

Decision No. R23-0854

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23R-0522T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE TELECOMMUNICATIONS RULES IMPLEMENTING HOUSE BILL 23-1051, 4 CODE OF COLORADO REGULATIONS 723-2.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
AMENDING RULES**

Mailed Date: December 27, 2023

I. STATEMENT

1. On October 30, 2023, the Colorado Public Utilities Commission (the Commission) issued the Notice of Proposed Rulemaking (NOPR) that commenced this proceeding to amend the Rules Regulating Telecommunications Services and Providers of Telecommunications Services contained in 4 *Code of Colorado Regulations* (CCR) 723-2 implementing House Bill 23-1051 (HB 23-1051). *See* Decision C23-0730. The Commission referred this matter to an Administrative Law Judge (ALJ) and scheduled a hearing for December 18, 2023.

2. The purpose of this rulemaking is to align the expiration date of the High-Cost Support Mechanism (HCSM) funding with the scheduled sunset date for the HCSM. The HCSM funding helps provide affordable and reliable telecommunications and broadband service for many rural communities in Colorado and will extend the HCSM funding for the twelve rural telecommunications providers through September 1, 2024, instead of December 1, 2023. Changes

made to Rule 2846, which describes the support through the HCSM, sets forth the HCSM support amounts by year, and establishes distributions of HCSM, are repeated in Rule 2205.

3. The changes are being proposed to update the expiration date of the HCSM funding, allocate 100 percent of the HCSM money collected (minus the Commission's administrative costs and distributions to wireline and wireless rural telecommunication providers) to the broadband deployment account, and update the years to read 2019 to 2024.

4. On October 31, 2023, the Commission filed the Confirmation of the E-filing of the NOPR with the Office of Regulatory Reform for review and notice.

5. Also on October 31, 2023, the Commission filed the Confirmation of the E-filing of the NOPR with the Secretary of State for publication of hearing.

6. Being fully advised in this matter and consistent with the discussion below, in accordance with § 40-6-109, C.R.S., the Administrative Law Judge now transmits to the Commission the record in this proceeding along with a written recommended decision.

II. DISCUSSION

7. The proposed rules, provided with Decision No. C23-0730 in legislative (*i.e.*, strikeout/underline) format and in final format, were made available to the public through the Commission's Electronic Filings (E-filings) system.

8. No written comments have been filed in this Proceeding.

9. At the noticed time and place, a public comment hearing was convened on December 18, 2023. No member of the public provided any oral comment.

2. Rule 2846. Support through the HCSM.

10. Rule 2846(b)(I) is amended to allow each rural telecommunications provider, both wireline and wireless, to continue to receive the same level of support on a quarterly basis for the

period of January 1, 2019 through September 1, 2024 by averaging the payments received for calendar years 2015 and 2016.

11. Rules 2846(b)(II)(D-F) are amended to reflect that the Commission shall allocate the broadband deployment account the following percentages of the total amount of HCSM money collected minus the Commission's administrative costs and distributions to rural telecommunications providers, both wireline and wireless: in 2022 – 90 percent; in 2023 – 100 percent; and in 2024 – 100 percent (through September 1, 2024).

12. Rule 2846(d) is amended to reflect that for years 2019 through 2024, distributions of HCSM shall not be based on effective competition determinations.

III. CONCLUSION

13. Attachment A to this Decision represents the rule amendments adopted by this Recommended Decision with modifications to the prior Rule 2846 being indicated in redline and strikeout format.

14. Attachment B to this Decision represents the rule amendments adopted by this Decision to the Prior Rule 2846 in final form.

15. The adopted rules in legislative format (*i.e.*, strikeout/underline Attachment A) and final format (Attachment B) are available through the Commission's E-filings in this Proceeding (23R-0522T) at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=23R-0522T

16. It is found and concluded that the proposed rules as modified by this Recommended Decision are reasonable and should be adopted.

17. Pursuant to the provisions of § 40-6-109, C.R.S., it is recommended that the Commission adopt the attached rules.

IV. ORDER

A. The Commission Orders That:

1. Rule 2846 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (CCR) 723-2, contained in redline and strikeout format attached to this Recommended Decision as Attachment A, and in final form as Attachment B, are adopted.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

- a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.
- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

**COLORADO DEPARTMENT OF REGULATORY AGENCIES
Public Utilities Commission**

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

**RULES REGULATING TELECOMMUNICATIONS SERVICES
AND PROVIDERS OF TELECOMMUNICATIONS SERVICES**

2846. Support through the HCSM.

- (a) The Commission shall, by order, establish geographic areas throughout the state. Such geographic areas may be revised at the discretion of the Commission.
- (b) Through December 31, 2018, HCSM support amounts shall be provided consistent with prior Commission orders. Beginning on January 1, 2019, support shall be allocated and provided on a quarterly basis and by the end of the month following the previous quarter.
 - (I) Each rural telecommunications provider, both wireline and wireless, that received support as of January 1, 2017, will continue to receive the same level of support on a quarterly basis for the period of January 1, 2019 through ~~December~~September 1, 2023~~4~~ by averaging the payments received for calendar years 2015 and 2016, consistent with § 40-15-208(4), C.R.S.
 - (II) The Commission shall allocate to the broadband deployment account the following percentages of the total amount of HCSM money collected minus the Commission's administrative costs and distributions to rural telecommunications providers, both wireline and wireless, consistent with § 40-15-208(2)(a)(IV), C.R.S. and subparagraph 2846(b)(I):
 - (A) in 2019 – 60 percent;
 - (B) in 2020 – 70 percent;
 - (C) in 2021 – 80 percent;
 - (D) in 2022 – 90 percent; ~~and~~
 - (E) in 2023 – 100 percent; and
 - (F) in 2024 – 100 percent (through September 1, 2024).
 - (III) The non-rural incumbent local exchange carrier will receive the balance of the remaining quarterly collections after distributions required by § 40-15-208(2)(a)(IV) and (4), C.R.S.
- (c) The Administrator will arrange payments to be made within 30 days of the last day of each quarter.

- (d) For years 2019 through 202~~3~~⁴, distributions of HCSM shall not be based on effective competition determinations as defined by rule 2205 or § 40-15-207, C.R.S.

**COLORADO DEPARTMENT OF REGULATORY AGENCIES
Public Utilities Commission**

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

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