



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: The Public Service Commission of Utah
From: The Office of Consumer Services
Michele Beck, Director
Alyson Anderson, Utility Analyst
Date: December 8, 2020
Subject: Docket 20-2419-01 Comments
In the Matter of: Direct Communications Cedar Valley – 2019 Annual Report UUSF Review.

INTRODUCTION

On November 16, 2020, the Division of Public Utilities (DPU) recommended the Utah Public Service Commission (PSC) adjust the Utah Universal Service Fund (UUSF) payable to Direct Communications Cedar Valley (DCCV) to \$2,465,886 annually, or \$205,490.50 monthly effective January 1, 2021. On November 18, 2020, the DPU amended that recommendation to include the normalization of DCCV's Excess Deferred Income Taxes (EDIT) reducing the recommended UUSF support to \$2,382,572 annually, or \$198,547.67 monthly effective January 1, 2021. On November 23, 2020, the PSC issued a Notice of Filing and Comment Period that set a deadline of December 8, 2020 for parties to file comments.

The Office of Consumer Services (OCS) submits these comments to the PSC regarding the DPU's recommendation as contained in its November 16, 2020 filing in this docket.

BACKGROUND

PSC rule R746-8-401 requires the DPU recommend adjustments to the monthly UUSF distribution for each provider based on the FCC rate of return set forth in

R746-8-401(3)(a) and the providers financial information from its last annual report filed with the PSC.

The DPU received DCCV's 2019 annual report on April 16, 2020, and determined the annual report to be incomplete. During the ensuing months, the DPU issued several data requests to DCCV in an effort to obtain more information. On November 4, 2020, DCCV responded to the DPU's third data request, and the DPU concluded that DCCV has not met its burden of proof for recovery of certain expenses including a proposed management fee and proposed consultant fee. The DPU stated that DCCV did not produce sufficient documentation to understand and confirm these expenses. Thus, on November 16, 2020 the DPU recommended adjustments to the UUSF support that DCCV receives to \$2,465,886 annually or \$205,490.50 monthly effective January 1, 2021. On November 18, 2020, the DPU amended its recommendation to \$2,382,572 annually or \$198,547.67 monthly to reflect DCCV's normalization of EDIT.

DISCUSSION

Direct Communications Cedar Valley relies on an affiliate entity to bill for management services, rather than employing company executives. As stated by the DPU some management expenses are reasonable, though DCCV did not demonstrate that the billed management expenses are the lower of market cost for the affiliate. DCCV did not provide sufficient documentation to confirm or explain this expense, and therefore has not met its burden of proof for recovery from the UUSF

The DPU also indicated that DCCV included a recurring monthly consulting expense for recovery from the UUSF. The consulting firm is owned by DCCV's managing owners' family members, and DCCV did not produce evidence of value provided DCCV by the consulting firm. The DPU recommended disallowance of the consulting fee.

The OCS believes UUSF support is an important tool in helping telecom companies provide affordable and reliable service in the rural and high cost areas of Utah. Because the OCS represents both the customers who pay into the UUSF and those that receive benefits from outlays of the UUSF, we believe it is important that the telecom companies provide complete support justifying their expenses when seeking UUSF support. The UUSF is a government-administered fund, paid for by other ratepayers, and should not be used to cover unjustified salaries or consultant fees.

Thus, the OCS supports the DPU's recommendations. It is appropriate for the DPU to require telecom companies to meet their burden of proof to justify expenses that are the basis of requests for UUSF disbursements. The OCS asserts that expenses associated with affiliates and/or businesses with joint and overlapping ownership warrant additional scrutiny to ensure that such expenses are proper and transparently incurred.

RECOMMENDATION

The OCS recommends that the PSC approve the DPU's recommended adjustment to the UUSF distribution for Direct Communications Cedar Valley to \$2,382,572 annually, or \$198,547.67 monthly effective January 1, 2021.

cc: Michael Parrish, Direct Communications Cedar Valley

Kip Wilson, Direct Communications Cedar Valley

Artie Powell, Division of Public Utilities