



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

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: August 5, 2014

Re: Reply Comments: 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). The Commission issued a Scheduling Order and Notice of Hearing setting July 21, 2014 as the date for Parties to file initial comments and August 5, 2014 for reply comments.

On July 17 Hanksville filed initial comments and on July 21 the Office of Consumer Services (Office) filed initial comments. On July 25, the Utah Rural Telecom Association (URTA) filed comments and a request for intervention.

The Office hereby files its reply comments on two issues.

Responses

Sufficiency of Division Audit

Both Hanksville and URTA comment on the Division's audit as being a sufficient basis on which to disburse UUSF.

On page 3 of Hanksville's initial comments, it reads:

"This procedure permitted the Division to instigate a review of the company's operations, and conduct a thorough audit, review and investigation, thereby

protecting the USF, while allowing Hanksville to access USF disbursements to which it is entitled under Utah law while minimizing the costs to Hanksville."

On page 3 of URTA's comments, they state:

"It would appear that the Division has conducted a detailed and thorough review of the Hanksville operations and has recommended an increase in USF based on such review and audit procedure. Therefore, it would not appear that any separate process, rules, or procedure is necessary or required under the current Utah Code and/or Administrative Rules."

The Office agrees with Hanksville to some degree that the Division conducted an adequate¹ audit, review and investigation *in this specific case* to "protect the USF" and facilitate the disbursement to which Hanksville is entitled. However, the Office does not agree with URTA that the review in this current case should allow the Commission to conclude that a separate process is not necessary for future cases, or that the process in this case would be adequate and sufficient in future cases as well.

The Division's audit of Hanksville, while of generally high quality for an expedited review *in this specific case*, cannot be seen as an adequate substitute for a Commission process except under the most limited circumstances (such as exist in the current Hanksville case.) The Division's recommendations rely upon its internal policies for several issues that are central to calculating the appropriate revenue requirement for a telecom company seeking UUSF. However, there are some very important issues on which the Commission has not yet ordered, provided guidance or established methods for either the Hanksville case or other potential cases. Specific examples of such issues include:

- Calculation of ROR,
- Imputation associated with the affordable base rate,
- Certain types of depreciation methods and depreciation rates,
- Allocation of costs associated with fiber to the home and other broadband assets,
- Treatment (or minimizing) of outside consulting costs for an expedited review, and
- Full disclosure and proper regulatory treatment of all affiliate and related party transactions.

Unless and until these calculations and methods are standardized, an expedited process for UUSF disbursement cannot be found to be in the public interest. Any process must allow for a full vetting of open telecommunications ratemaking issues. The Office supports some of the Division's approaches to the above issues, but not all. Thus, to determine the public interest, the Commission must have either a process that allows adequate time for the issues to be vetted in each individual request or determined up front in a forum establishing the process for expedited requests.

Process Recommendations

URTA expresses concern that the Commission should not determine processes for expedited requests within the Hanksville docket. It further states:

"If the Commission is going to consider these issues, the Commission should establish a separate schedule to allow a full, fair and comprehensive evaluation of

¹ The Division's review was adequate enough for this specific case, but the Office does not agree that the Division's review was "thorough or detailed" in terms of addressing all of the issues set forth above.

the issues at hand, permitting the interested parties to thoroughly participate in the process." (URTA comments, p. 3-4)

The Office agrees with URTA that the Commission should not rule on any broader process issues within this Hanksville docket and that consideration of these issues should include broad participation of all interested parties.

The Office would like to clarify its purpose in providing process ideas within its initial comments. The Office frequently advocates for greater transparency from the regulated utilities. The listing of the Office's concerns in its initial comments was an effort toward that same level of transparency. The Office is aware of interest from additional telecom providers in using an expedited process. Since we determined that the method used in this case is unlikely to be sufficient in most other cases, the Office so indicated in its initial comments to make its concerns publicly known in advance of any future filings.

The Office is not requesting Commission action on a process at this time. In fact, the Office recommends that the Commission not rule on process issues and not open a separate docket or initiate rulemaking proceedings at this time. In our view, it would be more productive for the parties to continue discussions outside of a docket rather than launching directly into an adversarial proceeding. However, the Office reiterates its earlier statement that it is not likely to support any future expedited requests for UUSF until a standardized process is in place.

Summary and Recommendations

The Office supports the increase of \$78,554 in UUSF funding for Hanksville Telecom, Inc. Once again, the Office notes that its support for the abbreviated process used in this docket is limited to this Hanksville request.

The Office specifically requests that the Commission not take any action in this docket or at this time regarding the initial ideas it has presented for a new process. These ideas were presented in an effort to provide transparent policy development and to begin larger discussions on the topic with all stakeholders.

Copies To: Division of Public Utilities
Chris Parker, Director
William Duncan, Telecommunications Section Manager

Kira Slawson, for Hanksville Telecom, Inc. and for Utah Rural Telecom Association