

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

5                                   RULES PRESCRIBING THE PROCEDURES  
6                                   FOR DESIGNATING TELECOMMUNICATIONS SERVICE PROVIDERS  
7                                   AS PROVIDERS OF LAST RESORT  
8                                   OR AS AN  
9                                   ELIGIBLE TELECOMMUNICATIONS CARRIER

10                                  4 CODE OF COLORADO REGULATIONS (CCR) 723-42

11   **BASIS, PURPOSE AND STATUTORY AUTHORITY.**

12   The basis and purpose of these rules is to establish  
13   regulations concerning the designation of providers of last  
14   resort and the obligations that attach to such a designation.  
15   These rules also establish regulations concerning the  
16   designation of providers eligible to receive federal universal  
17   service assistance.

18         These rules are clear and simple and can be understood by  
19   persons expected to comply with them. They do not conflict  
20   with any other provision of law. There are no duplicating or  
21   overlapping rules.

22         The Commission is authorized to promulgate rules  
23   generally by Section 40-2-108, C.R.S., and specifically for  
24   telecommunications services by Sections 40-15-201 and  
25   40-15-301. Statutory authority for promulgating these rules is  
26   further found in Section 40-15-502(6), C.R.S.     Finally,

27   These Rules are consistent with 47 U.S.C. 254 and with 47  
28   C.F.R., Part 54.

1        On May 23, 2001 the Federal Communications Commission  
2 released its Fourteenth Report and Order, Twenty-Second Order  
3 on Reconsideration and Further Notice of Proposed Rulemaking  
4 in CC Docket No. 96-45. In this Order the FCC modified its  
5 rules (Part 54) for providing high-cost universal service  
6 support to rural telephone companies for the following five  
7 years based upon the proposals made by the Rural Task Force  
8 established by the Federal-State Joint Board on Universal  
9 Service. These rules are necessary to ensure that eligible  
10 telecommunication carriers continue to receive support under  
11 the federal universal service program.

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15 **RULE (4 CCR) 723-42-1. APPLICABILITY.**

16 These rules are applicable to all telecommunications service  
17 providers: 1) who are designated as a Provider of Last Resort  
18 or Eligible Telecommunications Carrier; or 2) seeking to be  
19 designated as a Provider of Last Resort or Eligible  
20 Telecommunications Carrier; or 3) seeking to remove a  
21 designation as a Provider of Last Resort or Eligible  
22 Telecommunications Carrier.

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26        723-42-7.4 State Certification of Support for Federal  
27 Support. As required by Federal Communications Commission  
28 ("FCC") Universal Service regulations found at 47 CFR 54.313  
29 and 54.314, and where appropriate, the Commission will file an  
30 annual certification with the Administrator of the federal  
31 Universal Service Fund ("USF") and the FCC on behalf of each  
32 jurisdictional eligible telecommunications carrier serving

1 lines in the state, stating that all federal high-cost support  
2 provided to such carriers within that State will be used only  
3 for the provision, maintenance, and upgrading of facilities  
4 and services for which the support is intended.

5 723-42-7.4.1 In making its determination that all  
6 federal high-cost support provided to a carrier will be used  
7 only for the provision, maintenance, and upgrading of  
8 facilities and services for which the support is intended, the  
9 Commission may require from a carrier such information as it  
10 finds necessary and convenient. At a minimum, carriers shall  
11 furnish requested information on a form supplied by the  
12 Commission as part of the carrier's annual report.

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16 **RULE (4 CCR) 723-42-10. DISAGGREGATION AND TARGETING OF**  
17 **SUPPORT BY RURAL INCUMBENT LOCAL EXCHANGE CARRIERS.**

18 All rural incumbent local exchange carriers who have selected  
19 a disaggregation path pursuant to FCC regulations found at 47  
20 CFR Part 54.315 shall file with the Commission as appropriate:

21 723-42-10.1 Path 1: Carriers Not Disaggregating and  
22 Targeting High-Cost Support:

23 723-42-10.1.1 A carrier's election of this path  
24 becomes effective upon filing by the carrier with the  
25 Commission.

26 723-42-10.1.2 This path shall remain in place for  
27 such carrier for at least four years from the date of filing  
28 with the Commission except as provided in Rule 10.1.3 below.

29 723-42-10.1.3 The Commission may require, on its  
30 own motion, upon petition by an interested party, or upon  
31 petition by the rural incumbent local exchange carrier, the  
32 disaggregation and targeting of support under Rules 10.2 or  
33 10.3.

723-42-10.2 Path 2: Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support.

723-42-10.2.1 A carrier electing to disaggregate and target support under this subsection must file a disaggregation and targeting plan with the Commission.

723-42-10.2.2 Under this subsection a carrier may propose any method of disaggregation and targeting of support consistent with the general requirements detailed in 47 C.F.R. § 54.315(e) (effective Oct. 1, 2001).

723-42-10.2.3 A disaggregation and targeting plan under this Rule becomes effective upon approval by the Commission.

723-42-10.2.4 A carrier shall disaggregate and target support under this path for at least four years from the date of approval by the Commission except as provided in Rule 10.3.5 below.

723-42-10.2.5 The Commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier, the disaggregation and targeting of support in a different manner.

723-42-10.2.6 Requests for disaggregation under Path 2 shall be filed in accordance with Commission Rules of Practice and Procedure, 4 CCR 723-1, relating to applications.

723-42-10.3 Path 3: Self-Certification of the Disaggregation and Targeting of Support.

723-42-10.3.1 A carrier may file a disaggregation and targeting plan with the Commission along with a statement certifying each of the following:

723-42-10.3.1.1 It has disaggregated support to the wire center level; or

723-42-10.3.1.2 It has disaggregated support into no more than two cost zones per wire center.

1           723-42-10.3.2 Any disaggregation plan submitted  
2 pursuant to this Rule 10.3 must meet the following  
3 requirements:

4           723-42-10.3.2.1 The plan must be supported by a  
5 description of the rationale used, including the methods and  
6 data relied upon to develop the disaggregation zones, and a  
7 discussion of how the plan complies with the requirements of  
8 this Rule 10.3. Such filing must provide information  
9 sufficient for interested parties to make a meaningful  
10 analysis of how the carrier derived its disaggregation plan.

11           723-42-10.3.2.2 The plan must be reasonably  
12 related to the cost of providing service for each  
13 disaggregation zone within each disaggregated category of  
14 support.

15           723-42-10.3.2.3 The plan must clearly specify  
16 the per-line level of support for each category of high-cost  
17 universal service support provided pursuant to §§ 54.301,  
18 54.303, and/or 54.305 of part 54 of 47 C.F.R., and/or part 36,  
19 subpart F of 47 CFR in each disaggregation zone.

20           723-42-10.3.2.4 If the plan uses a benchmark,  
21 the carrier must provide detailed information explaining what  
22 the benchmark is and how it was determined. The benchmark  
23 must be generally consistent with how the total study area  
24 level of support for each category of costs is derived to  
25 enable a competitive eligible telecommunications carrier to  
26 compare the disaggregated costs used to determine support for  
27 each cost zone.

28           723-42-10.3.3 A carrier's election of this path  
29 becomes effective upon filing by the carrier to the  
30 Commission.

31           723-42-10.3.4 A carrier shall disaggregate and  
32 target support under this path for at least four years from  
33 the date of filing with Commission except as provided in Rule  
34 10.3.5 below.

1                    723-42-10.3.5    The Commission may require, on its  
2                    own motion, upon petition by an interested party, or upon  
3                    petition by the rural incumbent local exchange carrier,  
4                    modification to the disaggregation and targeting of support  
5                    selected under this path.

6                    723-42-10.4    Carriers        failing        to        select        a  
7                    disaggregation path, as described in Rules 10.1, 10.2 or 10.3  
8                    above, by the deadline specified in 47 C.F.R. § 54.315, will  
9                    not be permitted to disaggregate and target federal high-cost  
10                   support unless ordered to do so by the Commission.

11        **RULE (4 CCR) 723-42-~~10~~11.                VARIANCE AND WAIVER.**

12        The Commission may permit variance or waiver from these rules,  
13        if not contrary to law, for good cause shown if it finds that  
14        compliance is impossible, impracticable or unreasonable.

15        **RULE (4 CCR) 723-42-~~11~~12.                INCORPORATION BY REFERENCE.**

16        References in these Rules to Parts 36 and 54, are rules issued  
17        by the FCC and have been incorporated by reference in these  
18        Rules.    These rules may be found at 47 C.F.R. revised as of  
19        October 1, ~~2001-1997 as amended by 12 FCC Red 17469 (1997), 62~~  
20        ~~FR 65036 (12/10/97), 63 FR 3830 (01/27/98), and 63 Fr 2094~~  
21        ~~(01/13/98).~~    References to Parts 36 and 54 do not include  
22        later amendments to or editions of these parts.    A certified  
23        copy of these parts which have been incorporated by reference  
24        are maintained at the offices of the Colorado Public Utilities  
25        Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203  
26        and are available for inspection during normal business hours.  
27        Certified copies of the incorporated rules shall be provided  
28        at cost upon request.    The Director of the Public Utilities  
29        Commission, or his designee, will provide information  
30        regarding how the incorporated rules may be obtained or  
31        examined.    These incorporated rules may be examined at any  
32        state publications depository library.  
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