

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 AND REQUIRING
PARTICIPANTS TO PROVIDE FILINGS TO ALJ**

Mailed Date: September 12, 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).

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. By Decision No. C14-0635-I,⁵ the Commission changed the focus of this Proceeding from that 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.

6. 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 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.

7. On July 11, 2014, the following filed initial comments: CenturyLink; CTA; OCC; Sprint; Staff; Verizon; and Viaero.

8. On July 14, 2014, by Decision No. R14-0812-I, the ALJ established this filing requirement: not later than July 25, 2014, each participant was to file supplemental initial comments that identify CHCSM-related issues, in addition to those identified in the participant's July 11, 2014 filing, that should be discussed in this Proceeding.

⁵ This Decision was issued in this Proceeding on June 13, 2014.

9. On July 25, 2014, the following filed supplemental comments: AT&T; CenturyLink (including suggested rule changes); Comcast; CTA; Sprint, Staff, and Viaero.

10. On July 21, 2014, by Decision No. R14-0857-I, the ALJ established this filing requirement: not later than August 8, 2014, each participant was to file its response comments to both the July 11, 2014 comments and the July 25, 2014 comments.

11. On August 8, 2014, the following filed response comments: CenturyLink; Comcast; CTA (including suggested rule changes); OCC; Sprint, Staff, and Viaero.

12. In Decision No. R14-0812-I at ¶ 14, the ALJ advised the Participants 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.

13. The ALJ has determined that the filings made to-date suffice to identify the issues and to explain the participants' positions on the identified issues. The ALJ will consider the issues based on the filings made in this Proceeding and, absent further order, will not hold a prehearing conference, an oral argument, or a hearing in this matter. As a result, the ALJ considers the filings ordered by this Interim Decision to be of great importance.

14. The ALJ establishes the following filing dates for the filing of proposed rule changes and response to those proposals: (a) not later than **September 26, 2014**, each participant that elects to do so will file two versions of its proposed rule changes, one version in legislative drafting (*i.e.*, red-lined) format and the other version in final rule format⁶; and (b) not later than

⁶ As used in this Interim Decision, final rule format means the proposed rule without red-lining and as it would read if adopted by the Commission.

noon on October 10, 2014, each participant will file its response to the proposed rule changes, including those filed on July 25, 2014 and on August 8, 2014.

15. If a participant already has filed proposed or suggested rule changes, that participant may file, not later than **September 26, 2014**, a supplement to the proposals.

16. To put its proposed rule changes in context and to assist the ALJ to understand each proposed rule change, the participant: (a) should identify the issue that a proposed rule change is intended to address; (b) should explain why the proposed rule change is necessary to implement the participant's position with respect to the identified issue; and (c) should explain how the proposed rule implements the participant's position with respect to the identified issue.

17. The ALJ will require the following: (a) at the time a participant makes its proposed rule changes filing due not later than September 26, 2014, the participant also must provide directly to the ALJ⁷ both versions (*i.e.*, legislative drafting format and final rule format) in native file format (preferably, in Microsoft Word) rather than in Adobe PDF format as made available in the Commission E-Filings System; (b) not later than September 26, 2014, CenturyLink and CTA must provide directly to the ALJ both versions (*i.e.*, legislative format and final rule format) in native file format of the proposed rule changes that each already has filed in this Proceeding; and (c) at the time a participant files its response to the proposed rule changes, the participant must provide directly to the ALJ a copy, in native file format, of the response.

⁷ The ALJ's electronic mail address is: mana.jennings-fader@state.co.us.

II. ORDER

A. It Is Ordered That:

1. Consistent with the discussion above and not later than September 26, 2014, each participant that elects to do so shall file two versions of its proposed rule changes (legislative drafting (*i.e.*, red-lined) format and final rule format).
2. Consistent with the discussion above and not later than noon on October 10, 2014, each participant shall file its response to the proposed rule changes, including those filed on July 25, 2014 and on August 8, 2014.
3. The Participants shall comply with the requirements in ¶ 17 to provide the identified filings directly to the Administrative Law Judge.
4. This Interim Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge