

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of Emery Telephone's)
Application for Utah Universal Service Fund)
Support)

DOCKET NO. 14-042-01

REPORT AND ORDER

ISSUED: February 12, 2015

SYNOPSIS

The Commission approves the settlement stipulation between Emery Telephone and the Division.

BACKGROUND

1. On September 29, 2014, Emery Telephone filed an application for a Utah Universal Telecommunications Service Support Fund (UUSF) distribution in the amount of \$623,706.
2. On January 21, 2015, Emery Telephone and the Division of Public Utilities (Division) filed a settlement stipulation (Stipulation) in this docket.
3. The stipulation provides, in part, as follows:

TERMS AND CONDITIONS

4. The Parties agree for purposes of settlement that as of the date of this Stipulation Emery's present tariff charges do not provide sufficient revenues to cover Emery's 2013 test year costs to provide basic telephone service to its customers, resulting in a revenue shortfall.
5. Based on the information made available by Emery as described above and contained [in] the Application and Direct Testimony filed in support of the Application, the Parties agree for purposes of settlement to an annual Utah Universal Service Fund distribution of \$561,000, or \$46,750 per month ("UUSF Distribution"). The UUSF Distribution will begin in January

2015. The January payment shall be made in a lump sum payment, together with the one-time lump sum payment for reasonable costs associated with the Application, described in paragraph 6 below, within seven (7) days of the date of the release of the Commission's Order approving this Stipulation. Thereafter, monthly payments will be disbursed under the usual and customary procedures of the Commission on or around the first day of each month.

6. The Parties agree for purposes of settlement that Emery shall be entitled to a one-time lump-sum distribution to Emery in the amount of \$30,959.80 to cover the reasonable costs associated with this Application. The lump sum payment shall be made with the January UUSF Distribution as set forth in paragraph 5 above, within seven (7) days of the date of the release of the Commission's Order approving this Stipulation.
7. The Parties agree for purposes of settlement that the UUSF Distribution set forth herein is in the public interest and is just and reasonable in result and should be approved by the Commission.

4. On February 5, 2015, the Commission held a hearing at which Emery Telephone and the Division provided testimony on whether the proposed Stipulation is just and reasonable and in the public interest.¹ Kira Slawson appeared on behalf of Emery Telephone, along with Brock Johansen, CEO for Emery Telephone.² Justin Jetter represented the Division, and was accompanied by Bill Duncan, telecommunications manager for the Division.³

5. Both Emery Telephone and the Division testified that the Stipulation is just and reasonable in result, and in the public interest.⁴

¹ See Notice of Suspension of Scheduling Order, and Notices of Hearing on Settlement Stipulation and Public Witness Hearing, issued January 23, 2015.

² Hr'g Tr. 4:11-15, February 5, 2015 (hearing on Stipulation).

³ Hr'g Tr. 4:17-20; 21:5-7, February 5, 2015 (hearing on Stipulation).

⁴ Hr'g Tr. 13:19-23 (testimony of Brock Johansen); see also Hr'g Tr. 23:8-12 (testimony of Bill Duncan).

6. “[T]he Division and the Office of Consumer Services . . . conducted a thorough investigation, review, and audit of Emery's books and records, and conducted an onsite review of Emery's interstate and intrastate operations.”⁵

7. “The Division has reviewed this case using the same standards that have been applied in other USF requests and believes the amount presented in the settlement stipulation of [\$]561,000 per year will allow Emery to recover its operating costs and earn a fair return on its investment. The Division also reviewed the invoices submitted for rate case expenses and believes that the amount of \$30,959.80 accurately represents the costs incurred by Emery in this docket.”⁶

8. No one appeared in opposition of the Stipulation.⁷

DISCUSSION, FINDINGS AND CONCLUSIONS

As set forth by statute and as previously noted by the Commission in other orders, settlements of matters before the Commission are encouraged at any stage of the proceedings.⁸ The Commission may approve a settlement proposal after considering the interests of the public and other affected persons, if it finds the settlement proposal in the public interest.⁹ In addition, the Commission may adopt a settlement stipulation if the Commission finds that the settlement proposal is just and reasonable in result, and the evidence contained in the record supports a finding that the settlement proposal is just and reasonable in result.¹⁰

⁵ Settlement Stipulation at 2, filed January 21, 2015.

⁶ Hr'g Tr. 22:23-25; 23:1-7 (testimony of Bill Duncan).

⁷ Hr'g Tr. 3:21-25; 4:1-2, 7-11, February 5, 2015 (public witness hearing).

⁸ See Utah Code Ann. § 54-7-1 (LexisNexis 2010).

⁹ See Utah Code Ann. § 54-7-1(2)(a).

¹⁰ See Utah Code Ann. § 54-7-1(3)(d)(i)(A)-(B).

Given that the stipulation is uncontested and that the parties to the stipulation each testified that it is just and reasonable, and in the public interest, the Commission finds the stipulation just and reasonable in result, approves the stipulation, and approves the UUSF provisions stated therein.

ORDER

Therefore, we approve the stipulation, filed January 21, 2015, and order:

1. Emery Telephone shall receive an annual UUSF subsidy in the amount of \$561,000, or \$46,750 per month (UUSF Distribution). The subsidy will begin January 2015, and payments shall be made on or about the first of each month.
2. Emery Telephone shall receive a one-time lump sum UUSF subsidy in the amount of \$30,959.80 to cover the reasonable costs associated with its application in this docket. This lump sum UUSF subsidy shall be made with the January 2015 subsidy referenced in paragraph 1 above.
3. Emery Telephone shall use the UUSF subsidies it receives for UUSF purposes only.
4. The UUSF subsidies shall not be used by any other company or affiliate other than Emery Telephone.

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DATED at Salt Lake City, Utah this 12th day of February, 2015.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#263702

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 CERTIFY that on the 12th day of February, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

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