

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 when 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 Eligible Telecommunications Carriers who
19 have selected a disaggregation path pursuant to FCC
20 regulations found at 47 CFR Part 54.315 shall file with the
21 Commission as required by subrule 10.1,10.2, or 10.3. In
22 study areas in which a competitive carrier has been designated
23 as a competitive eligible telecommunications carrier prior to
24 the effective date of the FCC's Rule found at 47 CFR Part
25 54.315, the rural incumbent local exchange carrier may only
26 disaggregate support pursuant to Rule 10.1,10.2, or 10.3.1.3.

27 723-42-10.1 Path 1: Carriers Not Disaggregating and
28 Targeting High-Cost Support:

29 723-42-10.1.1 A carrier's election of this path
30 becomes effective upon filing by the carrier with the
31 Commission.

1 723-42-10.1.2 This path shall remain in place for
2 such carrier for at least four years from the date of filing
3 with the Commission except as provided in Rule 10.1.3 below.

4 723-42-10.1.3 The Commission may require, on its
5 own motion, upon petition by an interested party, or upon
6 petition by the rural incumbent local exchange carrier, the
7 disaggregation and targeting of support under Rules 10.2 or
8 10.3.

9 723-42-10.2 Path 2: Carriers Seeking Prior Regulatory
10 Approval for the Disaggregation and Targeting of Support.

11 723-42-10.2.1 A carrier electing to disaggregate
12 and target support under this subsection must file a
13 disaggregation and targeting plan with the Commission.

14 723-42-10.2.2 Under this subsection a carrier may
15 propose any method of disaggregation and targeting of support
16 consistent with the general requirements detailed in 47 C.F.R.
17 § 54.315(e) (effective Oct. 1, 2001).

18 723-42-10.2.3 A disaggregation and targeting plan
19 under this Rule becomes effective upon approval by the
20 Commission.

21 723-42-10.2.4 A carrier shall disaggregate and
22 target support under this path for at least four years from
23 the date of approval by the Commission except as provided in
24 Rule 10.3.5 below.

25 723-42-10.2.5 The Commission may require, on its
26 own motion, upon petition by an interested party, or upon
27 petition by the rural incumbent local exchange carrier, the
28 disaggregation and targeting of support in a different manner.

29 723-42-10.2.6 Requests for disaggregation under
30 Path 2 shall be filed in accordance with Commission Rules of
31 Practice and Procedure, 4 CCR 723-1, relating to applications.
32 In addition, such applications shall be served by the
33 applicant upon all carriers that have obtained either ETC or

1 EP status in the carrier's study area at the same time they
2 are filed with the Commission.

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

5 723-42-10.3.1 A carrier may file a disaggregation
6 and targeting plan with the Commission along with a statement
7 certifying each of the following:

8 723-42-10.3.1.1 It has disaggregated support to
9 the wire center level; or

10 723-42-10.3.1.2 It has disaggregated support
11 into no more than two cost zones per wire center; or

12 723-42-10.3.1.3 That the carrier's
13 disaggregation plan complies with a prior regulatory
14 determination made by this Commission.

15 723-42-10.3.2 Any disaggregation plan submitted
16 pursuant to this Rule 10.3 must meet the following
17 requirements:

18 723-42-10.3.2.1 The plan must be supported by a
19 description of the rationale used, including the methods and
20 data relied upon to develop the disaggregation zones, and a
21 discussion of how the plan complies with the requirements of
22 this Rule 10.3. Such filing must provide information
23 sufficient for interested parties to make a meaningful
24 analysis of how the carrier derived its disaggregation plan.

25 723-42-10.3.2.2 The plan must be reasonably
26 related to the cost of providing service for each
27 disaggregation zone within each disaggregated category of
28 support.

29 723-42-10.3.2.3 The plan must clearly specify
30 the per-line level of support for each category of high-cost
31 universal service support provided pursuant to §§ 54.301,
32 54.303, and/or 54.305 of part 54 of 47 C.F.R., and/or part 36,
33 subpart F of 47 CFR in each disaggregation zone.

1 723-42-10.3.2.4 If the plan uses a benchmark,
2 the carrier must provide detailed information explaining what
3 the benchmark is and how it was determined. The benchmark
4 must be generally consistent with how the total study area
5 level of support for each category of costs is derived to
6 enable a competitive eligible telecommunications carrier to
7 compare the disaggregated costs used to determine support for
8 each cost zone.

9 723-42-10.3.3 A carrier's election of this path
10 becomes effective upon filing by the carrier to the
11 Commission.

12 723-42-10.3.4 A carrier shall disaggregate and
13 target support under this path for at least four years from
14 the date of filing with Commission except as provided in Rule
15 10.3.5 below.

16 723-42-10.3.5 The Commission may require, on its
17 own motion, upon petition by an interested party, or upon
18 petition by the rural incumbent local exchange carrier,
19 modification to the disaggregation and targeting of support
20 selected under this path.

21 723-42-10.4 Carriers failing to select a
22 disaggregation path, as described in Rules 10.1, 10.2 or 10.3
23 above, by the deadline specified in 47 C.F.R. § 54.315, will
24 not be permitted to disaggregate and target federal high-cost
25 support unless ordered to do so by the Commission.

26 **RULE (4 CCR) 723-42-11. USES OF DISAGGREGATION PATHS.**

27 The Commission will use the disaggregation plans of each
28 incumbent Eligible Telecommunications Carrier established
29 pursuant to Rule 10 not only for disaggregation of Colorado
30 HCSM support but also for the disaggregation of the study area
31 of the Rural incumbent local Exchange Carrier pursuant to 47
32 CFR Section 54.207 into smaller discrete service areas.

1 723-42-11.1 Required Filing. Each rural incumbent
2 Eligible Telecommunications Carrier shall submit a petition
3 seeking the agreement of the FCC in redefining its service
4 area to the FCC as follows:

5 723-42-11.1.1 Path 1: Carriers Not Disaggragating
6 and Targeting Support: No filing with the FCC is required.

7 723-42-11.1.2 Path 2: Carriers Seeking Prior
8 Regulatory Approval for the Disaggregation and Targeting of
9 Support: Such Carriers shall submit their petition to the FCC
10 within 60 calendar days following the issuance of the
11 Commission's final order in the Carrier's Path 2
12 disaggregation proceeding.

13 723-42-11.1.3 Path 3: Carriers Self-Certifying
14 Disaggregation and Targeting of Support: Such Carriers
15 shall submit their petition to the FCC within 60 calendar days
16 following their filing of election of this Path with this
17 Commission.

18 **RULE (4 CCR) 723-42-~~10~~12. VARIANCE AND WAIVER.**

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

22 **RULE (4 CCR) 723-42-~~11~~13. INCORPORATION BY REFERENCE.**

23 References in these Rules to Parts 36 and 54, are rules issued
24 by the FCC and have been incorporated by reference in these
25 Rules. These rules may be found at 47 C.F.R. revised as of
26 October 1, ~~2001-1997 as amended by 12 FCC Red 17469 (1997), 62~~
27 ~~FR 65036 (12/10/97), 63 FR 3830 (01/27/98), and 63 Fr 2094~~
28 ~~(01/13/98).~~ References to Parts 36 and 54 do not include
29 later amendments to or editions of these parts. A certified
30 copy of these parts which have been incorporated by reference

1 are maintained at the offices of the Colorado Public Utilities
2 Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203
3 and are available for inspection during normal business hours.
4 Certified copies of the incorporated rules shall be provided
5 at cost upon request. The Director of the Public Utilities
6 Commission, or his designee, will provide information
7 regarding how the incorporated rules may be obtained or
8 examined. These incorporated rules may be examined at any
9 | state publications depository library.

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