

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).<sup>1</sup> 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~~

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~~<sup>1</sup> 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.~~

Pursuant to Sections 40-15-502 et seq. C.R.S., the  
General Assembly of the State of Colorado mandated that local  
exchange telecommunications markets be open to competition  
while maintaining the goal of affordable and just and  
reasonably priced basic service. To accomplish that goal the  
General Assembly directed the Commission to establish a system  
of universal service support mechanisms to be funded on a  
nondiscriminatory, competitively neutral basis.

~~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. These rules and regulations govern the operation of the Colorado High Cost Support Mechanism ("HCSM") and the Colorado High Cost Administration Fund and shall apply to all providers of intrastate telecommunications services.~~

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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.~~

723-41-3.3<sup>2</sup> 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 RESERVED FOR FUTURE USE.**

~~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,~~

1 ~~4 CCR 723 35, is found by the Commission to be eligible to~~  
2 ~~receive support from the HCSM pursuant to Rule 8; or~~  
3 ~~———— 723 41 4.2.3 ——— The Commission, by order, has adopted~~  
4 ~~a Proxy Cost Model for Rural Telecommunications Service~~  
5 ~~Providers, and the Rural Telecommunications Service Provider~~  
6 ~~elects into the mechanism established pursuant to Part I of~~  
7 ~~this Rule.~~

8 ~~723 41 4.3 ——— Small LECs designated as an Eligible~~  
9 ~~Provider as of July 1, 1996, and thus able to draw from the~~  
10 ~~HCSM established in Part II of Rule 4 CCR 723 27 and now~~  
11 ~~codified in Part II of this Rule, and Rural Telecommunications~~  
12 ~~Service Providers who are not receiving HCSM support, may, at~~  
13 ~~any time, apply to draw support in accordance with Part II of~~  
14 ~~this Rule subject to the time limits delineated in Rule 4.2.~~

15 ~~723 41 4.4 ——— Once a Rural Telecommunications Service~~  
16 ~~Provider commences drawing support under Part I of these~~  
17 ~~Rules, such provider must comply with the Part I Rules and may~~  
18 ~~not return to drawing support under the Part II Rules.~~

19 ~~———— 723 41 4.5 ——— Part II of this Rule is repealed effective~~  
20 ~~July 1, 2003.~~

21  
22 . . . . .

23  
24 723-41-7.2.2 Eligible Provider Reporting  
25 Requirements.

26 723-41-7.2.2.1 Each Eligible Provider receiving  
27 support pursuant to Rule 9.2 shall provide to the  
28 Administrator a verified accounting of: 1) the actual number  
29 of Primary Residential and Single-Line Business Access Lines  
30 served by such provider in each Geographic Area as of the last  
31 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, the~~ An appropriate form is to be completed and returned to the Administrator by the 15<sup>th</sup> day of the subsequent month., ~~and for~~

723-41-7.2.2.1.1 In completing the form Eligible Providers shall be guided by the following: An Eligible Provider that is the provider of last resort ("POLR") and is providing service will always receive HCSM support. If a competitive Eligible Provider, wireless or wireline, commences primary line service such that the POLR is no longer providing service, then the support is ported to the Competitive Eligible Provider. If an Eligible Provider that is the POLR, subsequently regains the customer and begins providing service, then only the Eligible Provider that is the POLR will receive the HCSM support.

723-41-7.2.2.2 For Eligible Providers receiving support pursuant to ~~Part I~~ Rule 9.3 of these Rules, an appropriate form is to be completed and returned to the Administrator:

723-41-7.2.2.2.1 if no competitive Eligible Provider has been designated in the incumbent rural Eligible Provider's study area, as part of that provider's annual report; or

723-41-7.2.2.2.2 if one or more Eligible Providers has been designated in a Geographic Support Area, by the 15<sup>th</sup> day of the subsequent month.

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 Providers.

The disaggregation plan selected by a rural incumbent Eligible Provider for targeting Colorado high-cost support shall be the same plan as the that selected by the provider 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 non-rural 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 particular non-rural Geographic Area, the Commission shall

1 | designate certain non-rural Geographic Areas as Geographic  
2 | Support Areas.

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

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

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



1        723-41-9.3        Support via the HCSM applicable to Rural  
2 Geographic Areas (areas served by incumbent rural  
3 telecommunication service providers) shall be calculated as  
4 follows:

5        723-41-9.3.1    By order, the Commission shall: 1)  
6 determine the amount of support per Access Line as determined  
7 by the Commission pursuant to Rule 18 (based upon the filing  
8 of the incumbent rural Eligible Provider serving that area and  
9 as modified pursuant to Rule 18.6); and 2) publish the support  
10 per access line, disaggregated into such Geographic Support  
11 Areas as may be designated by the Commission. The Commission  
12 shall ensure that the HCSM operates such that the basic local  
13 exchange service supported bears no more than its reasonable  
14 share of the joint and common costs of facilities used to  
15 provide those services.

16        723-41-9.3.2    Amount of Support:    Each Eligible  
17 Provider shall receive support from the HCSM in an area served  
18 by an incumbent rural telecommunications service provider  
19 based upon the number of Access Lines the Eligible Provider  
20 serves in those high cost Geographic Support Areas, as  
21 designated by the Commission, multiplied by the applicable  
22 support per Access Line.

23        723-41-9.3.3    Additional Procedures Governing the  
24 Operation of Disaggregated Support:

25        723-41-9.3.3.1 The disaggregation and targeting  
26 plan adopted under Rule 9.1.1 shall be subject to the  
27 following general requirements:

28        723-41.9.3.3.1.1        Support available to  
29 the rural incumbent local exchange carrier's study area under  
30 its disaggregation plan shall equal the total support  
31 available to the study area without disaggregation.

1                                   723-41.9.3.3.1.2      The ratio of per-line  
2 support between disaggregation zones for each disaggregated  
3 category of support shall remain fixed over time, except as  
4 changes are allowed pursuant to Rule 723-42-10.2 and 10.3.

5                                   723-41.9.3.3.1.3      The ratio of per-line  
6 support shall be publicly available.

7                                   723-41-9.3.3.1.4      Per-line                    support  
8 amounts for each disaggregation zone shall be recalculated  
9 whenever the rural incumbent Eligible Provider's total annual  
10 support amount changes using the changed support amount and  
11 access line counts at that point in time.

12                                   723-41-9.3.3.1.5      Per-line      support      for  
13 each category of support in each disaggregation zone shall be  
14 determined such that the ratio of support between  
15 disaggregation zones is maintained and that the product of all  
16 of the rural incumbent Eligible Provider's Access Lines for  
17 each disaggregation zone multiplied by the per-line support  
18 for those zones when added together equals the sum of the  
19 rural incumbent Eligible Provider's total support.

20                                   723-41.9.3.3.1.6      Until      a      competitive  
21 Eligible Provider is designated in a study area, the quarterly  
22 payments to the rural incumbent Eligible Provider will be made  
23 based on total annual amounts for its study area divided by 4.

24                                   723-41.9.3.3.1.7      When      a      competitive  
25 Eligible Provider is designated anywhere in a rural incumbent  
26 Eligible Provider's study area, the per-line amounts used to  
27 determine the competitive Eligible Provider's disaggregated  
28 support shall be based on the rural incumbent Eligible  
29 Provider's then-current total support levels, lines, and  
30 disaggregated support relationships.

31                                   723-41.9.4              Reserved for future use.

723-41-9.5 Reserved for future use.

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

723-41-9.7 Reconciliation. Following receipt of each Eligible Provider's report to the Administrator pursuant to Rule 7.2.2, the Administrator shall reconcile the estimated disbursements previously authorized for such Eligible Provider for the period for which the report provides information to the actual disbursements to which such provider is entitled (as calculated by Rule 723-41-9.42 and 9.3), and shall send a statement of such reconciliation to each Eligible Provider within 60 days after the receipt of the report. The statement shall show if the provider is entitled to additional amounts from the HCSM, or if the Eligible Provider has received more than the amount of its HCSM entitlement. Such reconciling amounts shall be used by the Administrator in setting the Eligible Provider's entitlements in subsequent quarters.

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

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723-41-10.16 A written annual report of the HCSM, prepared by the Administrator, shall be submitted to the ~~General Assembly~~ committees of reference in the Senate and House of Representatives that are assigned to hear 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~~ CALULATION OF COLORADO HIGH COST FUND SUPPORT PER ACCESS LINE 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 (support per Access Line) that will be effective for a period of up to six years beginning with the date of the Order.

723-41-18.6.1.1 At any time, upon the request and proper support as part of a general rate proceeding by a Rural Telecommunications Service Provider, the Commission, acting as Administrator, may revise the HCSM support revenue requirement that will be effective for a period of up to six years beginning with the date established by order. Further, as a result of a show cause, complaint or other proceeding, the Commission, acting as Administrator, may revise the HCSM support revenue requirement that will be effective for a period of up to six years beginning with the date established by order.

723-41-18.6.1.2 Once established or revised, no further qualification will be required during the six-year funding period. During the funding period, the

amount of HCSM support per Access Line will be phased down. Funding will be fixed for the first two years (any 12 month period) at 100% of the funding level established. Following the first two years, the support amount will decline and be phased out by year seven. The following is the phase out schedule:

YEAR 1	100%	YEAR 4	65%	YEAR 7	0%
YEAR 2	100%	YEAR 5	40%		
YEAR 3	82.5%	YEAR 6	20%		

723-41-18.6.1.3 The Commission may grant a Rural Telecommunications Service Provider's request for waiver from these Rules for good cause shown, pursuant to Rule 15 of these Rules. Any HCSM support amount so granted shall be in the amounts and for the periods expressly approved by Commission order.

723-41-18.6.1.4 Reserved for future use.  
~~During the HCSM funding period, switched access rates for companies receiving HCSM, will be adjusted annually to reflect a sharing of access minute demand growth, which occurred during the most recent 12 month period when compared to the 12 month period immediately preceding for which billed demand data is available. The following percentages of sharing will be used:~~

~~Percentage of Annual Demand Growth  
(to be used in adjusting access rates)~~

<del>YEAR 1</del>	<del>N/A</del>	<del>YEAR 4</del>	<del>75%</del>	<del>YEAR 7</del>	<del>0%</del>
<del>YEAR 2</del>	<del>75%</del>	<del>YEAR 5</del>	<del>50%</del>		
<del>YEAR 3</del>	<del>75%</del>	<del>YEAR 6</del>	<del>50%</del>		

~~For each year of the HCSM funding period, the applicable percentage from the above table will be multiplied by the actual change (increase or decrease) in access minute demand for the most recent 12 month period as compared to the previous 12 month period immediately preceding for which billed demand data is available, to determine the access minute adjustment amount. The amount determined will then be added to or subtracted from the prior 12-month period adjusted switched access minute demand to determine the current period's adjusted access minute demand. The current period's adjusted switched access demand will then be utilized to revise the switched access rate elements using the access revenue requirements for each element, from the base year rate determination. The switched access rate adjustments shall be filed with the Commission with a proposed effective date no later than 60 days following the anniversary of the effective date of the HCSM funding period.~~

~~723 41 18.6.1.5 For each Average Schedule Rural Telecommunications Service Provider, a surrogate switched access revenue requirement will be used as the "frozen switched access revenue requirement" as described in Rule 18.6.1.4. This surrogate revenue requirement will be calculated by taking the base year Average Schedule access rates times the base year access demand.~~