

1 THE
2 PUBLIC UTILITIES COMMISSION
3 OF THE
4 STATE OF COLORADO

5 RULES PRESCRIBING
6 THE HIGH COST SUPPORT MECHANISM
7 AND
8 PRESCRIBING THE PROCEDURES FOR
9 THE COLORADO HIGH COST ADMINISTRATION FUND

10 4 CODE OF COLORADO REGULATIONS (CCR) 723-41

11 BASIS, PURPOSE AND STATUTORY AUTHORITY.

12 These rules are issued under the general authority of
13 §§ 40-2-108(2) C.R.S., § 40-3-102 C.R.S. and § 40-15-208
14 C.R.S. They establish the process to be used and the
15 information required by the Commission to implement the
16 provisions of § 40-15-208 C.R.S. ~~== (SB 98-177).¹ Pursuant to~~
17 ~~§§ 40-15-502 et seq. C.R.S., the General Assembly of the State~~
18 ~~of Colorado mandated that competition in the local exchange~~
19 ~~telecommunications market be implemented on or before~~
20 ~~July 1, 1996. SB 98-177 requires that, as of July 1, 1998,~~
21 ~~the Colorado High Cost Fund ("CHCF"), as previously~~
22 ~~established in § 40-15-208 is to be abolished, and a new~~
23 ~~mechanism for the support of universal service, to be referred~~
24 ~~to as the "High Cost Support Mechanism" ("HCSM"), shall~~

~~¹ Senate Bill 98-177 was signed into law by Governor Roy
Romer on May 18, 1998 at 12:21 p.m.~~

~~operate in accordance with rules adopted by the Commission.
SB 98 177 also creates the Colorado High Cost Administration
Fund, ("Fund") which is to be used to reimburse the Commission
and its contractors for expenses incurred in the
administration of the HCSM as determined by rules of the
Commission. SB 98 177 mandates that as of July 1, 1998, any
unencumbered moneys remaining in the CHCF are to be
transferred to the Fund.~~

~~The Commission had, as of April 30, 1998, revised Rule 41
of 4 CCR for the purpose of prescribing the procedures for
administering the Colorado High Cost Fund. Portions of that
Rule are now incompatible with SB 98 177. On May 23, 2001 the
Federal Communications Commission released its Fourteenth
Report and Order, Twenty-Second Order on Reconsideration and
Further Notice of Proposed Rulemaking in CC Docket No. 96-45.
In this Order the FCC modified its rules for providing high-
cost universal service support to rural telephone companies
for the next five years based upon the proposals made by the
Rural Task Force established by the Federal-State Joint Board
on Universal Service. These rule are also intended to be
consistent with the FCC's May 23, 2001 order.~~ These

amendments are necessary to ensure that eligible providers
continue to receive support under the HCSM and that the
Commission and its contractors are reimbursed for any expenses
incurred.

RULE (4 CCR) 723-41-1. APPLICABILITY.

Part I of these rules contain the permanent provisions
regulating the HCSM, and are applicable to all
telecommunications service providers in Colorado, except that
the support mechanism of Rule 9 is applicable to any non-rural

telecommunications service provider and further, Rule 9 is applicable to rural telecommunications service providers only by the operation of Rule 4.2. Part II of these rules contain the temporary provisions providing for the transition from the CHCF mechanism that was in effect prior to July 1, 1996 to the HCSM mechanisms in Part I. Part II is applicable to rural telecommunications service providers only.

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723-41-3.1 The HCSM shall operate on a calendar year basis. The Commission shall, by November 30 of each year, adopt a budget for the HCSM containing:

A) the proposed benchmarks;

B) the proposed contributions to be collected through a rate element assessment by each telecommunications provider; and

C) the proposed total amount of the HCSM from which distributions are to be made for the following calendar year.

~~723-41-3.2 The HCSM distributions of support shall not exceed sixty million dollars during each of the calendar years 1998 and 1999; except as provided in § 40-15-208(2)(d)(I).~~

~~723-41-3.2.1 If the total budget amount for support distributions prepared pursuant to Rule 3.1 exceeds the maximum of Rule 3.2, support distributions to non rural eligible providers shall be reduced accordingly.~~

~~723-41-3.2.2 Rule 3.2, and all its subsections, is repealed effective January 1, 2000.~~

723-41-3.3² If the budget prepared pursuant to Rule 3.1 and submitted to the General Assembly pursuant to Rule

10.16 contains a proposal for an increase in any of the amounts listed in Rule 3.1 A) through C), such increase shall be suspended until March 31 of the following year.

RULE (4 CCR) 723-41-4. TRANSITION.

723-41-4.1 The mechanism for making payments into the HCSM established in Rule 7 of Part I shall take effect by further order of the Commission.

~~723-41-4.2 Rural Telecommunications Service Providers may only continue to draw support in accordance with Part II of this Rule until the earliest occurrence of one of the following three events:~~

~~723-41-4.2.1 July 1, 2003; or~~

~~723-41-4.2.2 When another provider holding a Certificate to Provide Local Exchange telecommunications service and operating authority within the provider's service territory, pursuant to the Commission's Rules Regulating the Authority to Offer Local Exchange Telecommunications Services, 4 CCR 723-35, is found by the Commission to be eligible to receive support from the HCSM pursuant to Rule 8; or~~

~~723-41-4.2.3 The Commission, by order, has adopted a Proxy Cost Model for Rural Telecommunications Service Providers, and the Rural Telecommunications Service Provider elects into the mechanism established pursuant to Part I of this Rule.~~

723-41-4.3² Small LECs designated as an Eligible Provider as of July 1, 1996, and thus able to draw from the HCSM established in Part II of Rule 4 CCR 723-27 and now codified in Part II of this Rule, and Rural Telecommunications Service Providers who are not receiving HCSM support, may, at

any time, apply to draw support in accordance with ~~Part II of~~
this Rule ~~subject to the time limits delineated in Rule 4.2.~~

~~723-41-4.4 Once a Rural Telecommunications Service~~
~~Provider commences drawing support under Part I of these~~
~~Rules, such provider must comply with the Part I Rules and may~~
~~not return to drawing support under the Part II Rules.~~

~~723-41-4.5 Part II of this Rule is repealed effective~~
~~July 1, 2003.~~

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723-41-7.2.2 Eligible Provider Reporting
Requirements.

723-41-7.2.2.1 Each Eligible Provider receiving
support pursuant to Rule 9.2 shall provide to the
Administrator a verified accounting of: 1) the actual number
of Primary Residential and Single-Line Business Access Lines
served by such provider in each Geographic Area as of the last
day of each month; and 2) the actual amount of contributions
collected in the month. ~~For Eligible Providers receiving~~
~~support pursuant to Part I of these Rules, t~~The form is to be
completed and returned to the Administrator by the 15th day of
the subsequent month., ~~and for~~

723-41-7.2.2.2 For Eligible Providers receiving
support pursuant to ~~Part II~~Rule 9.3 of these Rules, an
appropriate form is to be completed and returned to the
Administrator as part of that provider's annual report.

723-41-7.2.3 Revenue Benchmark Reporting
Requirements. Each Eligible Provider, receiving support
pursuant to ~~Part I~~ Rule 9.2 of these Rules, shall provide to
the Administrator a verified accounting of such revenues as

are determined necessary for establishing the Residential and Business Revenue Benchmarks on a form supplied by the Administrator. This worksheet shall be due March 31, of each year, containing data for the prior calendar year.

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RULE (4 CCR) 723-41-9. SUPPORT VIA THE HCSM.

723-41-9.1 The Commission shall establish Geographic Areas for the State by order. Such Geographic Areas may be revised at the discretion of the Commission.

723-41-9.1.1 Disaggregation and Targeting of Colorado High-Cost Support by Rural Incumbent Local Exchange Carriers. The disaggregation plan selected by a rural incumbent local exchange carrier for targeting Colorado high-cost support shall be the same plan as the that selected by the carrier and approved by the Commission pursuant to Rule 4 CCR 723-42-10.

723-41-9.2 Support via the HCSM applicable to Non-Rural Geographic Areas shall be calculated as follows:

723-41-9.2.1 By order, the Commission shall: 1) adopt a Proxy Cost Model; and 2) publish the Intrastate Proxy Cost for each Geographic Area. The Proxy Cost Model and the resultant Intrastate Proxy Costs shall be updated as necessary. The Commission shall ensure that the HCSM operates such that the basic local exchange service supported bears no more than its reasonable share of the joint and common costs of facilities used to provide those services.

723-41-9.2.2 Where the per line Intrastate Proxy Cost exceeds the applicable Revenue Benchmark in that

1 particular Geographic Area, the Commission shall designate
2 certain Geographic Areas as Geographic Support Areas.

3 723-41-9.2.3 Amount of Support: Each non-rural
4 Eligible Provider shall receive support from the HCSM based on
5 the number of Primary Residential and Single-Line Business
6 Access Lines it serves in high cost Geographic Support Areas,
7 as designated by the Commission, multiplied by the difference
8 between the per line Intrastate Proxy Cost in such Geographic
9 Support Area and the applicable per Access Line Revenue
10 Benchmark. The amount of support shall be reduced by any
11 other amount of support received by such provider or for which
12 such provider is eligible under support mechanisms established
13 by the federal government and/or this State.

14 ~~723-41-9.4.1 If the HCSM budget prepared by~~
15 ~~Commission pursuant to Rule 3.2 exceeds any statutory~~
16 ~~budgetary cap, the amount of support intended for non rural~~
17 ~~eligible providers shall be reduced as necessary by increasing~~
18 ~~the Revenue Benchmarks. The benchmarks shall be increased~~
19 ~~equally in each Geographic Support Area and the benchmarks~~
20 ~~shall be increased so as to maintain the relative relationship~~
21 ~~between the Residential Benchmark and the Business Benchmark.~~

22 723-41-9.2.4 Revenue Benchmarks. Separate Revenue
23 Benchmarks shall be determined for residential and business
24 supported Access Lines for each Geographic Area according to
25 the formulae defined in Rule 2.15.

26 723-41-9.3 Support via the HCSM applicable to
27 Geographic Areas served by incumbent rural telecommunication
28 service providers shall be calculated as follows:

29 723-41-9.3.1 By order, the Commission shall: 1)
30 determine the amount of support per study area as determined
31 pursuant to Part II based upon the filing of the incumbent

1 rural telecommunications service provider serving that area;
2 and 2) publish the support per access line, disaggregated into
3 such Geographic Support Areas as may be designated by the
4 Commission. The Commission shall ensure that the HCSM
5 operates such that the basic local exchange service supported
6 bears no more than its reasonable share of the joint and
7 common costs of facilities used to provide those services.

8 723-41-9.3.2 Amount of Support: Each Eligible
9 Provider shall receive support from the HCSM in an area served
10 by an incumbent rural telecommunications service provider
11 based upon the number of Access Lines it serves in those high
12 cost Geographic Support Areas, as designated by the
13 Commission, multiplied by the applicable support per Access
14 Line.

15 723-41-9.3.3 Additional Procedures Governing the
16 Operation of Disaggregated Support:

17 723-41-9.3.3.1 Disaggregation and targeting
18 plan adopted under Rule 9.1.1 shall be subject to the
19 following general requirements:

20 723-41.9.3.3.1.1 Support available to
21 the rural incumbent local exchange carrier's study area under
22 its disaggregation plan shall equal the total support
23 available to the study area without disaggregation.

24 723-41.9.3.3.1.2 The ratio of per-line
25 support between disaggregation zones for each disaggregated
26 category of support shall remain fixed over time, except as
27 changes are allowed pursuant to Rule 723-42-10.2 and 10.3.

28 723-41.9.3.3.1.3 The ratio of per-line
29 support shall be publicly available.

30 723-41-9.3.3.1.4 Per-line support
31 amounts for each disaggregation zone shall be recalculated

1 whenever the rural incumbent local exchange carrier's total
2 annual support amount changes using the changed support amount
3 and lines at that point in time.

4 723-41-9.3.3.1.5 Per-line support for
5 each category of support in each disaggregation zone shall be
6 determined such that the ratio of support between
7 disaggregation zones is maintained and that the product of all
8 of the rural incumbent local exchange carrier's lines for each
9 disaggregation zone multiplied by the per-line support for
10 those zones when added together equals the sum of the rural
11 incumbent local exchange carrier's total support.

12 723-41.9.3.3.1.6 Until a competitive
13 eligible telecommunications carrier is certified in a study
14 area, monthly payments to the rural incumbent local exchange
15 carrier will be made based on total annual amounts for its
16 study area divided by 12.

17 723-41.9.3.3.1.7 When a competitive
18 eligible telecommunications carrier is certified in a study
19 area, per-line amounts used to determine the competitive
20 eligible telecommunications carrier's disaggregated support
21 shall be based on the rural incumbent local exchange carrier's
22 then-current total support levels, lines, and disaggregated
23 support relationships.

24 723-41.9.4 Reserved for future use.

25 723-41-9.5 Reserved for future use.

26 723-41-9.6 Process for Payments. The Administrator
27 will arrange payments to be made to Eligible Providers, which
28 are net recipients from the HCSM, within 30 days of the last
29 calendar day of each quarter.

30 723-41-9.7 Reconciliation. Following receipt of each
31 Eligible Provider's report to the Administrator pursuant to

1 Rule 7.2.2, the Administrator shall reconcile the estimated
2 disbursements previously authorized for such Eligible Provider
3 for the period for which the report provides information to
4 the actual disbursements to which such provider is entitled
5 (as calculated by Rule 723-41-9.42 and 9.3), and shall send a
6 statement of such reconciliation to each Eligible Provider
7 within 60 days after the receipt of the report. The statement
8 shall show if the provider is entitled to additional amounts
9 from the HCSM, or if the Eligible Provider has received more
10 than the amount of its HCSM entitlement. Such reconciling
11 amounts shall be used by the Administrator in setting the
12 Eligible Provider's entitlements in subsequent quarters.

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16 723-41-10.14 The Fund and the HCSM records covering
17 both collections and disbursements ~~may~~shall be audited ~~at the~~
18 ~~end of fiscal year 1998-1999~~periodically at the discretion of
19 the Commission by an independent external auditor chosen by
20 the Commission. The costs for conducting audits shall be
21 included in the computation of HCSM requirements. ~~Thereafter,~~
22 ~~the Fund and the HCSM shall be audited in the same manner at~~
23 ~~least once every other year.~~

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27 723-41-10.16 A written annual report of the HCSM,
28 prepared by the Administrator, shall be submitted to the
29 ~~General Assembly~~committees of reference in the Senate and House
30 of Representatives that are assigned to hear
31 telecommunications issues, in accordance with Section 24-1-

136, C.R.S., by December 1 of each year. A copy of the Administrator's annual report of the HCSM shall be provided to the Legislative Audit Committee and to each telecommunications service provider which contributes to the HCSM. The Administrator may satisfy the latter requirement by notifying the telecommunications service provider of the availability of the annual report via an e-mail message directing the provider to the report on the Commission's web site. The report shall account for the operation of the HCSM during the preceding calendar year and contain the following information, at a minimum:

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4 CCR 723-41-PART II

~~{NOTE. Pursuant to Rule 723-41 4.5, Part II is repealed effective July 1, 2003}~~

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RULE (4 CCR) 723-41-18. ~~TRANSITIONAL~~ COLORADO HIGH COST FUND SUPPORT FOR INCUMBENT RURAL TELECOMMUNICATIONS SERVICE PROVIDERS.

~~During the transition period,~~Incumbent Rural Telecommunications Service Providers, who are not Average Schedule Rural Telecommunications Service Providers, shall be eligible, upon proper showing, for support from the HCSM for high costs in three areas: a) loops, b) local switching, and 3) exchange trunks. Incumbent Average Schedule Rural Telecommunications Service Providers shall be eligible, upon proper showing, for support from the HCSM for high costs as determined by Rule 18.6.1.

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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 Order, for each Rural Telecommunications Service Provider, the HCSM support revenue requirement that will be effective for a period of six years beginning with the date of the Order.

Note: Currently, Rule 18.6 contains provisions establishing a six-year phase-down of the support amount and the simultaneous requirement to annually adjust the intrastate switched access rates based upon growth in demand. The Commission is interested in receiving comment regarding any necessary changes to Rule 18.6, the public benefits engendered by such changes and how the Commission's statutory goals and duties would be furthered.

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