

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of All West)
Communications, Inc. for USF Eligibility) DOCKET NO. 11-2180-01
) ORDER APPROVING STIPULATION
)

ISSUED: November 30, 2011

SYNOPSIS

The parties' stipulation as to the Company's application for USF distribution is approved.

By The Commission:

The above-captioned matter pertains to an application for Universal Service Funds eligibility filed by All West Communications, Inc. (the "Company") on May 10, 2011. On November 9, 2011, the Company, the Division of Public Utilities (the "Division"), and the Office of Consumer Services (the "Office") (collectively, the "Parties") filed a Stipulation purporting to resolve the issues raised in the Company's application. On November 17, 2011, a hearing was conducted on whether to adopt the settlement proposal.

Kira Slawson appeared on behalf of the Company, Dahnelle Burton-Lee appeared on behalf of the Division, and Paul Proctor appeared on behalf of the Office. The Company, the Division and the Office testified in support of the stipulation and recommended approval of it. No one appeared in opposition.

PROCEDURAL HISTORY

Company's Application

On May 10, 2011, the Company filed a confidential application for USF eligibility. The Company proposed an increase of \$2,039,339 in USF support based on a test year of 2010, adjusted for known and measurable changes for 2011. The Division deemed the application substantially complete and a scheduling conference took place on June 9, 2011 which resulted in a scheduling order establishing filing deadlines and hearing dates.¹ See Scheduling Order, dated June 14, 2011.

Partial Stipulation, Interim Order, and Subsequent Filings

On September 23, 2011, the Company and the Division filed a confidential stipulation purporting to resolve some but not all of the issues raised in the Company's application. Specifically, the parties' agreement proposed to resolve all issues in this matter, except: 1) normalization of depreciation, and 2) the appropriate application of approved depreciation rates under group asset depreciation accounting to include treatment of fully depreciated accounts.

On October 11, 2011, a hearing was conducted on whether to adopt the settlement proposal. On October 20, 2011, the administrative law judge for the Commission entered an interim order approving the stipulation. The remaining issues, which presented issues of first impression, were then reserved for the full Commission to hear on November 3, 2011.²

¹ The hearing date was subsequently amended to one day only, based on resolution of some of the issues between the Company and the Division. See Amended Notice of Hearing, dated October 12, 2011.

² See *infra* n.1. The November 3, 2011 hearing date was subsequently amended to November 17, 2011. See Second Amended Notice of Hearing, dated October 27, 2011.

The parties thereafter filed direct and rebuttal testimony, reserving surrebuttal for the evidentiary hearing date on November 17, 2011. On October 11, 2011, Utah Rural Telecom Association moved to intervene in this matter, and that motion was granted on October 31, 2011.

Stipulation on Remaining Issues

On November 9, 2011, the Parties filed a stipulation as to the two remaining issues identified above.³ As stated above, those issues included 1) normalization of depreciation, and 2) the appropriate application of approved depreciation rates under group asset depreciation accounting to include treatment of fully depreciated accounts. A notice of hearing then followed. See Third Amended Notice of Hearing, dated November 15, 2011.⁴ The hearing on this stipulation was conducted by the administrative law judge for the Commission on November 17, 2011.

Under the terms of the stipulation the Parties agree to an increase in annual USF of \$1,097,413. The Parties propose that the \$1,097,413 shall be funded, in part, by the \$797,700 already approved in the interim order. The USF increase is in addition to \$944,598 in USF already received by the Company, for a total annual USF amount of \$2,042,011, or \$170,167.58 monthly.

The administrative law judge took administrative notice of all pre-filed testimony. The Parties' stipulation was admitted as Company's Exhibit No. 1.

³ The parties' signatures appear in counterpart consistent with paragraph 16 of the stipulation. The Company and Division signed on one page on November 7, 2011. The Office signed separately on an undated page which counsel for the Office proffered at the hearing was executed on November 7, 2011.

⁴ The notice clarified that the hearing would be before the administrative law judge for the Commission.

SUMMARY OF THE TESTIMONY

The Company's witness testified that the Company is experiencing revenue shortfall, despite charging the affordable base rate of \$16.50 for residential customers and \$26.00 for business customers. More particularly, the Company testified that for the 2010 test year adjusted for known and measurable changes in 2011, the Company experienced a revenue shortfall of \$2,039,339. The Company thus seeks to make up this shortfall from USF monies.

The Company's witness testified that the Parties agree to a \$1,097,413 increase in USF. As testified, the \$1,097,413 is in addition to the amount received by the Company since its last rate case in 2008. The Company's witness testified that total USF will be \$2,042,011, or \$170,167.58 per month, and this amount was based upon a rate of return of 8.44 percent, which represents the weighted average of the interstate rate of return of 12.33 percent and an intrastate rate of 7.14 percent.

In exchange for the stipulated terms agreed upon by the Parties, the Company's witness also testified that it agrees to retire its legacy GTE 5 switch from Account 2212 effective January 1, 2012. Additionally, the Company's witness testified the Parties have agreed that the depreciation rate for buried cable-metallic will be increased to 5.68 percent, and the depreciation rate for the digital switch, Account 2212, will be increased to 12.5 percent as of January 1, 2012. The Company's witness further testified that the stipulation is in the public interest and is just and reasonable in result.

The Division's witness testified that after the Parties reviewed the filed testimony additional settlement discussions regarding the unresolved issues of depreciation ensued. As a result of these discussions, the Division's witness testified that an additional \$1,097,413 in USF

is appropriate. The Division's witness further testified that this amount of USF will allow the Company to provide safe, reliable, and affordable service to the customers in the areas of Coalville, Kamas, and surrounding communities. The Division believes the stipulation is just, reasonable, and is in the best interest of the public.

The Office's witness testified in favor of the stipulation, emphasizing that it balances the interests of customers who contribute to the USF and the Company's customers.

The Parties support the stipulation and recommend approval of it.

DISCUSSION AND ANALYSIS

Section 54-7-1 of the Utah Code Ann. states: "[t]he commission may adopt a settlement proposal if: (A) the commission finds that the settlement proposal is just and reasonable in result; and (B) the evidence, contained in the record, supports a finding that the settlement proposal is just and reasonable in result." Utah Code Ann. § 54-7-1(3)(d)(i)(A)-(B).

Based on the testimony provided by the parties, the Commission finds that the settlement proposal is just and reasonable in result, and in the public interest.

ORDER

The stipulation is approved.

DATED at Salt Lake City, Utah, this 30th day of November, 2011.

/s/ Melanie A. Reif
Administrative Law Judge

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Approved and Confirmed this 30th day November, 2011, as the Order Approving Stipulation 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
D#211880

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order 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 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 Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of November, 2011, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic Mail:

Blackburn & Stoll, L.C.
Attention: Ms. Kira M. Slawson (KiraM@blackburn-stoll.com)
Counsel for South Central Utah Telephone Association, Inc.
257 East 200 South, Ste. 800
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Blackburn & Stoll, L.C.
Attention: Ms. Kira M. Slawson (KiraM@blackburn-stoll.com)
Counsel for Utah Rural Telecom Association (Intervenor)
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Salt Lake City, UT 84111

Dahnelle Burton-Lee (dburton-lee@utah.gov)
Paul Proctor (pproctor@utah.gov)
Assistant Utah Attorneys General

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Flr.
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Office of Consumer Services
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Administrative Assistant