

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application for the
Increase of Rates and Charges by Manti
Telephone Company.

)
) **Docket No. 08-046-01**
)
) **Direct Testimony of**
) **Eric Orton**
) **On behalf of the**
) **Office of Consumer Services**
)

REDACTED

October 18, 2012

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS**
2 **ADDRESS?**

3 A. Eric Orton. I'm a utility analyst in the Office of Consumer Services (Office)
4 at the Heber Wells Building, 160 East 300 South, Salt Lake City.

5
6 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

7 A. I will give a brief overview of the case, introduce the expert witnesses,
8 provide the policy testimony for the Office and present the position of the
9 Office.

10

11 **Q. WHAT IS THE OFFICE'S POSITION IN THIS CASE?**

12 A. Based on the rigorous analysis conducted by the Office and its expert
13 witnesses, the Office's position is that Manti Telephone Company
14 (Company) has significantly overstated its revenue requirement needs.
15 The Company's current revenues are more than sufficient to cover its
16 revenue requirement and no disbursements from the Universal Public
17 Telecommunications Service Support Fund (State USF) are necessary.
18 The Office's expert witnesses present the detailed adjustments supporting
19 the Office's position and overall revenue requirement recommendation.

20

21 CASE OVERVIEW

22 **Q. PLEASE GIVE A BRIEF HISTORY OF THE CASE.**

23 A. Manti initially filed its general rate case in April 2008 seeking an order
24 approving State USF contribution of approximately \$3.4 million annually.
25 The Company waived its right to a Commission decision within 240 days
26 in September 2008 based on what was called "...certain unresolved
27 accounting and other issues". By December of that year the Division and
28 Manti came to a compromise and stipulated to a certain amount of State
29 USF considered adequate for Manti to maintain service to its customers
30 while they endeavored to work through the accounting and other issues.

31

32 In August 2010 Manti filed an amended application claiming that they had
33 implemented the processes and accounting changes recommended by
34 the Division. In January 2011 another stipulation between the Division
35 and Manti was filed specifying that:

- 36 • The Company would receive a different amount of State USF;
- 37 • The USF distribution would be interim and prospective only;
- 38 • If it was determined in the future that USF distributions exceeded
39 Manti's revenue requirement, the excess would be reimbursed to
40 the State USF Fund, with interest; and
- 41 • The Company and Division would work together to develop a
42 process to correct other accounting issues.

43 The Office supported the stipulation as a reasonable compromise to
44 resolve key issues disputed among the parties.

45

46 **Q. PLEASE SUMMARIZE THIS CURRENT AMENDED APPLICATION.**

47 A. In April of 2012 Manti filed a second amended application requesting an
48 additional \$2.9 million per year from the State USF, which results in a total
49 request of a total of \$3,747,472 per year from the State USF.

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51 In summary, the Company's request for an increased level of State USF
52 contributions has been ongoing for nearly five years. The current
53 application is basically the Company's third attempt to receive the funds
54 originally requested in 2008.

55

56 EXPERT WITNESSES

57 **Q. PLEASE INTRODUCE THE WITNESSES FOR THE OFFICE.**

58 A. The Office acquired the services of Ostrander Consulting to perform a
59 thorough analysis of Manti's revenue requirement and provide a
60 recommendation to the Office. Bion Ostrander and David Brevitz
61 (subcontracted through Brevitz Consulting Services) provide expert
62 testimony and exhibits to support the Office's recommended revenue
63 requirement. I provide testimony on policy issues.

64

65 **Q. PLEASE SUMMARIZE THE TESTIMONY OF MR. OSTRANDER AND**
66 **MR. BREVITZ.**

67 A. Mr. Ostrander presents the total revenue requirement recommendation,
68 including the impacts from the adjustments presented by Mr. Brevitz. His

69 testimony also presents an extensive discussion on the issue of how to
70 appropriately evaluate whether companies are affiliates. In addition he
71 supports the following adjustments:

- 72 • Changes associated with using a different test period;
- 73 • Reduce allowed rate case and professional expense;
- 74 • Various changes to payroll expense, including allocation of
75 some payroll to affiliates;
- 76 • Reduce profit sharing expense;
- 77 • Reduce advertising expense;
- 78 • Adjust Accumulated Depreciation to continuing property
79 records.
- 80 • Reduce income tax expense; and
- 81 • Adjustment associated with using a different rate of return.

82 Mr. Ostrander also evaluated the issue whether to suspend depreciation
83 expense on fully depreciated assets and found that no adjustment was
84 necessary.

85

86 Mr. Brevitz supports the following adjustments:

- 87 • Imputed revenue to MTC for use of its FTTH network by
88 nonregulated services;
- 89 • Removal of depreciation expense and investment for obsolete
90 and fully depreciated copper and Quest plant;

- 91 • Removal of depreciation expense and investment associated
- 92 with various assets providing nonregulated services;
- 93 • Removal of expenses for payments to affiliates for various
- 94 internet services;
- 95 • Removal of rental payments to an affiliate;
- 96 • Removal of motor vehicle expenses paid to an affiliate;
- 97 • Reduce Lifeline/Link-up revenues to recognize FCC Order;
- 98 • Reduce Special Access Revenues to recognize volume
- 99 reductions;
- 100 • Increase Access Revenues to recognize imposition of the
- 101 Access Recovery Charge per FCC Access Charge/USF Order;
- 102 • Reduce revenues and rate base to reflect removal of Voice Mail
- 103 service which is nonregulated; and
- 104 • Reject inclusion of certain proposed Construction Work in
- 105 Progress in rate base.

106 Mr. Brevitz also supports the inclusion of the following adjustments
107 proposed by Manti in its filing:

- 108 • Reduce Local Revenues to recognize rate changes;
- 109 • Reduce Access Revenues to recognize impact of FCC Access
- 110 Charge/USF Order; and
- 111 • Reduce Access Revenues to recognize impact of reduced
- 112 NECA settlements per FCC Access Charge/USF Order.

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114 POLICY ISSUES115 **Q. WHAT ARE THE POLICY CONCERNS OF THE OFFICE?**

116 A. The Office has the following policy concerns in this case:

- 117 • The Company is either unable or unwilling to provide accurate
118 information regarding the operations and finances of the Company,
119 which has been a major factor causing this case to continue for
120 nearly five years;
- 121 • The Company designates an unreasonable portion of its case as
122 confidential;
- 123 • The large magnitude of State USF that the Company has
124 requested. Manti's request of \$3,747,472 is 76% of the Company's
125 total test year revenue; and
- 126 • The potential that State USF is being used to subsidize non-
127 regulated services provided by Manti, its affiliates or related
128 companies.

129

130 **Quality of Evidence**131 **Q. HAS MANTI PROVIDED SUFFICIENT DATA, EVIDENCE AND**
132 **WORKING PAPERS TO SUPPORT ITS APPLICATION FOR**
133 **ADDITIONAL STATE USF FUNDING?**134 A. No. The information that the Company provided in its application did not
135 provide adequate information to enable the Office to determine if Manti's
136 request is reasonable and in the public interest. Because Manti's

137 application lacked substantive supporting data, the Office was required to
138 issue very detailed data requests in an effort to receive the information
139 needed in order to determine the appropriate level of State USF that the
140 Company is entitled to receive.

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142 **Q. DID THE OFFICE OBTAIN THE NECESSARY INFORMATION FROM**
143 **THE DATA REQUESTS IT ISSUED TO MANTI?**

144 A. The Office put significant efforts into preparing and submitting discovery
145 that would provide the information and evidence necessary to fully
146 evaluate the Company's petition and request. The Company's responses
147 contained insufficient information to fully analyze the issues of the case.
148 The Company's responses to Office data requests were all labeled
149 confidential and were often late, evasive or non-responsive. Mr. Brevits
150 and Mr. Ostrander address this issue more extensively in their testimony.

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152 **Q. WHAT IS THE OFFICE'S POSITION REGARDING THE EVIDENCE**
153 **PRESENTED IN THIS CASE?**

154 A. As the Office describes and documents in its testimony, Manti did not
155 provide sufficient supporting evidence to justify its request in this case. In
156 some cases, the Office's witnesses have developed proxy methodologies
157 to approximate an appropriate allocation of costs in determining Manti's
158 revenue requirement. The Commission should reaffirm the Company's
159 responsibility to provide adequate evidence and justification for its rate

160 requests and disallow those costs that have not been justified in this case,
161 as addressed in Mr. Ostrander's and Mr. Brevitz's testimony.

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163 ***Confidentiality***

164 **Q. WHAT ARE THE OFFICE'S CONCERNS ABOUT CONFIDENTIALITY IN**
165 **THIS CASE?**

166 A. Since Manti has designated nearly everything that has been filed in this
167 case as confidential, the Office is troubled by the fact that very little of the
168 evidence in the public record will actually be accessible to the public.

169 Generally the Office supports an open and transparent process for
170 Commission proceedings and believes that the Commission shares such
171 objectives. The Office requests that the Commission provide additional
172 guidance on the proper designation of confidentiality in proceedings such
173 as these.

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175 ***Magnitude of the Request***

176 **Q. PLEASE SUMMARIZE THE FINANCIAL MAGNITUDE OF THE**
177 **COMPANY'S REQUEST?**

178 A. The Company's requested disbursement from State USF is \$3,747,472. If
179 granted, the State USF would provide over three-fourths of Manti's
180 revenue requirement and its own customers and revenue sources would
181 cover less than one fourth. The Company has **[BEGIN CONFIDENTIAL]**

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Redacted

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[REDACTED]

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[REDACTED]

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[REDACTED] [END CONFIDENTIAL] is more than many unlimited

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use cell phone plans.

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Q. HOW DOES THE REQUESTED STATE USF DISPURSEMENT OF

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\$3,747,472 COMPARE TO THE TOTAL SIZE OF THE COMPANY?

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A. The total rate base of the Company [BEGIN CONFIDENTIAL]

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[REDACTED] [END CONFIDENTIAL] This means that the State USF

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would be providing sufficient funds to replace 48% of the Company's total

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rate base each year. In other words, with just State USF the Company

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could double its size in just two years.

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Q. WHY IS THE MAGNITUDE OF THE REQUEST OF PARTICULAR

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CONCERN?

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A. Manti has requested to have over three-fourths of its annual revenue

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requirement be covered by contributions from the State USF, or in other

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words subsidized from other telephone customers in the State of Utah. A

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request for the use of public funds of this magnitude requires a robust

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inquiry and evaluation in order to ensure that the public interest is

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protected. The Office asserts that such a robust evaluation has been

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undertaken by both the Office and the Division.

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206 ***Potential Improper Subsidization***

207 **Q. WHAT ARE THE POLICY DIRECTIVES REGARDING THE USE OF USF**
208 **AND POTENTIAL SUBSIDIES AMONG TELECOMMUNICATION**
209 **SERVICES?**

210 A. Utah Statute 54-8b-15 (6) (b) clearly indicates that the State USF is
211 designed “to ensure that customers have access to affordable basic
212 telephone service.” Thus, part of the Office’s evaluation has been to
213 ensure that Manti’s request for State USF is necessary to cover the costs
214 of basic telephone service and not for additional services.

215

216 Further, 54-8b-6 of the Utah Statutes states

217 A telecommunications corporation providing intrastate public
218 telecommunications services may not subsidize its intrastate
219 telecommunications services which are exempted from regulation
220 or offered pursuant to a price list or competitive contract under
221 authority of this chapter with proceeds from its other intrastate
222 telecommunications services not so exempted or made subject to a
223 price list or competitive contract.

224 This prohibition against subsidy is further reason to ensure that the Manti’s
225 revenue requirements, including and especially the portion that may end
226 up being covered from State USF funds, are not subsidizing non-regulated
227 services.

228

229 Federal statutes reinforce these same ideas. Part 47, Section 254(k) of
230 the US Code requires that “the States, with respect to intrastate services,
231 shall establish any necessary cost allocation rules, accounting safeguards,
232 and guidelines to ensure that service included in the definition of universal
233 service bear no more than a reasonable share of the joint and common
234 costs of facilities used to provide those services.”

235

236 **Q. HOW ARE THESE SUBSIDIZATION CONCERNS PARTICULARLY**
237 **RELEVANT TO MANTI?**

238 A. Both Mr. Ostrander and Mr. Brevitz describe at length the issues of
239 properly separating the finances and revenues among affiliates or related
240 companies. The potential subsidization issues addressed by the Office's
241 experts include payroll adjustments, payments between the entities and a
242 proposed new allocation for the costs associated with the build out of
243 Fiber-to-the-Home (FTTH.) In fact, the Office's proposed adjustment to
244 properly allocate FTTH between Manti and MTCC is one of the largest
245 single adjustments to Manti's filed case.

246

247 **Q. PLEASE SUMMARIZE THE OFFICE'S VIEWS ON THE ISSUE OF THE**
248 **POTENTIAL USE OF STATE USF TO SUBSIDIZE NON-REGULATED**
249 **SERVICES.**

250 A. Utah law and policy clearly indicates that the State USF should only be
251 used for basic telephone service. The Office's experts evaluated Manti's
252 request in that context and in some cases found it necessary to develop
253 proxy methodologies to calculate the appropriate allocation of certain
254 costs between Manti and MTCC. The Office's policy is that such proxies
255 and calculations are necessary to ensure that the State USF is used
256 properly and that the public interest is maintained.

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258 SUMMARY

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260 **Q. PLEASE SUMMARIZE THE OFFICE'S POLICY TESTIMONY.**

261 A. The Office's policy recommendations in this case include the following:

- 262 • Any Company filing a request with the Commission must provide
263 substantial evidence justifying its request. The Commission should
264 require Manti to be more forthcoming in future filings and disallow its
265 requests that have not been substantiated with evidence.
- 266 • The Office generally supports open and transparent processes before
267 the Commission and is concerned that Manti overly designated its filing
268 as confidential. The Commission should provide additional guidance
269 on the proper designation of confidential information.
- 270 • The magnitude of Manti's request for the use of state USF funds
271 requires a robust examination of its costs and revenues as has been
272 presented in the Office's expert witnesses' testimony.
- 273 • Utah policy and law require that State USF be used for basic telephone
274 service and also require that basic telephone service does not
275 subsidize other non-regulated telecommunication offerings. The
276 adjustments presented by the Office to properly allocate certain costs
277 between Manti and its affiliates (or related companies) are necessary
278 to maintain the public interest and ensure appropriate use of the USF.

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280 **Q. WHAT IS THE OVERALL RECOMMENDATION OF THE OFFICE?**

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281 A. Based on the rigorous analysis conducted by the Office and its expert
282 witnesses, the Office's position is that the Company has significantly
283 overstated its revenue requirement needs. The Office's assessment is
284 that Manti's current revenues are more than sufficient to cover its revenue
285 requirement and no contributions from the State USF are necessary. The
286 Office's expert witnesses present the detailed adjustments supporting the
287 Office's position and provide the Office's overall revenue requirement
288 recommendation.

289

290 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

291 A. Yes.