

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of UBTA-UBET Communications, Inc., dba STRATA Networks for an Increase in Utah Universal Service Fund Support	<u>DOCKET NO. 15-053-01</u> <u>REPORT AND ORDER</u>
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ISSUED: January 5, 2016

SYNOPSIS

The Commission approves the amended settlement stipulation among UBTA-UBET Communication, Inc., dba STRATA Networks (STRATA), the Division of Public Utilities (Division), and the Office of Consumer Services (Office).

BACKGROUND

1. On April 6, 2015, STRATA filed an application for a distribution from the Utah Universal Telecommunications Service Support Fund (UUSF) in the amount of \$3,422,053, plus the costs of its application.
2. On December 15, 2015, STRATA, the Division, and the Office filed a settlement stipulation in this docket.
3. On December 30, 2015, the parties amended the stipulation (Amended Stipulation) in order to correct a mathematical error and in order to state the total amount of the one-time reimbursement to STRATA for costs.
4. In relevant part, the Amended Stipulation sets forth the following terms and conditions:
 - a. The Parties agree for purposes of settlement that as of the date of the Amended Stipulation STRATA's present tariff charges and current UUSF distribution do not provide sufficient revenues to cover STRATA's 2014 test year costs adjusted for known and measurable changes to provide basic telephone service to its customers, resulting in a revenue shortfall.

- b. Based on the information made available by STRATA 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 \$850,000 for a monthly increase of \$70,833. This amount will be in addition to the annual amount of 1,116,396 that STRATA is currently receiving, for a combined total monthly distribution of \$163,866.33 ("UUSF Distribution"). The UUSF Distribution in the amount of \$163,866.33 is effective on November 1, 2015. STRATA will receive a one-time lump sum payment consisting of the November and December 2015 UUSF distribution increase of \$70,833.33 per month, \$141,666.66 total, plus the reasonable costs associated with the Application ... after Commission approval of the Amended Stipulation.
 - c. The Parties agree for purposes of settlement that STRATA shall be entitled to a one-time lump sum distribution to STRATA in the amount of \$75,160 to cover the reasonable costs associated with this Application. The payment for costs shall be included with the payment for November and December[.]
 - 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.
5. On December 15, 2015, the Commission held a hearing at which STRATA, the Division, and the Office provided testimony that the parties' agreement is just, reasonable, and in the public interest. Stephen F. Mecham represented STRATA, accompanied by Karl Searl. Jason McKee, Bruce Todd, and Cindy Gilbert also appeared at the hearing telephonically on behalf of STRATA. Justin Jetter represented the Division, and was accompanied by telecommunications manager William Duncan. Rex Olsen represented the Office, accompanied by Director Michelle Beck.
6. 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 \$70,833.33 to STRATA per month will allow STRATA to recover its operating costs and earn a fair return on its investment.

7. At hearing, the Office further testified to having reviewed this case with the assistance of experts retained for that purpose. Based on that analysis, the Office believes that the proposed UUSF Distribution is just, fair, and reasonable for all consumers affected by the UUSF surcharge.
8. No one appeared at hearing to oppose the Stipulation.¹

DISCUSSION, FINDINGS AND CONCLUSIONS

9. 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).
10. Given that the Amended Stipulation of the parties is uncontested, and that the parties to the agreement testified that the proposed settlement is just, reasonable, and in the public interest, the Commission finds substantial evidence of record to approve the Amended Stipulation, including the UUSF provisions stated therein.

¹ On December 30, 2015, the Division also filed a motion to amend the parties' December 15, 2015 settlement stipulation. During the December 15, 2015 hearing, the parties stated on the record that they needed additional time to determine the amount that would be disbursed to STRATA as reimbursement for the costs of the application. The presiding officer instructed the parties to amend their stipulation when they reached an agreement as to that amount. Therefore, the Division's motion was essentially granted before it was filed. In these circumstances, the Commission does not require briefing on the Division's motion to amend, nor does the Commission consider it necessary to issue a separate order on the motion.

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ORDER

The Amended Stipulation filed December 30, 2015 is approved.

1. STRATA shall receive an annual UUSF subsidy in the amount of \$1,966,396, or \$163,866.33 per month.
2. The increased monthly subsidy of \$70,833.33 shall begin November 1, 2015, with the first payment issuing within seven (7) days of the date of this order and including the November 2015, December 2015, and January 2016 increases, totaling \$212,499.99. This payment may be made separately from STRATA's scheduled January 2016 payment of \$93,033, or combined with that payment for a total January 2016 disbursement of \$305,532.99. Thereafter, the total monthly payment of \$163,866.33 shall be made on or about the first of each month.
3. STRATA shall receive a one-time lump sum UUSF subsidy in the amount of \$75,160 to cover the reasonable costs associated with its application in this docket. This lump sum UUSF subsidy shall be made within seven (7) days of the date of this order, along with the November 2015, December 2015, and January 2016 disbursements.
4. STRATA shall use the UUSF subsidies it receives for UUSF purposes only.
5. The UUSF subsidies shall not be used by any other company or affiliate other than STRATA.

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DATED at Salt Lake City, Utah, this 5th day of January, 2016.

/s/ Jennie T. Jonsson
Administrative Law Judge

Approved and confirmed this 5th day of January, 2016 as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#271244

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 5th day of January, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

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