- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of Direct Communications Cedar Valley, LLC, for a Rebalance of Rates and Support from the State Universal Service Support Fund	DOCKET NO. 07-2419-03 REPORT AND ORDER APPROVING STIPULATION

ISSUED: July 15, 2008

SYNOPSIS

Having concluded the Stipulation between Direct Communications Cedar Valley, LLC and the Division of Public of Utilities attached hereto is just and reasonable in result and is in the public interest, the Commission approves the same and thereby approves the rates and charges for telecommunications services and support from the state Universal Service Support Fund as contained in the Stipulation.

By The Commission:

I. PROCEDURAL HISTORY

On December 6, 2007, Direct Communications Cedar Valley, LLC ("DCCV" or "Company") filed a Petition requesting Commission approval for a rebalance of the Company's rates and charges for telecommunications services provided in the state of Utah and for support from the State Universal Service Support Fund ("USF") in an annual amount of $2,317,889.

Also on December 6, 2007, DCCV filed a Motion for Protective Order, which Order was issued by the Commission on December 11, 2007.

On July 2, 2008, following substantial negotiations and information exchange, DCCV and the Division of Public Utilities ("Division") (hereinafter jointly referred to as the "Parties") filed for Commission approval a Stipulation resolving between them the issues presented in this docket.

On July 10, 2008, the Committee of Consumer Services ("Committee") filed a memorandum detailing its review of the Stipulation, its conclusion that the Stipulation represents a just and reasonable outcome, and its recommendation that the Commission approve said Stipulation.

Also on July 10, 2008, the Administrative Law Judge ("ALJ") held a duly-noticed evidentiary hearing on DCCV's Petition, including the Stipulation. DCCV was represented by David R. Irvine. Michael L. Ginsberg, Assistant Attorney General, appeared for the Division. Christopher Luras and William Duncan, Division technical analysts, presented testimony in support of the Stipulation. Eric Orton appeared on behalf of the Committee to introduce into evidence the Committee's July 10, 2008, filing. No party appeared in opposition to the Stipulation.

At the conclusion of the evidentiary hearing, a Public Witness hearing was held before the ALJ. No individuals appeared at said hearing to provide testimony or statements for or against the Petition or Stipulation.

II. THE STIPULATION

The Stipulation contains the following principal terms and conditions. This description of the Stipulation is made for convenience of reference only and is not intended to modify the terms and conditions of the Stipulation appended to this Order.

In paragraph 1 of the Terms of Stipulation, the Parties agree DCCV's beginning state USF support for 2008 shall be $732,972, and the Company shall be immediately eligible to receive state USF support in the amount of $61,081 per month beginning with the first payment for May 2008.

In paragraph 2 of the Terms of Stipulation, the Parties agree the annual estimated state USF shall be reduced to $588,306, or $49,025 per month, starting January 1, 2009.

In paragraph 3 of the Terms of Stipulation, the Parties agree, effective August 1, 2008, the Company's residential and business Extended Area Service rates shall be decreased to $2.50 per line per month. In addition, customer rates shall be reduced to the affordable base rate of $16.50 for residential customers and $26.50 for business customers, also effective August 1, 2008.

In paragraph 4 of the Terms of Stipulation, the Parties agree the annual federal USF utilized in the Company's revenue requirement calculation shall be the actual amount received from February 2008 to July 2008. For the duration of 2008, the forecasted amount will be employed. The estimated annual federal USF for 2008 is $321,139, which has been utilized in the revenue requirement calculation.

In paragraph 5 of the Terms of Stipulation, the Parties agree the estimated annual federal USF beginning January 1, 2009, shall be adjusted to $465,804, which amount has been utilized in the 2009 revenue requirement calculation.

In paragraph 6 of the Terms of Stipulation, the Parties agree to several adjustments to the Company's revenue requirement, as represented in the confidential exhibit attached to the Stipulation. The federal tax rate employed is a blended effective tax rate derived by taking the sum of the effective tax rates of each Company owner proportionate to their share of ownership. Company operating expenses for 2008 are reduced by $19,000. Approximately $1,056,790 of capital expenditures for improvements have been removed and excluded from the Company's rate base. The Parties agree to an authorized return on equity of 11.11%. The

Company's actual cost of debt, 5.05%, is employed, together with an approved capital structure of 35% equity.

In paragraph 7 of the Terms of Stipulation, the Parties agree the Division and the Company shall direct a one-year USF true-up for the year ending December 31, 2008, and for the portion of 2009 preceding the review. This true-up will be based on the variance of the estimated National Exchange Carrier Association ("NECA") settlements and the federal USF payments received by the Company; specifically, if the sum of the actual NECA settlements and federal USF payments is greater than the estimates used in the Stipulation, the Company shall pay back the difference to the state USF. Conversely, if the actual amounts received are less than the estimates, the state USF will pay the Company the difference.

In paragraph 8 of the Terms of Stipulation, the Parties agree the Division will review the Company's NECA settlements and federal USF payments beginning June 15, 2009, which is the earliest estimated time that the Company will have actual payment information. On this date, the Company will file with the Commission and all parties its actual federal USF payments and NECA settlement payments, which the Division will validate through its review. This review shall establish the Company's state USF payment going forward, and will establish any amount subject to true-up as calculated above.

III. DISCUSSION

Settlement of matters before the Commission is encouraged at any stage of proceedings.[1] The Commission may approve a stipulation or settlement after considering the

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[1] Utah Code Ann. § 54-7-1. *See also Utah Dept. of Admin. Services v. Public Service Comm'n,* 658 P.2d 601, 613-14 (Utah 1983).

interests of the public and other affected persons if it finds the stipulation or settlement in the public interest.[2] Parties to a proceeding not joining in a stipulation or settlement shall be entitled to oppose the stipulation.[3] No party has done so in this case. The Commission may approve a stipulation or settlement if the Commission finds on the basis of the evidence presented that the settlement proposal is just and reasonable in result and is in the public interest.[4] In reviewing a settlement stipulation, the Commission may also consider whether it was the result of good-faith, arms-length negotiations.[5]

The ALJ has carefully reviewed the record in this matter, all issues raised by the Parties, and the arguments and evidence of the Parties with respect to those issues. Based upon this review, the ALJ finds the rates and charges for telecommunications services and support from the state Universal Service Support Fund as contained in the Stipulation are just and reasonable.

The ALJ therefore finds and concludes the terms of the Stipulation represent a just and reasonable resolution of the issues raised by the Petition. The ALJ further finds and concludes approval of the Stipulation is in the public interest and therefore recommends the Commission approve the Stipulation as a just and reasonable settlement between the Parties to this docket. However, as the Commission has indicated in previous orders approving settlement

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[2] *Id.*

[3] Utah Code Ann. § 54-7-1(3)(e)(ii).

[4] Utah Code Ann. § 54-7-1.

[5] *Utah Dept. of Admin. Services,* 658 P.2d at 614, n.24.

stipulations, Commission approval is not intended to alter any existing Commission policy or to establish any precedent by the Commission.

The ALJ notes the exhibit attached to the Stipulation contains information claimed as proprietary and confidential that shall remain subject to the terms and conditions of the Protective Order previously entered in this docket.[6]

Wherefore, based upon the foregoing information, and for good cause appearing, the ALJ enters the following proposed

IV. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Stipulation appended hereto, along with its referenced exhibit, is approved and adopted, and incorporated in its entirety by reference.

2. The rates and charges for telecommunications services and support from the state Universal Service Support Fund as contained in the Stipulation, and referenced above, are approved.

This Order constitutes final agency action in this docket. Pursuant to Utah Code Ann. §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is

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[6] Due to this claimed confidentiality, the exhibit is not included with the copy of the Stipulation appended to this Order. However, said exhibit remains available in the records of the Commission for inspection by those who agree to abide by the terms of the Protective Order.

deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Utah Code Ann. §§ 63-46b-14 and 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 15th day of July, 2008.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 15th day of July, 2008, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#58076

APPENDIX

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BEFORE THE UTAH PUBLIC SERVICE COMMISSION

In the Matter of the Petition of Direct Communications Cedar Valley, LLC, for a Rebalance of Rates and Support from the State Universal Service Support Fund.	)))))	STIPULATION Docket No. 07-2419-03

Pursuant to Utah Code Ann. 54-7-1 and Utah Administrative Rules R746-100(10)(F)(5) Direct Communications Cedar Valley LLC and the Division of Public Utilities (Division) enter into this Stipulation to resolve all outstanding issues in Direct's Petition in this Docket.

PROCEDURAL HISTORY

1. On December 5, 2007, Direct Communications Cedar Valley, LLC ("DCCV" or "the Company" hereinafter) filed its petition with the Commission for a rebalancing of the Company's rates and charges for telecommunications services provided in the state of Utah and for support from the state Universal Service Support Fund. In support of this petition, DCCV filed supporting documentation making representations as follows:

a. DCCV is the certificated provider of telecommunications services within the city of Eagle Mountain, Utah. It was issued a Certificate of Convenience and Necessity on August 9, 2004, and it commenced operations on February 1, 2006.

b. In its application for certification, DCCV represented that it could not indefinitely operate the Eagle Mountain system without federal and state Universal Service Fund support.

c. Immediately following the Company’s receipt of this Commission’s Order in 2004 approving the Company’s purchase of the Eagle Mountain system, DCCV filed a petition with the Federal Communications Commission (“FCC” hereinafter) requesting immediate support for its operations through the federal Universal Service Fund. DCCV currently receives Federal USF support. The February 2008 level has been incorporated into this Stipulation.

d. DCCV has operated without support from the Utah Universal Service Support Fund (“State USF” herein) (except for Lifeline service).

e. Pursuant to the terms of the Stipulation and Order approved by this Commission on August 9, 2004, DCCV was required to operate without receiving State USF for a period of eighteen months from the date it commenced operation. The stated reason for this delay was to permit the collection of actual data necessary to support the Company’s revenue requirement and rate structure over that period of time (Stipulation in Docket No. 04-2419-01, paragraph 8(k) at page 26.)

f. That eighteen month period ended on August 1, 2007, based on the Company’s commencement of operations as of February 1, 2006.

g. The Company's rates are higher than the base affordable rate for certain other independent telephone companies in the state who are eligible for State USF support. DCCV requested that it receive $2,317,889 annually from the State USF.

h. DCCV in its filing proposed a test year ending August 2007.

2. On December 5, 2007 DCCV filed a request for a Protective Order. On December 17, 2007 the Commission issued the Protective Order in this Docket.

3. On February 13, 2008 the Division filed a Memorandum with the Commission indicating that DCCV and the Division have agreed that the date to be considered the date for formal filing of the Petition for USF support would not begin until all information required was filed by DCCV. All documentation was filed by DCCV on February 12, 2008.

4. On February 20, 2008 the Commission issued an Order establishing a scheduling conference. That scheduling conference was held on March 5, 2008. On March 11, 2008 the Commission issued a scheduling Order in this Docket providing notice of testimony filing dates, settlement conference dates and a hearing date.

5. DCCV applied for an order establishing its rates of depreciation and asset valuation in Docket No. 06-2419-02. The Commission on January 16, 2008 issued an order in that docket.

6. Subsequent to the filing of the Company's petition, the Division, with the Company's assistance, has been engaged in an extensive review of the books and records of the Company. This included significant requests for information and an on-site visit to both DCCV's Utah operations and its Idaho operations. As a result of the Division's review DCCV and the Division

agree to the use of a 2007 test year (ending December 31, 2007) with certain 2008 and 2009 adjustments. This change in test year required some refiling of information by DCCV.

TERMS OF STIPULATION

1. With respect to the Company's receipt of state USF, the parties have agreed that DCCV's beginning state USF support for 2008 shall be $732,972, and that the Company shall be immediately eligible to receive state USF support in the amount of $61,081 per month beginning with the first payment in May, 2008. This amount is based on assumptions agreed to in calculating the revenue requirement, and the final amount is subject to true-up calculations as provided herein.

2. On January 1, 2009, the annual estimated state USF shall be reduced to $588,306 per year or $49,025 per month. This amount is subject to change based upon agreed revenue requirements for 2009.

3. Effective August 1, 2008, the Company's residential and business EAS rates shall be decreased to $2.50 per line per month. The customer rates will be reduced to the affordable base rate of $16.50 for residential customers and $26.50 for business customers.

4. The annual federal USF utilized in the Company's revenue requirement calculation shall be the actual amount received from February 2008 to July 2008. For the duration of 2008, the forecasted amount will be employed. The estimated annual federal USF for 2008 is $321,139, which has been utilized in the revenue requirement calculation.

5. The estimated annual federal USF beginning January 1, 2009 shall be adjusted to $465,804, which has been utilized in the 2009 revenue requirement calculation.

6. The following adjustments to the Company's Revenue Requirement have been agreed to between the parties. These adjustments are represented in the Attached Confidential Exhibits.

a. The federal tax rate employed is a blended effective tax rate, which is derived by taking the sum of the effective tax rates of each company owner proportional to their share of ownership. This tax rate will be employed as long as the company operates as a limited liability company.

b. Company operating expenses for 2008 have been reduced by $19,000.

c. Approximately $1,056,790 of capital expenditures for improvements have been removed and excluded from the Company's rate base.

d. The parties agree to an authorized a return on equity of 11.11%.

e. The Company's actual cost of debt, 5.05% is employed, together with an approved capital structure of 35% equity. The Company agrees to comply with other conditions applicable to capital structure as they are developed and approved in the Commission's rulemaking on capital structure on a retroactive basis.

7. The Division and the Company shall direct a one-year USF true-up for the year ending December 31, 2008 and for the portion of 2009 preceding the review. This true-up will be based on the variance of the estimated NECA settlements and the federal USF payments received by the Company. More specifically, if the sum of the actual NECA settlements and federal USF payments are greater than the estimates used herein, then the Company shall pay the difference back to the state USF. Conversely, if the actual amounts received are less than the estimates, the state USF will pay the Company the difference.

8. The Division will review the Company's NECA settlements and federal USF payments beginning on June 15, 2009, which is the earliest estimated time that the Company will have actual payment information. On this date, the Company will file with the Commission and all parties its actual Federal USF payments and NECA Settlement payments, which the Division will validate through its review. The Division will make its best efforts to complete its review in no more than 30 days. Once completed, the Division will file its recommendations with the Commission. This review shall establish the Company's state USF payment going forward, and will establish any amount subject to true-up as provided herein.

9. The parties agree that the terms of this Stipulation are, including USF support for DCCV, just and reasonable and that the rates to be charged to the customers of DCCV are just and reasonable. The Division shall and the Company may provide a witness to support the terms of this Stipulation and provide to the Commission an explanation of the terms and conditions of this Stipulation including the Confidential Exhibits.

10. All negotiations related to this Stipulation are privileged and confidential. No party shall be bound by any position asserted in negotiations. Neither the execution of this Stipulation or the Order adopting this Stipulation shall be an admission by any party of the validity or invalidity of any principal in this stipulation. Nor shall the execution of this Stipulation or the Order approving it constitute estoppel or waiver by a party of any position in this Stipulation.

11. This Stipulation shall not be final and binding on the Parties until the Commission has approved it without material change or condition. This Stipulation is an integrated whole, and any Party may withdraw from it if it is not approved without material change or condition by the

Commission or if the Commission's approval is rejected or materially conditioned by a reviewing court. If the Commission rejects any part of this Stipulation or imposes any material change or condition on approval of this Stipulation or if the Commission's approval of this Stipulation is rejected or materially conditional by a reviewing court, the Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, any Party retains the right to seek additional procedures before the Commission, including the requiring the filing of testimony and the cross-examination of witnesses, with respect to issues resolved by the Stipulation and no party shall be bound or prejudiced by the terms and conditions of the Stipulation.

DATED this 2d day of July, 2008.

/s/________________________________
Michael L. Ginsberg
Assistant Attorney General
Division of Public Utilities

/s/________________________________
David Irvine
Attorney for Direct Communications
Cedar Valley, LLC