

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Manti Telephone)	
Company's Second Amended)	Docket No. 08-046-01
Application for USF Eligibility)	
)	Surrebuttal Testimony
)	of David Brevitz
)	For the Office of
)	Consumer Services
)	

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Subject to Rule 746-100-16

November 9, 2012

1

INTRODUCTION

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

3 A. My name is David Brevitz. My business address is Brevitz Consulting Services,
4 3623 SW Woodvalley Terrace, Topeka, KS, 66614.

5 **Q. ARE YOU THE SAME DAVID BREVITZ THAT PREFILED DIRECT**
6 **TESTIMONY IN THIS MATTER ON BEHALF OF OCS?**

7 A. Yes.

8 **Q. WHAT IS THE PURPOSE OF THIS SURREBUTTAL TESTIMONY?**

9 A. The purpose of this surrebuttal testimony is to respond to the rebuttal testimony
10 on behalf of Manti Telephone Company (MTC) filed by Mr. Ray Hendershot and
11 Mr. Dallas Cox, and to update adjustment OCS 3.1D Brevitz to use Division of
12 Public Utility (DPU)'s recommended rate of return (8.16%) per Mr. Ostrander's
13 Rebuttal Testimony. Also, as noted in Mr. Ostrander's Surrebuttal testimony, I
14 have revised this adjustment to use MTC's forecasted test period approach.
15 Also, I have updated the adjustments proposed in my Direct Testimony to reflect
16 use of MTC's forecasted test period where necessary, and differences between
17 the historic and forecasted test periods.

18 **Q. PLEASE DESCRIBE THE UPDATE TO ADJUSTMENT OCS 3.1D BREVITZ.**

19 A. This update is to reflect a recommended rate of return (8.16%) per Mr.
20 Ostrander's Rebuttal Testimony to replace the 8.01% rate of return used in my

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21 direct testimony. The impact is small, but it is provided in Exhibit OCS 3.1S
22 Brevitz for the sake of accuracy and consistency.

23 **Q. IN THE COURSE OF ACCOMPLISHING THIS UPDATE DID YOU REVIEW**
24 **THE APPLICATION OF TAXES IN YOUR PROPOSED ADJUSTMENT?**

25 A. Yes. As indicated on line 313 of my Direct Testimony I used a gross of taxes
26 rate of return to calculate return on rate base. In this circumstance there is no
27 need to add an allowance for income taxes, so I have removed the income tax
28 line item from the imputation calculation. This is also shown on OCS 3.1S
29 Brevitz, and reduces the proposed Fiber to the Home (FTTH) Revenue
30 Imputation adjustment.

31 **Q. HAVE YOU ALSO MODIFIED THIS EXHIBIT TO THE COMPANY PROPOSED**
32 **FORECASTED TEST PERIOD AS ACCEPTED BY DPU?**

33 A. Yes. Expense and revenue items have been modified to the forecasted test
34 period, such that they represent the six months of July to December 2011 on
35 MTC's books "times 2". The result is a proposed FTTH Revenue Imputation
36 adjustment of **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]**

37 **Q. IS IT NECESSARY TO MODIFY ANY OF THE OTHER ADJUSTMENTS**
38 **PROPOSED IN YOUR DIRECT TESTIMONY TO CONFORM TO THE**
39 **FORECASTED TEST PERIOD BASIS?**

40 A. It is not necessary to modify any of my proposed rate base adjustments since
41 those were calculated using end of year 2011 balances. There are three
42 adjustments to expenses in my Direct Testimony (3.4, 3.5, 3.6) for which I attach
43 revised Exhibits to conform to the forecasted test period.. Also the revenue
44 adjustments are addressed separately below.

45 **Q. PLEASE DESCRIBE OCS ADJUSTMENT 3.4S TO EXPENSES.**

46 A. This adjustment removes payments to MTCC for broadband services for reasons
47 described in my Direct Testimony at page 26. The adjustment is recalculated to
48 conform to the forecasted test period as shown on OCS Exhibit 3.4S Brevitz.

49 **Q. PLEASE DESCRIBE OCS ADJUSTMENT 3.5S TO EXPENSES.**

50 A. This adjustment removes payments to P&C Rental for reasons described in my
51 Direct Testimony at page 27. The adjustment is recalculated to conform to the
52 forecasted test period as shown on OCS Exhibit 3.5S Brevitz.

53 **Q. PLEASE DESCRIBE OCS ADJUSTMENT 3.6S TO EXPENSES.**

54 A. This adjustment removes payments to MTCC for motor vehicles for reasons
55 described in my Direct Testimony at page 30. The adjustment is recalculated to
56 conform to the forecasted test period as shown on OCS Exhibit 3.6S Brevitz.

57 **Q. MTC PROPOSES TO PROVIDE CERTAIN SERVICES AT NO COST, AND**
58 **YOUR DIRECT TESTIMONY RECOMMENDS THAT THE COMMISSION NOT**
59 **ADOPT THE COMPANY'S PROPOSAL. IS AN ADJUSTMENT NECESSARY**

60 **TO REMOVE THESE ITEMS FROM MTC'S PROPOSED FORECASTED TEST**
61 **PERIOD?**

62 A. Yes. It was not necessary to propose an adjustment for these items in my direct
63 testimony since it was based on use of a historical test period. However, use of
64 MTC's proposed forecasted test period requires adjusting out the estimated
65 impact of MTC' proposed "no cost" service items as follows:

66 1. Include EAS in the local rate: MTC's adjustment to reduce local
67 revenues by **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
68 **CONFIDENTIAL]** should be reversed out for the reasons stated in my
69 Direct Testimony at page 31.

70 2. Provide lifeline service at no charge: MTC's adjustment to reduce
71 revenues by **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
72 **CONFIDENTIAL]** should be reversed out for the reasons stated in my
73 Direct Testimony at page 33.

74 3. Provide vertical services at no charge: MTC's adjustment to reduce
75 revenues by **[BEGIN CONFIDENTIAL]** [REDACTED] **[END**
76 **CONFIDENTIAL]** should be reversed out for the reasons stated in my
77 Direct Testimony at page 36.

78 **Q. DOES THE USE OF A FORECASTED TEST PERIOD REQUIRE CHANGE TO**
79 **YOUR PROPOSED SPECIAL ACCESS ADJUSTMENT OCS 3.9D?**

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80 A. Yes. Instead of using 2011 actual interstate and intrastate special access
81 revenues, to conform to the forecasted test period I used July – December 2011
82 revenues, annualized by doubling, to compare to actual special access revenues
83 for the first quarter of 2012, annualized. This revised adjustment to conform to
84 the forecasted test period is shown on OCS Exhibit 3.9S Brevitz.

85 **Q. REFERRING BACK TO THE HISTORIC TEST PERIOD USED IN THE OCS**
86 **DIRECT TESTIMONY, IS IT NECESSARY TO ADJUST UNIVERSAL PUBLIC**
87 **TELECOMMUNICATIONS SERVICE SUPORT FUND (UUSF) REVENUES?**

88 A. Yes. As shown on OCS Exhibit 2.1 for the historic test period, and adjustment of
89 **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** is required to
90 reduce the UUSF draw to its authorized level of **[BEGIN CONFIDENTIAL]**
91 **[REDACTED]**. **[END CONFIDENTIAL]**

92 **Q. MR. DALLAS COX ADDRESSES YOUR DIRECT TESTIMONY REGARDING**
93 **OBSOLETE COPPER PLANT AT PAGE 15 OF HIS REBUTTAL. PLEASE**
94 **RESPOND.**

95 A. Mr. Dallas Cox's rebuttal does not provide any basis for the Commission to reject
96 the adjustment I have proposed to remove a portion of MTC's copper plant from
97 rate base as obsolete—no longer used and useful. MTC is replacing service to
98 customers using copper pairs, with service using fiber-to-the-home. It directly
99 follows that as the copper based service arrangement is disabled, that copper
100 plant is no longer used and useful in serving the customer because the customer

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101 has been provisioned service using FTTH facilities.¹ For the reasons stated here
102 and in my direct testimony, the Commission should adopt the proposed
103 adjustment to remove obsolete copper from rate base.

104 **Q. MR. DALLAS COX ADDRESSES YOUR DIRECT TESTIMONY REGARDING**
105 **ASSETS USED TO PROVIDE NON-REGULATED SERVICES AT PAGE 15 OF**
106 **HIS REBUTTAL. PLEASE RESPOND.**

107 A. I provide a list of assets drawn from MTC's Continuing Property Records in my
108 direct testimony that I concluded based on available information from description
109 of the items on MTC's books were likely to be used to provide non-regulated
110 services.² Mr. Dallas Cox's rebuttal provides additional information on each of
111 the assets. Based on the additional information provided, it may be reasonable
112 to modify my proposed adjustment by removing some items from it. This is
113 shown on the attached OCS Exhibit 3.3S Brevitz. I have removed four items
114 from the proposed adjustment as relating to the education network or network
115 monitoring, but have left in the items related to DSL. Once these items are
116 removed, the remaining adjustment items have no net book value (the items are

¹ It should be noted that MTC's rebuttal on this issue appears to contradict its Response to OCS 6-14, which stated **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** If the copper plant is being replaced as it in fact is, it should be retired. The proposed adjustment OCS 3.2D in my Direct Testimony makes clear that there is some net book value associated with existing copper plant.

² See OCS Exhibit 3.3D Brevitz.

117 fully depreciated), so there is no need to pursue this proposed adjustment
118 further.

119 **Q. MR. HENDERSHOT ADDRESSES CURRENT MTC COMPLIANCE WITH**
120 **LOAN COVENANTS ASSOCIATED WITH ITS RTFC LOAN, AND INDICATES**
121 **“CASH IS VERY TIGHT FOR MTC” AT PAGE 9 OF HIS REBUTTAL**
122 **TESTIMONY. IS AN INCREASE IN STATE USF FUNDS PAID TO MTC**
123 **NECESSARILY THE ANSWER?**

124 A. No. The state USF is to support the costs of basic telephone service. The OCS
125 Direct Testimony provides the MTC revenue requirement for the UUSF, and
126 indicates significant over-earnings by MTC. There are no facts in MTC’s scant
127 rebuttal that affect or alter this conclusion.³

128 **Q. COULD MTC’S CLAIMED CASH DIFFICULTIES BE MADE WORSE BY NON-**
129 **REGULATED ACTIVITIES SUCH AS WIRELESS SPECTRUM PURCHASE?**

130 A. Yes.

131 **Q. PLEASE ADDRESS MTC’S WIRELESS SPECTRUM PURCHASE AND ITS**
132 **TIMING RELATIVE TO MTC’S FTTH PROGRAM.**

133 A. In 2008 MTC undertook two efforts. First in Spring 2008 Manti Telephone
134 Company was the successful bidder acquiring 700 MHz wireless spectrum for a

³ Mr. Ostrander’s Surrebuttal Testimony addresses Mr. Hendershot’s testimony regarding the loan covenant and CPA analysis in more detail.

135 total cost of \$4,099,000. MTC was the [BEGIN CONFIDENTIAL] [REDACTED]

136 [REDACTED]

137 [REDACTED]

138 [REDACTED]

139 [REDACTED]

140 [REDACTED]

141 [REDACTED] [END CONFIDENTIAL] This is also

142 visible on MTC's balance sheet in its filed Annual Report. Second, MTC

143 undertook its Fiber to the Home program with some planning occurring in 2007,

144 and the loan application to RTFC developed over the course of 2008 with an

145 immediate advance of loan funds upon approval such that FTTH deployment

146 began in 2008.

147 **Q. WHERE DID MTC GET THE CASH FOR ITS WIRELESS SPECTRUM**
148 **PURCHASE?**

149 A. It is not clear where the cash came from to fund the spectrum purchase. MTC
150 states it did not [BEGIN CONFIDENTIAL] [REDACTED]

151 [REDACTED]

152 [REDACTED]

⁴ MTC Response to OCS 11-1 a.
⁵ MTC Response to OCS 11-1 b.
⁶ MTC Response to OCS 11-1 c.
⁷ MTC Response to OCS 11-1 d.
⁸ MTC Response to OCS 11-1 e.

153 [REDACTED]. [END CONFIDENTIAL] Ultimately the important
154 principle is that dollars are “fungible” or interchangeable, as stated in my Direct
155 Testimony at line 405. The use of a particular dollar cannot be directly tied to a
156 particular item. The meaning in this case is that MTC cannot claim it used cash
157 on hand for purposes of the spectrum purchase when it is also borrowing money
158 at the same time, due to the fungible nature of cash.

159 **Q. IS MTC CURRENTLY USING THE WIRELESS SPECTRUM FOR ANY**
160 **PURPOSE?**

161 A. No. No facilities have been constructed to utilize the spectrum. Manti’s 700
162 MHz Performance Status Report was filed at the FCC by MTC on January 6,
163 2012 and states regarding this wireless spectrum

164 Manti is presently in the process of planning for deployment of facilities
165 and is considering various technologies for doing so. However, no
166 construction has been completed as of the present time. Nevertheless,
167 Manti is pursuing implementation with all due diligence and anticipates
168 meeting the buildout requirement by the June 13, 2013 construction
169 deadline.⁹

170 It is not clear where the cash will come from to accomplish this buildout against
171 the near term FCC deadline, but the Commission should be concerned that due
172 to the fungible nature of cash MTC could use any UUSF award to construct
173 these facilities on a nonregulated basis.

174 **Q. DOES THIS COMPLETE YOUR PREFILED SURREBUTTAL TESTIMONY?**

⁹ 700 MHz Performance Status Report, as provided in response to OCS 11-2.

175 A. Yes.

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