year period. However, the way the disaggregation plan is structured will affect competitive providers, as support is provided on a per line basis and varies from area to area.

7. WTA's initial Path 2 filing proposed five cost zones within each of WTA's five wire centers, with each zone defined by concentric circles based on distance from the central offices. WTA's calculated per line support levels varied significantly among the five zones, but did not vary from wire center to wire center. WTA amended its filing on June 24, 2002, with several modifications. The June 24, 2002 filing further disaggregated support among wire centers, and revised the local switching support (LSS) element to separate out costs within each wire center.

8. On October 16, 2002, WTA, Staff, and the OCC submitted a non-unanimous Stipulation and Settlement Agreement (Stipulation), which presented a joint plan proposed by these parties after negotiations. The Stipulation changed WTA's amended plan, reducing the number of zones to four in each wire center instead of five, and calculating LSS as a separate support element.

9. The methodology in the Stipulation for the allocation and disaggregation of USF, LTS, and ICLS support is that originally proposed by Staff, except that all parties agree to incorporate four zones rather than the three zones contained in Staff's proposal. This methodology is not opposed by NECC.

10. The Stipulation calls for the LSS to be disaggregated below the switch level. WTA has a single switch located in Wiggins covering all of the central offices. WTA has remote switching units (RSUs) located in Briggsdale, Grover, and New Raymer wire centers, and a line

[2] 4 *Code of Colorado Regulations* 723-42-10

concentration module (LCM) in Hoyt. All switching is done through the main switch in Wiggins. Should the line connecting a remote switching unit from the main switch be disconnected, the remote switching unit could switch calls between customers in that same wire center. However, no interoffice switching could take place nor could vertical features such as call waiting be offered. The LCM serves much the same function as an RSU, although it cannot switch within the wire center. It does concentrate lines for transport to the central switch where all switching functions are performed.

11. The Stipulation allocates switching plant located at Briggsdale, Grover, and New Raymer over their respective subscribers evenly. Thirty percent of the Wiggins exchange switch was allocated to the Wiggins exchange only. This 30 percent was based on the FCC factor used to determine the common line portion or non-traffic sensitive portion of each switch to be moved from switching to common line and includes the line ports or terminations and related equipment. The remaining 70 percent of the switch plant located in the Wiggins exchange was allocated to all WTA subscribers. The General and Support facilities were then allocated to each subscriber based on the gross investment in Central Office Equipment and Cable and Wire facilities combined.

12. Direct expenses and depreciation expense were allocated to each subscriber on the basis of related plant investment previously allocated. Network operations expenses were allocated to each subscriber by the proportion of gross investment and Central Office Equipment and Cable and Wire facilities combined. General and Administrative expenses were allocated to each subscriber based on the allocation of direct expenses, network administration expense, and customer service expense. Other expenses were allocated on the basis of investment in Central Office Equipment and Cable and Wire Facilities combined. *See* Stipulation, pages 11 and 12.

13. The proposed allocation of LSS support varies across wire centers, but does not vary within a wire center. The proposed amounts of LSS support, shown on Exhibit B to the Stipulation, based on actual 2002 data, would be $8.41 for Briggsdale, $12.63 for New Raymer, $10.01 for Grover, $3.15 for Hoyt, and $6.18 for Wiggins.[3]

14. NECC is a wireless competitive provider. It currently provides service in the Hoyt and Wiggins exchanges. NECC opposes disaggregation of switching costs among the different exchanges. NECC suggests that all switching costs be averaged across the entire area served by the single switch located in Wiggins. This methodology, using the 2002 fourth quarter data, would produce a uniform LSS of $7.34 per line per month.

III. <u>DISCUSSION</u>

15. NECC strongly objects to the disaggregation of support below the switch level. NECC suggests that there is one switch serving the entire service area, and that disaggregation below the switch level is meaningless. NECC argues that a host-remote switching arrangement such as the one used by WTA is a total cost solution that can increase efficiency and minimize costs from an entire service area not just the locality immediately surrounding the RSU.

> ...The existence of such an arrangement affects the cost of every component, including the host and the remote components. Thus the costs properly attributed to WTA's host switch are different from what they would be if they functioned in a standalone arrangement [footnote omitted] . . .[4]

NECC suggests that WTA and the Staff's Stipulation treats RSUs as totally separate, unrelated, and self-sufficient switching facilities, which does not reflect the reality of WTA's single switch architecture. NECC argues that growth in a remote area served by a remote switch saves the

[3] These sums are per customer line per month. The actual amounts would vary a little as the methodology is applied to different cost data from different time periods.

central switch from having to be enlarged beyond existing port capacity. If the central switch would have to be enlarged to add port capacity, in a single switch environment, those expansions

[4] NECC's Closing of Statement of Position, page 6.

would be spread over all subscribers. However, NECC notes, the Stipulation's proposed treatment is to isolate the customers in the remote areas as though they were separate simply because they are served with a remote switching unit. Thus, the additional costs of the remote switching unit are borne or attributed solely to the remote areas when in fact all customers benefit by not having to expand capacity at the main switch. The effect of this is to attribute too much cost to the remote areas and thus increase the support amounts to the remote areas while decreasing the allocated costs to the central switch and decreasing the amount of support to areas served directly by the central switch, including Wiggins and Hoyt.

16. Aside from its cost allocation argument, NECC argues that the proposed Stipulation is not competitively neutral and in fact discriminatory to NECC. NECC suggests that WTA is fully aware that NECC can only serve Wiggins and Hoyt, which are the two areas that would receive the lowest amount of switching support under the Stipulation.

17. The stipulating parties suggest that the Stipulation's treatment of switching costs provides for a more accurate allocation of those costs given the design of the WTA network. The stipulating parties believe that allocation or suballocation of costs below the switch level is appropriate for a major investment such as the remote switching units that are in place. These parties claim their goal was to attribute costs to the cost causers as accurately as possibly. They claim they have done so. They also state that this allocation creates a competitively neutral position in that costs are properly allocated, and competition will occur most naturally and efficiently with the allocation of costs they suggest.

18. The Administrative Law Judge (ALJ) believes that the Stipulation's allocation of switching costs is reasonably related to WTA's network configuration. There is no question that

subswitch disaggregation presents some anomalies, as highlighted by NECC. However, it is also true that equally allocating switching costs throughout the WTA service territory produces anomalies. For example, if one accepts the NECC contention that the Hoyt LCM should be treated the same as the RSUs, then one would logically take the cost attributable to the LCM out of loop and put them into switching costs, then allocate them uniformly across all users. This would reduce the loop support for Hoyt significantly, while causing a perhaps de minimus increase in the average support per customer for switching. However, NECC makes no such proposal. The LCM costs would remain in Hoyt while Hoyt customers receive full switching allocation of all other switching costs. Thus the NECC position seems to over-allocate costs (and hence support) to the Hoyt exchange because Hoyt keeps all of the "switching" costs of the LCM, not having to share it with any other exchange areas, but receiving a full allocation of all other switching costs, including the RSUs.

19. The Stipulation's proposed allocation has basis in law and logic. The allocation of switching elements to individual wire centers does produce the competitive neutrality that NECC claims is lacking from the Stipulation, not just between NECC and WTA, but also between WTA and any other new entrants. The Stipulation properly reflects the higher costs to serve areas furthest from Wiggins, and the lower cost to serve the Wiggins and Hoyt area. While NECC focuses only on the LSS support methodology, the ALJ has viewed the Stipulation's support methodology in its entirety, and he finds and concludes that the Stipulation is not anti-competitive.

20. The proposed disaggregation presented in the Stipulation is just and reasonable and is not discriminatory, and it should be accepted. The methodology utilized in the Stipulation should be the methodology utilized for the disaggretation of support.

21. In NECC's closing statement of position it requests that the Commission clarify that any order approving a plan to disaggregate support in WTA's service territory also has the effect of redefining WTA's study area in accordance with Rule 11 of the Commission's Procedures for Designating Telecommunications Service Providers as Providers of Last Resort as an Eligible Telecommunications Carrier, 4 *Code of Colorado Regulations* 723-42. NECC is correct in that this is what Rule 11 envisions, and this proceeding does disaggregate redefine WTA's study area.

22. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

IV. ORDER

A. The Commission Orders That:

1. Docket No. 02A-276T, being an application of Wiggins Telephone Association for approval of its disaggregation plan, is granted as set forth in the Stipulation and Settlement Agreement filed October 16, 2002. Wiggins Telephone Association shall utilize the methodology set forth in the Stipulation to disaggregate its service area both for support and study area boundaries.

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.

(SEAL)

STATE OF COLORADO
THE PUBLIC UTILITIES COMMISSION
NIL SINE NUMINE

ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KEN F. KIRKPATRICK

Administrative Law Judge

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Decision No. C03-0243

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-276T

IN THE MATTER OF THE APPLICATION OF WIGGINS TELEPHONE ASSOCIATION FOR APPROVAL OF ITS DISAGGREGATION PLAN.

DECISION DENYING EXCEPTIONS

Mailed Date: March 5, 2003
Adopted Date: January 29, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of Exceptions to Decision No. R02-1409 (Recommended Decision) by N.E. Colorado Cellular, Inc. (NECC). In that decision, the Administrative Law Judge (ALJ) accepted a Stipulation between Wiggins Telephone Association (Wiggins), the Colorado Office of Consumer Counsel (OCC), and Commission Staff (Staff). The Stipulation disaggregates universal service support for Wiggins according to the methods specified there. NECC did not agree to the Stipulation and now excepts to the ALJ's recommendation to accept the Stipulation pursuant to the provisions of § 40-6-109(2), C.R.S. Wiggins, the OCC, and Staff (Stipulating Parties) filed a Response to the Exceptions. Now being duly advised, we deny NECC's Exceptions and affirm the Recommended Decision.

B. Discussion

2. This case concerns Wiggins' application to disaggregate or target universal service support for its study area, in accordance with rules adopted by the Federal Communications Commission (FCC) and the Commission itself. Specifically, 47 C.F.R.

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§ 54.315 and 4 *Code of Colorado Regulations* (CCR) 723-42-10 require rural incumbent local exchange carriers (ILECs), such as Wiggins, to disaggregate their universal service support under one of three paths. Wiggins elected to disaggregate support under Path 2. Under that path, a rural carrier seeks specific Commission approval of its proposed method of targeting support. Generally, the purpose of any method of disaggregation is to target universal service support to high cost areas in a competitively neutral manner.

3. Wiggins' initial Path 2 application proposed five cost zones within each of its five wire centers, with each zone defined by concentric circles based on distance from the central offices. Eventually, however, Wiggins, Staff, and the OCC stipulated to a disaggregation plan reducing the number of zones to four in each wire center. Notably, the Stipulation calculates Local Switching Support (LSS) as a separate support element.

4. Wiggins has a single switch located in Wiggins that serves all of its central offices. Wiggins has remote switching units (RSUs) located in Briggsdale, Grover, and New Raymer wire centers, and a line concentration module (LCM) in Hoyt. All switching is done through the main switch in Wiggins. The RSUs are capable of switching calls between customers in the same wire center. However, no interoffice switching could take place over the RSUs, nor could vertical features such as call waiting be offered. The LCM functions similarly to an RSU, but it cannot switch calls even within the wire center. The LCM simply concentrates lines for transport to the central switch in Wiggins where all switching functions are performed.

5. The Stipulation between Wiggins, Staff, and the OCC disaggregates LSS below the switch level. That is, the Stipulation allocates the switching plant located at Briggsdale, Grover, and New Raymer over their respective subscribers evenly. The Stipulation also recognizes that the Hoyt concentrator costs are recovered through the Hoyt loop cost portion of

the study. Under the Stipulation, 30 percent of the Wiggins switch was allocated to the Wiggins exchange only. The remaining 70 percent of the switch was allocated to all Wiggins subscribers. This allocation method, based on actual 2002 data, results in LSS support of \$8.41 for Briggsdale, \$12.63 for New Raymer, \$10.01 for Grover, \$3.15 for Hoyt, and \$6.18 for Wiggins.

6. NECC did not agree to the Stipulation. At hearing, NECC challenged only one issue contained in the Stipulation: the methodology and amount of disaggregated LSS support. NECC recommended that all switching costs be averaged across the entire area served by the single switch located in Wiggins. This methodology, using the 2002 fourth quarter data, would produce a uniform LSS of \$7.14 per line per month.

7. NECC also requested clarification that any order approving a plan to disaggregate support in Wiggins' service territory also has the effect of redefining Wiggins' study area in accordance with Rule 11, Commission's Procedures for Designating Telecommunications Service Providers as Providers of Last Resort as an Eligible Telecommunications Carrier, 4 CCR 723-42 (Rule 11).

C. Recommended Decision

8. The Recommended Decision accepted the Stipulation including its proposed method for determining LSS support. The ALJ concluded that the allocation of switching elements to individual wire centers is competitively neutral, not just as between NECC and Wiggins, but also as between Wiggins and any other new entrant. The ALJ determined that the Stipulation properly reflects the higher costs to serve areas furthest from Wiggins, and the lower costs to serve the Wiggins and Hoyt areas. According to the ALJ, while NECC focused only on the LSS support methodology, he viewed the Stipulation's universal service support methodology in its entirety, and concludes that the Stipulation is not anti-competitive.

9. The ALJ finds that the Stipulation's proposed methods for disaggregating Wiggins' universal service support are just and reasonable and non-discriminatory, and recommends that we approve the Stipulation. The ALJ also grants NECC's requested clarification that any order approving a plan to disaggregate support in Wiggins' service territory also has the effect of redefining Wiggins' study area in accordance with Rule 11.

D. NECC Exceptions

10. In its Exceptions, NECC urges the Commission to reject that portion of the Recommended Decision approving the Stipulation's methodology for allocation of the LSS component of the Universal Service Fund support. In its place, NECC urges adoption of its proposed method that allocates the LSS portion evenly across all subscribers in Wiggins' service areas. According to NECC, the method of allocating LSS support proposed in the Stipulation is not justified by legitimate cost differentials, and, if implemented, will minimize competitive entry and network investment by competitors.

11. NECC continues: The fact that an RSU is located in one wire center does not, from a cost causation standpoint, increase the switching costs for that wire center, and, correspondingly, decrease switching costs for other wire centers. The Stipulation improperly treats RSUs and LCMs as separate, unrelated, and self-sufficient switching facilities. This does not reflect the reality of Wiggins' single-switch network architecture.

E. Response to Exceptions

12. The Stipulating Parties (Wiggins, Staff, OCC) oppose NECC's exceptions. These parties argue that the LSS cost allocation methodology and the associated per line monthly support amounts per Wiggins wire center set forth in the Stipulation should be approved by this Commission. According to the Stipulating Parties, the arguments in NECC's Exceptions can be

reduced to two chief complaints. First, the Recommended Decision improperly accepts a flawed methodology for the allocation of LSS support because it "...improperly disaggregates below the switch." Second, the allocation method accepted by the Recommended Decision results in an allocation of support that is not competitively neutral.

13. In considering the Exceptions, the Stipulating Parties suggest, the Commission should be aware of several important factors. First, the disaggregation methodology established in this docket will apply only to Wiggins and its competitors. Second, there is no approved or accepted formula for the disaggregation of LSS support. Neither the FCC nor this Commission's rules require the use of a particular approach. Third, after giving direct consideration to the question whether to utilize a proxy model or actual cost information, the FCC chose, for purposes of disaggregation, to authorize the affected companies to utilize an actual cost approach. NECC's reliance on proxy model analysis is misplaced in this context. Wiggins' LSS allocation is based on historical investment and expenses, not forward looking hypothetical investments. Fourth, Wiggins expended the resources to analyze its actual cost data as the underpinning for its Path 2 filing. Fifth, NECC conducted no study and developed no model concerning the allocation of Wiggins' LSS costs. Sixth, the decision here is not just about NECC, it is about the need to fairly allocate LSS across all five of Wiggins' wire centers to ensure that all competitors and potential competitors are treated in a competitively neutral and nondiscriminatory fashion. Seventh, it is important to recognize, as the ALJ did, that LSS is one component of a larger "whole" that together make up the Federal Universal Service Support program for rural ILECs and their competitors. And lastly, there are no rules, prohibitions, or limitations concerning sub-switch disaggregation.

F. Commission Decision

14. We deny NECC's exceptions, and agree with the findings and conclusions of the ALJ and the arguments of the Stipulating Parties. The Stipulation's methodology for allocation of the LSS component of the Universal Service Fund support is based on Wiggins' historical investment and expenses, and, therefore, will result in an allocation of support that ensures that all competitors and potential competitors are treated in a competitively neutral and nondiscriminatory fashion.

15. NECC contends that the Recommended Decision improperly adopts a flawed method of allocating LSS unsupported by legitimate cost differentials, which if implemented will minimize competitive entry. In its place, NECC urges adoption of the method proposed by NECC that allocates the LSS portion evenly across all subscribers in Wiggins' service areas.

16. NECC's arguments are unpersuasive. The contention that the Stipulation's methodology finds no support among commonly used proxy cost models is successfully rebutted by the Stipulating Parties. They point out that such costing models do not apply to rural ILECs such as Wiggins. Wiggins' use of historical investment and expense in the allocation of LSS support is appropriate and consistent with its status as a rural ILEC.[1] We find that the position taken by Staff and the OCC, in the Stipulation and at hearing, that the LSS settlement proposal strikes a reasonable balance by directly assigning the remote switch costs to each of the communities served by the separate remote switches, plus including a portion of the traffic sensitive cost of the Wiggins' host switch to each of the separate communities. It properly reflects the higher cost of the separate remote switches in those areas being served by the

[1] During cross-examination by Staff, NECC witness Mr. Wood agreed the embedded cost approach rather than modeling approach was appropriate for rural providers. TR., p 132-133.

Wiggins' switch.[2] Additionally, the Stipulation assigned an appropriate amount of LSS support to the Wiggins and Hoyt wire center areas, and recognized that the Hoyt concentrator costs were recovered through the Hoyt loop cost portion of the study.

17. The Stipulating Parties also successfully rebut NECC's contention that the proposed LSS calculation improperly disaggregates below the switch. As the Stipulating Parties pointed out, the FCC has granted a great deal of flexibility in the development of a Path 2 disaggregation plan.[3] We find that the allocation or suballocation of costs below the switch level is appropriate for a major investment such as the remote switching units that are in place.

18. With respect to competitive neutrality, we agree with the Stipulating Parties. The stipulated allocation of switching costs correctly attributes costs to the cost causers. Therefore, this allocation creates a competitively neutral position for all prospective competitors. Costs are properly allocated, and efficient competition should occur with the allocation of costs these parties suggest.

19. We finally note that NECC's recommendation to allocate the LSS portion evenly across all subscribers in Wiggins' service areas is unsupported by any specific analysis, studies, or model.[4]

20. For the foregoing reasons, we deny NECC's Exceptions and affirm the Recommended Decision in its entirety. We grant the application of Wiggins for approval of its

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[2] TR., Klug, p. 45.

[3] FCC Fourteenth Report and Order in CC Docket No. 96-45, released May 23, 2001, the FCC, in paragraph 150 of the order, stated: "Because there are no constraints on disaggregation and target support to multiple levels below a disaggregation area, a disaggregation and targeting method can be tailored with precision, subject to state approval, to the cost and geographic characteristics of the carrier and the competitive and regulatory environment in which it operates. Thus, this path provides the highest flexibility in the development of the disaggregation plan, but at the same time provides for regulatory approval to ensure that the methodology implemented is competitively neutral."

disaggregation plan as set forth in the Stipulation and Settlement Agreement filed October 16, 2002. We also approve the LSS cost allocation methodology and the associated per line monthly support amounts per Wiggins' wire center as set forth in the Stipulation. We find the proposed disaggregation plan presented in the Stipulation to be in the public interest and competitively neutral.

II. ORDER

A. The Commission Orders That:

1. The Exceptions to Decision No. R02-1409 by N.E. Colorado Cellular, Inc., are denied.

2. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

3. This Order is effective on its Mailed Date.

[4] *See* Staff cross-examination of NECC witness Wood. TR., p 131-137.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING January 29, 2003.

(S E A L)

ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

POLLY PAGE

JIM DYER

Commissioners

CHAIRMAN RAYMOND L. GIFFORD DID NOT PARTICIPATE IN THIS DECISION. HE LEFT THE COMMISSION ON JANUARY 30, 2003.

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

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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 Disaggragating 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