

**THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO**

**RULES PRESCRIBING THE PROCEDURES
FOR DESIGNATING TELECOMMUNICATIONS SERVICE PROVIDERS
AS PROVIDERS OF LAST RESORT**

**OR AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

4 CODE OF COLORADO REGULATIONS (CCR) 723-42

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

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

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

The Commission is authorized to promulgate rules generally by Section 40-2-108, C.R.S., and specifically for telecommunications services by Sections 40-15-201 and 40-15-301. Statutory authority for promulgating these rules is further found

in Section 40-15-502(6), C.R.S. These Rules are consistent with 47 U.S.C. 254 and with 47 C.F.R., Part 54.

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 (Part 54) for providing high-cost universal service support to rural telephone companies for the following five years based upon the proposals made by the Rural Task Force established by the Federal-State Joint Board on Universal Service. These rules are necessary to ensure that eligible telecommunication carriers continue to receive support under the federal universal service program.

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

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

relinquish designation as an ETC in a combined application. In a combined application, the applicant shall follow the application process and must provide all information required for each separate component of the combined application.

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

All rural incumbent local exchange carriers who have selected a disaggregation path pursuant to FCC regulations found at 47 CFR Part 54.315 shall file with the Commission as required by subsections 10.1, 10.2, or 10.3. In study areas in which a competitive carrier has been designated as a competitive Eligible Telecommunications Carrier prior to the effective date of the FCC's Rule found at 47 CFR Part 54.315, the rural incumbent local exchange carrier may only disaggregate support pursuant to Rule 10.1, 10.2, or 10.3.1.3.

723-42-10.1 Path 1: Rural Incumbent Local Exchange Carriers Not Disaggregating and Targeting High-Cost Support:

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

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

723-42-10.1.3 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 under Rules 10.2 or 10.3.

723-42-10.2 Path 2: Rural Incumbent Local Exchange 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 10.2.5 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. In addition, such applications shall be served by the applicant upon all carriers that have obtained either ETC or EP status in the carrier's study area at the same time they are filed with the Commission.

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; or

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

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

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

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

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

723-42-10.3.2.4 If the plan uses a benchmark, the carrier must provide detailed information explaining what the benchmark is and how it was determined. The benchmark must be generally consistent with how the total study area level of support for each category of costs is derived to enable a

competitive eligible telecommunications carrier to compare the disaggregated costs used to determine support for each cost zone.

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

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

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

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

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

The Commission will use the disaggregation plans of each incumbent Eligible Telecommunications Carrier established pursuant to Rule 10 not only for disaggregation of Colorado HCSM support but also for the disaggregation of the study area of the rural incumbent local exchange carrier pursuant to 47 CFR Section 54.207 into smaller discrete service areas.

723-42-11.1 Filing of Petition. Where necessary the Commission shall submit a petition to the FCC seeking the agreement of the FCC in redefining the service area of each rural incumbent Eligible Telecommunications Carrier as follows:

723-42-11.1.1 Path 1: Rural incumbent Eligible Telecommunications Carriers Not Disaggregating and Targeting Support: No filing with the FCC is required.

723-42-11.1.2 Path 2: Rural incumbent Eligible Telecommunications Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support:

The Commission shall submit its petition to the FCC within 60 calendar days following the issuance of the Commission's final order in the Carrier's Path 2 disaggregation proceeding.

723-42-11.1.3 Path 3: Rural incumbent Eligible Telecommunications Carriers Self-Certifying Disaggregation and Targeting of Support:

The Commission shall submit its petition to the FCC within 60 calendar days following the Rural incumbent Eligible Telecommunications Carrier's filing of election of this Path with the Commission.

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

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

RULE (4 CCR) 723-42-13. INCORPORATION BY REFERENCE.

References in these Rules to Parts 36 and 54, are rules issued by the FCC and have been incorporated by reference in these Rules. These rules may be found at 47 C.F.R. revised as of October 1, 2001. References to Parts 36 and 54 do not include later amendments to or editions of these parts. A certified copy of these parts which have been incorporated by reference are maintained at the offices of the Colorado Public Utilities Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 and

Decision No. C02-319

PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. 01R-434T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES CONCERNING THE COLORADO HIGH COST SUPPORT MECHANISM, 4 CCR 723-41, AND THE RULES CONCERNING ELIGIBLE TELECOMMUNICATIONS CARRIERS, 4 CCR 723-42.

RULING ON EXCEPTIONS AND ORDER VACATING STAY

Mailed Date: March 18, 2002

Adopted Date: January 30, 2002

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I. BY THE COMMISSION

Statement

This matter comes before the Commission for consideration of Exceptions to Decision No. R01-1306 ("Recommended Decision"). In that decision, the Administrative Law Judge ("ALJ") recommended adoption of certain amendments to the Commission's Rules Prescribing the High Cost Support Mechanism ("HCSM Rules"), 4 CCR 723-41, and the Rules Prescribing the Procedures for Designating Telecommunications Service Providers as Eligible Telecommunications Carriers ("ETC Rules"), 4 CCR 723-42. Pursuant to § 40-6-109(2), C.R.S., the Colorado Telecommunications Association ("CTA"), and AT&T Communications of the Mountain States, Inc., and AT&T Local Services on behalf of TCG Colorado ("AT&T") filed Exceptions to the Recommended Decision. Western Wireless Corporation ("Western Wireless") and N.E. Colorado Cellular, Inc. ("NECC"), filed responses opposing the Exceptions. Additionally, by Decision No. C02-18, we stayed the Recommended Decision on our own motion, in accordance with § 40-6-109(2), C.R.S., to allow for Commission review of the rules recommended by the ALJ. Now being duly advised, we grant the Exceptions by CTA, in part, and deny them, in part; we deny the Exceptions by AT&T; and we vacate the stay issued in Decision No. C02-18.

II. DISCUSSION

A. Introduction

1. We initiated this proceeding by issuing a Notice of Proposed Rulemaking to consider certain amendments to the HCSM Rules and the ETC Rules. See Decision No. C01-977 (Mailed Date of September 26, 2001). The HCSM Rules establish requirements for telecommunications carriers to receive state funds in support of their provision of local exchange telephone service in high-cost areas. Under the rules, in order to receive support under the High Cost Support Mechanism a telecommunications carrier must be designated an Eligible Provider ("EP"). The ETC Rules establish requirements for a telecommunications carrier to be designated an ETC. Such designation enables a telecommunications carrier to receive federal universal service support for its provision of local exchange service in high-cost areas.¹ The Notice of Proposed Rulemaking pointed out that the primary purpose of this proceeding is to modify our rules to make them consistent with new regulations adopted by the Federal Communications Commission ("FCC").

2. In accordance with the Notice of Proposed

¹ Under rules adopted by the Federal Communications Commission (47 C.F.R. § 54.210), state commissions such as the Colorado Public Utilities Commission are responsible for designating carriers as ETCs.

m. For the foregoing reasons, we affirm the Recommended Decision to the extent it maintains the phase-down requirement in the HCSM Rules. CTA's Exceptions on this point are denied.

2. Disaggregation Procedures for Rural ILECs

a. In the Fourteenth Report and Order, FCC 01-157 (May 23, 2001), the FCC mandated that rural ILECs disaggregate their service areas and target their high-cost support under one of three designated paths. See 47 C.F.R. § 54.315. The rules recommended by the ALJ are intended to comply with these new disaggregation provisions. For example, proposed Rule 10 of the ETC Rules specifies the three paths available to rural ILECs: no disaggregation (Path 1); disaggregation in accordance with prior Commission order (Path 2); or self-certification of disaggregation to the wire center level, or into no more than two cost zones per wire center (Path 3).⁴ Proposed Rule 11 of the ETC Rules mandates that any disaggregation of support under one of the paths selected under Rule 10 will also be used for purposes of disaggregating the rural ILEC's study area into smaller service areas pursuant to 47 C.F.R. § 54.207. That FCC rule provides that, for a rural ILEC, "service area" means such company's "study area" until both

⁴ Under any path, the Commission retains the authority to order disaggregation in a different manner than that proposed by the rural ILEC.

the FCC and the state commission establish a different definition for such company. Notably, proposed Rule 11.1 requires each rural ILEC disaggregating under Paths 2 or 3 to file a petition with the FCC seeking a redefinition of its service area in accordance with the selected path. CTA objects to the mandate that the rural ILECs themselves file the disaggregation petition with the FCC.

b. In its Exceptions, CTA argues that § 214(e) (5) of the Telecommunications Act of 1996 and FCC Rule 47 C.F.R. § 54.207 place the obligation for disaggregating rural service areas upon the FCC and state commissions, not upon the rural companies. Pursuant to these provisions, a rural ILEC cannot be forced to initiate FCC proceedings to disaggregate its service area, especially when the rural company may not agree with the disaggregation plan adopted by the Commission. CTA also suggests that proposed Rule 11.1 contravenes the Commission's decisions in the Western Wireless and NECC certification dockets--the dockets to certify Western Wireless and NECC as EPs and ETCs in rural service areas--in which the Commission stated that it intended to proceed with disaggregation of rural service areas "only after conducting adjudicative, contested case proceedings." Exceptions, page 9.

c. We grant the Exceptions to the extent CTA opposes the provisions that would compel the rural ILECs to

initiate disaggregation proceedings at the FCC. CTA correctly points out that the Commission may adopt disaggregation plans with which a rural ILEC disagrees. In this circumstance, we should not expect the rural company itself to make a formal filing at the FCC to propose a plan that it, in actuality, opposes. The rules are modified to reflect that the Commission will make any necessary filing with the FCC to redefine service areas.

d. To the extent CTA opposes any disaggregation of service areas except after further "adjudicative, contested cases," we reject that suggestion. As Western Wireless and NECC point out in their responses to the Exceptions, targeting of high-cost support and disaggregation of service areas go hand-in-hand; the disaggregation of service areas must accompany the targeting of high-cost support. Once support has been disaggregated, it would be anti-competitive to defer the redefinition service areas to a new, possibly protracted adjudicative proceeding. Western Wireless' and NECC's operations in rural areas is illustrative of this point. Both companies have been certified as competitive EPs and ETCs in rural exchanges in Colorado, and both companies stand ready to serve rural areas. However, due to limitations on their networks, neither company is able to serve the entirety of all rural ILECs' study areas. This limitation has prevented them

from receiving EP and ETC support in those areas. With high-cost support targeted to specific areas within an ILEC's study area, no reason exists to prevent Western Wireless and NECC from competing in those areas. For example, "cream-skimming" is not possible with support targeted appropriately.

e. Our conclusions here are consistent with our Western Wireless decision. In that case CTA itself opposed the certification of Western Wireless as an EP and ETC prior to disaggregation primarily because, without the targeting of support to truly high-cost customers, Western Wireless could "cream-skim" customers (i.e., selectively serve lower cost customers while drawing non-disaggregated support). See Decision No. C01-476, pages 23 through 24. Under Rule 10, the rural ILECs themselves possess substantial control over the specific Path to be implemented. Therefore, no reason exists to further delay the disaggregation of service areas.

f. For these reasons, we adopt the provisions (e.g., Rule 11 of the ETC Rules) clarifying that the plan for disaggregating high-cost support for a rural ILEC shall also serve as the plan for disaggregating service areas. To address CTA's main objection to the rules, we modify the ALJ's recommendations to provide that the Commission will make any necessary filings with the FCC to redefine rural service areas.

Decision No. C02-530

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01R-434T

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES CONCERNING THE COLORADO HIGH COST SUPPORT MECHANISM, 4 CCR 723-41, AND THE RULES CONCERNING ELIGIBLE TELECOMMUNICATIONS CARRIERS, 4 CCR 723-42.

**DECISION DENYING APPLICATION FOR
REHEARING, REARGUMENT, OR RECONSIDERATION**

Mailed Date: May 7, 2002
Adopted Date: April 17, 2002

I. BY THE COMMISSION

A. Statement

This matter comes before the Commission for consideration of the Application for Rehearing, Reargument, or Reconsideration ("RRR") by the Colorado Telecommunications Association, Inc. ("CTA"). In its Application for RRR, CTA objects to certain rules approved by the Commission in Decision No. C02-319 ("Decision"). Now being duly advised, we deny the application. The rules attached to the Decision are now finally adopted.

B. Discussion

1. The Decision, in part, discusses various changes to be made to the Rules Prescribing the Procedures for Designating Telecommunications Service Providers as Providers of

Last Resort, or as an Eligible Telecommunications Carrier ("ETC"), 4 Code of Colorado Regulations 723-42. Amendments to Rule 10 mandate that each rural incumbent carrier select one of three paths to disaggregate its study area for purposes of targeting high cost support. Rule 11 provides that the disaggregation plans submitted by a rural incumbent local exchange carrier pursuant to Rule 10 will also be used by the Commission for purposes of disaggregating that carrier's service area. CTA objects to the amendments to Rule 11.

2. The application for RRR asks for the Commission to conduct further formal, adjudicative hearings before disaggregating rural service areas. CTA argues that disaggregating high cost support (Rule 10) is entirely unrelated to disaggregating (or redefining) service areas (Rule 11). As such, disaggregation of any rural carrier's service area requires formal hearings at which evidence is presented to support that disaggregation. CTA argues that rural carriers have a property interest in maintaining their service areas. Before the Commission redefines any rural service areas, due process requires formal adjudicatory hearings.

3. We reject these arguments for the reasons stated in the Decision at pages 14 and 15. We believe that CTA is fundamentally incorrect in arguing that disaggregation for purposes of targeting support is unrelated to disaggregation for

purposes of redefining service areas. The main point of disaggregation is to ensure that high cost monies are used to support those access lines that are actually high cost within a rural carrier's service area. *Disaggregation is intended to better reflect the costs of providing service in particular geographic areas.*¹ Therefore, targeting of support is critically related to redefining of service areas.

4. CTA's assertions that due process requires formal disaggregation hearings is also misplaced. CTA cites no authority for the proposition that rural carriers have some legal entitlement to maintaining their service areas for purposes of receiving high cost support. Furthermore, Rule 11 does not actually disaggregate any carrier's service area. The Rule simply establishes the principle that the manner of disaggregating high cost support under Rule 10 (*i.e.*, paths 1, 2, or 3) will also be the manner of disaggregating service areas.

5. Under two of the three disaggregation paths (1 and 3) available under Rule 10 the carrier chooses how to disaggregate support. Therefore, under Rule 11, the rural carrier itself decides how to disaggregate its service area for

¹ For example, the Decision observes that without disaggregation, competing ETCs could "cream-skim" rural customers. This concern was expressed in the Western Wireless decision cited by CTA. See Decision No. C01-476, pages 23 and 24.

two of the possible three paths. Thus, the suggestion that the Commission is imposing disaggregation methods upon unwilling carriers is erroneous. Under path 2 the Commission could order a disaggregation plan not proposed by the rural carrier. However, a ruling under path 2 would be made after formal application proceedings.² See Rule 10.2.6. CTA is, therefore, incorrect that disaggregation methods may be imposed on rural carriers without any process being accorded those carriers. The rules, in fact, contemplate formal proceedings in cases where the Commission might order some method not chosen by the carrier itself.

6. We conclude that the interests of competitive neutrality require consistency between the methods for disaggregating high cost support and the methods for disaggregating service areas. We also conclude that the adopted procedures for disaggregating high cost support and redefining rural service areas are reasonable and fair. For all these reasons CTA's Application for RRR is denied.

² The Commission retains the authority to order a different disaggregation path other than one chosen by a rural carrier, but this also would take place only after formal proceedings. See Rules 10.1.3 and 10.3.5.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration by the Colorado Telecommunications Association, Inc., is denied.

2. The rules appended to Decision No. C02-319 as Attachments A and B are adopted.

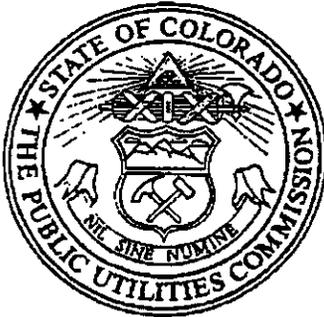
3. Within 20 days of the effective date of this Decision, the adopted Rules shall be filed with the Secretary of State for publication in the next issue of *The Colorado Register* along with the opinion of the Attorney General regarding the legality of the rules. The rules shall also be submitted to the appropriate committee of reference of the Colorado General Assembly if the General Assembly is in session or to the committee on legal services, if the General Assembly is not in session, for an opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 17, 2002.**

(S E A L)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



RAYMOND L. GIFFORD

POLLY PAGE

ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "Bruce N. Smith".

Bruce N. Smith
Director

JIM DYER

Commissioners

Decision No. C01-476

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 00K-255T

DOCKET NO. 00A-174T

IN THE MATTER OF WESTERN WIRELESS HOLDING CO., INC.'S
APPLICATION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
PROVIDER PURSUANT TO 4 CCR 723-41-8.

DOCKET NO. 00A-171T

IN THE MATTER OF WESTERN WIRELESS HOLDING CO., INC.'S
APPLICATION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER PURSUANT TO 4 CCR 723-42-7.

DECISION ON EXCEPTIONS

Mailed Date: May 4, 2001
Adopted Date: March 14, 2001

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I. BY THE COMMISSION

A. Statement

This matter comes before the Commission for consideration of Exceptions to Decision No. R01-19 ("Recommended Decision"). In that decision, the Administrative Law Judge ("ALJ") recommended that Western Wireless Holding Company, Inc.'s ("Western Wireless") applications be granted, and that the Stipulation between Western Wireless and intervenors, the Office of Consumer Counsel ("OCC") and Commission Staff ("Staff") be approved. Pursuant to § 40-6-109(2), C.R.S., the Colorado Telecommunications Association ("CTA") and Qwest Corporation ("Qwest") filed Exceptions to the Recommended Decision. Western Wireless, the OCC, and Staff filed a Joint Response to the Exceptions. Now being duly advised in the premises, we will deny the Exceptions, in part, and grant them, in part.

B. Discussion

1. Introduction

a. This consolidated proceeding (Docket No. 00K-255T) concerns Western Wireless' application for designation as an Eligible Telecommunications Carrier ("ETC") and its application for designation as an Eligible Provider

("EP").¹ The Commission consolidated the two applications. Designation as an ETC will enable Western Wireless to receive federal universal service support to provide certain telecommunications services. See 47 U.S.C. § 214(e), and Federal Communications Commission ("FCC") Rule 47 C.F.R. § 54.101. Designation as an EP will permit Western Wireless to receive monies from the state High Cost Support Mechanism ("HCSM") to provide telephone service. See § 40-15-208, C.R.S., and Commission Rules Prescribing the High Cost Support Mechanism and Prescribing the Procedures for the Colorado High Cost Administration Fund, 4 *Code of Colorado Regulations* ("CCR") 723-41 ("HCSM Rules"). Both the federal universal service fund and the state high cost fund are intended to promote universal telecommunications service in high cost areas.

b. Under the applicable federal statute and implementing FCC regulations, the state commission designates telecommunications carriers as ETCs within a state. 47 U.S.C. § 214(e), 47 C.F.R. §§ 54.101 and 54.201. Only common carriers may be designated as ETCs and only if, throughout the service area for which they seek ETC designation, they offer all those services eligible for federal universal service support

¹ Western Wireless' application for designation as an EP is Docket No. 00A-174T; the application for designation as an ETC is Docket No. 00A-171T.

(Rule 54.101), and they advertise the availability of such services and the charges therefor in media of general distribution. Where a carrier seeks ETC designation in an area served by a rural telephone company, the state commission must also find that such designation is in the public interest. See 47 U.S.C. § 214(e)(2).

c. The requirements for designation as an EP are set forth in Rule 8, 4 CCR 723-41. Carriers seeking EP designation must demonstrate "substantial compliance with the Commission's rules applicable to the provision of basic local exchange service." Such carriers must apply for designation as an ETC and, provide "such basic local exchange service as described in Sections 214(e) and 254 of the Communications of 1934" throughout the geographic support area. The Commission must also find that such designation serves the public convenience and necessity, as defined in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.

d. Before the ALJ, Western Wireless, the OCC, and Staff entered into a Stipulation and Settlement Agreement ("Stipulation"). That Stipulation provides that Western Wireless will receive ETC and EP designation under the conditions specified there. For example: Western Wireless will be designated an ETC immediately in those exchanges (Attachment 1 to the Stipulation) now served by Qwest. In exchanges now