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2019 Annual Report of Direct  
Communications Cedar Valley, LLC

DOCKET NO. 20-2419-01  
ORDER SETTING 2021 UUSE  
DISTRIBUTION AND  
NOTICE OF TELEPHONIC SCHEDULING  
CONFERENCE

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ISSUED: January 4, 2021

**BACKGROUND**

On April 16, 2020, Direct Communications Cedar Valley, LLC (“Direct”) filed its Annual Report for Calendar Year 2019 (“Report”) with the Public Service Commission (PSC). The PSC issued an action request to the Division of Public Utilities (DPU) requesting comments by October 1, 2020. On September 30, 2020, DPU filed its initial recommendation for the 2021 Utah Universal Public Telecommunications Support Fund (“UUSF”) calendar year distribution for Direct. On September 30, 2020, the PSC issued a Notice of Filing and Comment Period, seeking comments on DPU’s recommendation by October 30, 2020, and reply comments by November 16, 2020.

On November 17, 2020, DPU filed an updated recommendation modifying its original September 30, 2020 recommendation, and on November 18, 2020, DPU filed another amendment to its November 17, 2020 updated recommendation. On December 7, 2020, DPU filed a motion for extension of time for parties to file reply comments. On December 8, 2020, the Office of Consumer Services (OCS) filed comments.

On December 8, 2020, the PSC issued an Amended Notice of Comment Period, seeking comments by December 15, 2020. On December 11, 2020, Direct filed a motion to extend time for comments. On December 15, 2020, the PSC issued another Amended Notice of Comment

Period, seeking comments by December 18, 2020. On December 21, 2020 Direct filed comments responding to DPU's recommendation and requesting an evidentiary hearing. The PSC received no other comments.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Utah Admin. Code R746-8-401 requires DPU to make annual recommendations to the PSC for adjustments to the monthly UUSF distribution to each qualifying provider based on an established Federal Communications Commission rate of return and on the provider's most recent financial information reflected in its annual report filed with the PSC. DPU initially recommended suspending Direct's 2021 UUSF monthly distributions because DPU had not received a complete annual report for the fiscal year ending December 31, 2019. DPU filed a final recommendation for the 2021 UUSF calendar year distribution for Direct in the amount of \$2,382,572, to be paid in twelve monthly payments of \$198,547.67 ("2021 UUSF Direct distribution").

Direct largely agrees with DPU's recommendation with the exception of its recommendation to exclude management expenses from the 2021 UUSF Direct distribution. Direct indicates that it has provided responses to several DPU data requests related to the management expenses but that the parties have not had sufficient time to analyze the information to determine why they disagree on the issue. Consequently, Direct requests the PSC hold a scheduling conference on or after February 1, 2021 to schedule additional proceedings and an evidentiary hearing, as necessary.

The OCS supports DPU's recommendation to exclude management expenses stating that Direct failed to show the management expenses in dispute were billed at the lessor of cost or market.

Based on the Report, DPU's recommendation, and the OCS's and Direct's comments, we find and conclude that Direct is eligible to receive the 2021 UUSF distribution in the amount of \$2,382,572, to be paid in monthly installments as recommended by DPU, pursuant to Utah Code Ann. § 54-8b-15. We further find and conclude it is in the public interest to examine the disputed management expenses by scheduling additional proceedings and an evidentiary hearing. The PSC provides notice, pursuant to Utah Code Ann. § 54-7-14.5, that it may alter this order, specifically, the approved 2021 UUSF Direct distribution of \$2,382,572, upon consideration of additional evidence on the management expenses issue and after holding an evidentiary hearing.

Accordingly, the PSC grants Direct's motion and notices a scheduling conference for **Monday, February 1, 2021 at 9:00 a.m.**, where the PSC will set a schedule for discovery, testimony, and a hearing related to the management expenses issue.

Pursuant to Utah Code Ann. § 52-4-207, on this January 4, 2021, the chair of the PSC makes this written determination that, due to the COVID-19 pandemic and the continued risks of transmission in Utah, the scheduling conference scheduled for February 1, 2021 will be conducted as an electronic meeting without an anchor location. An anchor location would provide a substantial risk to the health and safety of those who may be present at the anchor location. Participants should use the following bridge number: 720-279-0026 or 877-820-7831, and the following passcode: 249364, to participate. In compliance with the Americans with

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Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this conference should notify the PSC at 160 East 300 South, Salt Lake City, Utah 84111, (801) 530-6716, at least three working days prior to the conference.

**ORDER**

The PSC approves a 2021 UUSF calendar year distribution of \$2,382,572 for Direct, to be disbursed in twelve equal monthly payments in the amount of \$198,547.67, subject to our notice that the amount may change, pursuant to Utah Code Ann. § 54-7-14.5, in a subsequent order upon consideration of additional evidence on the management expenses issue at the conclusion of the evidentiary hearing in this docket.

DATED at Salt Lake City, Utah, January 4, 2021.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#316868

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this written Order by filing a written request with the PSC within 30 days after the issuance of this 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 PSC does not grant a request for review or rehearing within 30 days after the filing of the request, it is deemed denied. Judicial review of the PSC'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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on January 4, 2021, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

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Administrative Assistant