

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Request for One Time)
Universal Service Fund Distribution of) DOCKET NO. 01-052-02
Services for Navajo Lake and Surrounding)
Ranch Properties) REPORT AND ORDER
)

ISSUED: January 14, 2009

SYNOPSIS

The Public Service Commission of Utah withdraws its 2006 Report and Order issued in this Docket granting a one-time distribution from the State Universal Public Telecommunications Service Support Fund to facilitate the provision of telecommunications service by South Central Utah Telephone Association to potential customers in the Navajo Lake area.

By The Commission:

BACKGROUND

On March 21, 2001, John Eckert, Fire Warden in the Navajo Lake area, filed a request for a one-time distribution from the State Universal Public Telecommunications Service Support Fund (“USF” or “Fund”) to South Central Utah Telephone Association (“South Central”) in order to provide Navajo Lake area residents telephone access to emergency services.

The Division of Public Utilities (“Division”) investigated this request. On December 2, 2005, the Division filed its analysis, recommending Commission approval based on an estimated 53 customers requesting service at a surveyed customer contribution rate of \$3,000 each, resulting in a total estimated customer contribution of \$159,000. The total estimated cost of the service extension was estimated to be \$900,280.00. The Division recommended a one-

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time USF distribution of \$424,128 (\$8,003 per customer). The remaining \$317,152 project cost was to be paid by South Central.

The Commission concluded the proposed extension of land line telephone service was in the public interest. In its 2006 Report and Order, the Commission made various orders related to the provision of telephone service to the Navajo Lake area by South Central, including provisions for a one-time distribution from the Fund and orders directing South Central's construction of facilities in the area. Additionally, the Commission ordered that if no subscribers were to commit to service extension, South Central was to formally withdraw the project and its request for USF support, or petition the Commission for exemption pursuant to Rule 746-360-8(C).

Since the issuance of that 2006 Report and Order, no subscriber has committed to the service and to paying the required \$3,000.

On December 30, 2008 South Central filed a Petition for Withdraw of the Commission's 2006 Report and Order. In its Petition, South Central detailed the results of its independent survey. It sent out 425 surveys to property owners in the Navajo Lake area to determine their interest in phone service. Of those, only 146 responded (34%) responded to the survey. Of the 146 responses, 106 (73% of responses) respondents were not interested in telephone service. Only 40 (27% of responses) said they were interested. Of those that stated they were interested in telephone service, however, most were either opposed to paying all or part of the costs of service, were more interested in electrical power or cellular service. Additionally, there is no evidence that 51% of the potential customers are full-time residents of

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the area, as required by R746-360-9(C). Even the proponent of the original plan, Mr. Eckert, requested an exemption from the \$3,000 subscription fee. South Central's investigation reveals that in fact there are no full-time, permanent residents in the Navajo Lake area.

There are other significant obstacles to the provision of telephone service in Navajo Lake. South Central has spent \$60,000 attempting to obtain rights-of-way from the U.S. Forest Service. Those efforts, to date, however, have been difficult and fruitless—not one right-of-way has been issued. Also, Navajo Lake has no permanent electrical power, seriously hampering construction of any facilities. It appears there are no immediate plans to provide permanent electrical power. Finally, the costs of construction have increased significantly, with costs for materials increasing markedly, especially within the most recent months. The per customer-cost has almost doubled from the original Division estimate of \$12,864 per customer (for 34 customers) to \$24,029.81 (for 53 customers). Given that a subscriber base of full-time, permanent residents is almost nil, it would appear that the need for the services, combined with the current costs of providing the service, would make the provisions of the 2006 Report and Order obsolete.

Given that all or most residents in Navajo Lake appear to be seasonal tourists or part-time residents, for whom a one-time USF distribution would be prohibited, leaving the 2006 Report and Order in place would be violative of Utah Admin Code § R746-360-9, without waiving various of its provisions. Given the current factual barriers, and resultant legal barriers in this matter, the Commission finds the 2006 Report and Order requiring South Central's construction of telephone facilities to the Navajo Lake area should be withdrawn.

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NOW, THEREFORE, THE COMMISSION HEREBY ORDERS as follows:

1. The provisions of the 2006 Report and Order in this matter are withdrawn;
2. Pursuant to Utah Code § 63G-4-301 and 54-7-15, an aggrieved party may request agency review or rehearing of this Order by filing a written 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 does not 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 §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah this 14th day of January, 2009.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#60318