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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Increase of Rates And Charges and Increase in USF Eligibility for Manti Telephone Company	MOTION FOR RECONSIDERATION AND REVIEW OR REHEARING
	Docket No. 08-046-01

Manti Telephone Company (“Manti” or “Company”) pursuant to Utah Code Section 63-46b-12 and Section 54-7-15 and requests that the Utah Public Service Commission (the “Commission”) review its Order dated December 28, 2012 (the “Order”). Manti further requests that the Commission stay the Order pending consideration of this Petition pursuant to Utah Code Section 54-7-17.

Statement of the Case

On April 25, 2008 Manti filed an Application for Rate Increase and for USF Eligibility. Over the course of this proceeding, Manti has amended its application twice. The Second (and final) Amended Application was filed on April 24, 2012 (collectively the “Application”). Manti’s Application sought to increase its basic service rates for R1 and B1 Service by \$3.00 per subscriber, and sought an increased disbursement from the Utah Universal Service Fund (“UUSF”) because its revenues from rates do not cover its costs in providing

telecommunications services. The Division of Public Utilities (“Division”) and the Office of Consumer Services (“Office”) are statutory parties and have participated in this proceeding.

Prior to filing this application, Manti was receiving \$296,226 in UUSF (\$24,685.50 per month). During the course of this proceeding, Manti has entered into several stipulations, and has received interim UUSF ranging from \$906,763 to \$487,728 per year, in addition to the previously awarded \$296,226. Additionally, during the course of this proceeding, the Commission entered an order approving a rate increase of \$3.00 per subscriber per month.

A hearing on Manti’s Application was held on November 14 and 15, 2012. Following the testimony and cross examination of the witnesses, the Commission requested that the parties prepare and provide an issues matrix identifying the monetary issues in the case, and identifying each party’s position on each issue (the “Issues Matrix”). The Issues Matrix was filed by the parties on November 30, 2012. On December 28, 2012, the Commission entered the Order granting Manti \$41,561 in UUSF annually, and ordering Manti to payback the Interim UUSF it received in excess of that amount. Manti requests that the Commission reconsider the Order for the following reasons: (1) the Order is not in the public interest; (2) the pay back calculation provided by the Division is not accurate; and (3) Manti should not be required to pay back amounts that it could have received in the form of rate increases, had the Commission timely approved the requested rate increase.

Manti further requests that the Commission stay or suspend the Order pursuant to U.C.A. Section 54-7-17.

Argument

A. It Is In the Public Interest to Reconsider or Stay the Commission's Order.

Eligibility for UUSF is determined according to Utah Code Annotated Section 54-8b-15. The fund is designed to “promote equitable cost recovery of basic telephone service through the imposition of just and reasonable rates for telecommunications access and usage.” UCA Section 54-8b-15(6)(a). Additionally, the fund is designed to “preserve and promote, universal service within the state by ensuring that customers have access to affordable basic telephone service.” UCA Section 54-8b-15(6)(b). Finally, “to the extent not funded by a federal universal service fund or other federal jurisdiction revenues, the fund shall be used to defray the costs, as determined by the Commission, of any qualifying telecommunications corporation in providing telecommunications services to . . . customers, where the basic telephone service rate considered affordable by the Commission in a particular geographic area is less than the costs, as determined by the Commission for that geographic area, of basic telephone service.” UCA Section 54-8b-15(7).

Pursuant to Utah law, the Commission's Order determined that Manti's costs only exceeded Manti's revenues in the amount of \$41,561 per year. Manti believes that this finding was in error. Unfortunately, Manti's expert failed to provide meaningful testimony to rebut the testimony offered by the Office and the Division, thus, the Commission predicated its decision on the substantial testimony of the Office and the Division. While Manti acknowledges it is responsible for the selection of its expert, the complete failure of its expert to file meaningful rebuttal testimony has put Manti in an impossible situation. Without substantial UUSF support, Manti is unable to continue business as it has. As a result of the Order, Manti simply does not

have the cash flow to continue operations at the status quo¹, and has had to reduce its work force by more than half. While Manti will make every effort to continue to provide an excellent customer service experience, and reliable service for its customers, the reality is that with substantially fewer technicians and employees, Manti's service will be negatively affected. Additionally, without receipt of any meaningful UUSF support, Manti will be unable to install new facilities to hook customers up to its fiber facilities. Construction will be halted, and repairs will be delayed.

In an effort to address the concerns of the Division, the Office and the Commission, and in an effort to provide meaningful support to its financial position, Manti has hired a new consultant to review its operations, make financial recommendations, and ultimately file a new rate case. Manti believes that the new consultant will be able to document that Manti is, and has been, entitled to substantially more than \$41,561 per year in UUSF. However, as the Commission is aware, this takes time. Manti believes it is in the public interest to reconsider the Commission's Order, and to stay the Order and any payback to enable Manti to be able to continue its operations. Without a stay Order and the payback obligation, even with substantial cost cutting measures, Manti may be compelled to close its doors and may have to cease providing telephone services to its customers. It is not in the public interest for Manti to go out of business.

Additionally, Manti believes that the Commission has jurisdiction to stay the payback. Under Section 54-4-4.1, the Commission may, by rule or order, adopt any method of rate

¹ As indicated below, Manti has hired a new consultant, TCA, Inc. to assist it. TCA met with the Company the week of January 15, 2013 and is in the process of reviewing and analyzing Manti's financial position. TCA can provide to the Commission, Division and Office, a preliminary report of Manti's financial position, including cash flow concerns, as soon as one is available.

regulation that is: (a) consistent with this title; (b) in the public interest; and (c) just and reasonable. The Commission is certainly within its jurisdiction to determine it is not in the public interest to require Manti to pay back interim amounts to the UUSF at this time.

Additionally, as the Commission is aware under Section 54-4a-6 of the Utah Code, the Division of Public Utilities is required, in the performance of the duties, powers, and responsibilities committed to it by law, to act in the public interest in order to provide the Public Service Commission with objective and comprehensive information, evidence, and recommendations consistent with the following objectives:

(1) promote the safe, healthy, economic, efficient, and reliable operation of all public utilities and their services, instrumentalities, equipment, and facilities;

(2) provide for just, reasonable, and adequate rates, charges, classifications, rules, regulations, practices, and services of public utilities;

(3) make the regulatory process as simple and understandable as possible so that it is acceptable to the public; feasible, expeditious, and efficient to apply; and designed to minimize controversies over interpretation and application;

(4) For purposes of guiding the activities of the Division of Public Utilities, the phrase “just, reasonable, and adequate” encompasses, but is not limited to the following criteria:

(a) maintain the financial integrity of public utilities by assuring a sufficient and fair rate of return;

(b) promote efficient management and operation of public utilities;

(c) protect the long-range interest of consumers in obtaining continued quality and adequate levels of service at the lowest cost consistent with the other provisions of Subsection (4);

(d) provide for fair apportionment of the total cost of service among customer categories and individual customers and prevent undue discrimination in rate relationships;

(e) promote stability in rate levels for customers and revenue requirements for utilities from year to year; and

(f) protect against wasteful use of public utility services.

Unfortunately, in this rate case proceeding those steps broke down, primarily as a result of the failure of Manti's consultant to provide meaningful rebuttal testimony. While the Division's testimony, and the Commission's Order, if implemented, may address many of the above criteria, the Order will not maintain the financial integrity of Manti. On the contrary, Manti will more than likely go out of business, file bankruptcy, or have its interests foreclosed upon by its lender.

Based on the failure of Manti's expert, and Manti's current efforts to resolve these issues, Manti respectfully requests that the Commission reconsider and stay its Order. If the Commission were to stay the Order pending a filing of a new rate case, the public interest would be served because Manti would remain in business, serving customers, while permitting Manti's new expert to provide a meaningful analysis and support for Manti's UUSF request.

B. The Calculation of Payback Provided by the Division Is Inaccurate.

Manti further requests that the Commission reconsider its Order based on the fact that the Payback Calculation provided by the Division is not accurate. Under the terms of the Stipulations, Manti agreed to pay back any interim amounts that exceed the final UUSF awarded by the Commission. The Division's Payback Analysis failed to take into consideration the final award of \$41,561 per year. If Manti has a payback obligation, it should be the difference between what it was receiving on an interim basis, and what the Commission has now decided it was entitled to. In other words, the final award should be deducted from the interim amount to accurately determine the amount of payback. Obviously, the interest would need to be recalculated as well.

C. Rate Increases Should Be Imputed Into the Payback Calculation.

As the Commission is aware, in the initial Stipulation between Manti and the Division, Manti's rates for R1 and B1 services were not raised. Rather, the parties agreed that the rates, as determined by the Commission subsequently, would be imputed back to October 1, 2008 as revenues available to reduce the USF distributions to Manti (See December 8, 2008 Stipulation between Manti and the Division). Ultimately, the rate increases were implemented after the entry of the Commission's Order on April 21, 2011. Pursuant to the terms of the March 10, 2011 Stipulation and the April 21, 2011 Commission Order, the increase in rates from \$13.50 R1 and \$23.50 B1 to \$16.50 and \$26.00 respectively should be imputed to reduce Manti's payback obligation. This is because if the rates had been in effect as of October 1, 2008, Manti would have had the benefit of that rate increase, and those funds would not have been required from the UUSF. Thus, Manti's payback obligation should be reduced by \$3.00 per subscriber, per year from October 1, 2008 through April 21, 2011 for a reduction in the payback of \$3.00 per month per subscriber (~2600) for 31 months (\$241,800). Interest should also be recalculated to reflect this offset.

Conclusion

Based on the foregoing, it is in the public interest for the Commission to reconsider and stay its Order, allowing Manti the opportunity to adequately present additional evidence in support of a new application for USF eligibility.

DATED this 28th day of January, 2013.

BLACKBURN & STOLL, LC

Kira M. Slawson
Attorneys for Manti Telephone Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the **Motion for Reconsideration and Review** was transmitted electronically (email) on this the 28th day of January, 2013, to the following:

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