

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04C-464T

IN THE MATTER OF THE FILING OF SEMI-ANNUAL COLORADO HIGH COST SUPPORT MECHANISM WORKSHEETS OR THE DECLARATION OF DE MINIMIS FORM IN ACCORDANCE WITH RULE 4 CCR 723-41 FOR THOSE TELECOMMUNICATIONS SERVICES PROVIDERS THAT ARE UNCERTIFICATED PROVIDERS.

**ORDER TO SHOW CAUSE
AND NOTICE OF HEARING**

Mailed Date: September 17, 2004
Adopted Date: September 14, 2004

I. BY THE COMMISSION

A. Statement and Findings of Fact

1. In accordance with Rule 4 *Code of Colorado Regulations* (CCR) 723-41-7.2.1 of the Commission's Rules, each telecommunications services provider shall provide to the Administrator of the Colorado High Cost Support Mechanism (Administrator) a verified accounting of its Retail Revenues and such other revenues as the Administrator shall request. The accounting shall be submitted via the forms known as the Colorado High Cost Support Mechanism (CHCSM) Worksheet or The Declaration of De minimis Form.

2. Those entities listed in Attachment A provide intrastate telecommunications services within the State of Colorado. Therefore, they are potentially required to contribute to the CHCSM. Entities listed in Attachment A may purchase the telecommunications services wholesale from the various facilities-based carriers listed in Attachment B that connect the Attachment A entities with the public switched network.

3. Accordingly, a semi-annual CHCSM Worksheet or a Declaration of De minimis form for the calendar year ending December 31, 2003, should have been provided to the Commission by March 31, 2004.

4. On July 3, 2004, at the request of the Commission, Director Bruce N. Smith sent a letter to each of the listed providers. The letter informed each such provider that the Commission was considering initiating a show cause proceeding against the provider for failing to file a 2003 semi-annual CHCSM Worksheet or a Declaration of De minimis Form and gave the provider 30 days to comply with reporting requirements. Director Smith's letter followed Staff of the Commission's (Staff) letter dated May 20, 2004, reminding each of the providers of its obligation to file the required information with the Commission.

5. Staff has reviewed its records and determined that, as of September 8, 2004, a 2003 semi-annual CHCSM Worksheet or a Declaration of De minimis report has not been received from any of the companies listed in Attachment A.

B. Discussion

6. The Commission is authorized to establish a mechanism for the support of universal service, also referred to as the CHCSM, which shall operate in accordance with rules adopted by the Commission in accordance with § 40-15-208(2)(a), C.R.S., and 4 CCR 723-41.

7. Rule 4 CCR 723-41-7.2.1, states:

Each telecommunications service provider shall provide to the Administrator a verified accounting of its Retail Revenues, and such other revenues as the Administrator shall request for purpose of determining contributions and disbursements under these Rules. The accounting shall be submitted via the form known as the HCSM Worksheet. The completed HCSM Worksheet shall be submitted to the Administrator twice a year. The HCSM Worksheet shall be due March 31, of each year, containing data for the prior calendar year. The HCSM Worksheet shall be due September 1, of each year, containing data for the six-month period from January 1 through June 20 for current calendar year.

8. Rule 4 CCR 723-41-7.2.1.2, states:

Telecommunications service providers falling within the de minimis exemption are required to file with the Administrator only that portion of the CHSM Worksheet for that period that certifies their de minimis status.

9. The Commission finds that each of the telecommunications services providers listed in Attachment A may have failed to comply with the CHCSM reporting requirements stated above. Accordingly, sufficient cause exists to conduct a hearing to determine the facts of the matter, to hear material arguments, to receive evidence and testimony, and to determine what order or requirement, if any, shall be imposed by the Commission.

10. If the Commission determines that it is appropriate to do so, the Commission may issue a decision including, but not limited to: (a) an order that amends or revokes, wholly or in part, the company's registration to resell toll services; (b) an order that requires the underlying local exchange service providers to disconnect the provider from the public switched network; (c) an order that a complaint be issued by the Commission to the Federal Communications Commission seeking an order directing the delinquent provider to make the payment or further appropriate remedies; (d) an order that damages be sought in an appropriate court; and/or (e) an order that requires any other corrective or remedial action which the Commission deems appropriate.

II. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, each entity listed in Attachment A shall appear before the Commission to show cause why the Commission should not take action and enter an order including, but not limited to, the actions discussed above.

2. Those entities listed in Attachment B, the underlying facilities based exchange providers, are joined as necessary parties. An Attachment B party may petition for dismissal from this docket if it is not an underlying provider for any entity listed in Attachment A.

3. Docket No. 04C-464T is set for hearing before the Colorado Public Utilities Commission:

DATE: November 2, 2004

TIME: 9:00 a.m.

PLACE: Colorado Public Utilities Commission
Logan Tower, Office Level 2
1580 Logan Street
Denver, Colorado

4. If the 2003 semi-annual Colorado High Cost Support Mechanism Worksheet or the Declaration of De minimis Form is received in the name, address, and form required by the Commission prior to the hearing date, the Commission may dismiss that telecommunications service provider from the proceeding.

5. The Staff of the Public Utilities Commission shall file, at least 30 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and (2) two copies of each of the exhibits which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

6. All entities listed in Attachment A shall file, at least 20 days before hearing: (1) two copies of a list containing the name, address, and title of each of its witnesses; and (2) two copies of each of the exhibits, which it plans to present at the hearing. Copies of the witness list and exhibits shall be served upon all parties to the proceeding.

7. No witness shall be permitted to testify nor shall any document be received in evidence, except in rebuttal, unless filed and served as provided in this Order.

8. If Staff of the Public Utilities Commission or any Attachment A entity fails to meet the above requirements, the Commission may dismiss the proceeding or any defense upon motion filed by any other party, unless good cause for non-filing is shown. No motion for continuance shall be granted if filed within 20 days before the first day of the hearing, except for good cause shown.

9. No exception to the procedure in the Order shall be made except upon timely motion showing good cause.

10. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
SEPTEMBER 14, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

CHAIRMAN GREGORY E. SOPKIN
ABSENT.