Decision No. C13-0203

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 12R-862T

IN THE MATTER OF THE PROPOSED RULES REGULATING TELECOMMUNICATIONS PROVIDERS, SERVICES, AND PRODUCTS, 4 CODE OF COLORADO REGULATIONS 723-2.

DECISION DENYING REQUEST FOR WAIVER; GRANTING, IN PART, AND DENYING, IN PART, REHEARING, REARGUMENT, OR RECONSIDERATION; AND ADOPTING REVISED RULES

Mailed Date: February 12, 2013
Adopted Date: January 30, 2013

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I. BY THE COMMISSION

A. Statement

1. This matter comes before the Colorado Public Utilities Commission (Commission) for consideration of Applications for Rehearing, Reargument, or Reconsideration (RRR) filed on January 14, 2013, by the Colorado Telecommunications Association (CTA); Staff of the Colorado Public Utilities Commission (Staff); the Office of Consumer Counsel (OCC); and Qwest Corporation dba Century Link QC, El Paso County Telephone Company, CenturyTel of Colorado, Inc., and CenturyTel of Eagle, Inc. (collectively CenturyLink).

2. The Applications for RRR challenge aspects of the Commission's Order Adopting Rules, Decision No. C12-1442 issued December 17, 2012, with an effective date of December 24, 2012 (Decision). The Decision adopts certain Rules Regulating Telecommunications Providers, Services, and Products, 4 *Code of Colorado Regulations* (CCR), 723-2, that were proposed with the basis and purpose of setting forth a regulatory framework for determining the existence of effective competition areas (ECA) for basic services; setting a relaxed regulatory scheme for ECAs; eliminating or reducing funding from the High Cost Support Mechanism (HCSM) in such areas; addressing limited treatment of Internet Protocol (IP) enabled and Interconnected Voice over IP (VoIP) services; and making permanent certain emergency rules.

3. The RRR filings from CTA, CenturyLink, Staff, and OCC request the following, generally: (1) waiver of the proposed rules for rural local exchange carriers (RLECs) and a rulemaking specific to RLECs; (2) clarifications and reconsideration of ECA regulation, including expansion or clarification of the scope of competitors considered; (3) request for automatic elimination of Provider of Last Resort (POLR) requirements upon a determination that an area is an ECA; (4) reconsideration of adopting proposed rules related to VoIP and IP-enabled

services; (5) clarification of applicability of certain rules not explicitly addressed in this rulemaking; (6) wording terminology clarifications; and, (7) clarification of certain procedural matters.

4. As discussed below, we deny the request for waiver, grant RRR, in part, and deny RRR, in part. Additionally, we revise and clarify the rules as set forth in Attachments A and B, and adopt the revised rules as amended.

B. Request for Waiver

5. CTA requests a temporary waiver from the entirety of the proposed rules for all RLECs. CTA contends that it would be a financial burden on its members to take part in each of the dockets that may result from the rules, including proceedings related to ECA determinations and, in areas deemed ECAs, subsequent proceedings related to HCSM funding and potential POLR relinquishment.

6. In support of its waiver request, CTA cites § 40-15-203.5, C.R.S., which states, in part, that the Commission, in issuing rules applicable to rural telecommunications providers, should consider the cost of regulation in relation to the benefit derived from such regulation. CTA further notes that RLECs are eligible for regulatory treatment different from other providers if sound public policy support such a result.

7. CTA's request does not specify which of the rural providers may be impacted, what these providers' specific costs of regulation may be, or how these costs may compare to potential benefits of the proposed regulations. CTA also does not suggest for what period of time a waiver is required, but requests that, in lieu of applying the currently proposed rules to RLECs, the Commission should conduct a rulemaking specific to RLECs.

8. Until finalized, the proposed rules are not subject to motion or petition for waiver pursuant to Rule 1003 of the Commission Rules of Practice and Procedure, 4 CCR 723-4. Thus, CTA's request for a waiver through RRR during the rulemaking process is procedurally premature.

9. Additionally, because the request is not specific to any carrier, does not indicate a requested timeframe for waiver, and is not supported by data of any specific carrier's costs and benefits, a waiver of the entirety of the proposed rules for all RLECs would be overbroad.

10. We therefore deny CTA's request for a waiver for all rural providers at this time. We will endeavor to administer the processes and proceedings resulting from the proposed rules efficiently, including consideration of the RLECs' particular circumstances. We also will consider any request for waiver filed at the appropriate time and with the appropriate supporting information from individual carriers.

11. As relevant here, the proposed rules create a framework for consideration of effective competition, subsequent regulatory treatment in ECAs, and review of HCSM support. Whether any specific area of Colorado will be reviewed for effective competition pursuant to Section 207 and the proposed rules has yet to be determined. The costs and benefits of the proposed rules are contingent on future proceedings, and on a provider's specific circumstances and interests. These proceedings may not impact rural providers or, if there were an impact, such impact would differ among rural providers.

C. Effective Competition Areas

1. Request for Clarification that "Wire Center Serving Areas" are the Relevant Geographic Areas

12. Both Staff and CenturyLink note that the phrases "exchange area" and "wire center" were used interchangeably during this docket; yet the geographic scope of a

"wire center" could differ from an "exchange area." A wire center serving area describes the area served by a provider's central office network; whereas, an exchange area may encompass one or more wire center serving areas. Staff Exhibit 2, which analyzes the presence of competitors, and HCSM cost models both use data specific to wire center serving areas.

13. We agree with both Staff and CenturyLink that the intended relevant geographic area for ECA determinations should be a "wire center serving area." We therefore clarify the Decision and correct language in our rules to state "wire center serving area" as opposed to "exchange area."

2. Clarification of Scope of Competitors

14. Staff and CenturyLink seek clarification or reconsideration of three issues related to the scope of competitors that shall be considered in ECA adjudications under § 40-15-207 and new Rule 2213.

15. First, CenturyLink argues that the Commission should include all voice service competitors in the marketplace and not limit the analysis to only facilities-based providers. CenturyLink requests inclusion of satellite telephony, all competitive local exchange carriers (CLECs), and "over-the top" VoIP providers without regard to whether the voice services are provided through unbundled network elements or broadband connections.

16. Second, Staff seeks clarification of whether wireless resellers are excluded from consideration of effective competition.

17. Third, Staff and CenturyLink seek clarification of the phrase "CLECs offering basic service through a *platform of unbundled network elements*" as used in Rule 2213(d)(I) to exclude such providers from our effective competition analysis. A CLEC can provide basic services by leasing one or more unbundled network elements from an incumbent.

These elements include transport, switching, and loops. CenturyLink explains that the phrase "platform of unbundled elements" in the context of wholesale unbundling obligations means a combination using all three of these elements, and it is not clear whether the new rules incorporate this meaning. Staff contends that a "platform of unbundled network elements" could be construed to be two or more of these elements. Staff believes, correctly, that the Commission intended not to consider CLEC offerings when all three elements are leased from an incumbent; however, given the potential for alternative meanings, we agree that further clarification is warranted.

18. The policies underlying Rule 2213 and the factors listed in Section 207 guide our ruling on these three issues.[1] As stated in the Decision: "[n]ot including CLEC services offered over platforms or resellers ensures that only carriers with separate physical networks are counted as competitors. It also enables the Commission to judge more precisely the barriers to entry and adequacy of service under Section 207."[2] Section 207 directs the Commission to make findings that regulation of a service under part 3 will promote adequate and reliable service at just and reasonable rates, consider the extent of economic, technological, or other barriers to market entry and exit, and, consider the ability of consumer in the relevant geographic area to obtain the service from other providers at reasonable and comparable rates, on comparable terms, and under comparable conditions.[3] Also, Colorado statutes direct the Commission to "protect and maintain wide availability of high-quality telecommunications services."[4] The Commission also

[1] This clarification and the use of these terms in Rule 2213 apply only to Rule 2213 and do not impact any definition of "facilities based" or "platform" as those terms may be used in the interconnection or some other context.

[2] Decision, ¶ 29.

[3] § 40-15-207(1)(a) and (b), C.R.S.

[4] § 40-15-101, C.R.S.

has the authority to "regulate providers of telecommunications services to the extent necessary to assure that universal basic service is available to all citizens at fair, just, and reasonable rates."[5]

19. These policies support the requirement that only carriers providing basic services over a substantial portion of their own last-mile or loop facilities, without regard to technology,[6] should be considered under a Section 207 analysis of effective competition for basic services. Providing services over a carrier's own last-mile or loop facilities demonstrates that the carrier has cleared the requisite barriers to entry and is not subject to the risk of its wholesale carrier exiting the market.

20. In addition, statutory directives regarding reliability and adequacy of service require the Commission to consider the state of competition and adequacy of service not only presently or for a small window of time, but also for a period long after the Section 207 proceedings have concluded. Connectivity to the end user through its own last-mile or loop reflects a provider's investment in and commitment to providing basic services for the long-term.

21. Applying these principles, we reiterate that providers must be facilities-based to be considered as competitors in an effective competition analysis of basic services under Section 207; thus, we deny CenturyLink's request to include consideration of all CLECs and "over-the-top" VoIP providers in Rule 2213. We clarify that wireless resellers also are not included. Further, we clarify that, to be facilities-based under Rule 2213, a provider must offer

[5] § 40-15-502(3)(a), C.R.S.

[6] Technology neutral means that the last mile or loop facilities could be provided through wireline, wireless, cable telephony, or other technologies. We continue to exclude services provided over satellite technology from our ECA analysis at this time, for reasons stated in our Decision.

basic services by using a substantial portion[7] of its own last mile or loop facilities, without regard to the technology utilized.

3. Competition through Wireless Telephony

22. CTA contends that the Commission should not include wireless telephony as a competitor to landline service as included in proposed Rule 2213(d)(I). CTA argues that wireless service is not a substitute for wireline service in "sprawling but sparsely populated rural areas in Colorado."[8] Further, it states that there is some, or even substantial, wireless presence in parts of the service territories served by CTA members; however, where a wireless carrier's map shows 100 percent coverage in an RLEC service territory, experience shows that actual coverage and quality can be unreliable.

23. The Commission recognizes CTA's concerns related to ensuring that rural areas of Colorado have competitive options prior to determining if an area has effective competition. However, the Commission fully reviewed the issue of considering a wireless carrier as a competitor to wireline service and determined that, where wireless coverage exists, it is a competitive alternative to wireline. The extent that wireless service is available, reliable, and thus a substitute for basic service in a given wire center serving area in Colorado will be reviewed when the Commission makes findings regarding effective competition, including whether it is within the public interest to reclassify basic services to a part 3 service in that area per § 40-15-207, C.R.S. We therefore deny RRR on this issue.

[7] A provider that provides services over its own last mile or loop facilities may be required to lease some portions of the loop, for example the network interface device ("NID") or other sub-loop facilities, to access the end user; we consider such providers to be facilities-based for purposes of this Rule.

[8] Application for RRR, filed by CTA (January 14, 2013), at 12.

4. Request for Deregulation of Area Deemed an ECA

24. CTA contends that the Commission should eliminate regulation for any carrier in areas deemed to have effective competition, except as related to switched access and basic emergency service. In its filing, CTA notes that unregulated competitors such as wireless and cable are not subject to requirements the Commission maintains over providers of basic service when they are re-classified in ECAs as a part 3 service. At a minimum, CTA requests that the rules be modified to delete the requirement that companies in an effective competition area post their rates and terms of service online and dispense with all reporting requirements not applicable to all carriers in the marketplace.

25. CTA raises no new argument in RRR on this issue. The Commission fully considered lightened regulation of basic service in effective competition areas. Also, reclassification under Section 207 allows services to move only to part 3. Subsequent proceedings under Section 305 are necessary to move services to part 4 and eliminate regulation. Therefore, we deny RRR on this issue.

5. Maintaining White Page Listings in Part 2

26. Rule 2213(e) retains basic emergency service as a Part 2 service throughout the state, even in wire center serving areas determined to be ECAs. Staff's Application for RRR recommends that the requirement to publish and provide white pages directory listings pursuant to Rule 2307 also be retained as a Part 2 service in ECAs. Staff asserts that white page directory listings are essential offerings to basic local exchange service both within and outside of an ECA, and retaining the white page directory listings as a Part 2 service also would allow the

pending rulemaking docket related to directory publication to proceed.[9] Staff also contends that, absent this proposed modification, the directory rulemaking docket would appear to be directly impacted if non-ECAs retain white page directory listings while ECAs would no longer be required to offer directories to customers.

27. Section 40-15-201(d) identifies "white pages directory listing" as subject to Part 2. Neither the statutes nor rules define the phrase "white pages directory listing," but our rules addressing directories describe a customer's name, address, and telephone number as a "listing."[10] Though the subject of Staff's RRR request is the *publication* of white pages directories, not necessarily the white page directory *listings* (*i.e.*, the term identified in part 2), we agree that basic service providers in an ECA will continue to be obligated to publish white page directories pursuant to Rule 2307.[11]

28. We agree that white pages directory listings will remain in part 2 throughout the state regardless of an ECA determination. The ability of customers to list their name, address, and phone number in the white pages directory is an essential service for customers. Our rules require LECs to publish annually telephone directories that provide listings of all basic local exchange customers served by that exchange, a requirement that is not affected by an ECA determination.[12] Further, our rules require, regardless of ECA designations, all basic local exchange carriers to furnish the name, address and telephone number information for all of

[9] *See* In the Matter of the Proposed Amendments to Rules Regulating Telecommunications Providers, Services, and Products, 4 Code of Colorado Regulations 723-2-2307 (Docket No. 12R-1248T).

[10] Regarding publication and distribution of directories, Rule 2307(a)(I) states: A LEC shall cause telephone directories to be published annually to include each exchange served by that LEC, listing the name, address, and telephone number of all basic local exchange customers served by that exchange except for those requesting omission of their listing from the directory. Each directory shall include a list of all exchanges in the local calling area.

[11] While we determine to retain white page directory listings in part 2 for areas deemed ECAs, as discussed herein, we clarify that all Commission rules applicable to part 2 or part 3 services, respectively, continue to apply to services regulated by the commission. This includes, without limitation, Rule 2307.

[12] This requirement may be effected by the outcome of Docket No. 12R-1248T.

its customers, including non-published or non-listed customers, to the Automatic Location Identification (ALI) database providers for the provision of 9-1-1 services and emergency notification services.[13] Retaining white pages directory listings in part 2 therefore corresponds with keeping basic emergency services in part 2. Thus, we agree with Staff that our rules should state that "white pages directory listings" remain under Part 2, even in ECA designated areas, and that LECs in ECAs are obligated under Rule 2307 to publish and distribute directories. We therefore grant RRR on this matter and revise the proposed rules accordingly.

D. Provider of Last Resort

29. CenturyLink and CTA repeat their arguments that, if the Commission determines an area to be an ECA, POLR obligations in that area automatically should be eliminated. The Decision declined to implement an automatic elimination of POLR obligations upon an ECA determination, supported by statutory language directing the Commission to ensure the availability of basic services to all customers in the state. The providers objecting to this ruling again raise the contention that requiring carriers to be a POLR in areas where they are not receiving high cost support may constitute an illegal taking; but, this argument lacks foundation. If carriers can show that, even in ECAs, their costs of providing basic service exceed basic service revenues, they will continue to receive HCSM support. CenturyLink and CTA also do not challenge other rationales supporting the Commission's Decision regarding POLR, such as ensuring universal service, promoting the integrity of the process in areas deemed ECAs, and providing the proper incentives for carriers to seek HCSM support where necessary.

30. CenturyLink and CTA contend that continuing the application of POLR obligations in ECAs is not consistent with Commission determinations that the existence of

[13] Rule 2138(b).

effective competition warrants reduced regulation and elimination of HCSM support. CenturyLink and CTA, however, advocate for *automatic* POLR relinquishment in ECAs; whereas, the Decision ensures though an application and evidentiary process that areas warranting POLR treatment are not overlooked. We reiterate our statement from the Decision that: "[a] provider demonstrating the requisites for relinquishment as stated in our rules will be released from its POLR obligations, and certainly the evidence and the Commission's determinations in proceedings finding effective competition under Section 207 will be entitled to considerable weight." We decline CenturyLink's and CTA's application for RRR on this issue.

E. Proposed Rules Related to VoIP and IP-Enabled Services

31. In its RRR, the OCC states that the Commission erred by failing to adopt proposed Rules 2001(ww) and 2213 relating to regulation of VoIP and IP-enabled services. The OCC argues that adoption of these proposed rules would meet the Commission's key principle to remain technology-neutral. Also, while the OCC notes that the Commission states in the Decision that declining to adopt proposed rules should not be interpreted as a change in the *status quo,* the OCC contends that adoption of these rules would clarify that standard.

32. The OCC adds no new information or argument on this issue. We considered comments both for and against inclusion of the proposed rules, and declined to include these rules for the reasons articulated in the Decision. We therefore deny RRR on this issue.

F. Rule and Statute Applicability

33. Staff requests that Rule 2214(c) expressly include additional rules to clarify that all such rules govern basic services reclassified to part 3.[14] Staff also requests clarification or

[14] Staff cites this rule in its RRR as "proposed rule 2214(e)" in its RRR filing at 3, but as 2214(c) elsewhere. Attachment A and B of the Decision include listings of applicable rules relevant to regulation in offering service in ECAs in proposed rule 2214(c).

reconsideration of certain rules relating to POLR requirements; applications for certificate of public convenience and necessity (CPCN) and letters of registration (LOR); non-optional operator services; and Lifeline only eligible telecommunications carrier (ETC) designation.

34. We note that the proposed rules address only certain aspects of telecommunications regulation, as set forth in the Notice of Proposed Rulemaking, issued by Decision No. C12-0898-I on August 6, 2012 in this docket. Unless explicitly addressed as relevant to the proposed rules related to ECA designation and reclassification of basic service, rules not explicitly amended continue to apply in relation to services as classified per part 2 or part 3, as further discussed below.

35. Staff requests that the Commission include paragraphs 2006(c) and (d) in Rule 2214(c). These paragraphs regard the reporting of held local exchange service orders exceeding 90 days and not subject to any applicable exceptions in Rule 2310, and the reporting of service orders exceeding certain thresholds.

36. In proposed Rule 2214(c), the Commission lists particular paragraphs within rule 2006 that it found applicable to regulate providers offering service in ECAs. The Commission fully considered the applicability of Rule 2006 to providers offering service in ECAs, including the exclusion of certain requirements contained in Rules 2006(c) and (d). We excluded 2006(c) and (d) from Rule 2214(c) because they impose regulatory reporting burdens that are incompatible and not necessary with the existence of effective competition. If a provider fails to offer services with acceptable levels of service quality, customers in a competitive market have the option of switching providers. We therefore deny RRR on this issue.

37. Staff lists additional rules not explicitly addressed in this rulemaking, requesting that they be included in Rule 2214(c), including: Records (Rule 2005);

Incorporations by Reference (Rule 2008); Civil Penalties – Definitions (Rule 2009); Application to Change Exchange Area Boundaries (Rule 2105); and Expanding a Local Calling Area (Rule 2309). Regarding POLR requirements specifically, Staff requests that the following rules be included as well: Designation of Providers of Last Resort (Rule 2183); Application for Designation as an Additional Provider of Last Resort (Rule 2184); Obligations of Providers of Last Resort (Rule 2185); Relinquishment of Designation as a Provider of Last Resort (Rule 2186); Eligible Telecommunications Carrier Designation (Rule 2187); and Availability of Services – Adequacy of Facilities (Rule 2310).

38. We clarify that, in addition to the rules explicitly enumerated in the proposed rules, all rules applicable to services regulated pursuant to part 3 shall apply to basic service as reclassified pursuant to an ECA determination. Likewise, all rules applicable only to part 2 services shall not apply to basic service in areas designated as ECAs. Further, we note that federal and statutory requirements continue to apply. We therefore deny RRR on this issue, but will add clarifying language to Rule 2214(c):

> The Commission will regulate providers offering service in ECAs pursuant to all Commission rules applicable to part 3 services and, including without limitation, the following substantive rules: Reports (paragraphs 2006(a), (b), (f), (g), (h), (i), and (j)), Application for LOR (rule 2103), Numbering Administration (rules 2700 through 2741), Programs (rules 2800 through 2895), Provider Obligations to Other Providers (rules 2500 through 2588), and Collection and Disclosure of Personal Information (rules 2360 through 2362).

39. Staff also requests clarification on the process related to application for CPCN or LOR. Proposed Rule 2214(c) states that the Commission will regulate providers under a series of existing Commission rules, including Rule 2103, which currently includes a LOR and a CPCN. Staff seeks clarification regarding the implementation of this proposed rule in ECAs for providers that currently hold a CPCN (issued to provide part 2 services) and not a LOR

(issued for part 3 services) and any new providers that enter the market following implementation of the proposed rules.

40. Per Staff's request, consistent with our intent that all rules shall apply to part 2 and part 3 services respectively, and except as explicitly indicated in the proposed rules, we clarify that CPCN and LOR processes under the current rules shall apply to providers of basic service as applicable depending on whether the provider offers service in an area where such service is classified as a part 2 service (*e.g.*, in an area not deemed an ECA, CPCN processes would apply for new applicants) or part 3 (*e.g.*, in an areas deemed an ECA, LOR processes would apply for new applicants; applicants who have a currently valid CPCN that was issued prior to reclassification of basic services as a part 3 service would retain the valid CPCN). A provider will not be required to relinquish valid CPCN authority or request an LOR if an area is designated as an ECA and basic service is reclassified to part 3.

41. Staff notes that § 40-15-302(5), C.R.S., requires the Commission to set rates for non-optional operator services and that Rules 2164 and 2165 establish benchmark maximum rates for these services and additional requirements, respectively. Similar to the argument above, Staff contends that, because these rules are not explicitly listed in Rule 2214(c), such rules may be inapplicable in ECAs. We clarify that, consistent with our discussion above, regulation of part 2 and part 3 services, including regulation of non-optional operator services by statute and rule, still applies.

42. Staff further requests clarification that the Commission is retaining its authority to designate any provider seeking ETC designation in ECAs that meets the requirements of 47 C.F.R. § 54.201(d) and Rule 2187. Staff recommends modification of the rule to note that ETC or EP designation may be affected by relinquishment of its POLR obligation. We clarify that

rules and requirements, including those for ETC designation generally and as they relate to POLR obligations, that are not addressed in the proposed rules are still applicable and shall be enforced by the Commission.

G. Terminology Clarifications

43. The OCC requests that the Commission revise paragraph no. 17 of the Decision summarizing the OCC's position as "the OCC … states that the entire state could be deemed competitive for service *deregulation*…." (emphasis added). The OCC objects to the use of "deregulation" and states that the term should be "reclassification." We agree and therefore grant RRR that the term "deregulation" should be replaced with "reclassification" in paragraph no. 17 of the Decision.

44. Staff requests that the term "local service" in proposed Rule 2213(d)(III) should be labeled "basic local exchange service" or "basic service." We agree with Staff and update the rule accordingly.

45. Staff requests that the Commission delete the term "restoration" in proposed Rule 2215(b), which allows a provider to file an application for HCSM funding in an ECA either by requesting the establishment, continuation, or restoration of HCSM funding. Staff states that there is no definition for "restoration." We clarify that this term was used intentionally to indicate a scenario where a provider in an ECA may reestablish funding where such funding was not received for a period of time. As with other applications for HCSM fund establishment (*i.e.*, providers who receive HCSM funding for the first time) or continuation (*i.e.*, providers who receive funding at the time of the application), restoration of funds would be based on the application of the provider, which may be denied or granted, in part or in full.

46. Staff further requests that the Decision should use the term "rules" instead of "paragraphs" when referring to "paragraphs 2006(a), (b), (f), (g), (h), (i)…" We disagree as these are subsections of the rule and "paragraph" is used as the standard reference throughout this and other Commission rules to indicate subsections of particular Commission rules.

H. Request for Clarifications on Process

47. Paragraph nos. 74 and 75 of the Decision state the intent of the Commission to commence a docket for the purpose of providing the necessary legal and policy direction for HCSM adjudications and to promote consistency across all providers in areas of the state (HCSM Application Policy Docket). CenturyLink notes that it is possible that the HCSM Application Policy Docket may be finalized after an ECA docket is completed; however, the HCSM applications will be determined by the HCSM Application Policy Docket. CenturyLink therefore requests clarification that applications for HCSM support in areas deemed ECAs pursuant to proposed Rule 2215 be due 180 days following a determination of effective competition in a given area, or 60 days following the completion of the HCSM Application Policy Docket, whichever is later.

48. We agree with CenturyLink that, in the event the HCSM Application Docket is completed after a finding of effective competition, additional time for filing of such an application may be warranted. We therefore clarify that HCSM applications in areas deemed ECAs will be due the later of 180 days following a determination of effective competition in a given area, or 60 days following the completion of the HCSM Application Policy Docket.

49. Staff requests clarification regarding treatment of HCSM identical support. Staff notes that, of the over 115 wire center serving areas where there are multiple competitive eligible

providers (EPs), only two competitive EPs are currently receiving HCSM funding. As contemplated, the rules allow for any provider to file an application for continued HCSM support in an area deemed an ECA. Therefore, both the underlying carrier and the competitive EP are eligible to file an application. To continue to receive HCSM support, a carrier must file on its own behalf.

50. CenturyLink suggests that workshops may be beneficial in identifying efficiencies for the administration of ECA and HCSM dockets resulting from our rules. We appreciate CenturyLink's suggestion for workshops, but regard the request as outside the scope of RRR.

II. ORDER

A. The Commission Orders That:

1. Decision No. C12-1442 is affirmed and clarified, consistent with the discussion above.

2. The Commission denies the request by Colorado Telecommunications Association (CTA) in its Application for Rehearing, Reargument, or Reconsideration (RRR), filed January 14, 2013, for waiver of the proposed rules for all rural telecommunications providers, consistent with the discussion above.

3. The Application for RRR filed on January 14, 2013, by CTA is denied, consistent with the discussion above.

4. The Application for RRR filed January 14, 2013, by Staff of the Colorado Public Utilities Commission is granted, in part, and denied, in part, consistent with the discussion above.

5. The Application for RRR filed January 14, 2013, by Qwest Corporation dba Century Link QC, El Paso County Telephone Company, CenturyTel of Colorado, Inc., and

CenturyTel of Eagle, Inc. is granted, in part, and denied, in part, consistent with the discussion above.

6. The Application for RRR filed January 14, 2013, by the Office of Consumer Counsel is granted, in part, and denied, in part, consistent with the discussion above.

7. Any request for RRR not explicitly addressed herein is denied.

8. The Commission adopts the rules attached to this Decision as Attachments A and B, consistent with the above discussion.

9. The rules shall be effective 20 days after publication in the Colorado Register by the Office of the Secretary of State.

10. The opinion of the Attorney General of the State of Colorado shall be obtained regarding the constitutionality and legality of the rules.

11. A copy of the rules adopted by the Decision shall be filed with the Office of the Secretary of State for publication in the Colorado Register. The rules shall be submitted to the appropriate committee of the Colorado General Assembly if it is in session at the time this Decision becomes effective, or for an opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

12. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

13. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEELY MEETING
January 30, 2012.

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

JAMES K. TARPEY

PAMELA J. PATTON

Commissioners

ATTEST: A TRUE COPY

Doug Dean,

Director