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Division and the Committee of Consumer Services (“Committee”) to begin the process of determining cost-based prices for the requested EAS.

On October 31, 2005, the Companies, now joined by Skyline Telecom (“Skyline”) (hereinafter jointly referred to with the Companies as the “Applicants”), filed a Motion for Protective Order to govern the handling of trade secret and confidential information in this docket. On November 7, 2005, the Commission issued the requested Protective Order.

On February 3, 2006, the Division filed a memorandum noting the Applicants had conducted the required cost study and recommending the Commission approve prices derived in that study at an 8x traffic stimulation factor to permit the conduct of a customer survey in accordance with Commission Rule 746-347-5. On February 22, 2006, the Division filed a copy of this confidential cost study with the Commission. On February 24, 2006, the Commission issued its Order Approving Proposed EAS Rates so that those rates could be used in conducting the required customer survey pursuant to R746-347-5(A).

On April 25, 2006, the Commission received an email from the Gunnison City Council stating its collective opposition to the proposed EAS due to the fact that Gunnison is not tied that closely to the other communities in Sanpete County.

On June 21, 2006, the Division filed a memorandum detailing the methodology and results of the customer survey conducted by the Division and recommending the Commission establish the EAS as requested. However, the Division also recommended that, due to the level of public interest in this issue, the Commission hold a public hearing in Sanpete County to provide an additional opportunity for members of the public to be heard.

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On July 31, 2006, the Commission issued a Notice of Public Hearing stating a public hearing would be held with the Commission's Administrative Law Judge ("ALJ") at the Manti City Hall on August 29, 2006.

The Commission thereafter received an email from two residents of Mt. Pleasant opposed to the proposed EAS and a letter from a Fairview resident in support of the EAS.

The public hearing convened at the appointed place and time. Present at the hearing were the ALJ; representatives of the Division, the Committee, and the Applicants; and approximately thirty residents of Sanpete County. Fifteen individuals made statements regarding the proposed EAS, six of whom provided sworn testimony. Eight individuals were against the proposed EAS while seven spoke in favor of it.

On August 31, 2006, a Sanpete County Commissioner, emailed the Commission to voice support for the proposed EAS.

BACKGROUND

According to the results of the TSLRIC study conducted by the Applicants and the Division, the following EAS rates would apply if the Application is approved:

<u>Service Areas</u>	<u>Current EAS Rate</u>	<u>Proposed EAS Rate</u>
Manti Telephone	\$2.16	\$4.16
Central Utah Telephone	\$5.00 (Fairview/Ftn Green)	\$6.79
	\$4.15 (Mt. Pleasant)	\$6.79
Skyline Telecom	\$2.25	\$6.79
Gunnison Telephone	\$0.00	\$3.59

Those who spoke against establishment of the EAS at the public hearing voiced concerns about the effect of this added expense on those with fixed incomes, were not convinced

that the customer survey accurately reflects the view of the public, and indicated an inclination to terminate their land line residential service if the EAS is approved. These individuals do not perceive a great benefit from establishment of the EAS because they do not currently make many long distance calls within Sanpete County. Finally, they question why technology can not be used to provide EAS coverage to those who want it while allowing those who do not to continue paying for their individual toll calls.

Those in favor of the EAS noted that many people around the county have to call long distance when they need to call the hospital. They believe the EAS will stimulate economic development throughout the county and will help to build a feeling of unity in the county, much as the establishment of an EAS has done in Ephraim.

Turning to the results of the customer survey, Commission Rule 746-347-5(C) states the Commission will presume the proposed EAS is in the public interest if survey results indicate at least 67% of the customers of the incumbent telephone corporation in each petitioning exchange area desire EAS at the price indicated in the survey. Because the Applicant companies as a whole had petitioned for the EAS, the Division concluded that total-company results must satisfy this threshold in order for the EAS to be presumed to be in the public interest. In accordance with R746-347-5(B), the Division designed the survey to produce a result with at least a 10% level of significance with a plus or minus 5% margin of error. From May 10, 2006, to June 5, 2006, the Division contacted almost 1,300 residential telephone customers in Sanpete

County—400 from Gunnison, 501 from Central Utah¹, and 390 from Manti—and, referring to the rates indicated above, asked whether they would be willing to pay those rates for county-wide EAS. Survey results were as follows:

Gunnison		
Yes	255	63.75%
No	145	36.25%
Total	400	100.00%

Central Utah		
Yes	333	66.47%
No	168	33.53%
Total	501	100.00%

Manti		
Yes	298	76.41%
No	92	23.59%
Total	390	100.00%

As noted above, R746-347-5(B) requires the survey be conducted with a margin of error of plus or minus 5%. Therefore, the Division determined that if at least 63% of the customers surveyed for each Applicant company voiced support for the EAS then, in accordance with R746-347-5(C), it could be presumed to be in the public interest.² Based on this reasoning,

¹Skyline is an affiliate of Central Utah operating one local exchange in Sanpete County. The Division has advised Commission staff that customers in the Skyline exchange were included in the Division's survey but that their responses were tabulated with and included in the survey results for Central Utah.

²For example, if 63 percent of Gunnison residents voiced support for the EAS, adding the 5% margin of error to this result produces a 68% survey result, thereby satisfying the 67% threshold.

the Division concluded the survey results support the presumption that establishment of the EAS is in the public interest.

DISCUSSION, FINDINGS, AND CONCLUSION

We reach the same conclusion as the Division, but do not adopt its reasoning.

The +/-5% margin of error required by R746-347-5(B) applies to the method used to calculate an appropriate survey sample size; it is not intended to be used as an adder to survey results.

Furthermore, the R746-347-5(C) expressly requires that at least 67%, not some smaller amount, of those surveyed must indicate support for the proposed EAS in order for the EAS to be presumed to be in the public interest.

We begin our analysis noting that Rule 746-347-3 permits incumbent telephone corporations to petition for establishment or expansion of an EAS. Because the petitioning companies together represent all local exchanges in Sanpete County that would be covered by the proposed EAS, the Division conducted its customer survey based on company-wide statistical models and provided its survey results aggregated at the company level. We agree with this approach but believe it is reasonable to aggregate the survey results to the county-wide level since the proposed EAS would cover all exchanges in the county operated by the Applicants. Doing so produces a weighted county-wide level of support for EAS of 69.01%³.

³This weighted percentage is derived by multiplying the percentage of customers for each Applicant company who voiced support for the proposed EAS by the percentage of total residential telephone customers each company serves within the county. These percentage figures are then added together to produce the weighted average. For example, Manti Telephone represents 30.38% of all telephone customers in the county and 76.41% of all Manti Telephone customers surveyed voiced support for the EAS, resulting in a weighted percentage for Manti Telephone of 23.21%. Calculated in the same fashion, the weighted percentages for Central Utah and Gunnison, respectively, are 34.68% and 11.12%. Adding these figures together produces a total county-wide weighted percentage in favor of the proposed EAS of 69.01%.

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Therefore, in accordance with R746-347-5(C), we presume the proposed county-wide EAS to be in the public interest.

Furthermore, having carefully reviewed and considered the Division's recommendations, the results of the survey, and the comments received from members of the public, we conclude that the arguments put forth by those opposed to the proposed EAS do not overcome the presumption of public interest established by Rule. While some citizens are opposed to establishment of the county-wide EAS based on their view of its relative utility and expense, others are just as supportive because of its perceived benefit to the county and its residents. We therefore find and conclude that the proposed EAS is in the public interest.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The establishment of the county-wide Extended Area Service for Sanpete County proposed by Manti Telephone Company, Central Utah Telephone, Gunnison Telephone Company, and Skyline Telecom is approved with prices for said EAS as previously approved in this docket and listed *supra*.

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the 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

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rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission'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 *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 19th day of September, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 19th day of September, 2006, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#50496