

Agenda Date: November 7, 2019
Item Numbers:

Dockets: UT 190601, UT 190602, UT 190603, UT 190607
UT 190634, UT 190637, UT 190638, UT 190639
UT 190640, UT 190642, UT 190643 UT 190645,
UT 190649

Company Names: *As listed on the Agenda for each Docket Number above*

Staff: Sean Bennett, Regulatory Analyst
Tim Zawislak, Senior Regulatory Analyst
Jing Roth, Assistant Director - Telecommunications

Recommendation

Enter an order granting the fund distribution of \$3,937,438 no later than December 31, 2019, from the state universal communications services program (State USF) in the amounts shown to companies listed in Attachment 1.

I. Background

On June 13, 2019, the commission issued an order granting modification of and exemption from the expiration of WAC 480-123-110(4) in Docket UT-190409 (Order 01).¹ That order stated:

“Because 2SSB 5511 extended the state Universal Communications Services Program for an additional five years through June 30, 2024, we agree that the rule should not expire by its terms on June 30, 2019, but should remain in effect until the Commission establishes new rules to implement 2SSB 5511. Allowing the Program rules to remain in effect is in the public interest and is consistent with the purposes underlying the regulation and applicable statutes.”

The new rulemaking is now underway in Docket UT-190437; however, adoption of new rules is not expected until sometime between January 1, 2020, and June 30, 2020. Therefore, for the 2019 program year, the same current State USF Program rules that were used for the first five years of the program are being relied upon for 2019 (the sixth year).²

II. History

In 2013, the Legislature established the State USF program to be administered by the Washington Utilities and Transportation Commission (commission). The State USF program is primarily intended to provide direct financial support to Washington’s small incumbent Class B telephone companies serving high-cost rural areas of Washington. Financial support from the

¹ The Washington Independent Telecommunications Association filed a petition on May 22, 2019, seeking a waiver of the State USF program’s expiration on June 30, 2019.

² To date, no additional Petitions for Exemption or Modification of WAC 480-123 have been filed.

program was a transitional measure designed to offset certain revenue reductions imposed on these companies. The commission may distribute up to \$5 million annually (less commission administrative costs) to qualifying companies during each year.

The State USF program addresses two concerns. The first, is temporary replacement support for the state Traditional USF pool eliminated effective July 1, 2014. The second, is replacing the annualized cumulative reduction in support the company previously received from the federal CAF-ICC mechanism up through and including the year for which program support is distributed.³

Under current rules a company is eligible to receive distributions from the State USF program if the company demonstrates that its financial circumstances are such; that its customers are at risk of rate instability, or service interruptions, or cessations absent a distribution to the company.

In determining eligibility the commission will consider the following factors:

- a. The provider's earned rate of return (ROR) on a total Washington company books and unseparated regulated operations basis;
- b. The provider's return on equity (ROE);
- c. The status of the provider's existing debt obligations;
- d. Other relevant factors including, but not limited to, the extent to which the provider is planning or implementing operational efficiencies; and
- e. Business plan modifications to transition or expand from primary provision of legacy voice telephone service to broadband service or otherwise reduce its reliance on support from the program.⁴

III. Discussion

Each petitioning company meets the prerequisites⁵ for requesting program support and as such, filed a petition in accordance with State USF program rules. Commission staff (staff) reviewed 2017 and 2018 financial data filed by each company.

In our analysis, staff took into consideration each company's 2018 total Washington earned ROR based on its regulated operation and the consolidated ROE, which consists of both regulated and nonregulated operations. Staff also reviewed each company's current circumstances with respect to the status of existing debt obligations.

³ WAC 480-123-120(2)

⁴ WAC 480-123-120(1)

⁵ WAC 480-123-110(1)

Rate of Return Analysis:

The commission previously accepted a 10 percent ROR as a benchmark for the purpose of granting distribution of funds from the State USF program. This benchmark is used as a threshold test to assess the relative earning levels of the petitioning companies. The 10 percent ROR is still lower than the FCC's blended 10.625 percent ROR⁶ for the 2018 calendar year.

Return on Equity Analysis:

Staff calculated each company's booked ROE using audited or certified public accountant reviewed financial statements or books. The ROE analysis enables the commission to consider the overall health of the company (i.e., regulated and nonregulated operations) before allowing the company to participate in the State USF program. The booked returns on equity for the 13 petitioning companies identified in Attachment 1 have an ROE ranging from 15.6 percent to 17.2 percent⁷. Each company's consolidated ROE is not excessive.

IV. Conclusion

Based on staff's review and analysis, staff has determined that all 13 petitioning companies meet the requirements of the State USF program in WAC 480-123-100, et seq. Accordingly, staff concludes and recommends that the commission enter an order granting the fund distribution of \$3,937,438 no later than December 31, 2019, from the state universal communications services program (State USF) in the amounts shown in Attachment 1.

Attachment (1)

⁶ On March 30, 2016, the FCC released the Rate-of-Return Reform Order which implemented a transitional approach to reducing the 11.25 (set in 1990) percent rate of return. Effective July 1, 2016, the authorized rate of return was reduced to 11.00 and then was further reduced to 10.75 percent effective July 1, 2017. This rate will continue to be reduced 25 basis points each July 1 until reaching 9.75 percent on July 1, 2021. *Connect America Fund et al.*, WC Docket Nos 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Order on Reconsiderations, and Further Notice of Proposed Rulemaking, FCC 16-33 (rel. March 30, 2016).

⁷ The 15.6 percent ROE for one company, is driven by its highly-leveraged capital structure. The next highest ROE is 8.1 percent.