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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: Utah Public Service Commission

From: Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst

Date: July 21, 2014

Re: In the Matter of the Utah Division of Public Utilities' Petition for Increased USF
Distributions to Hanksville Telecom, Inc.
Docket No. 14-2303-01

Background

On May 20, 2014, the Division of Public Utilities (Division) submitted to the Public Service Commission of Utah (Commission) its Petition for an increase in Utah Universal Service Fund (UUSF) Distribution (Petition) to Hanksville Telecom, Inc. (Hanksville). On May 22, 2014, the Commission issued a Notices of Filing, Comment Period and Hearing. On May 29, 2014, the Office of Consumer Services (Office) filed its Motion to Suspend Notices of Comment Period and Hearing and Request for Scheduling Conference. On June 9, 2014, the Division and Office submitted a Joint Motion to Amend the Schedule for Comments and proposed an alternate schedule for comments and hearing. On June 10, 2014, the Commission issued a Scheduling Order and Notice of Hearing setting July 21, 2014 as the date for Parties to file initial comments. Accordingly the Office submits its initial comments on the Petition for Increased UUSF Distributions to Hanksville.

Based on its review and analysis, the Division's Petition concluded that "Hanksville is eligible for an increase in USF based on the calculation of fund distributions found in Utah Admin. Code r746-360-8". In support of its conclusions the Division's Petition included eight (8) Exhibits detailing the review it conducted and the calculations of Hanksville's revenue deficiency, and which supports a UUSF distribution of \$78,554.

Analysis

Substantive Issues

The Office appreciates the diligence and work effort of the Division in reviewing detailed information related to Hanksville. The Office has also conducted a high level review and evaluated the information in the Division's Petition and related supporting analysis and calculations. In addition, the Office has considered the size of the UUSF request in this case and the additional costs of further review to all parties and consumers. However, the Office does not necessarily agree with all of the Division's assumptions, analysis and conclusions. But for purposes of this case we will make an exception and not object to an annual UUSF distribution of \$78,554 to Hanksville, subject to the following conditions:

- 1) The Office will accept the proposed UUSF amount of \$78,554, but not all of the underlying assumptions, analysis or calculations used in determining the amount. Thus, from the standpoint of the Office, the final UUSF amount was determined as a "black box" bottom line amount of \$78,554 and the related underlying assumptions and calculations hold no precedential value and should not be relied upon by any other carrier seeking a UUSF distribution.
- 2) The UUSF distribution must be used only in Hanksville operations for "universal service" purposes only, and should not be used in the operations of parent company Emery Telcom or any other affiliate of Emery Telcom or Hanksville.

Sufficiency of Documentation Included

The Office supports the full disclosure and availability of workpapers and supporting documentation, while minimizing the amount of information that is claimed to be confidential (although the Office does not oppose the confidentiality of certain critical information). In order for a proper review to be performed, certain documentation must be provided to qualified users of this information¹ by the applicant upon its request for UUSF without delay and without having to use a formal discovery process. This filing was supported with good information, but the Office asserts that additional information should be provided in any future similar filings. We discuss this further in our process recommendations below.

In abbreviated filings for expedited consideration, it is clear that the Division will already have some of this information and the Office should not have to request this same information via a data request to the applicant, especially given the compressed timeline. If the companies are uncomfortable filing this information as part of the docket, a Master

¹ At the very minimum, qualified users of this information would include the Commission, Division, and the Office.

Data Request could be developed of required documents that would be provided to the Division and Office as part of the filing for an expedited process.

Position Statement Regarding Process

The Office is generally supportive of an expedited process of applications for UUSF with certain important conditions designed to protect the process and Utah consumers, to enhance a transparent process to minimize confidentiality claims, and to minimize time and costs of all parties.

The Office believes a standard expedited application process should be defined in order to ensure comparable treatment of telecom companies, and therefore recommends that a process be established with clear parameters and criteria.

The Office recommends the following parameters and criteria be required for expedited UUSF filings (expedited process), although we are not proposing specific amounts at this time for all parameters and criteria. These recommendations are designed to facilitate evaluation in an expedited fashion. Of course if the companies determine it would be in their best interest to challenge any issue or pursue treatment other than the standard, simplified treatment of an expedited process, they would always have the option to pursue their interests and issues under existing processes.

- 1) ***Filing Frequency*** – The Office recommends that any expedited process include a requirement that limits its use to every two to three years for each company unless they can show unique or extraordinary circumstances to support more frequent filings. This requirement would be important to allow equal access to the expedited process by other qualified companies (and to allow rotation of this process among the qualified companies) and to best utilize the limited time and resources of the Division and Office.
- 2) ***Revenue Requirement Templates*** – The Office recommends that any expedited process should require the use of the Division's revenue requirement template schedules which already exist, such as the workpapers included with this Hanksville case. Some additional templates may be necessary for new or additional adjustments or issues. Use of the same templates help facilitate the quicker review that would be necessary.
- 3) ***Supporting Documentation*** --The applicant should include all supporting documentation in its filing at the time of its application (without requiring data requests) including all calculations, workpapers, and working Excel spreadsheets. One purpose of an expedited filing would be to relieve the burden on regulators from time consuming review, issuing extensive data requests, or trying to determine which information may be missing or withheld from the filing.

The Office recommends that the required filing information should include the two most recent years of data (including the test year period) for all of the following:

- the general ledger and trial balance on a detailed subaccount basis for all income statement and balance sheet accounts in electronic spreadsheet format;
 - audited financial statements (including the test year period), and related consolidated financial statements if applicable;
 - a description and accounting of all affiliate and related party transactions (including transactions with separately incorporated entities that have some common ownership, officers, or Board of Directors);
 - a Cost Allocation Manual (CAM), if one has been prepared; and
 - payroll ledger/register on a year-to-date basis at test year end, showing total payroll expensed and capitalized by employee and by payroll cost component (including overtime and the number of hours by employee.
- 4) **Historical Test Period** – The Office recommends that any expedited process require the use of a simplified historical test period except for certain limited known and measurable adjustments.
- 5) **Impute Revenues for Affordable Base Rate** – The Office recommends that any expedited process require an imputation to adjust revenues to reflect the most recent Commission-authorized affordable base rate, if the rates have not been actually increased to those levels. This is consistent with current practice.
- 6) **Generic ROR Criteria** --The Office recommends that any expedited process should use an agreed upon overall generic ROR (regardless of actual cost of debt and debt/equity structure.) The Office further recommends that the ROR should be based upon the FCC Staff analysis.² A generic ROR is appropriate for many reasons, including the fact that it is based on a thorough and public analysis by FCC staff and thus has been subject to review and comment, and that the expedited application process inherently reduces costs and risks for the applicant.
- 7) **Fiber/Broadband/DSL Compensatory Treatment** – The Office recommends that applicants using any expedited process which have either constructed their own Fiber to the Home (FTTH) outside plant networks or are using such facilities of an affiliate (or a separate incorporated party that has some common ownership, officers, or Board of Directors) be required to either impute revenues or remove related costs at a reasonable compensatory level (and at a level which minimizes the applicant's revenue requirement using the higher or lower of cost or market principles regarding affiliate transactions). The specific compensation or formula for compensation should be determined as part of the development of an expedited process.
- 8) **No (or Limited Dollar Amount) Recovery of Consulting Fees Related to Expedited Application** – One of the primary purposes and benefits of the expedited process is to minimize time and costs of all parties in the process, and the inclusion of such outside attorney and consulting costs would run counter to this objective. Therefore, the Office would recommend that none of the expenses that would

² Federal Communications Commission - *Prescribing the Authorized Rate of Return Analysis of Methods for Establishing Just and Reasonable Rates for Local Exchange Carriers*, Wireline Competition Bureau, Staff Report WC Docket No. 10-90, May 16, 2013.

otherwise be called “rate case expenses” be allowed to be included in the calculation of UUSF under any expedited process. Using standard measures (such as the Office recommends for ROR and fiber/broadband) minimize the value consultants would provide. The Office does not oppose reasonable recurring consulting costs for other purposes that can be justified, although all non-recurring consulting costs should be removed from the application.

- 9) **Disclosure of Affiliate Transactions** – The Office recommends that any expedited process require that the applicant describe and show the dollar impact by account number (and account description) of each affiliate and related party transaction, including how the transaction is accounted for on the books of both the regulated entity and the affiliate/related party. The Office further recommends a requirement that such transactions be consistent with the FCC’s default procedures for accounting for affiliate transactions at USoA Part 32, § 32.27 “Transactions with affiliates.”³
- 10) **Detailed Depreciation Information** – The Office recommends that any expedited process require the filing of gross plant, related accumulated depreciation, and net book value (gross plant less accumulated depreciation) on a subaccount detailed basis for the test period. The Office further recommends that if the related net book value of the asset will be zero or less than zero within eighteen months after the test period of the filing, then depreciation expense should not be allowed for recovery.
- 11) **Public and Transparent Data** --The Office recommends that any expedited process should be designed such that applications rely primarily on public and transparent data (with very minimal confidential data.) The Office has had ongoing concerns that the UUSF cases historically have over-designated information as confidential. The Office notes and supports the recent decision to make annual disbursements from the UUSF public information. Since the UUSF is a public fund paid for from all communications customers across the state, the Office asserts that it is important to strive for as much transparency as possible regarding the use of this fund.

Summary and Recommendations

The Office supports the increase of \$78,554 in UUSF funding for Hanksville Telecom, Inc. However, the Office notes that its support for the abbreviated process used in this docket is limited to this Hanksville case. The Office does not anticipate supporting future requests of such a nature until such time as a comprehensive approach for a more efficient process is established. A standard process is necessary to ensure comparable treatment as well

³ FCC requires that the affiliate transactions must minimize the applicant’s regulated revenue requirement and default to the financial benefit of the applicant whereby: 1) all assets or services sold or provided by applicant to affiliates are at the higher of cost or fair market value with any limited exceptions explained; and 2) all assets or services purchased or received by applicant from affiliates are at the lower of cost or fair market value with any limited exceptions explained.

July 21, 2014

as to provide some protections to ratepayers by imposing requirements to help to keep the costs to the UUSF at an appropriate level.

The Office has presented some initial ideas and recommendations on elements that should be included in a comprehensive process. We look forward to working with the Division, the telephone providers, and other stakeholders in refining these ideas prior to any future use of an expedited process.

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