

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the South Central Utah)
Telephone Association, Inc.'s Notice of Intent) DOCKET NO. 10-052-01
to File an Application for Additional USF)
Eligibility) REPORT AND ORDER
)

ISSUED: June 15, 2011

By The Commission:

This matter is before the Commission on the Application of South Central Utah Telephone Association¹ (Company) for additional USF eligibility (Application). On September 15, 2010, the Company filed its Notice of Intent to File an Application for Additional USF Eligibility. It filed its Application on November 10, 2010. The Commission held a technical conference, followed by a scheduling conference on December 15, 2010 and among other issues, specifically discussed issues related to rate of return and patronage capital. Among other items scheduled, the Commission ordered the Division of Public Utilities (Division) to file its comments on rate of return and patronage issues by March 1, 2011. On January 1, 2011, the Company filed for interim USF support pending the final resolution of this matter.

On March 1, 2011, the Division submitted its comments on rate of return and patronage issues. Its comments were mostly general in nature, describing the concepts of rate of return, cost of capital, allowed rate of return, affordable base rate, and patronage capital. It did mention however that the Company pays patronage capital to its members on a "sporadic basis", *Division March 1, 2011 Recommendation*, p.4, and that the Company "has not paid any patronage capital since 2007." *Id.* It concluded its recommendation stating that:

¹ The Company is a rate of return regulated telecommunications carrier. See *Application for Interim USF Support*, ¶ 2.

...cost of capital and allowed rate of return issues are complex and the potential effect of any positions taken by the Division or decisions by the Commission likely would have broader applicability and import than just to South Central Utah Telephone Association, Inc, the Division recommends and requests that the Commission open a rulemaking proceeding that would allow all interested parties a venue to participate. By opening up a separate docket, the Division will be able to analyze patronage capital on a broader basis and evaluate methodologies pertaining to the appropriate evaluation of allowed rates of return. Additionally, opening up a separate rulemaking docket will encourage participation by all interested parties.

Id. at p.1.

On April 11, 2011, the Company and Division submitted a confidential Stipulation for Interim USF Distribution. On April 26, 2011, they submitted an Amended Stipulation. The Commission scheduled a Notice of Scheduling Conference and Notice of Hearing for Wednesday, May 25, 2011.

The Administrative Law Judge of the Commission held a hearing at which the following attended: Kira Slawson was counsel for the Company, and Andrew Denzer was witness for the Company; Patricia Schmid, assistant attorney general, was counsel for the Division and Claire Oman was witness for the Division; Paul Proctor, assistant attorney general, was counsel for the Office of Consumer Services, and Eric Orton was witness for the Office. There was no opposition to the Stipulation.

The Division's witness testified regarding its efforts to audit the Company. Since the filing of the Application, the Division had submitted various data requests to the Company and had received and reviewed those responses, verifying the Company's need for the requested USF increase. The Division also conducted a four-day, on-site audit in January 2011. The parties, however, agreed that additional discovery was needed regarding Company finances. The

DOCKET NO. 10-052-01

- 3 -

Company had, as of the filing of the Stipulation, not yet received its 2010 audited financial statements from auditors. The Division noted that it would need additional time and information to review Company finances to make a final determination whether “the amount of, rate changes or additional Utah USF distribution is necessary to establish just and reasonable rates.”

Stipulation, ¶2.

The Division noted concerns with the Company’s financial standing. It noted that the costs to the Company to provide telephone service was in excess of the approved Affordable Base Rate for Basic Telecommunications Service pursuant to Utah Admin. Code R749-360-2.A., -C. The Division also noted that the Company had not received USF distributions since 2006. The Company had also experienced “decrease in interstate access revenue NECA pool distributions.” This decrease, together with other negative Company financial conditions has prevented the Company from complying with all its loan obligations—despite its attempts to reduce expenses.

The Division found as follows:

. . . the facts and circumstances described above jeopardize South Central’s financial integrity, operations and facilities, placing at risk its capacity to provide basic telephone service within its geographic service area. The parties agree that the facts and circumstances described above establish an adequate prima facie showing that an immediate, interim Utah USF contribution is necessary to ensure continuous service to South Central’s customers, pending the Commission’s final order.

Based on this finding, the Division recommended an interim distribution of USF support for the Company of \$484,235 annually (\$40,353.00 monthly), to be distributed as follows: for the seven-month period from November 2010 through May 2011, an interim USF

DOCKET NO. 10-052-01

- 4 -

payment of \$282,471; of commencing on June 1, 2011, monthly recurring payments of \$40,353 to continue until the Commission's final order in this docket.

Additionally, the Company will provide its Audited 2010 Financial Statements, upon receipt, to the Division. It will also, forty-five days of receipt of the Audited 2010 Financial Statements, file a Second Amended Application for USF Eligibility updating its known and measurable adjustments for 2010, or using 2010 as the test year, adjusted for known and measurable changes, with all supporting schedules.

Based on the findings presented by the Division, the Commission finds the approval of the Stipulation providing for interim USF support is in the public interest. It will allow the Company to continue to provide telecommunications services to Utah ratepayers it serves. The Commission, finding the approval to be just and reasonable and in the public interest, orders as follows:

ORDER

The Stipulation providing for interim USF support is approved and its terms are incorporated into this Order as if set forth here.

Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this 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 rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final

DOCKET NO. 10-052-01

- 5 -

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 Sections 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 15th day of June, 2011.

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and confirmed this 15th day of June, 2011, as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#73119
D#207358