

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13M-0877T

IN THE MATTER OF POSSIBLE RULE REVISIONS TO THE COMMISSION'S
RULES RELATING TO THE HIGH COST SUPPORT MECHANISM.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
REQUIRING FILINGS**

Mailed Date: July 14, 2014

I. STATEMENT

1. On August 16, 2013, by Decision No. C13-0958, the Commission opened this Proceeding for these purposes:

(1) to consider [Colorado High Cost Support Mechanism (CHCSM)] rule amendments in anticipation of applications for [CHCSM] funding in areas deemed to be subject to effective competition for basic services, which may be submitted pursuant to [Rule 4 *Code of Colorado Regulations* 723-2-2215]; and
(2) to consider possible revisions to the [CHCSM] ... to update the rules for [CHCSM] generally pursuant to the triennial review contemplated in

Rule 4 *Code of Colorado Regulations* 723-2-2850.¹ Decision No. C13-0958 at ¶ 1 (footnote omitted). In that Decision, the Commission referred this Proceeding to an Administrative Law Judge (ALJ) (*id.* at ¶ 2).

2. The following either intervened as of right or were granted leave to intervene: CenturyTel of Colorado, Inc.; CenturyTel of Eagle, Inc.; El Paso County Telephone Company,

¹ The referenced Rules are found in the Rules Regulating Telecommunications Providers, Services, and Products, Part 2 of 4 *Code of Colorado Regulations* 723.

doing business as CenturyLink; Qwest Corporation, doing business as CenturyLink QC;² the Colorado Office of Consumer Counsel (OCC); the Colorado Telecommunications Association (CTA); Comcast Phone of Colorado, LLC, doing business as Comcast Digital Phone (Comcast); N.E. Colorado Cellular, Inc., doing business as Viaero Wireless (Viaero); Sprint Communications Company L.P.; Sprint Spectrum L.P., doing business as Sprint PCS;³ Trial Staff of the Commission (Staff); tw telecom of colorado, llc (tw telecom); Bell Atlantic Communications, Inc., doing business as Verizon Long Distance (Bell Atlantic); MCI Communications Services, Inc., doing business as Verizon Business Services (MCI Communications); MCIMetro Access Transmission Services LLC, doing business as Verizon Access Transmission Services (MCIMetro); NYNEX Long Distance Company, doing business as Verizon Enterprise Solutions (NYNEX); Teleconnect Long Distance Services and Systems Co., doing business as Telecom USA (Telecom USA); TTI National, Inc. (TTI); and Verizon Select Services Inc.⁴

3. The following, collectively, are the Participants in this matter: CenturyLink, Comcast, CTA, OCC, Sprint, Staff, tw telecom, Verizon, and Viaero. Each participant is represented by legal counsel.

4. The procedural history of this Proceeding is set out in Interim Decisions previously issued in this matter. The procedural history is repeated here in order to place this Interim Decision in context.

² The following entities, collectively, are CenturyLink: CenturyTel of Colorado, Inc.; CenturyTel of Eagle, Inc.; El Paso County Telephone Company, doing business as CenturyLink; and Qwest Corporation, doing business as CenturyLink QC.

³ Sprint Communications Company L.P. and Sprint Spectrum L.P., doing business as Sprint PCS, collectively, are Sprint.

⁴ The following entities, collectively, are Verizon: Bell Atlantic, MCI Communications, MCIMetro, NYNEX, Telecom USA, TTI, and Verizon Select Services Inc.

5. On March 20, 2014, by Decision No. R14-0308-I, the ALJ placed this matter in abeyance until the conclusion of the 2014 Session of the General Assembly due to then-pending telecommunications-related legislation. Following the conclusion of the legislative session, the ALJ planned to issue an Interim Decision to address the CHCSM triennial review going forward.

6. In May 2014, Governor Hickenlooper signed into law four bills that revise article 15, title 40 of the Colorado Revised Statutes that govern telecommunications services in Colorado.⁵ Of particular note for purposes of this Proceeding is House Bill 14-1331, which addresses both basic local exchange service and the CHCSM.

7. As a result of the statutory changes, by Decision No. C14-0635-I,⁶ the Commission changed the focus of this Proceeding from the established in Decision No. C13-0958. This Proceeding's focus now is on CHCSM "rules and policy revisions necessary due to the recent changes in law[.]" Decision No. C14-0635-I at ¶ 8. To assist the ALJ and the Participants in this newly-refocused case, the Commission vacated, revised, and supplemented the topic areas discussed in Decision No. C13-0958. The Commission does not intend the listed topic areas to limit the issues that this Proceeding may address.

8. The Commission requires the ALJ to address the following in her recommended decision:

(1) *proposed rule changes for the Commission's consideration* for the issuance of a NOPR [Notice of Proposed Rulemaking] concerning the Commission's HCSM rules; (2) *recommendations on rules* or adjudication processes for the topic areas listed above; (3) recommendations on setting the benchmark rate and

⁵ The referenced legislation is: (a) House Bill (HB) 14-1328 (signed May 10, 2014); (b) HB 14-1329 (signed May 9, 2014); (c) HB 14-1330 (signed May 9, 2014); and (d) HB 14-1331 (signed May 9, 2014). Each is now in effect.

⁶ This Decision was issued in this Proceeding on June 13, 2014.

maximum price required by statute; and (4) *any additional recommendations on rules* or Commission procedures.

Decision No. C14-0635-I at ¶ 16 (emphasis supplied). The Commission requests that the ALJ provide a recommended decision by October 31, 2014.

9. The Commission ordered Participants to file initial comments on the matters addressed in Decision No. C14-0635-I not later than July 11, 2014 and to file reply comments on those matters not later than July 25, 2014.

10. On July 11, 2014, the following participants each filed initial comments: CenturyLink, CTA, OCC, Sprint, Staff, Verizon, and Viaero. The ALJ's cursory review of the filings revealed that OCC and Staff appear to be the participants that took the opportunity to identify specific subject matter areas in addition to those identified by the Commission.⁷ Based on the cursory review, the ALJ saw no discussion of some CHCSM-related issues (for example and without limitation, whether a rate case proceeding ought to be a condition precedent to receipt of CHCSM funds) that, in the past, have been the subjects of significant debate.

11. The CHCSM rules and the Commission telecommunications policies embodied in those rules are open for discussion. The purposes of the initial filing cycle are to identify, and to begin the discussion of, *all* CHCSM-related issues (*i.e.*, both the rules and the Commission's policies).⁸ Once the issues are identified, there can be a full and frank discussion of the Commission policies, of the CHCSM rules, and of other related rules, both as they exist and as

⁷ CTA recommends a complete overhaul of the CHCSM rules. This general recommendation does not assist in identifying specific rule provisions or telecommunications policies that CTA recommends be changed.

⁸ As the participants have noted, this likely will include discussion of Federal Communications Commission orders and rules and their impact on the issues under discussion in this Proceeding.

they may need to change in order to effectuate the Colorado telecommunications statutes, as amended, and the Commission's telecommunications policies.

12. In order for the Participants to identify *all* CHCSM-related issues that, in their opinion, should be addressed in this Proceeding, the ALJ will establish the following filing requirements: (a) notlater than **July 25, 2014**, each participant will file supplemental initial comments that identify CHCSM-related issues, in addition to those identified in the participant's filing in response to Decision No. C14-0635-I, that should be discussed in this Proceeding; and (b) notlater than **August 8, 2015**, each participant will file supplemental response comments that address the supplemental initial comments.

13. By separate Interim Decision to be issued after the supplemental filings, the ALJ either will schedule a prehearing conference or will establish the procedural schedule for this Proceeding.

14. **The Participants are advised, and are on notice, that** the ALJ will require any participant that supports one or more rule changes to file its proposed rule language for each rule change that the participant supports. Participants will be given the opportunity to comment on the proposed rule changes. This information will assist the ALJ to determine whether the CHCSM rules (and, perhaps, other rules) should be changed and, if they should be changed, how they should be changed. In the procedural schedule to be established in a future Interim Decision, the ALJ will set the date by which a participant will file its proposed rule amendments.

II. ORDER

A. It Is Ordered That:

1. Not later than July 25, 2014, each participant shall file supplemental initial comments that identify Colorado High Cost Support Mechanism-related issues, in addition to

those identified in the participant's filing in response to Decision No. C14-0635-I, that should be discussed in this Proceeding.

2. Not later than August 8, 2015, each participant shall file supplemental response comments that address the supplemental initial comments.

3. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director