

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Utah Division of Public
Utilities' Petition for Increased USF
Distributions to Hanksville Telcom, Inc.

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DOCKET NO. 14-2303-01
REPORT AND ORDER
APPROVING INCREASED
STATE USF

ISSUED: August 27, 2014

SYNOPSIS

The Commission approves an annual Utah Universal Service Support Fund amount of \$78,554 for Hanksville Telcom, Inc.

BACKGROUND

1. On May 21, 2014, the Division of Public Utilities (Division) filed a petition for an increased Utah Universal Service Support Fund (UUSF) distribution to Hanksville Telcom, Inc. (Hanksville or Company).¹ The Division calculates an annual UUSF distribution of \$78,554 is appropriate for Hanksville.²

2. On May 22, 2014, the Commission issued notices of filing, comment period, and hearing, allowing for the submission of comments and reply comments by any interested parties.³

3. On May 29, 2014, the Office of Consumer Services (Office) requested the Commission suspend its notices of comment period and hearing and hold a scheduling conference in this docket.⁴

¹ Division's Petition, filed May 21, 2014.

² See *id.* at 2, ¶ 6 (referencing Exhibit 1 attached to the Petition).

³ See Notices of Filing, Comment Period, and Hearing, issued May 22, 2014.

⁴ See Office of Consumer Services' Motion to Suspend Notices of Comment Period and Hearing and Request for Scheduling Conference, filed May 29, 2014.

4. On June 9, 2014, Hanksville, the Division, and the Office filed a joint motion to amend the schedule and hearing date.⁵

5. On June 10, 2014, the Commission suspended the comment deadlines and hearing date issued on May 22, 2014, and set a new schedule and hearing date.⁶

6. On July 17, 2014, Hanksville filed comments in support of the Division's petition.⁷ In part, Hanksville states as follows:

Hanksville is an ILEC operating in Hanksville, Utah, serving approximately 94 access lines. As a rate of return regulated company, Hanksville has been under earning for some time. . . . Hanksville's rates are currently below the Commission approved Affordable Base Rate. However, given the economy in Hanksville, and the widespread availability of wireless alternatives, Hanksville was concerned that raising its rates to the Affordable Base Rate would increase access line loss. . . . Based on the Division's thorough audit, review, and investigation of Hanksville's operations[,] . . . the Division concluded . . . Hanksville is eligible for an increase in [U]USF in the amount of \$78,554 annually. Hanksville . . . supports the Division's [p]etition and [e]xhibits. Hanksville states that the [U]USF distribution in the amount of \$78,554 annually is just and reasonable and in the public interest, and will permit Hanksville to continue to provide high-quality reliable service to the customers in Hanksville.⁸

7. On July 21, 2014, the Office filed its initial comments.⁹ The Office states, in part:

[T]he Office does not necessarily agree with all of the Division's assumptions, analysis and conclusions. But for purposes of this case we will make an exception and not object to an annual UUSF distribution of \$78,554 to Hanksville, subject to . . . conditions . . . [including that] the underlying assumptions, analysis or calculations [used in determining the proposed UUSF amount] hold no precedential value and should not be relied upon by any

⁵ See Joint Motion to Amend the Schedule for Comments, filed June 9, 2014.

⁶ See Scheduling Order and Notice of Hearing, issued June 10, 2014.

⁷ See Comments of Hanksville Telcom, Inc., filed July 17, 2014.

⁸ Id. at 2.

⁹ See Office's Comments, filed July 21, 2014.

other carrier seeking a UUSF distribution . . . [and that] [t]he UUSF distribution must be used only in Hanksville operations for “universal service” purposes only, and should not be used in the operations of parent company Emery Telcom or any other affiliate of Emery Telcom or Hanksville.¹⁰

...The Office does not anticipate supporting future requests of such a nature until such time as a comprehensive approach for a more efficient process is established. A standard process is necessary to ensure comparable treatment as well as to provide some protections to ratepayers by imposing requirements to help to keep the costs to the UUSF at an appropriate level.¹¹

8. On July 25, 2014, the Utah Rural Telecom Association (URTA) filed comments and petitioned to intervene in this matter.¹² In sum, URTA states that “[it] believe[s] it would be more appropriate to address [the concerns raised by the Office] . . . in a separate rulemaking docket, rather than in this [d]ocket. . . .”¹³

9. On August 4, 2014, the Division filed a response to URTA’s comments and petition to intervene, stating: “The Division does not object to the intervention of URTA and requests that the Commission not open a formal rule making docket at this time.”¹⁴

10. On August 5, 2014, URTA filed reply comments and withdrew its petition to intervene.¹⁵ URTA’s filing states: “...it[] has confirmed . . . that the Office does not intend to have the Commission address its procedural ‘parameters and criteria’ for expedited UUSF petitions in this [d]ocket. Therefore, URTA . . . withdraw[s] [its] . . . [p]etition to [i]ntervene.”¹⁶

¹⁰ Id. at 2.

¹¹ Id. at 5-6.

¹² See Comments of Utah Rural Telecom Association and Conditional Petition to Intervene, filed July 25, 2014.

¹³ Id. at 3.

¹⁴ See Division of Public Utilities’ Response to URTA’s Comments and Conditional Petition to Intervene at 1, filed August 4, 2014.

¹⁵ See Reply Comments of Utah Rural Telecom Association and Withdrawal of Conditional Petition to Intervene, filed August 5, 2014.

¹⁶ Id. at 1-2.

11. On August 5, 2014, the Office filed reply comments, summarizing and recommending as follows: “The Office supports the increase of \$78,554 in UUSF funding for Hanksville Tel[.]com, Inc. ...[T]he Office notes that its support for the abbreviated process used in this docket is limited to this Hanksville request.”¹⁷

12. On August 5, 2014, Hanksville filed reply comments, supporting the increase of UUSF in the amount of \$78,554 proposed by the Division.¹⁸

13. On August 7, 2014, the Commission held a hearing in this matter.¹⁹ Justin Jetter represented the Division and was accompanied by William Duncan, telecom manager. Kira Slawson appeared on behalf of the Company along with Brock Johansen, CEO of Hanksville. Brent Coleman represented the Office and was accompanied by Michele Beck, director.

POSITIONS OF THE PARTIES

A. The Division

The Division testified that a Hanksville representative approached the Division in late 2013 to review telephone service in Hanksville, Utah. Hanksville represented to the Division that it had been losing money for several years; however, the losses were not great enough to remedy through filing a rate case.

During 2013, Hanksville determined that equipment upgrades were necessary in order to maintain adequate and reliable service. Hanksville commenced the upgrades in 2013 and completed them in 2014. The cost of these upgrades would increase the losses experienced by

¹⁷ Office’s Reply Comments at 3, filed August 5, 2014.

¹⁸ See Reply Comments of Hanksville Telcom, Inc., filed August 5, 2014.

¹⁹ See Scheduling Order and Notice of Hearing, issued June 10, 2014. See also Transcript of August 7, 2014, Hearing.

Hanksville, but the Company was still reluctant to file a rate case with the Commission because the cost of doing so would exceed the Company's expected recovery.

As a result of the Division's meeting with Hanksville, the Division offered to and, indeed did, audit Hanksville's records to determine possible recovery through rates and/or UUSF. Through its audit, the Division requested and received various accounting and financial records from Hanksville, including general ledger, trial balance, continuing property records, and audited financial statements. The Company also provided worksheets detailing proposed rate base and revenue requirement calculations. The Company also provided detail of adjustments to operations to normalize the 2013 test year.

The Division and Hanksville collaborated on several issues to come to a mutually agreeable resolution. On March 12 and 13, 2014, Division auditors conducted a field review of the Company at its home office in Orangeville, Utah. During that visit two representatives from the Division traveled to Hanksville and verified the equipment upgrades had been placed in 2013.

As a result of the Division's audit, the Division concluded that the Hanksville revenue requirement is deficient by \$85,253. The Division recommends that this deficiency be recovered through future rate increases of \$6,699 and an annual UUSF distribution of \$78,544.

The Division also provided testimony regarding the history of Hanksville and the uniqueness of the location it serves. Hanksville consists of a single central office serving the citizens of Hanksville City located in Wayne County. Hanksville originated when Emery Telecom purchased the exchange from U.S. West. This transaction was approved by the Commission on September 6, 2000, in Docket No. 99-049-65.

Hanksville currently serves 94 total access lines, consisting of 56 residential lines and 38 business lines. Hanksville is a remote, isolated community 138 miles south of Orangeville and 57 miles southwest of Green River. The closest city to the west is Torrey, which is 48 miles away through Capitol Reef National Park.

Due to the extreme isolation of the community and the geology present in southeastern Utah, providing reliable service to this community is challenging. Prior to 2013, Hanksville connected to the telephone network by analog microwave radio routed through South Central Utah Telephone Association's network. However, service became unreliable due to equipment and power failures.

In 2013, the Company spent \$142,773 on equipment upgrades. These upgrades consisted primarily of radio equipment, power equipment, a battery and generator, and building security monitoring upgrades in Hanksville and Teasdale, Utah (which is where the microwave link site is located). Division auditors verified these pieces of equipment were in place and working during the field audit conducted in March 2014. These upgrades are detailed in the Division's exhibit attached to its petition.

Hanksville will spend approximately \$210,881 on equipment upgrades in 2014. These expenditures will continue to fund digital microwave transmission equipment, including towers, poles, and backup power for various sites. The Division reviewed the bids submitted by vendors for these expenditures. These upgrades are detailed in the Division's exhibit attached to its petition.

In total, Hanksville will spend over \$350,000 over a two-year period to provide reliable telephone service to the citizens of Hanksville. The Division reviewed these expenditures and believes they are just and reasonable. Cost recovery for these expenditures is

the driving force behind the Division's recommendation. The Division and Hanksville support the following facts:

- a return on the rate base of \$363,834;
- an overall rate of return of 10.67 percent;²⁰
- a return on investment of \$38,829;
- projected taxes of \$9,256;
- operating expenses of \$144,986; and
- a total revenue requirement of \$193,071.

These details are listed in the Division's exhibits attached to its petition.

Hanksville is currently charging customer rates below the affordable base rate.²¹

The Division has imputed revenue of \$6,699 as if the Company were charging the affordable base rate. The Division recommends the remainder of the deficiency be funded through the UUSF in an annual amount of \$78,554. The Division notes that it completed the same level of review and audit as it would have if a formal application had been filed with Commission. The Division recommends the Commission approve its recommendation and believes it is just, reasonable, and in the public interest.

²⁰ The Division testified this rate is consistent with Utah Admin. Code R746-360-8A1. See Transcript of August 7, 2014, Hearing, at 10, lines 1-4.

²¹ According to the Division, Hanksville desires to increase customer rates to a level at or near the affordable base rate. See id. at 11, lines 8-10. Also according to the Division, Hanksville will propose to raise its rates gradually and will file for those increases in a separate docket. Id. at lines 10-12. The Division does not know when Hanksville intends to file its rate case. Id. at 14, lines 15-18.

B. The Company

The Company testified in support of the petition filed by the Division, and stated it believes the UUSF distribution recommended by the Division is just and reasonable and in the public interest.

The Company explained it has been under earning for several years as a rate of return regulated company and that it has fewer than one hundred access lines. According to the Company, it would not be cost effective for it to seek a rate increase and an increase in UUSF through a rate proceeding because the costs and fees associated with a rate case could easily exceed the amount sought by Hanksville.

Hanksville further explained that an annual distribution of \$78,554 from the UUSF is essential to allow Hanksville to continue to provide telecommunications services at just and reasonable rates and to recover its reasonable costs and services and to make a reasonable rate of return on the value of its property devoted to public use. The Company supported the exhibits prepared by the Division and said they accurately reflect Hanksville's books and records.

Hanksville explained that it does not intend to raise its rates at this time.²² According to the Company, the current economic realities in Hanksville will not support a rate increase so the Company is not seeking a rate increase at this time. Hanksville does, however, agree with the Division's recommended approach to impute revenue the Company would receive from a rate case rather than increasing the rates at this time.

²² The Company further testified it has no long range plan as to when it will be filing a rate case. See Transcript of August 7, 2014, Hearing at 21, lines 1-3. The Company explained that "the [Hanksville, Utah] area ... has experienced a[n] [economic] downturn. [It has] had some flooding . . . and it's just never recovered. So [Hanksville] . . . does not feel like . . . the economy of Hanksville justifies an increase right now." Id. at 21, lines 3-10.

Hanksville testified that it is the Company's intention to use the amount it is seeking through the petition filed by the Division for UUSF purposes only.

C. The Office

The Office supports the increase of \$78,554 in the UUSF funding for Hanksville. However, as the Office noted in its comments, the Office's support for this abbreviated process is limited to this docket. The Office further testified that it is requesting that the Commission not take any action in this docket or at this time regarding its recommendations for parameters and criteria for an expedited filing that could be used in the future. The Office explained that those ideas were presented in an effort to provide transparent policy development and to begin larger discussions on the topic with all stakeholders. In summary, the Office supports the recommendation of the Division as being just and reasonable and in the public interest.

D. Other Input

The administrative law judge asked if anyone was present at the hearing who wished to speak to the application who had not already done so or who otherwise wished to make an objection to the application. No additional input was offered.

DISCUSSION, FINDINGS AND CONCLUSIONS

The Division, Hanksville, and the Office all agree with the Division's recommendation that Hanksville receive an annual UUSF distribution in the amount of \$78,554. All parties agree that this UUSF amount is just, reasonable, and in the public interest, and Hanksville has agreed to use the money for UUSF purposes only. No one has objected to the petition. Thus, the Commission finds that granting the Division's petition for approval of increased UUSF, for an annual distribution to Hanksville in the amount of \$78,554, is just, reasonable, and in the public interest.

ORDER

Based on the foregoing, we approve the Division's petition, filed May 21, 2014, and order:

1. Effective immediately, Hanksville is authorized a total annual UUSF subsidy rate of \$78,554, to be paid in equal monthly installments.
2. Hanksville shall use the subsidy for UUSF purposes only.
3. The subsidy shall not be used by Hanksville's parent company, Emery Telcom, or any other affiliate of Emery Telcom or Hanksville.

DATED at Salt Lake City, Utah this 27th day of August, 2014.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#259982

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 27th day of August, 2014, a true and correct copy of the foregoing was served upon the following as indicated below:

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