

BEFORE THE UTAH PUBLIC SERVICE COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

In the Matter of the)	
Petition of Direct)	
Communications Cedar)	
Valley, LLC, for a)	Docket No. 07-2419-03
Rebalance of Rates and)	
Support from the State)	Administrative Law
Universal Service Support)	Judge: Steve Goodwill
Fund,)	

July 10, 2008 * 9:30 a.m.

Location: Heber Wells Building, Room 451
Salt Lake City, Utah

Reporter: Diana Kent, CSR, RPR, CRR
Notary Public in and for the State of Utah

1 A P P E A R A N C E S

2 FOR THE DIVISION:

3 Michael L. Ginsberg
4 ATTORNEY GENERAL'S OFFICE
5 Attorney at Law
6 160 East 300 South
7 POB 140857
8 Salt Lake City, Utah 84114
9 Tel: 801.366.0353
10 Fax: 801.366.0352
11 email: mginsberg@utah.gov

12 FOR THE PETITIONER:

13 David R. Irvine
14 Attorney at Law
15 747 East South Temple, Suite 130
16 Salt Lake City, Utah 84102
17 Tel: 801.579.0802
18 Fax: 801.579.0801

19 ALSO PRESENT:

20 Chris Luras
21 William Duncan
22 Eric Orton
23 Kip Wilson
24
25
26

1 I N D E X

2	Chris Luras:	PAGE
3	Examination by Mr. Ginsberg	7
4	William Duncan:	
5	Examination by Mr. Ginsberg	10
6	Public Comments	17

7

8

9

E X H I B I T S

10

NO.	DESCRIPTION
-----	-------------

11

12	Joint 1	Stipulation
----	---------	-------------

13	Committee 1	July 10, 2008 Position Statement
----	-------------	----------------------------------

14

15

16

17

18

19

20

21

22

23

24

25

26

1 P R O C E E D I N G S

2

3 JUDGE GOODWILL: Let's go on the record.

4 This is Public Service Commission hearing in the
5 matter of the petition of Direct Communications Cedar
6 Valley LLC, for rebalance of rates and support from
7 the State Universal Service Support Fund, Public
8 Service Commission docket number 07-2419-03.

9 I'm Steve Goodwill, the Administrative Law
10 Judge for the Public Service Commission and I've been
11 assigned by the commission to hear this matter.
12 Notice of this hearing was provided by scheduling
13 order issued by the Commission on March 11, 2008,
14 with additional notice of hearing on the stipulation
15 issued on July 9, 2008. I'll note that following
16 today's evidentiary hearing we also have noticed and
17 scheduled a public witness hearing for 12:30 this
18 afternoon.

19 With that, I'd like to go ahead and take
20 appearances from the parties and we will start with
21 the company.

22 MR. IRVINE: I'm David Irvine appearing
23 for the company. Might I just note, as you were
24 reading through that material, I thought the docket
25 number was 07-2419-01. If I'm mistaken, I need to be

26

1 corrected.

2 JUDGE GOODWILL: It is 03, and I note that
3 the stipulation had indicated the docket number
4 ending in 01, as well, and just intended to correct
5 that on the record as we go through. But it is 03.

6 MR. GINSBERG: Michael Ginsberg appearing
7 for the Division of Public Utilities.

8 THE WITNESS: Go ahead Mr. Orton.

9 MR. ORTON: I'm Eric Orton for the
10 Committee of Consumer Services. I'm here without
11 counsel, but would like to present a position paper.

12 JUDGE GOODWILL: Okay. We will do that,
13 take that in turn, then.

14 MR. ORTON: Thank you.

15 JUDGE GOODWILL: Before we went on the
16 record this morning we discussed how we would
17 proceed. It appears that all the parties present
18 intend to speak simply to the stipulation that has
19 been prefiled in this matter. No one is appearing
20 here in opposition to the stipulation. We will turn
21 to the Division first to go ahead and offer the
22 stipulation. Mr. Ginsberg?

23 MR. GINSBERG: Yes. The Division intends
24 to present two witnesses in support of the
25 stipulation; Chris Luras and Bill Duncan, if they

26

1 could be sworn.

2 JUDGE GOODWILL: Sure. If you will stand
3 and raise your right hands, I'll swear you in.

4

5 CHRISTOPHER LURAS and WILLIAM DUNCAN,
6 called as witnesses, were sworn to tell the truth,
7 the whole truth, and nothing but the truth.

8

9 JUDGE GOODWILL: Please be seated

10 MR. GINSBERG: I have provided the court
11 reporter with a copy of the stipulation, and the
12 correction should be made on that with the correct
13 docket number. And I would note that it has an
14 attachment which consists of three pages, which are
15 confidential.

16 JUDGE GOODWILL: Okay.

17 MR. GINSBERG: Would you like to have that
18 marked as Joint Exhibit 1, maybe?

19 JUDGE GOODWILL: Sure. We can say Joint
20 Exhibit 1.

21 MR. GINSBERG: Okay. And if I could, I'll
22 go ahead and present Chris Luras first, and he will
23 go through the stipulation and its terms with some
24 testimony.

25 JUDGE GOODWILL: Great.

26

1 EXAMINATION OF MR. LURAS

2 BY MR. GINSBERG:

3 Q. Would you state your name for the record.

4 A. Christopher James Luras.

5 Q. And state your position with the Division
6 and your role in this rate case proceeding.

7 A. I'm a technical consultant in the
8 Telecommunications Department of the Division of
9 Public Utilities. My role in this case was as
10 project manager.

11 Q. You did participate in the negotiations
12 that led to the stipulation that's been filed with
13 the Commission?

14 A. I did.

15 Q. Can you go ahead and provide your
16 testimony in support of the stipulation?

17 A. Yes. As noted in the stipulation filed
18 July 3, 2008, the Division and Direct Communications
19 Cedar Valley, or DCCV, reached an agreement for Utah
20 USF distribution or support for new customer rates.
21 The Division conducted an extensive review of DCCV's
22 operations. Specifically, the Division conducted
23 both an on-site audit of Direct Communications
24 Rockland, the parent company, and Direct
25 Communications Cedar Valley.

26

1 The Division also sent around 12 data
2 requests and had weekly discussion meetings with DCCV
3 to obtain a better understanding of the issues.
4 Through these methods, the Division was able to
5 determine and work through the issues in said rate
6 case. The stipulated results of operations are
7 reflected on the attached confidential exhibits. To
8 note, the exhibits utilized in DCCV's 2007 audited
9 results of operations differ from DCCV's original
10 filing of an August 2006 to August 2007 test year.

11 Some of the main points of the stipulation
12 are worth noting. Again, the test year was changed
13 to a 2007 test year from a split test year, August
14 2006 to August 2007.

15 Rates will be decreasing to the affordable
16 base rates used in other rural ILEC proceedings,
17 which is \$16.50 for residential, and \$26 for business
18 customers. EAS rates, Extended Area Service rates,
19 are set at \$2.50 for both business and residential
20 customers. The capital structure is set at 35
21 percent equity. The rate of return in this case was
22 agreed to be 11 .1 percent. The federal tax rate
23 employed is a blended effective tax rate which is
24 derived by taking the sum of the effective tax rates
25 of each company owner, proportional to their share of
26

1 ownership. This tax rate will be used as long as the
2 company is registered as an LLC.

3 Over \$1 million in rate base was removed.
4 Company operating expenses for 2008 have been --
5 excuse me, 2007 have been reduced by \$19,000. USF
6 payments are to begin on May 1, 2008, and rates will
7 be lowered August 1, 2008. These changes, along with
8 a few others, resulted in a final recommended USF for
9 2008 of \$732,972 per year, or roughly \$61,000 a
10 month. These payments will be decreased in 2009 to
11 \$588,306 or \$49,025 per month from the state USF.

12 Some of the issues I want to get into a
13 little bit more detail about in the stipulation.
14 There's three issues I'd like to talk about. One is
15 the true-up period, which is a little unique. We
16 were working with estimates in this case, Federal USF
17 estimates. So both parties agreed that a way to
18 mitigate the risk of a bad estimate is to have a
19 true-up period, a review and then a true-up period.
20 So on June 15, 2009, the Division will review the
21 actual Federal USF payments that Direct Communication
22 Cedar Valley received in '08 and '09, and any
23 variance in those payments would be compensated by
24 one side or the other.

25 For instance, if the estimates were
26

1 greater than the actual payments, then we'd be --
2 Direct Communications would be giving some back to
3 the State USF. But if the estimates were less than
4 what they actually got, then the State USF would be
5 giving more to compensate the shortfall.

6 The next issue or the next term is the EAS
7 rates. The Division and Direct Communications agreed
8 to standardize EAS rates throughout Utah County.
9 Currently EAS rates are \$2.50 throughout all of Utah
10 County and Direct Communications had EAS rates that
11 differed from those rates. So we believe that the
12 best policy to put in place in this for EAS were to
13 be standard throughout Utah County, so their
14 neighboring communities of Saratoga Springs and some
15 people close by didn't have different rates for
16 calling the same places.

17 And finally, the capital structure terms,
18 I'm going to hand it over to the Telecommunications
19 Manager, Bill Duncan, to briefly go over those.

20

21 EXAMINATION OF MR. DUNCAN

22 BY MR. GINSBERG:

23 Q. Before you get started, could you, Bill,
24 state your name for the record.

25 A. Yes. William Duncan.

26

1 Q. And your position with the Division?

2 A. I'm a manager for the Telecommunications
3 Section.

4 Q. And you've been involved in the
5 discussions in this rate case and with the telephone
6 capital structure task force that was referred to?

7 A. Yes.

8 Q. Okay. Go ahead and provide your
9 testimony.

10 A. In December, 2007 the Utah Rural Telecom
11 Association, URTA, filed a proposed rule regarding
12 capital structure with the Commission. The Division
13 opposed the proposed rule, but asked the Commission
14 to form a task force to study the issue and see if
15 the Division, URTA, and other interested parties
16 could reach a consensus on capital structure to use
17 in rate cases.

18 Since that time the task force has met
19 several times and is close to filing a proposed rule
20 with the commission. That proposal would provide for
21 a hypothetical 35 percent equity capital structure
22 for a company with direct financial status.

23 Q. Does that complete your testimony?

24 A. Yes.

25 Q. And did you have any additional comments

26

1 you wanted to make, Mr. Luras?

2 MR. LURAS: Let me just reclarify the
3 true-up period again, because I believe I may have
4 got that backwards.

5 To go back, if the estimated Federal USF
6 that we put in our analysis is lower than what they
7 actually get, then they will have to pay back to the
8 State USF. If it's greater than -- if the estimate
9 is greater than what they actually receive, Direct
10 Communications will have to pay back to the USF.

11 MR. GINSBERG: With that, do you have any
12 final comments, and recommend that the stipulation be
13 approved?

14 MR. LURAS: I recommend that the
15 stipulation be approved.

16 MR. GINSBERG: That was all the testimony
17 we planned to present in support of the stipulation.

18 JUDGE GOODWILL: Okay. Thanks.

19 Mr. Irvine, any question of those
20 witnesses?

21 MR. IRVINE: Unless Ray Hendershott
22 advises me otherwise, we have no questions of the
23 witnesses, and we support the stipulation and
24 appreciate the explanation that's been given.

25 JUDGE GOODWILL: Okay. Thanks. I just
26

1 have one question to make sure I'm clear, and I ask
2 you, Mr. Luras, paragraph 1 of the terms of the
3 stipulation which you refer to the initial annual USF
4 amounts and the approximately \$61,000 per month USF
5 payment, says that the first payment begins May,
6 2008. So if the Commission approves the stipulation,
7 payments would be retroactive back, including May,
8 June, July?

9 MR. LURAS: Correct.

10 JUDGE GOODWILL: Mr. Orton, I know you are
11 here without counsel, but did you have any questions
12 for the Division witnesses?

13 MR. ORTON: No. Thank you.

14 JUDGE GOODWILL: And nothing further for
15 the Division at this time?

16 MR. GINSBERG: No.

17 JUDGE GOODWILL: I guess I'll just go
18 ahead and close out with the Division witnesses.
19 I'll ask you, Mr. Luras, I take it it's the
20 Division's conclusion that the rates provided for in
21 the stipulation are just and reasonable and in the
22 public interest?

23 MR. LURAS: Yes, they are.

24 JUDGE GOODWILL: And an approval of the
25 stipulation as a whole would be in the public
26

1 interest?

2 MR. LURAS: Yes.

3 JUDGE GOODWILL: Okay. Mr. Orton, you had
4 indicated that you wanted to present some evidence
5 for this hearing?

6 MR. ORTON: Yes, sir. Thank you.

7 I gave to the Commission staff this
8 morning, and to Counsel, a small position statement
9 that the Committee composed. I assume you have that;
10 is that right?

11 JUDGE GOODWILL: I have a copy. Have you
12 provided a copy to the court reporter?

13 MR. ORTON: We have. Thank you. Mike did
14 that. So we just wanted to offer that as our support
15 to the stipulation. We didn't do our independent
16 analysis, but we tried to look over everyone's
17 shoulders, and we feel that it is just and it does
18 represent the interests of those who we represent, as
19 well. So we'd like to offer that. Thank you.

20 JUDGE GOODWILL: And that, just to be
21 clear, is a memorandum from the Committee dated July
22 10, 2008?

23 MR. ORTON: Yes, sir. The only change
24 would be the docket number, of course.

25 JUDGE GOODWILL: Ending in 03.

26

1 Okay. We will go ahead and mark that as
2 Committee Exhibit 1. Were there any objections to
3 its admission?

4 MR. GINSBERG: No.

5 MR. IRVINE: No.

6 JUDGE GOODWILL: And we had marked the
7 stipulation as Joint Exhibit 1. Again, any
8 objections to its admission?

9 It's admitted, as well.

10 I would just like to also note a further
11 direction to Joint Exhibit 1, the stipulation. As I
12 read through it, I'll just put this on the record, on
13 page 4 of the stipulation, under Terms of
14 Stipulation, the paragraphs are numbered but they are
15 numbered 1, 2, 4, 4. So I take it the first
16 paragraph after 2 should be 3, and we can correct the
17 Joint Exhibit 1 as such.

18 Otherwise, any other testimony or evidence
19 from the parties on this matter?

20 MR. IRVINE: None your Honor.

21 MR. ORTON: Thank you.

22 MR. GINSBERG: No.

23 JUDGE GOODWILL: Okay. Then we will go
24 ahead and adjourn until public witness comments,
25 which is scheduled for 12:30. It's my intent if we
26

1 have members of the public available at that time
2 that wish to make a statement, we will certainly
3 allow them to do so. If at 12:30 nobody is present,
4 it will be very short and we will just adjourn.
5 Thanks.

6 (The proceeding concluded at 9:49 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 P R O C E E D I N G S

2

3 JUDGE GOODWILL: Back on the record in
4 Public Service Commission Docket 07-2419-03. We are
5 convened this afternoon for the purpose of taking
6 public witness statements on the matter before us.
7 We have convened at the time provided for in the
8 scheduling order of March 11, 2008 for the public
9 witness portion.

10 I'll note for the record that
11 representatives of the Company, the Division, and the
12 Committee are present, as they were this morning. Is
13 there anyone present who wishes to make a statement
14 regarding this matter, either sworn or unsworn? And
15 I'll let the record reflect that no one indicated
16 they want to make a statement and no one is present
17 here to do so.

18 I also just wanted to put on the record
19 that after this morning's session, representatives of
20 the Company and the Division spoke to me about the
21 timing of the order and payment, if approved, of any
22 USF amounts in this matter. I indicated that pending
23 public witness, it was my intention to go ahead and
24 draft a proposed order for the Commission this
25 afternoon and forward it to the Commission for its
26

1 consideration.

2 Given that we have no public witness
3 present, and given the evidence on the record, I will
4 draft an order, a proposed order recommending that
5 the Commission approve the stipulation, and I intend
6 to have that to the Commission this afternoon. And I
7 think that's about all the business we needed to take
8 up this afternoon.

9 Is there anything else from the parties?

10 MR. IRVINE: Nothing from the Company,
11 Judge.

12 MR. GINSBERG: No.

13 JUDGE GOODWILL: Okay. Then we will go
14 ahead and adjourn. Thanks.

15 (The proceeding concluded at 12:37 p.m.)

16

17

18

19

20

21

22

23

24

25

26

REPORTER'S HEARING CERTIFICATE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, Diana Kent, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That prior to being examined, the witnesses were duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said proceeding was taken down by me in stenotype on July 19, 2008, at the place therein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages;

I further certify that I am not kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 10th day of July, 2008.

Diana Kent, RPR, CRR
Notary Public
Residing in Salt Lake County