

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

2019 Utah Universal Service Fund Preliminary Recommendation for Central Utah Telephone, Inc.	<u>DOCKET NO. 18-040-01</u>
2019 Utah Universal Service Fund Recommendation for Emery Telephone	<u>DOCKET NO. 18-042-01</u>
2019 Utah Universal Service Fund Preliminary Recommendation for Gunnison Telephone Company	<u>DOCKET NO. 18-043-01</u>
2019 Utah Universal Service Fund Recommendation for Manti Telephone Company	<u>DOCKET NO. 18-046-01</u>
2019 Utah Universal Service Fund Preliminary Recommendation for Beehive Telephone Company, Inc.	<u>DOCKET NO. 18-051-01</u>
2019 Utah Universal Service Fund Recommendation for South Central Utah Telephone Association, Inc.	<u>DOCKET NO. 18-052-01</u>
2019 Utah Universal Service Fund Recommendation for UBTA-UBET Communications, Inc. dba Strata Networks	<u>DOCKET NO. 18-053-02</u>
2019 Utah Universal Service Fund Recommendation for Union Telephone Company, Inc.	<u>DOCKET NO. 18-054-01</u>
2019 Utah Universal Service Fund Preliminary Recommendation for Skyline Telecom	<u>DOCKET NO. 18-576-01</u>
2019 Utah Universal Service Fund Recommendation for All West Communications, Inc.	<u>DOCKET NO. 18-2180-01</u>
2019 Utah Universal Service Fund Preliminary Recommendation for Bear Lake Communications, Inc.	<u>DOCKET NO. 18-2201-01</u>

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2019 Utah Universal Service Fund Recommendation for Carbon/Emery Telcom, Inc.	<u>DOCKET NO. 18-2302-02</u>
2019 Utah Universal Service Fund Recommendation for Hanksville Telcom, Inc.	<u>DOCKET NO. 18-2303-01</u>
2019 Utah Universal Service Fund Preliminary Recommendation for Direct Communications Cedar Valley, LLC	<u>DOCKET NO. 18-2419-01</u> <u>ORDER APPROVING SETTLEMENT</u>

ISSUED: December 31, 2018

The Public Service Commission (“PSC”) approves the Joint Stipulation and Settlement Agreement (“Settlement”), filed December 14, 2018.

BACKGROUND

On October 4, 2018, the Division of Public Utilities (“DPU”) filed memoranda in the above referenced dockets, recommending adjustments in the Utah Universal Service Fund (“UUSF”) distributions to the following companies, all of which are members of the Utah Rural Telecom Association: All West Communications, Inc.; Bear Lake Communications, Inc.; Beehive Telephone Company, Inc.; Carbon/Emery Telcom, Inc.; Central Utah Telephone, Inc.; Direct Communications Cedar Valley, LLC; Emery Telephone; Gunnison Telephone Company; Hanksville Telcom, Inc.; Manti Telephone Company; Skyline Telecom; South Central Utah Telephone Association, Inc.; UBTA-UBET Communications, Inc. dba Strata Networks; and Union Telephone Company, Inc. (collectively, the “URTA Members”).

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The PSC subsequently received comments and replies on the recommendations from the URTA Members, the DPU, and the Office of Consumer Services (“OCS”).

On December 14, 2018, the URTA Members filed the Settlement, which the URTA Members, the DPU, and the OCS (collectively, the “Parties”) have executed.

In the Settlement, the Parties agree to apply the 2017 corporate tax rate for the purpose of grossing up revenue requirement for normalized taxes. They also agree to apply the 2019 blended federally prescribed weighted average cost of capital rate of return of 10.375%. The Parties disagree and do not stipulate as to whether an interest synchronization adjustment should apply to revenue requirement and UUSF disbursement, where applicable. The DPU believes the PSC’s prior order requires it to apply an interest synchronization adjustment for the URTA Members that have no debt in their capital structure. The URTA Members believe no such adjustment is appropriate since the Legislature’s adoption of Senate Bill 130 during the 2017 General Legislative Session (“SB 130”). The OCS takes no position on the matter.

In the Settlement, the Parties have stipulated to two potential UUSF distribution amounts for each URTA Member. If the PSC concludes no interest synchronization adjustment is applicable, the Parties stipulate the amounts enumerated in Table 1 are the appropriate amounts. If the PSC applies the interest synchronization adjustment, the Parties stipulate the amounts enumerated in Table 2 are correct.

The PSC held a hearing to consider the Settlement on December 27, 2018. During the hearing, the DPU testified the Settlement was just, reasonable, and in the public interest. The

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OCS also provided testimony in support of the Settlement. The URТА Members proffered, through counsel, their support of the Settlement and their belief that it is just and reasonable.

The DPU's witness also offered corrections to the calculated amounts in Tables 1 and 2. The DPU introduced Hearing Exhibit 1, which identifies these corrections. The OCS and URТА Members represented at hearing that they concurred with the proposed corrections.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Settlement of matters before the PSC is encouraged at any stage of a proceeding. Utah Code Ann. § 54-7-1. In evaluating a settlement, we consider it as a whole and must find whether the settlement is just and reasonable in result and whether the record evidence supports this finding. *Id.*

Here, based on the filed comments and exhibits, the testimony at hearing, and our review of the Settlement, we find settlement of these issues is in the public interest and the Settlement is just and reasonable in result.

With respect to the interest synchronization issue, we conclude that imputing a hypothetical interest expense based on an imputed capital structure and imputed cost of debt is inconsistent with SB 130. In adopting the federally prescribed rate of return, we conclude the Legislature intended to implicitly codify the resolution of two issues that have, historically, been determined through costly adjudication in UUSF dockets: capital structure and cost of capital. While we understand the DPU's proposed adjustment applies, ultimately, to recoverable tax expenses, as opposed to the return on rate base, we do not see how a utility may effectively

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contest the proposed adjustment without presenting evidence that its capital structure and cost of capital are reasonable, *i.e.*, without litigating the very issues the Legislature sought to resolve by statute.

We further conclude this order is narrow in scope. In evaluating the reasonableness of expenses for purposes of calculating USF distributions, rate-of-return regulated carriers' expenses cannot be deemed unreasonable solely on the basis of their capital structure. This order does not preclude an evaluation of the reasonableness of a carrier's expenses so long as that evaluation does not require litigation of the specific issues we have concluded were settled by SB 130.

ORDER

Based on the foregoing findings and conclusions, we order as follows:

1. The Settlement is approved, as modified by Hearing Exhibit 1 and testimony at hearing;
2. The DPU's proposed interest synchronization adjustment shall not apply, and the URTA Members' UUSF distributions will be made consistent with the amounts enumerated in Table 1 of the Settlement, as corrected by Hearing Exhibit 1 and testimony at hearing;
3. No part of this Order shall constitute precedent for the treatment of Alternative Connect America Cost Model funds received going forward, and the PSC will initiate

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a separate docket, as the Parties request on page 7, ¶ 9 of the Settlement, to consider that issue.

DATED at Salt Lake City, Utah, December 31, 2018.

/s/ Michael J. Hammer
Presiding Officer

Approved and confirmed December 31, 2018, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#306100

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Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this written Order by filing a written request with the PSC within 30 days after the issuance of this 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 PSC does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the PSC'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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

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CERTIFICATE OF SERVICE

I CERTIFY that on December 31, 2018, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Eddie Cox (ecox@cut.net)
Bear Lake Communications, Inc.
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Kip A. Wilson (kip@directcom.com)
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Wendy Stewart (wendyw@socen.com)
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Manti Telephone Company

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