2016 Annual Report of the

Colorado High Cost Support Mechanism

Prepared by:

The Colorado Public Utilities Commission Staff

December 1, 2016

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December 1, 2016

The General Assembly
State Capitol Building
Denver, Colorado 80203

Dear General Assembly Member:

The attached Report of the 2016 Colorado High Cost Support Mechanism (HCSM) is hereby submitted to the House Economic and Business Development and the Senate Business, Labor and Technology Committee. The Final Report of the 2015 Colorado High Cost Support Mechanism (HCSM) was issued on August 4, 2016. The Final Report was issued at this time as the Commission concluded its proceedings that determined 2015 and future year distributions and operations of the fund. As a result of this, the 2016 Report of Colorado High Cost Support Mechanism primarily updates contribution and distribution data for 2016 and projections for 2017. The remainder of the information in the 2016 Report is essentially the same as that provided in the Final 2015 Report.

The HCSM was created in House Bill 95-1335 to provide financial assistance to local exchange providers to help make basic local exchange service affordable and allow such providers to be fully reimbursed for the difference between the reasonable costs incurred in making basic service available to their customers within a rural, high cost geographic support area and the price charged for such service. In May 2014 the General Assembly made several fundamental changes to the HCSM. These changes included making it clear that HCSM is to support local exchange providers only in areas of the state without effective competition and to provide funding to aid providers deploying broadband services in unserved areas.

If I can be of further assistance to you, please let me know.

Doug Dean

Doug Dean
Director

Annual Report of the
Colorado High Cost Support Mechanism
to the General Assembly
December 1, 2016

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Executive Summary

The Final Report of the 2015 Colorado High Cost Support Mechanism (HCSM) was issued to the House Economic and Business Development and the Senate Business, Labor and Technology Committee on August 4, 2016. The Final Report was issued at this time as the Commission concluded its proceedings that determined 2015 and future year distributions and operations of the fund. As a result of this, the 2016 Report of the Colorado High Cost Support Mechanism primarily updates contribution and distribution data for 2016 and projections for 2017. The remainder of the information in the 2016 Report is essentially the same as that provided in the Final 2015 Report.

In 2014 the Colorado General Assembly enacted five Telecom Reform Bills, two of which affected the HCSM directly. Among the revisions, the 2014 Reform Legislation established two primary purposes of the HCSM. The first is to provide financial assistance for basic service - *i.e.*, traditional voice telephone service - in rural, high cost geographic support areas. The second is to provide access to broadband service through broadband networks in unserved areas by providing funds to a Broadband Deployment Board. The newly created Broadband Fund enacted by House Bill (HB) 14-1328, enables the Colorado Public Utilities Commission (Commission or PUC) to transfer HCSM funds to the Broadband Deployment Board for deployment of broadband service in unserved areas of the state. The HCSM funds to be transferred are monies that were collected at the surcharge rate in effect on May 10, 2014, and that the Commission determines are no longer needed to support basic service in Colorado in areas determined to be effectively competitive.

The HCSM fund continues to be negatively affected by a decline in contributions. Total contributions in 2015 to the HCSM fund were $43.3 million and are estimated to be $38.4 million in 2016. Distributions in 2015 were $37.2 million and are estimated to be $33.9 million for 2016. There continues to be a steady decline in wireline revenues as consumers abandon traditional wireline service. Additionally, highly competitive wireless price plans and the proliferation of consumer data packages, which bundle voice and data together, have resulted in a significant decline in wireless contributions.

In 2016, the Commission issued several decisions that had an impact on the HCSM. First, the Commission made findings of effective competition for an additional 46 wire centers, finding that multiple providers offered voice service in these areas. In these wire centers, HCSM funding is removed from Eligible Providers (EPs) who receive support for basic service in these areas. Second, the Commission approved, with modifications, a Settlement agreement reached by Qwest Corporation, doing business as CenturyLink QC (Qwest or CenturyLink), the Colorado Telecommunications Association (CTA), and Staff of the Public Utilities Commission (Staff). As approved and modified, the Settlement, among other agreed-upon terms, allows for HCSM support amounts to be paid to certain EPs, including CenturyLink that receive the most distribution amounts from the HCSM, and small, rural providers, for the calendar years 2015, 2016, 2017, and 2018. Future distribution amounts were not guaranteed, however, and are subject to audit and review by the Commission, among other requirements.

In addition to making findings of effective competition and approving, with modification a Settlement for HCSM distributions to settling parties, the Commission also authorized payments to EPs that were parties to the proceedings, but did not join the Settlement, as modified. For example, Northern Colorado Communications LLC (NCC) received $185,643 for 2015. In addition, N.E. Colorado Cellular, doing business as Viaero Wireless (Viaero) received $4,874,113 for basic service in 2015. Because the only area where NCC was eligible to receive HCSM funding was found to have effective competition for basic service, the area is not currently eligible for a provider, including NCC, for receipt of HCSM funding for basic service. Similarly, no additional funding was authorized for Viaero, or any other provider, in the 46 areas found to have effective competition.

The Commission found that its findings of effective competition, in addition to approving and modifying the Settlement, and approving distributions to EPs were in the public interest. Within these public interest considerations, the Commission found that the modified Settlement may enable the Commission to be in a position to transfer funds to the Broadband Deployment Board earlier than might otherwise be possible. For example, CenturyLink agreed, upon approval of the Settlement, to file a Motion to Dismiss its Judicial Review Action in which CenturyLink challenged a prior Commission decision authorizing the transfer of funds to the Broadband Deployment Board. Once CenturyLink's Judicial Review was dismissed, the Commission authorized a total of $2,893,567, the disputed amount under Judicial Review, to be transferred to the Broadband Deployment Board. This amount is the result of Effective Competition Area (ECA) determinations made in the first ECA proceeding.[1]

The recent Commission decisions provide that HCSM distributions to the Broadband Deployment Board are contingent upon annual collections at the 2.6 percent surcharge rate. In the event annual contributions are less than the HCSM disbursements, pursuant to the modified Settlement, CenturyLink accepted modified terms requiring that the HCSM disbursements to CenturyLink will be adjusted accordingly to concur within the 2.6 percent contribution level. The HCSM surcharge is projected to remain at the current rate of 2.6 percent for the foreseeable future. This rate has been in effect since April 1, 2013.

Consistent with statute, when the Commission's findings of effective competition were final, the Commission opened a proceeding to determine additional amounts of funds for transfer to the Broadband Deployment Board.

However, Viaero has appealed the Commission's decisions in Morgan County District Court. No other provider or party to the proceedings challenges the decisions. Among its requested relief, Viaero asks that the Commission be prohibited from transferring any additional funds to the Broadband Deployment Board, and that the Commission provide millions of dollars in HCSM funds to Viaero in areas recently found

[1] Proceeding No. 13M-0422T

to have effective competition. The Morgan County District Court has ordered a "stay or suspension" of the portions of the Commission's Decisions finding effective competition. The Commission is currently seeking clarity on the court's orders to implement a suspension equitably, consistent with statutory requirements.

Viaero's current judicial appeal and the Morgan County District Court's orders create uncertainty regarding transfers to the Broadband Deployment Board and HCSM distributions.[2]

[2] Prior to findings of effective competition, funding in the disputed 46 wire centers included approximately $14.8 million in HCSM distributions for basic voice service annually. No additional funds have been considered by the Commission to be transferred to the Broadband Deployment Board.

Introduction

The Commission is required to submit a written report of the HCSM to the General Assembly on or before December 1st each year pursuant to § 40-15-208, C.R.S. The report provides a detailed overview of the operations of the HCSM for the calendar year 2016 and proposed operations for the calendar year 2017. Specifically, the report identifies total contributions by carrier type, a discussion of declining contributions, and an update on current Commission Proceedings impacting the HCSM. The report details HCSM distribution totals and specific distributions to telecom providers in 2016 and anticipated 2017 disbursement requirements.

The report also provides information regarding the Commission's administration and administrative cost of the HCSM. Appendix 1 to this report provides additional contribution financial detail. Appendix 2 provides a history of the HCSM. Appendix 3 contains detail regarding recent enacted telecom reform legislation and current Commission Proceedings. Appendix 4 provides information regarding the coordination of the HCSM and Federal universal service support.

HCSM Fund Operations

The Commission serves as the administrator for billing, collection, and disbursement functions for the HCSM. It also collects information regarding contributing entities and end-user intrastate telecommunications revenues, submits projections of demand, determines benchmarks used, determines the amount of distributions made from the HCSM, and records the cost of administrative expenses. The goal of the HCSM Administrator is to set a surcharge rate at the appropriate level to generate projected contributions necessary to match projected distributions while maintaining a sufficient fund reserve necessary to manage cash flow and unpredicted events (*e.g.*, new HCSM applications).

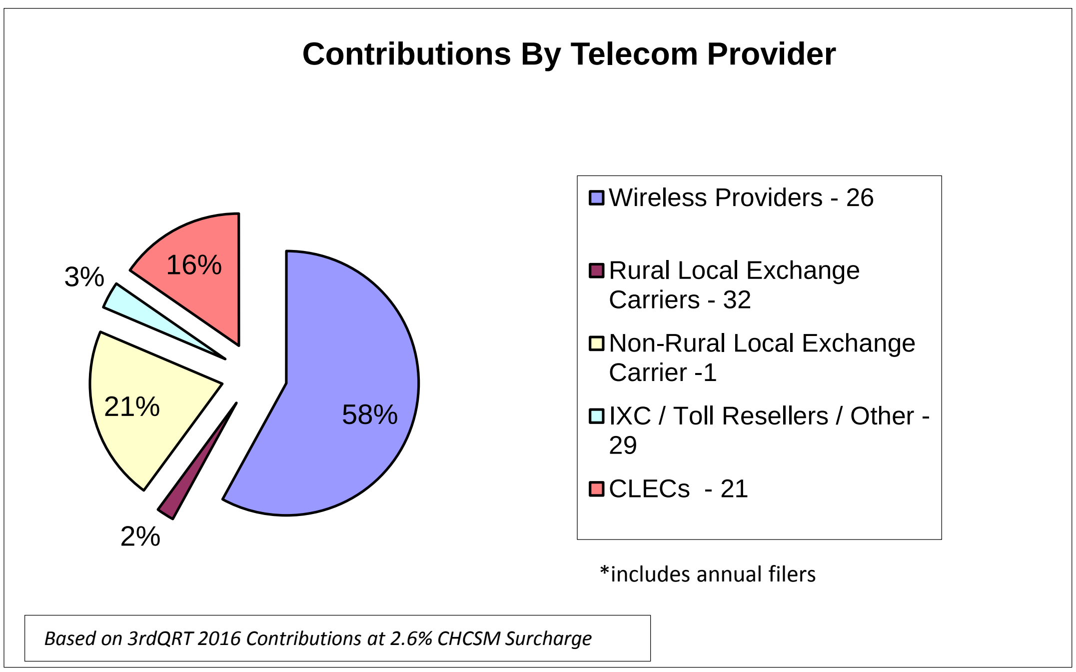
Administration of the fund consists of two primary functions-Contributions and Distributions.

Contributions

Contributions are made to the HCSM through a rate element assessment also known as the Colorado Universal Service Charge on telecom providers' intrastate telecommunications service revenues. Telecom providers may, and do, generally pass along the charge on their end-user bills. Telecom providers are required by Commission rules to report intrastate revenues on the HCSM worksheet twice a year (March 31st for the previous calendar year and September 1st for the first six months of the current year). The Administrator uses these worksheets to calculate and invoice the telecom provider on a quarterly basis based on their prior revenues reported on the HCSM worksheets. Telecom providers, other than those that are *de minimis*, are invoiced quarterly by the Administrator. Current rules do not require telecom providers that are considered *de minimis* (less than $5,000 annual HCSM contributions which equates to $192,308 in annual revenues), to contribute to the fund. However, any reseller of telecom services must notify its underlying carrier whether it contributes directly to the HCSM fund or if the telecom provider should be treated as an end-user and the underlying provider of telecom services contributes the amount to the HCSM fund on behalf of the reseller.

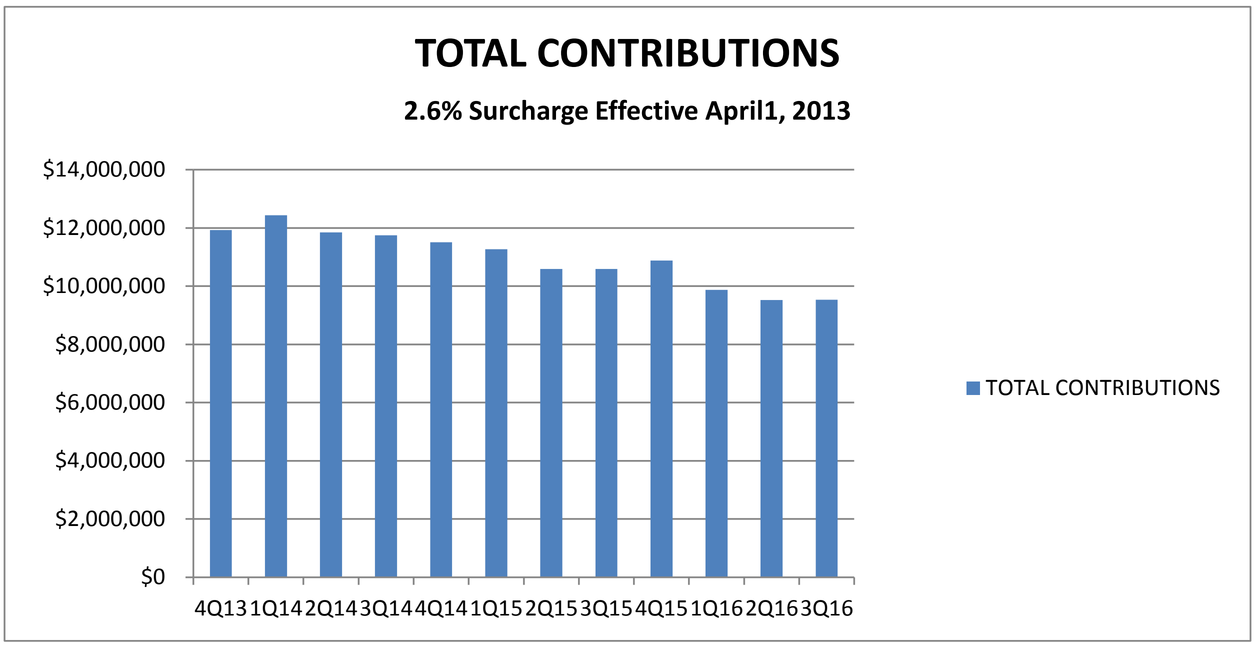
In 2016, an average of 111 telecom providers contributed to the HCSM fund. This number is slightly lower than the number of carriers contributing in 2015 (115). The 2016 total contribution amount is projected to be $38,374,234, which would be approximately $5 million less than contributed in 2015. The Colorado universal service rate element is currently 2.6 percent. The rate element has been 2.6 percent since April 1, 2013.

The chart below depicts the approximate 2016 number of contributors by telecom provider type and percentage of contributions to the fund.



It is anticipated that the causes of the decline in contributions will continue in future years. Telecommunications markets, consumer choices, and even the relevant laws are all changing rapidly. Many traditional basic service consumers have migrated to wireless and Voice over Internet Protocol (VoIP) services (both of which are a mix of intrastate and interstate revenue). Even among wireless consumers, voice usage is declining while data usage (not subject to the HCSM surcharge rate) is increasing, and wireless competition is driving down prices which then decreases revenues subject to the surcharge rate. The historical decline in HCSM contributions seen in Colorado - approximately 2 percent per quarter - is consistent with the declines seen in other states. CenturyLink also continues to experience declining contributions as consumers continue to abandon traditional wireline service. The decrease in contributions is not unique to Colorado, but is also occurring on a national level.[3]

The following chart demonstrates the declining contribution trend:



[3] The Nebraska Public Service Commission (Nebraska Commission) has found that the assessable base for contributions continues to erode as customers migrate to services on which the Nebraska state surcharge is not remitted and therefore, not contributing to the state fund. The California Public Utilities Commission approved an order almost doubling the California High Cost Fund-A (CHCF-A) surcharge rate from 1.8 percent to 3.5 percent effective January 1, 2015. All telecommunications carriers and interconnected VoIP service providers must charge the CHCF-A surcharge rate assessed on revenues collected from end users for intrastate telecommunications service.

Section 40-15-208(2)(c), C.R.S., provides that if the Commission, through this report, proposes an increase above the amount contained in the previous calendar year's report in any of the following: (1) the proposed benchmark; (2) the contributions to be collected through a rate element; or (3) the total amount of distributions to be made for support in high cost areas, then such increase shall be suspended until March 31st of the budget year. The Commission is not proposing any increase at this time.

Distributions

As Administrator, the Commission oversees all distributions from the HCSM. Distributions from the fund are provided to EPs who serve customers in non-effectively competitive high cost geographic areas. A telecom provider must be designated by the Commission as an Eligible Telecommunications Carrier (ETC) in order to receive Federal Universal Funds and be designated as an EP and an ETC to receive funds from the HCSM. Incumbent Local Exchange Carriers (ILECs) (*i.e.,* CenturyLink and Rural Incumbent Local Exchange Carriers (RLECs)), wireless carriers, Competitive Local Exchange Carriers (CLECs), and VoIP providers may be eligible for high cost support. Interexchange carriers, toll resellers, and resellers of basic service are not eligible to receive high cost support. RLECs approved HCSM support amounts are distributed until the Commission issues a decision or the company files an application to reset the HCSM amount. Since 2004, the non-rural ILECs, Staff, and other parties filed stipulations and settlement agreements on an annual basis that addressed both the calculated support and the amount of HCSM disbursements.

There are two methods of calculation to determine the distribution amount for EPs: fixed and variable. Distributions, as approved by the Commission, to all qualifying incumbent EPs are based upon total annual amounts for its study area divided by four until a competitive EP is designated in their study area. Once a competitive EP (*i.e.,* wireless carriers Viaero and NNTC Wireless, LLC) is designated by the Commission in a study area, the underlying EP's distributions are based on the actual residential and business access line counts multiplied by the support per access line determined for that wire center. Competitive EPs receive what is referred to as "Identical Support" - or the same per line support amount the underlying EP receives in that area. If the underlying EPs' support per access line increases, the identical support for the competitive EPs increases as well. Competitive EPs, as well as the incumbent EPs, have the potential to receive additional HCSM funding as they sign-up additional customers. The HCSM fund is currently capped at $54,000,000.

The Commission opened Proceeding No. 15M-0158T[4] on March 11, 2015 to determine distributions from the HCSM to EPs of basic services consistent with legislation enacted in 2014, and because no proposals for distribution of high cost funds in 2015 had been submitted. In that proceeding, the Commission allowed interim HCSM distributions for the first quarter of 2015 based on 2014 support per access line because no settlement or stipulations had been filed for Commission approval for the remaining HCSM distribution in 2015.

On August 20, 2015, a Stipulation and Settlement Agreement (Settlement) was entered into and filed by Qwest, CenturyTel of Eagle, CenturyTel of Colorado, El Paso County Telephone Company (El Paso) (collectively CenturyLink); Trial Staff of the Colorado Public Utilities Commission (Staff); CTA; and NCC. The Settlement proposed for a four-year period (2015 through 2018), the stipulated amount of HCSM to support basic service to current recipients, the declaration of certain ECAs currently under review pursuant to Phase I of Proceeding No. 14M-0947T, and provider of last resort obligations in areas of effective competition and in areas where HCSM support is provided.

The Commission combined Proceeding Nos. 15M-0158T and 14M-0947T. Through these combined proceedings, the Commission ultimately approved, with modification, an

[4] *See* Decision No. C15-0243 issued March 17, 2015 in Proceeding No. 15M-0158T.

Amended Settlement, authorized certain distributions from the HCSM, and found an additional 46 wire center serving areas in Colorado to have effective competition. Areas found to have effective competition are no longer eligible for HCSM disbursements for basic voice service. The Commission indicated that it would open a separate proceeding to determine which funds were no longer necessary for basic voice service and could be transferred to the Broadband Deployment Board due to these findings of effective competition.

On March 31, 2016, consistent with the terms in the Amended Settlement, CenturyLink filed notice of dismissal of the Judicial Review Action of the Commission's direction to transfer amounts to the Broadband Fund, previously determined in Proceeding No. 13M-0422T finding effective competition in 56 wire centers. The court granted the dismissal of the case on March 29, 2016, thus freeing up the transfer of these monies to the Broadband Deployment Board (additional detail is provided in Appendix 3).

The Commission also approved disbursement of HCSM funding to NCC and Viaero. NCC was permitted to receive funding for 2015. Because the Commission found effective competition in the only area where NCC was eligible to receive funding, the area is no longer eligible to receive funding for basic service. Calculations to Viaero were authorized and the Administrator made distributions for 2015 in the amount of $4,874,113. After 2016, the Commission authorized additional funding for Viaero, which excludes funding in the 46 areas recently found to have effective competition. Like all other EPs, Viaero may apply to the Commission for an increase or change in funding.

Viaero is currently appealing the Commission decisions on ECAs, Settlement modifications, and HCSM disbursements in Morgan County District Court. Viaero filed a Motion for Stay of the Decisions. Among its requested relief in the Motion for Stay and subsequent filings, Viaero asks the court to prohibit the Commission from transferring any additional funds to the Broadband Deployment Board, and that the

Commission provide approximately $3 million dollars annually of HCSM funds to Viaero in areas recently found to have effective competition for basic service. Viaero takes the position that it would not be required to repay any HCSM funds distributed during appeal, even if its appeal is unsuccessful and the Commission's decisions are upheld.

The Morgan County District Court ruled on Viaero's Motion to Stay and ordered a "stay or suspension" of portions of the Commission's Decisions finding effective competition, "nothing more." The Commission is currently seeking clarity or revision of the court's orders such that it can implement a suspension equitably, consistent with statutory requirements.

For example, pursuant to statute, the court must procure a bond sufficient to account for all damages caused by delay in implementing the Commission's decisions. § 40-6-116, C.R.S. Additional distributions for voice service, if any are required, will deplete the HCSM. Depletion of the HCSM potentially precludes transfer of millions of dollars to the Broadband Deployment Board. Additional distributions could also affect the adequacy of HCSM contributions, and require the Commission to consider increasing the 2.6 percent surcharge.

Currently, the court has accepted only a nominal $1,000 bond. The Commission requests the court clarify or revise its orders to ensure compliance with the statute and avoid inequitable distribution of state HCSM funds.

Distributions to the Broadband Fund

On March 4, 2015, Commission Decision No. C15-0208 in Proceeding No. 04M-388T transferred $200,000 from the HCSM to the State's Broadband Deployment Board consistent with the Denver District Court order. The remaining amounts to be transferred to the board were retained pending the outcome of CenturyLink's Judicial Review Action challenging the initial transfer to the Broadband Deployment Board authorized by the Commission in 2014. A discussion of the procedural background is provided in Appendix 3.

On April 18, 2016, per Commission Decision No. C16-0300 issued April 8, 2016 in Proceeding No. 04M-388T, $2,693,567, the remaining balance of the disputed funds, was transferred to the Broadband Deployment Board due to the Commission's approval and modification of the Settlement, which included the dismissal of the Denver District Court case by CenturyLink.

On April 13, 2016, the Commission opened Proceeding No. 16M-0268T (Decision No. C16-0327), for the purpose of determining the amount of funds no longer required by the HCSM to support universal basic service through its findings of effective competition in 46 wire centers such that the Commission may transfer funds from the HCSM to the Broadband Deployment Board pursuant to statute. The amount of funds for transfer to the Broadband Deployment Board will take into account the projected HCSM contributions, remaining disbursements, and target reserve amounts.

However, as noted above, within its Motion to Stay Commission Decisions, Viaero requests that the Commission be prohibited from transferring any HCSM funds to the Broadband Deployment Board until the final outcome of its appeal, including resolution at the Colorado Supreme Court. Viaero's position that it should receive millions of dollars in HCSM payments annually for voice service through pendency of the appeal would decrease funding available for transfer to the Broadband Deployment Board. Viaero argues it should not repay any HCSM funding, even if it is ultimately unsuccessful in its appeal and the Commission decisions are upheld.

As discussed above, improper depletion of the HCSM fund through pendency of the appeal could irreparably prohibit transfers to the Broadband Deployment Board. The Commission's requests seeking clarity or revision of the court's orders granting a "stay or suspension" are pending before the Morgan County District Court.

Calendar Year 2017 Projections. Pursuant to the Settlement, estimated total distributions for 2017 are provided in the following table.

2017 High Cost Support Projected Distributions		
Rural Carrier	**Recent Adjustment Date**	**Yearly Projected CHCSM Disbursement**
AGATE MUTUAL TEL CO	2/25/2008	$ 16,941
DELTA COUNTY TEL CO	10/1/2006	$ 165,721
NUCLA-NATURITA TEL	9/30/2011	$ 321,867
NUNN TEL CO	5/17/2007	$ 47,485
PEETZ COOP TEL CO	1/18/2008	$ 26,441
PHILLIPS COUNTY TEL	1/1/2009	$ 30,847
PINE DRIVE TEL CO	10/24/2009	$ 681,059
RICO TELEPHONE COMPANY	11/15/2011	$ 13,015
ROGGEN TEL COOP CO	10/20/2009	$ 51,614
WILLARD TEL CO	9/9/2010	$ 29,042
Non-Rural Carrier		
QWEST CORPORATION	1/11/2016	$30,250,000
Wireless Carriers		
NORTHEAST COLORADO CELLULAR, INC., dba VIAERO	1/11/2016	$ 1,684,940
NNTC Wireless, LLC	1/11/2016	$ 159,365
TOTAL DISBURSEMENTS		**$ 33,478,337**

The following table provides 2016 distributions.

2016 High Cost Support								
Rural Carrier	# of Lines	FUSF	FUSF / Line	CHCSM	CHCSM / Line	Total Support	Residential Basic Local Service Rate	Business Basic Local Service Rate
AGATE MUTUAL TEL CO	109	$ 315,255	$ 2,892	$ 16,941	$ 155	$ 332,196	$ 21.22	$ 16.00
BIG SANDY TELECOM	683	$ 131,749	$ 193	$ -	$ -	$ 131,749	$ 17.38	$ 25.18
BIJOU TEL COOP ASSOC	1086	$ 919,164	$ 846		$ -	$ 919,164	$ 16.00	$ 20.14
BLANCA TEL CO	653	$ 123,136	$ 189	$ -	$ -	$ 123,136	$ 16.11	$ 22.11
CENTURYTEL OF EAGLE	49,315	$ -	$ -	$ -	$ -	$ -	$ 16.00	$ 26.81
CENTURYTEL COLORADO	7,315	$ -	$ -	$ -	$ -	$ -	$ 16.00	$ 26.81
COLUMBINE ACQ CORP	945	$ 529,088	$ 560	$ -	$ -	$ 529,088	$ 18.98	$ 32.28
DELTA COUNTY TEL CO	7,275	$ 701,715	$ 96	$ 165,721	$ 23	$ 867,436	$ 16.20	$ 28.70
EASTERN SLOPE RURAL	3,656	$ 2,481,683	$ 679	$ -	$ -	$ 2,481,683	$ 16.00	$ 19.20
EL PASO COUNTY TEL	3,358	$ -	$ -	$ -	$ -	$ -	$ 16.00	$ 30.60
FARMERS TEL CO - CO	445	$ 656,360	$ 1,475	$ -	$ -	$ 656,360	$ 16.74	$ 25.12
HAXTUN TEL CO	1,121	$ 273,715	$ 244	$ -	$ -	$ 273,715	$ 16.00	$ 20.55
NUCLA-NATURITA TEL	1,537	$ 987,988	$ 643	$ 321,867	$ 209	$ 1,309,855	$ 21.22	$ 24.81
NUNN TEL CO	537	$ 1,465,625	$ 2,729	$ 47,485	$ 88	$ 1,513,110	$ 20.56	$ 30.86
PEETZ COOP TEL CO	212	$ 266,288	$ 1,256	$ 26,441	$ 125	$ 292,729	$ 16.00	$ 20.35
PHILLIPS COUNTY TEL	1,519	$ 1,823,019	$ 1,200	$ 30,847	$ 20	$ 1,853,866	$ 17.70	$ 20.70
PINE DRIVE TEL CO	744	$ 230,623	$ 310	$ 681,059	$ 915	$ 911,682	$ 17.05	$ 18.63
PLAINS COOP TEL ASSN	1,022	$ 2,875,873	$ 2,814	$ -	$ -	$ 2,875,873	$ 20.62	$ 25.25
RICO TEL CO	156	$ 88,435	$ 567	$ 13,015	$ 130	$ 101,450	$ 20.65	$ 25.95
ROGGEN TEL COOP CO	174	$ 463,914	$ 2,666	$ 51,614	$ 297	$ 515,528	$ 17.00	$ 20.50
RYE TELEPHONE CO	1,960	$ 2,443,710	$ 1,247	$ -	$ -	$ 2,443,710	$ 19.70	$ 30.00
SOUTH PARK TEL CO	140	$ 520,956	$ 3,721	$ -	$ -	$ 520,956	$ 29.98	$ 39.98
STONEHAM COOP TEL CO	59	$ 56,563	$ 959	$ -	$ -	$ 56,563	$ 16.26	$ 16.26
STRASBURG TEL CO	1,395	$ 242,961	$ 174	$ -	$ -	$ 242,961	$ 16.40	$ 26.40
SUNFLOWER TEL - CO	183	$ 87,293	$ 477	$ -	$ -	$ 87,293	$ 17.33	$ 21.00
WIGGINS TEL ASSOC	1,434	$ 2,639,644	$ 1,841	$ -	$ -	$ 2,639,644	$ 19.84	$ 23.84
WILLARD TEL CO	57	$ 70,170	$ 1,231	$ 29,042	$ 510	$ 99,212	$ 16.27	$ 16.27
Non-Rural Carrier								
QWEST CORPORATION*	422,933	$ 30,973,955	$ 73	$ 30,250,000	$ 72	$ 61,223,955	$ 17.00	$ 35.02
Competitive LEC								
SAN ISABEL TELECOM, INC.	1,424	$ 159,964	$ 112	$ -	$ -	$ 159,964	$ 12.22	$ 24.31
Wireless Carriers								
N.E. COLORADO CELLULAR, INC., dba VIAERO**		$ 5,507,471		$ 1,684,940		$ 7,192,411	$ 15.00	$ 15.00
NNTC Wireless, LLC***	NA	$ 2,813	$ -	$ 159,365	$ -	$ -		
Other								
NCC, LLC***	NA	$ -		$ -				
TOTAL DISBURSEMENTS		**$ 57,039,125**		**$ 33,478,337**		**$ 90,355,284**		

4th Quarter Support Amounts Projected
Rural Carrier and San Isabel Line counts from 2014 Annual Reports
* Qwest line counts from 2015 Qwest Model Run.
**Viaero line counts excluded from table.
***NNTC and NCC only file one wire center, and wire center specific data is confidential

HCSM Administration

For the fiscal year July 1, 2016, through June 30, 2017, a projected $400,000 will be distributed by the Commission to administer the HCSM and $67,500 will be paid to Solix for managing the HCSM escrow account and performing certain administrative functions. Solix became the new Custodial Receiver for contributions to the HCSM effective November 1, 2011. Solix has been selected to continue as the Custodial Receiver, and continue performing certain administrative functions, for another five years initiating November 1, 2016. Expenditures for administering the HCSM in year 2016 are estimated to be approximately $400,000 (including Solix). The projected Commission administration cost requirement is higher due to the increase in resources for the current proceedings. Personnel service costs for the Commission administration include a percentage of employee wages, data processing, auditing, compliance activities, legal services, expenditures for the acquisition of computer software, and proxy cost model development and review. Solix will be paid $68,800 for the period November 1, 2016 to November 1, 2017.

Conclusion

In 2016, the HCSM fund continued to be negatively affected by declining contributions.

Total contributions in 2015 to the HCSM fund were $43.3 million and projected contributions in 2016 are estimated to be $38.4 million based on the current 2.6 percent surcharge rate. There continues to be a steady decline in wireline revenues as consumers abandon wireline service. Additionally, highly competitive wireless price plans and the proliferation of consumer data packages have resulted in a significant decline in wireless contributions. Distributions in 2015 were $37.2 million. Distributions in 2016 are estimated to be $33.9 million.

As previously discussed, the Commission approval, with modifications, of a Settlement Agreement reached by CenturyLink, Staff, and CTA regarding support amounts to be paid to specific providers of basic service for the calendar years 2015, 2016, 2017, and 2018 for areas not yet found to have effective competition will help provide stability to the HCSM fund in a time of declining contributions. These decisions and the Commission's recent findings of effective competition may enable additional transfers of funding to the Broadband Deployment Board.

However, Viaero's current judicial appeal challenging the Commission's determinations for finding effective competition, modifying the Settlement, and approving HCSM disbursements, creates uncertainty regarding transfers to the Broadband Deployment Board and HCSM distributions.

Appendix 1

Supporting Schedules

Colorado High Cost Support Mechanism
Summary of Contribution & Disbursements

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016*	2017*
DISBURSEMENTS:												
Distributions	$60,773,727	$60,021,134	$59,771,795	$57,404,347	$54,398,318	$54,149,354	$52,765,176	$52,409,830	$53,132,799	$36,853,152	$33,478,337	$33,478,337
Administrative Expenses												
Based on Fiscal Year	$151,800	$156,258	$101,248	$114,809	$108,161	$108,299	$105,530	$104,820	$106,266	$306,730	$400,000	$400,000
Total Disbursements												
& Expenditures	**$60,925,527**	**$60,177,392**	**$59,873,043**	**$57,519,156**	**$54,506,479**	**$54,257,653**	**$52,870,706**	**$52,514,650**	**$53,239,065**	**$37,159,882**	**$33,878,337**	**$33,878,337**
CONTRIBUTIONS:												
Jan 1 through March 31	$15,633,690	$5,135,111	$17,651,067	$14,131,269	$12,656,753	$12,388,848	$15,954,659	$14,849,222	$11,886,125	$11,268,874	$9,881,371	$9,268,103
April 1 through June 30	$19,131,912	$12,418,529	$17,662,447	$13,892,486	$12,302,656	$11,938,072	$15,502,563	$13,579,756	$11,707,425	$10,591,624	$9,526,225	$9,127,398
July 1 through Sept 30	$18,905,820	$15,937,966	$16,883,127	$13,193,954	$12,502,012	$12,992,037	$15,118,777	$12,510,174	$11,608,862	$10,585,684	$9,556,054	$8,988,829
Oct 1 through Dec 31	$7,162,563	$17,231,201	$14,881,831	$12,839,486	$12,094,460	$16,137,809	$15,024,780	$11,927,812	$11,507,483	$10,879,971	$9,410,978	$8,852,363
Total Contributions	**$60,833,985**	**$50,722,807**	**$67,078,472**	**$54,057,196**	**$49,555,881**	**$53,456,766**	**$61,600,778**	**$52,866,964**	**$46,709,896**	**$43,326,153**	**$38,374,628**	$36,236,693

* Contributions, Disbursements and Administrative Expenses for 2016 and 2017 are estimated.

CHCSM Summary of Distributions

Rural Carriers	Gross Distributions Calendar Year 2006	Gross Distributions Calendar Year 2007	Gross Distributions Calendar Year 2008	Gross Distributions Calendar Year 2009	Gross Distributions Calendar Year 2010	Gross Distributions Calendar Year 2011	Gross Distributions Calendar Year 2012	Gross Distributions Calendar Year 2013	Gross Distributions Calendar Year 2014	Gross Distributions Calendar Year 2015	Gross Distributions Calendar Year 2016*
Agate Mutual Telephone Co.	$1,305	$1,305	$14,361	$16,941	$16,941	$16,941	$16,941	$16,941	$16,941	$16,941	$16,941
Delta County Tele-Comm	$93,447	$165,721	$165,721	$165,721	$165,721	$165,721	$165,721	$165,721	$165,721	$165,721	$165,721
Nucla-Naturita	$165,483	$0	$221,852	$242,020	$242,020	$242,020	$282,162	$321,867	$321,867	$321,867	$321,867
Nunn Telephone Company	$0	$36,588	$22,482	$58,540	$58,540	$47,485	$47,485	$47,485	$47,485	$47,485	$47,485
Peetz Cooperative Telephone Co.	$9,562	$5,464	$47,485	$26,441	$26,441	$26,441	$26,441	$26,441	$26,441	$26,441	$26,441
Phillips County Telephone Co.	$204	$168	$168	$30,847	$30,847	$30,847	$30,847	$30,847	$30,847	$30,847	$30,847
Pine Drive	$465,019	$450,075	$450,075	$450,075	$839,269	$681,059	$681,059	$681,059	$681,059	$681,059	$681,059
Rico Telephone Company						$1,255	$13,015	$13,015	$13,015	$13,015	$13,015
Roggen Telephone	$5,587	$4,648	$35,345	$51,614	$51,614	$51,614	$51,614	$51,614	$51,614	$51,614	$51,614
Willard	$0	$0	$0	$0	$11,366	$29,042	$29,042	$29,042	$29,042	$29,042	$29,042
Non-Rural Carrier											
Qwest Corp.	$57,947,414	$57,241,560	$56,787,689	$53,952,430	$50,346,487	$50,069,355	$48,553,314	$47,459,168	$45,924,343	$30,250,000	$30,250,000
Wireless Carriers											
NE Colorado Cellular	$2,085,706	$2,115,605	$2,026,785	$2,409,718	$2,608,961	$2,787,574	$2,796,321	$2,970,135	$4,549,994	$4,874,113	$1,684,940
NNTC							$31,509	$150,547	$154,276	$159,365	$159,365
NCC, LLC										$185,643	$7,315
Undesignated Carriers											
Projected Additional Carriers	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Totals	**$60,773,727**	**$60,021,134**	**$59,771,963**	**$57,404,347**	**$54,398,206**	**$54,149,354**	**$52,725,471**	**$53,316,719**	**$52,012,645**	**$36,853,152**	**$33,485,652**

* NECC projected for 2016.
* Distribution amounts per Commission Decision No. C16-0027

Colorado High Cost Support Mechanism Rate Element

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1st Qtr	2.90%	1.60%	2.70%	2.20%	2.20%	2.20%	2.90%	2.90%	2.60%	2.60%	2.60%	2.60%
2nd Qtr	2.90%	2.70%	2.70%	2.20%	2.20%	2.20%	2.90%	2.60%	2.60%	2.60%	2.60%	2.60%
3rd Qtr	2.90%	2.70%	2.20%	2.20%	2.20%	2.90%	2.90%	2.60%	2.60%	2.60%	2.60%	2.60%
4th Qtr	1.60%	2.70%	2.20%	2.20%	2.20%	2.90%	2.90%	2.60%	2.60%	2.60%	2.60%	2.60%

Appendix 2

HCSM History

The Commission adopted its first explicit HCSM in 1990. The Commission adopted rules that prescribed procedures for separating telecommunications costs, revenues, expenses, and reserves for access charges for Local Exchange Carriers and established the Colorado High Cost Fund (CHCF). As discussed in more detail below, the CHCF was later renamed the HCSM along with other minor modifications.

Senate Bill (SB) 92-16 was enacted on April 16, 1992, amending Article 15 of Title 40, Colorado Revised Statutes, by the addition of a new section, § 40-15-208, C.R.S. The new section codified the creation of the CHCF and authorized the Commission administration of the fund. To provide direct oversight of activities and performance of the CHCF, the Commission implemented rules, Rules Regulating Telecommunications Providers, Services, and Products now found at 4 *Code of Colorado Regulations* (CCR) 723-2-2840 through 2855.

On May 24, 1995, HB 95-1335 (Colorado Act) was enacted. The Colorado Act, in part, modified the statutory definition of Basic Service, amended the section establishing the HCSM, and added a new Part 5 to Article 15 of Title 40, providing for local exchange service competition.

The Colorado Act gave an expression of state policy that:

> The commission shall require the furtherance of universal basic service, toward the ultimate goal that basic service be available and affordable to all citizens of the state of Colorado. . . The commission may regulate providers of telecommunications services to the extent necessary to assure that universal basic service is available to all consumers in the state at fair, just, and reasonable rates.
>
> § 40-15-502(3)(a), C.R.S.

The Commission was given further instruction by the expression of state policy that:

> In order to accomplish the goals of universal basic service . . . the commission shall create a system of support mechanisms to assist in the provision of basic service in high-cost areas that are without effective competition for basic service . . . The Commission shall fund these support mechanisms equitably and on a non-discriminatory, competitively neutral basis through assessments, . . . on all telecommunications service providers in Colorado . . . .
>
> § 40-15-502(5)(a), C.R.S.

The bill modified the HCSM portion of the law, § 40-15-208, C.R.S., to ensure that all providers of basic local exchange service in high cost areas are reimbursed for the difference between the costs incurred in making basic service available to customers within a rural high cost geographic support area and the affordable price for such service.

The Commission adopted specific rules implementing these statutory guidelines. The Commission conducted rulemakings in Proceeding Nos. 95R-558T and 97R-043T regarding the HCSM. Non-rural incumbent telecom providers are currently regulated by Commission rules requiring cost estimates based on a proxy cost model estimate. These proxy cost estimates are then compared to a revenue benchmark with the resulting differential funded by the HCSM for EPs. Rural incumbent telecommunications providers are currently regulated by Commission rules requiring cost estimates based on the actual embedded cost of service demonstration net of relevant revenues. The HCSM is funded by a customer surcharge on intrastate retail revenues from telecommunications services. The Commission requires telecommunications service providers to collect and remit the surcharge based on its end-user intrastate telecommunications service revenues. Incumbent EPs that receive support are net recipients from the HCSM.

In 1998, Qwest entered into a Stipulation and Settlement Agreement with the Commission freezing the annual support for Qwest until a sufficient proxy model could be developed. In 2002, the parties in Proceeding No. 98M-147T (Regarding the Administration of the Colorado High Cost Fund and the Adoption of a Proxy Cost

Model) met and agreed to use the results produced by the Federal Communications Commission's (FCC) Hybrid Cost Proxy Model (HCPM) to establish wire-center specific cost support for Qwest for calendar year 2003. On August 1, 2003, upon Qwest's receipt of increased high cost support from the implementation of the Commission's Order granting it support for all lines, Qwest eliminated zone charges outside its base serving area for over 225,000 of its Colorado telephone lines. The elimination of Qwest zone charges reduced some residential rates by as much as $20.00 per line per month and some business rates by as much as $25.00 per line per month.

On May 18, 1998, SB 98-177 was enacted which further modified § 40-15-208(2)(d)(I), C.R.S., by changing the name of the program to the "Colorado High Cost Support Mechanism," and required that the HCSM not exceed $60 million during each of the calendar years 1998 and 1999. Further, SB 98-177 required that a report be prepared by the Commission accounting for the operation of the HCSM, and that the report be submitted to the General Assembly on or before December 1st of each year. The Commission adopted interim rules[5] and, subsequently, permanent rules[6] implementing SB 98-177.

During 1999, in conjunction with the proceeding conducted by the Commission to review the definition of Basic Local Exchange Service as required by § 40-15-502(2), C.R.S., the Commission further addressed HCSM rule issues. The Commission reiterated its decision to support only the primary residential line and the first business line in non-rural high cost areas, and on an interim basis to continue support to all access lines in rural high cost areas.

In 2003, the Commission adopted Rule 4 CCR 723-41-9.2.3 (recodified 4 CCR 723-2-2848(d)(II), effective April 1, 2006), which extended HCSM support to all residential and business lines to non-rural providers in this state.

In 2004, the Commission continued its investigation into the adoption of the high

[5] *See* PUC Proceeding No. 98R-334T.
[6] *See* PUC Proceeding No. 99R-028T.

cost proxy model (Proceeding No. 98M-147T). The Commission approved the use of results from the FCC's HCPM, with modifications made to accommodate the specific needs of Colorado telecommunications providers, and to provide wire center-specific cost support to Qwest. The Commission approved a Stipulation which used average monthly costs per line produced from the HAI Consulting, Inc. 5.2 model, including Staff adjustments made in Proceeding No. 99A-577T, Qwest's updated 2003 Automated Reporting Management Information System data, and updates to the model's line count information. Use of this methodology resulted in HCSM funding to Qwest in the amount of $58,386,874 for the calendar year 2005. Following this Stipulation, Proceeding No. 98M-147T was closed and a new proceeding was opened to consider future cost methodologies. Proceeding No. 04M-388T was opened and is on-going to consider further development of Proxy Cost Models used to establish Qwest's yearly HCSM draw.

In 2005, Viaero became the first wireless carrier to begin drawing HCSM support. Viaero is eligible to receive HCSM support on a per line basis, based on the amount the underlying incumbent carrier receives in support for that wire center and on the number of Viaero lines.

In 2005, the Commission opened an investigatory proceeding (05I-431T) for the purpose of examining the HCSM process. Seven workshops were conducted where parties discussed in detail their views on issues. An Administrative Law Judge (ALJ) attended the workshops and issued a report to the Commission that outlined the discussions that took place during the workshops.

During its regular 2005 session, the Colorado General Assembly enacted HB 05-1203 which became effective on July 1, 2005. This bill added two clarifying definitions to the statutes:

> a) "Distributed Equitably" to mean a distribution of funds that is accomplished using regulatory principles that are neutral in their effect, that do not favor one class of providers over another, and do not cause any eligible rural telecommunications provider to experience a reduction

> in its high cost support mechanism requirement based on commission rules that are not applicable to other telecommunications providers.
>
> b) “Non-discriminatory and competitively neutral basis” refers to distributions that are made by the commission shall be made using regulatory principles that are neutral in their effect, do not favor one class of providers over another, and do not impose regulatory requirements or costs on only one class of customers.

The Commission adopted emergency rules in Proceeding No. 05R-381T in response to the passage of HB 05-1203. The Commission took this emergency action to ensure that high cost support was distributed in a nondiscriminatory manner and that regulatory requirements are not imposed on one set of carriers without having them imposed on all. The emergency rules eliminated the provision for rural carriers which would phase-down HCSM support over a seven-year period, from 100 percent in the first and second year, to zero during the seventh year.

The Commission adopted permanent rules[7] to address the implementation of the new statutory language the Colorado General Assembly enacted in HB 05-1203 in 2006. The purpose of the legislation was to eliminate any inequitable treatment in the distribution of HCSM support and to ensure that the HCSM be implemented in a manner that is nondiscriminatory and on a competitively neutral basis. The rules adopted eliminated the longstanding practice of applying a general rate case filing process to establish earning requirements as the basis for setting the initial or increased HCSM draw. Going forward, the initial level of support and any increases in support are determined using streamlined data and analysis requirements as set forth by the Commission’s Decision No. C07-0919 issued in Proceeding No. 07M-124T on November 9, 2007. The new rules required a single page form for rate-of-return companies to file on an annual basis. If there was an indication that an over-earnings situation exists, Staff may initiate a formal complaint.

In February 2006, the Commission opened an investigatory proceeding (Proceeding No. 06I-084T) to consider the revision of the definition of basic local exchange

[7] *See* Proceeding No. 05R-529T.

telephone service (basic service). The Commission found that the existing definition of basic local exchange telephone service continued to meet the goal of maintaining the affordability and quality of basic local exchange service.

In June 2006, the FCC issued an order (FCC 06-94 Report and Order and NPRM) in its IP Enabled Services and Universal Service Fund (USF) dockets that established universal service contribution obligations for providers of interconnected VoIP. While the FCC acknowledged VoIP as a mixed use service (*i.e.,* interstate and intrastate) and concluded that VoIP providers are telecommunications providers,[8] the FCC has not yet defined VoIP as a telecommunications service or an information service. The FCC has declared that interconnected VoIP providers have three options to determine their interstate revenues for which they can assess the USF rate: 1) they may use the interim safe harbor provision established by the FCC at 64.9 percent interstate; 2) they may report their actual interstate telecommunications revenues; or 3) they may rely on traffic studies to allocate interstate revenues. In this same order the FCC raised the interim safe harbor percentage for USF contributions from 28.5 percent to 37.1 percent for wireless providers.

On May 2, 2008, the FCC released an order that places an "interim emergency cap" on the amount of high cost universal service funding available to competitive eligible telecommunications carriers (CETCs). The order, which came in response to a Recommended Decision by the Federal-State Joint Board on Universal Service, caps the amount of universal support for CETCs at the amount available in each state as of March 2008, on an annualized basis. The FCC's action effectively eliminated the identical support rule and gave wireless carriers the opportunity to file for support based on its own costs. Rural cellular operators have asked a federal appeals court to review the FCC's action of placing a cap on the high cost universal service funding available to competitive ETCs. The U.S. Court of Appeals denied the carriers' petition for review of the FCC's actions.

[8] *See* Report and Order and Notice of Proposed Rulemaking, FCC 06-94, released June 27, 2006.

In 2008, the Commission opened a rulemaking proceeding to comprehensively examine the HCSM rules prescribing the implementation of HCSM. Proceeding No. 08R-476T was terminated in 2009 by operation of law due to rules not being adopted within 180 days after the last public hearing in the matter. Proceeding No. 10R-191T was opened in April 2010 with proposed changes to existing rules to accommodate new regulatory schemes, changes in the federal USF program, and recent proceedings that have directly impacted the HCSM rules. Changes to the existing rules were implemented on January 1, 2012.

In July 2009, the Commission opened an investigatory proceeding (Proceeding No. 09I-493T) to consider the revision of the definition of basic local exchange telephone service (basic service). The Commission found that the current definition of basic service met the goal of maintaining affordability and quality of basic service.[9]

Pursuant to SB 09-272, signed by Governor Bill Ritter on May 1, 2009, and SB 09-279, signed by Governor Bill Ritter on June 1, 2009, Staff, as Administrator of the HCSM fund, transferred $15,000,000 to Fund 227, the Colorado High Cost Administration Fund, and that money was then moved to the State of Colorado General Fund. This transfer occurred in June 2009.

On July 30, 2010, Western Wireless Holding Co., Inc. (Western Wireless) filed an application to relinquish its ETC and EP designations in Colorado due to the company being acquired by Cellco Partnership, doing business as Verizon Wireless.[10] The support amount Western Wireless received for Colorado will be redistributed to other competitive ETC providers in Colorado.[11]

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[9] *See* Commission Decision No. C09-1411 issued in Proceeding No. 09I-493T issued on December 21, 2009.

[10] *Application of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses. Authorizations, and Spectrum Manager and de Facto Transfer of Leasing Arrangements,* WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444 (2008).

[11] Western Wireless received approximately $3.6 million per year in federal support for providing service in high cost areas.

Qwest increased their rate for basic local exchange service to $17.00 effective October 1, 2010. The PUC decision approving the $17.00 rate was challenged in the Supreme Court. The Supreme Court upheld the $17.00 basic exchange service rate for Qwest in a decision issued April 30, 2012. In addition, independently the Commission Rules adopted in Proceeding No. 10R-191T required Qwest (and other providers seeking HCSM funds) to impute a residential benchmark of $17.00 and a business benchmark of $35.02. These changes affected the carrier's future support amount.[12]

On April 7, 2010, the Commission opened Proceeding No. 10R-191T - Notice of Proposed Rulemaking to address proposed changes to the HCSM Commission Decision No. C11-0232. In summary, these rules adopted a mechanism to set the benchmark rates, a phase-down of the HCSM fund, an extraordinary circumstance rule for additional support, retained the identical support rule, and did not adopt an explicit mandatory contribution to the HCSM by VoIP providers.

Upon reconsideration of comments filed by the providers, the Commission rescinded the phase-down approach in Decision No. C11-0232 issued March 3, 2011. However, the Commission retained the benchmark statewide average rate for residential service and business service at $17.00 and $35.02. In addition, they retained the identical support rule, the extraordinary circumstance requirement, and did not explicitly require VoIP providers to contribute to the fund, as well as clarified certain rules. The Commission withdrew the phase-down approach in favor of a more comprehensive review currently being undertaken in the telecommunications reform proceeding, Proceeding No. 10M-565T (*see* discussion below). However, the Commission determined that by retaining the benchmark rates, the HCSM fund would not be providing subsidies greater than necessary. These rules reduced the HCSM support amount for new carriers seeking support and for carriers that seek to reset their support amount. The rules were implemented in January 2012.

[12] Carriers seeking additional HCSM support with local exchange rates below the new benchmark rates will have to impute the new benchmark rates when calculating their revenue.

In August 2010, the Commission convened a Telecommunications Advisory Group (TAG) to discuss and inform the Commission on necessary changes in three key areas of reform: retail services deregulation, universal service, and intrastate access. These issues were analyzed in Proceeding No. 10M-565T, and led to the initiation of Proceeding No. 12R-862T which proposed amended rules to set forth a regulatory framework for determining the existence of effectively competitive areas, the elimination of funding from the HCSM in effectively competitive areas, addressing limited regulatory treatment of IP-enabled and Interconnected VoIP services, and making permanent certain previous emergency rules set forth in Rules 2202, 2203, 2843, and 2856. The Commission held multiple Commission Information Meetings and collected important data regarding competition in the telecommunications marketplace in Colorado. In parallel with the TAG efforts, (SB 12-157), also known as the Telecom Modernization Act of 2012, was introduced. This bill sought to reform the telecommunications laws and establish certain policy directives and implementation methodologies. While the introduction of the bill furthered the dialogue regarding the Colorado telecommunications marketplace, the bill was postponed indefinitely on May 4, 2012.

SB 10-1281 would have permanently exempted interconnected VoIPs from regulation by the PUC. In addition, SB 10-1281 would have reclassified Qwest's local exchange service from Part 2 to Part 3 in the State telecommunications framework. Part 3 service means that it would be subject to less regulation. This bill was vetoed by the Governor on June 7, 2010. SB 11-262 was introduced on April 25, 2011 and would have eliminated price regulation for all but basic local exchange service and emergency service and phased out the HCSM by 2025. It would also have explicitly required VoIP providers to contribute to any HCSM, and would have required intrastate access rates to eventually match interstate rates. The bill was postponed indefinitely on May 4, 2012.

On October 28, 2010, the FCC adopted rules that states may require nomadic interconnected VoIP service providers to contribute to state USFs. States can base their USF assessments on the portion of VoIP revenues that fall outside federal USF assessments on interstate VoIP revenues, whether that is the 35.1 percent of revenues outside the 64.9 percent of revenues that fall under a safe harbor in the 2006 FCC order, the revenues attributed to intrastate traffic by a providers' traffic study, or a provider-developed means of accurately classifying interconnected VoIP communications between federal and state jurisdictions. The state USF assessments cannot be retroactive.

The Commission addressed proposed HCSM rule changes in 2011. Based on the Commission's own motion, the phase-down rule of the proposed HCSM rule changes was not adopted because the Commission believed that the better venue to discuss the size of the HCSM fund was the telecom reform effort, Proceeding No. 10M-565T. However, the Commission retained the benchmark statewide average rate for residential service and business service at $17.00 and $35.02. In addition, they retained the identical support rule, the extraordinary circumstance requirement, and did not explicitly require VoIP providers to contribute to the fund, as well as clarified certain rules. However, the Commission determined that by retaining the benchmark rates, the HCSM fund would not be providing subsidies greater than necessary. The telecom reform effort examined universal service, access reform, retail deregulation, and took into account FCC activity.

The Commission adopted emergency rules in Decision No. C12-0179, Proceeding No. 12R-148T issued February 21, 2012, as a result of enactments made in the Federal Communications Report and Order and Notice of Proposed Rulemaking, issued November 18, 2011. In addition to capping the HCSM fund to $54,000,000, as previously discussed, switched access charges were capped by rate elements for both ILECs and CLECs. Proposed updates to make these rules permanent were adopted in Proceeding No. 12R-862T, Decision No. C12-1442 issued December 17, 2012, as discussed below.

On August 1, 2012, the Commission opened Proceeding No. 12R-862T, commencing a three-phase approach to update and reform Rules 4 CCR 723-2. The goal was to achieve reduced regulation where appropriate, including appropriate reductions to the HCSM, and to clean-up and modernize the telecommunications rules. In addition to the first phase, outlined in the subsequent paragraph, in the second phase the Commission opened an adjudicatory proceeding to determine the specific areas of the state that are subject to effective competition for basic local service.

On August 16, 2013, the Commission opened Proceeding No. 13M-0877T[13] to consider CHCSM rule amendments in anticipation of applications for CHCSM funding in areas to be subject to effective competition for basic services and to consider possible rule revisions to the CHCSM. The proceeding was also opened to update CHCSM rules pursuant to the triennial review as contemplated in 4 CCR 723-2-2850. On October 27, 2015, the ALJ's report was issued to the Commission in this proceeding. This report provided a number of recommendations for the HCSM that the Commission has, and will, take into consideration.

[13] *See* Decision No. C13-0958.

Appendix 3

Telecommunications Reform Legislation

In May, 2014, Governor Hickenlooper signed into law five bills revising Article 15, Title 40, of the Colorado Revised Statutes governing the provision of telecommunications services in the state. These bills include HB 14-1327, HB 14-1328, HB 14-1329, HB 14-1330, and HB 14-1331.

HB 14-1327 establishes key sales and uses tax exemptions for broadband carriers to encourage companies to invest in rural and underserved areas of the state. In addition, HB 14-1327 establishes requirements for state and local governments regarding permitting, trenching notice, and right-of-way.

HB 14-1328 creates a broadband fund and establishes a Broadband Deployment Board. "The board is an independent board created to implement and administer the deployment of broadband service in unserved areas from the fund." Section 40-15-509.5(5)(a), C.R.S. The broadband fund consists of moneys allocated from the HCSM to provide access to broadband service through broadband networks in unserved areas pursuant to § 40-15-208(2)(a)(I)(B), C.R.S., which moneys shall be transferred to the fund upon allocation, and all moneys that the general assembly may appropriate to the fund. HB 14-1328 grants authority to the Commission to transfer HCSM funds under specified conditions: "[T]he commission may transfer to the broadband deployment board only the moneys that it determines are no longer required by the HCSM to support universal basic service through an effective competition determination."

HB 14-1329 deregulated many services, including IP-enabled and VoIP services, but retained Commission regulatory authority over switched access, basic emergency service, and basic service in limited circumstances. HB 14-1330 updates telecommunications terminology for intrastate telecommunications services. The bill modifies, minimally adding but mostly eliminating, existing statutes related to telecommunications definitions contained in § 40-15-102, C.R.S., and almost the entirety of § 40-15-503, C.R.S., related to the opening of competitive markets (mostly obsolete or existing in federal requirements).

HB 14-1331 revises, in part, § 40-15-401, C.R.S., by deregulating basic service subject to certain exceptions, including that the Commission will continue to regulate providers in areas where the Commission provides high cost support for basic service. HB 14-1331 also revises § 40-15-208, C.R.S., to specify that the HCSM established by the Commission is to provide financial assistance to local exchange providers in areas without effective competition. HB 14-1331 also retained several time-bound obligations for ILECs as to the price of basic service and the obligation to serve in an area. Section 40-15-401(1)(b)(II)(A), C.R.S., requires ILECs to charge a uniform price throughout their service territory until July 1, 2016. The price charged cannot exceed the price they charged on December 31, 2013 unless the price charged is lower than the urban rate floor prescribed by the FCC.

Current Commission Proceedings

In April 2016, the Commission opened a proceeding to consider whether funds were no longer required to support basic service due to the recent findings of effective competition. If funds were available, the Commission would transfer HCSM funds to the Broadband Deployment Board, consistent with statute. Comments were filed in the proceeding by the Broadband Deployment Board, Staff, CenturyLink, CTA, and Viaero. The Broadband Deployment Board states that it is aware of the judicial review Viaero filed in Morgan County District Court of the Commission's decisions finding effective competition, modifying the settlement, and providing HCSM disbursements. The Broadband Deployment Board expressed concerns about being the recipient of funds that may be encumbered. No additional decisions have been issued in the proceeding.

Viaero's currently pending judicial appeal and the Morgan County District Court orders granting a "stay or suspension" of effective competition determinations create uncertainty regarding potential transfers of funding in this proceeding.

Appendix 4

Coordination of State and Federal Universal Service Support

The HCSM is coordinated with the Federal USF. As a result of the USF offset, the rural carriers receive proportionally more support from the USF fund than from the HCSM. Conversely, Qwest receives more support from the HCSM than it does from the Federal USF.

The Federal USF has historically consisted of five components of support:

1) High Cost Loop with two subcomponents – Safety Valve Support and Safety Net Additive Support;

a) High Cost Loop Support – available to rural ETCs and to competitive ETCs - provides support for the "last mile" of connection for rural companies in service areas where the cost to provide this service exceeds 115 percent of the national average cost per line. Qwest and Rico Telephone Company, Inc. are the only ETCs that do not receive this support.

b) Safety Net Additive Support - is intended to provide carriers with additional incentives to invest in their networks. To qualify, a rural carrier must show that growth in a telecommunications plant in service (TPIS) per line is at least 14 percent greater than the study area's TPIS per line in the prior year. Six rural ETCs (Agate Mutual Telephone Cooperative Association, Blanca Telephone Company, Nunn Communications LLC, Peetz Cooperative Telephone Company, Plains Cooperative Telephone Association, Inc., Rye Telephone Company, and Willard Telephone Company) receive this support as well as Western Wireless and Viaero.

c) Safety Valve Support – additional support for carriers that buy or acquire exchanges and make substantial post-transaction investments to enhance network infrastructure. There are no ETCs in the State of Colorado that receive this support.

2) High Cost Model Support (HCM) - support intended to keep the cost for telephone service comparable in all areas (urban and rural) of a state. HCM support is distributed at the wire center level and is targeted to carriers serving wire centers with forward-looking costs that exceed the national benchmark. There are no ETCs in the State of Colorado that receive this support.

3) Interstate Access Support – available to non-rural ETCs and to some competitive ETCs. This support was established when the FCC removed implicit support from interstate access charges and established an explicit component for price-cap carriers. El Paso, Qwest, Viaero, and Western Wireless receive this support.

4) Interstate Common Line Support – available to rural ETCs and some competitive ETCs to help offset interstate access charges and is designed to permit each rate-of-return carrier to recover its common line revenue requirement, while ensuring that its subscriber line charges remain affordable to its customers. All carriers receive this support with the exception of El Paso and Qwest.

5) Local Switching Support – available to rural ETCs and some competitive ETCs to reimburse some high switching cost in order to provide service to fewer customers. All carriers receive this support with the exception of CenturyTel of Eagle and Qwest.

Effective January 1, 2012, the FCC froze all support under their high-cost support mechanisms, HCLS (includes Safety Net Additive Support, forward-looking model support (HCMs), safety valve support, Local Switching Support (LSS), Interstate Access Support, and Interstate Common Line Support on a study area basis for price cap carriers and their rate-of-return affiliates. The FCC will provide on an interim basis frozen high-cost support to such carriers equal to the amount of support each carrier received in 2011 in a given study area. Further, frozen high-cost support will be reduced to the extent that a carrier's rates for local voice service fall below an urban local rate floor. In addition, effective January 1, 2012, the FCC eliminated LSS as a separate support mechanism.

The FCC also limited corporate operations expense, implemented a phased-in approach for carriers that maintained artificially low voice rates, phased out the Safety Net Additive support, eliminated support in study areas where an unsubsidized facilities-based competitor provides voice and broadband service and caps the per-line support at $250 per month.

While many of the effects of these FCC changes and their impacts are not known, any reductions in federal USF support or changes to the intercarrier compensation process could place additional pressure on EPs in Colorado to seek new or additional HCSM support.

Connect America Fund

The Connect America Fund (CAF) is a federal universal service support mechanism to encourage the deployment of systems that are capable of providing both voice and high-speed internet access in rural areas. CAF is intended to accelerate the transition from circuit-switched networks to IP networks. CAF Phase I, which began in 2012, was designed to accelerate broadband deployment by providing one-time support to price cap carriers. In Phase I, the FCC froze legacy high-cost support and made available on a voluntary basis, additional money in the form of CAF support. CAF Phase II support is designed to support deployment of networks that provide voice and broadband service in unserved areas.

CenturyLink was allocated $6.1 million in CAF I Phase I support and $1.7 million in CAF I Phase II to support broadband in unserved locations. On August 27, 2015, CenturyLink notified the FCC of its acceptance of CAF Phase II support for Colorado to bring high-speed internet access to customers in unserved areas. This is a six-year buildout commitment of $26,509,143.

The FCC created the CAF Mobility Fund as the first universal service mechanism dedicated to mobile broadband networks in areas that might not have been built out without it. The CAF Mobility Fund also has two phases; Phase I provides one-time support and Phase II provides on-going support in unserved high-cost areas.

The Settlement requires CenturyLink to accept the FCC's offer of model-based CAF II support for Colorado.