



State of Utah
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May 27, 2010

TO: PUBLIC SERVICE COMMISSION

FROM: DIVISION OF PUBLIC UTILITIES

Philip J. Powlick, Director
Bill Duncan, Manager, Telecommunications and Water
Casey J. Coleman, Utility Technical Consultant

RE: In the Matter of Utah Rural Telecom Association's Petition to Initiate Rulemaking Proceedings to Amend Utah Admin. Code R746-360-8 Docket No. 09-2424-01

RECOMMENDATION:

The Division supports URTA's petition in their March 22, 2010 memo recommending that additional technical conferences be scheduled in this docket.

ISSUES:

On December 28, 2009 Utah Rural Telecom Association ("URTA") filed a petition requesting a technical conference be scheduled to discuss Utah Admin. Code § R746-360-2 B and R746-360-8. A technical conference was held on February 22, 2010 where the proposed rule was discussed. In that technical conference it was agreed that the Division would provide to the Commission estimates on the impact to the State USF fund, while representatives from Frontier and Utah Rural Telecom Association ("URTA") would modify the rule to include language that would capture companies that were average schedule companies.

The estimates of the impact to the State USF fund, as well as the amended rule, were provided to the Commission by March 22, 2010. On April 29, 2010 the Commission sent an action request to the Division asking for the following:

- 1) Opinion on proposed rule change
- 2) Aggregate anticipated cost or savings to state budget, if any effect
- 3) Aggregate anticipated cost or savings to local government, if any effect
- 4) Aggregate anticipated cost or savings to persons other than small business, businesses, or local government entities, if any effect
- 5) Compliance costs for affected persons

OPINION ON PROPOSED RULE CHANGE

Since the petition was filed by URTA, the Division has been analyzing the proposed rule change to gain a better insight into the impact of the rule on Utah USF, and how the rule would be applied. A Data Request was sent to URTA on March 8, 2010 asking for information detailing the annual returns of URTA members on an intrastate, interstate and total company basis for the years covering 2005, 2006, 2007, 2008 and 2009. Additional questions dealt with the imbedded cost of providing telephone service, data to determine which classification URTA association members would fall into for the NECA pools and high cost support, and URTA's understanding of how revenues and expenses would be treated if this proposed rule were to be adopted.

URTA furnished responses to those informal data requests in April 2010. These responses provided the Division with theoretical answers but did not supply the specific data, on annual rates of return for URTA member companies, that was requested. After internal discussions about the data responses, and after reviewing the amended rule, the Division feels more information is needed to fully understand the NECA process, the timing and availability of NECA information, and how that information would be incorporated into a rate case.

The Division recommends that additional technical conferences or working meetings be established with URTA, the Division and other interested parties that would allow collaboration and a greater understanding of the proposed rule.

AGGREGATED COST OR SAVINGS

If the Commission decides to move forward with the proposed rule and publish the rule as advocated by URTA, the following table outlines the estimates calculated by the Division for the aggregated cost or savings.

Table 1
Aggregated Cost of Proposed Rule

Group	Cost or Savings
State Budget	\$1,421,155 to \$2,273,849
Local Governments	\$0
Persons	\$0
Compliance Costs	\$0

The Division estimates the only significant cost associated with this proposed rule would be to the State USF fund. Generally if there is a revenue shortfall from the allowed rate of return for the rural telephone corporations, the USF is used to compensate for the shortfall. Paying for these shortfalls was one purpose for which The USF fund was established. There is a possibility

that citizens of Utah might see an increase in the rate charged by the Commission to cover all revenue requirements of the USF. The current rate being charged by the Commission for the State USF is .25% of retail intrastate revenues. A need to increase this amount is unlikely because the additional costs should be covered by the existing fund. If the Commission needed to increase the rate charged to cover the additional revenues required with the adoption of this rule, individual consumers would see an increase on their phone bills no greater than a couple of cents.

cc: Michael Ginsberg, Assistant Attorney General
Stephen F. Mecham, Callister Nebeker & McCullough