

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Emery
Telephone for an Increase in Utah Universal
Service Fund Support

DOCKET NO. 15-042-01

REPORT AND ORDER

ISSUED: September 30, 2015

SYNOPSIS

The Commission approves the settlement stipulation between Emery Telephone (Emery) and the Division of Public Utilities (Division).

BACKGROUND

1. On March 27, 2015, Emery filed an application for a distribution from the Utah Universal Telecommunications Service Support Fund (UUSF) in the amount of \$739,293, plus the costs of its application.¹
2. On September 10, 2015, Emery and the Division filed a settlement stipulation (Stipulation) in this docket.
3. In relevant part, the Stipulation sets forth the following terms and conditions:
 - a. The Parties agree for purposes of settlement that as of the date of this Stipulation Emery's present tariff charges and current UUSF disbursement do not provide sufficient revenues to cover Emery's 2014 test year costs to provide basic telephone service to its customers, resulting in a revenue shortfall.
 - b. 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 increase in the annual UUSF distribution of \$550,000 for a monthly increase of \$45,833. This amount will be in addition to the \$561,000 that Emery is currently receiving, for a combined total monthly distribution of \$92,583 ("UUSF Distribution"). The UUSF Distribution in the amount of \$92,583 will begin on August 1, 2015. The

¹ At all relevant times, Emery has charged a base rate that is lower than that approved by the Commission. Therefore, in its application and in all testimony of record, income at the Commission's approved base rate has been imputed to Emery.

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August and September payments shall be made in lump sum payment, together with the one-time lump sum payment for reasonable costs associated with the Application ... 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.

- c. 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 \$35,928.05 to cover the reasonable costs associated with this Application. The lump sum payment for costs shall be included with the initial payment ... within seven (7) days of the date of the release of the Commission's Order approving this Stipulation.
 - d. 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 September 28, 2015, the Commission held a hearing at which Emery and the Division provided testimony that the proposed Stipulation is just, reasonable, and in the public interest. Kira M. Slawson represented Emery, along with Brock Johansen, CEO for Emery. Justin Jetter represented the Division, and was accompanied by William Duncan, telecommunications manager for the Division.
 5. At hearing, the Division further testified to having reviewed this case, using the same standards that have been applied in other UUSF requests. Based on that analysis, the Division believes that disbursing \$92,583 to Emery per month will allow Emery to recover its operating costs and earn a fair return on its investment. Finally, the Division testified that it has reviewed the invoices submitted by Emery for its expenses related to this case, and believes that the amount of \$35,928.05 accurately represents the costs incurred by Emery in this docket.
 6. No one appeared at hearing to oppose the Stipulation.

DISCUSSION, FINDINGS AND CONCLUSIONS

7. 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. Utah Code Ann. § 54-7-1. The Commission may approve a settlement proposal if it finds the settlement proposal to be in the public interest. Utah Code Ann. § 54-7-1(2)(a). In addition, the Commission may adopt a settlement stipulation if the Commission finds, based on the evidence of record, that the proposal is just and reasonable in result. Utah Code Ann. § 54-7-1(3)(d)(i)(A)-(B).
8. Given that the Stipulation of the parties is uncontested, and that the parties to the stipulation testified that the proposed settlement is just, reasonable, and in the public interest, the Commission finds sufficient evidence of record to approve the Stipulation, including the UUSF provisions stated therein.

ORDER

The Stipulation filed September 10, 2015 is approved. It is ordered:

1. Emery shall receive an annual UUSF subsidy in the amount of \$1,111,000, or \$92,583 per month. The subsidy shall begin August 1, 2015, with the first payment issuing within seven (7) days of the date of this order and including the August 2015 and September 2015 disbursements. Thereafter, payments shall be made on or about the first of each month.
2. Emery shall receive a one-time lump sum UUSF subsidy in the amount of \$35,928.05 to cover the reasonable costs associated with its application in this docket. This lump sum

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UUSF subsidy shall be made within seven (7) days of the date of this order, along with the August 2015 and September 2015 disbursements.

3. Emery 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.

DATED at Salt Lake City, Utah, this 30th day of September, 2015.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#269674

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 30th day of September, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

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