that contains a combination of the foregoing remedial actions; (d) an order that a complaint be issued by the Commission to the Federal Communications Commission seeking an order directing the delinquent provider to make the filing or further appropriate remedies; and/or (e) an order that requires any other corrective or remedial action which the Commission deems appropriate.

II. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, each provider listed in Attachment A shall appear before the Commission to address why the Commission should not take action and enter an order including but not limited to an order to cease and desist the provisioning of telecommunications services in the State of Colorado; an order that revokes, wholly or in part, the company's Certificate of Public Convenience and Necessity to provide local exchange services and/or Letter of Registration for emerging competitive telecommunications services; an order that contains a combination of the foregoing remedial actions; an order that a complaint be issued by the Commission to the Federal Communications Commission seeking an order directing the delinquent provider to make the filing or further appropriate remedies; and/or an order that requires any other corrective or remedial action which the Commission deems appropriate.

2. Docket No. 08C-336T is set for hearing before an Administrative Law Judge:

DATE: October 7, 2008

TIME: 9:00 a.m.

PLACE: Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

3. If the Colorado High Cost Support Mechanism form is received in the name, address, and form required by the Commission prior to the hearing date, the Commission may dismiss that service provider from the proceeding.

4. Staff of the Commission (Staff) shall file, at least 30 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and (2) two copies of each of the exhibits that it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

5. All entities listed in Attachment A shall file, at least 20 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and (2) two copies of each of the exhibits, which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

6. No witness shall be permitted to testify nor shall any document be received in evidence, except in rebuttal, unless filed and served as provided in this Order.

7. If Staff or any entity in Attachment A fails to meet the above requirements, the Commission may dismiss the proceeding or any defense upon motion filed by any other party, unless good cause for non-filing is shown. No motion for continuance shall be granted if filed within 20 days before the first day of the hearing, except for good cause shown.

8. No exception to the procedure in the Order shall be made except upon timely motion showing good cause.

9. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 30, 2008.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RONALD J. BINZ

JAMES K. TARPEY

MATT BAKER

Commissioners

Certificated Providers

Quality Telephone, Inc.
Winstar Communications, LLC

Toll Resellers

Communicall, Inc
Master Call Communications, Inc.
New Horizons Communications Corporation
Telecentrex, LLC

Wireless Providers

Movida Communications, Inc.

AFFINITY TELECOM, INC.

AT&T COMMUNICATIONS OF THE MOUNTAIN STATES, INC.

CENTURYTEL OF EAGLE, INC.

CENTURYTEL OF COLORADO, INC.

FALCON BROADBAND, INC.

GLOBAL CROSSING NORTH AMERICAN NETWORKS, INC.

LEVEL 3 COMMUNICATIONS, LLC

MCI COMMUNICATION SERVICES, INC. d/b/a Verizon Business Services

MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.

QWEST CORPORATION

TIME WARNER TELECOM OF COLORADO, LLC

TCG COLORADO

XO COMMUNICATION SERVICES, INC.