

Agenda Date: November 7, 2019
Item Number: A17

Docket: UT-190644

Company Name: Westgate Communications LLC, d/b/a WeavTel

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

Recommendation

Enter an order granting fund distribution of \$105,770 with condition:

- Distribute half of the \$105,770 no later than December 31, 2019, from the state universal communications services program (State USF) to Westgate Communications LLC, d/b/a WeavTel, and then distribute the other half no later than March 31, 2020. The second half should only be distributed *after* the company has submitted a specific officer approved¹ 2020 capital expenditure budget plan to invest at least \$52,885 toward regulated rate base benefitting its Washington exchange area service territory.

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). 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).

On August 1, 2019, Westgate Communications LLC d/b/a WeavTel (company) filed with the Washington Utilities and Transportation Commission (commission) a petition to receive support

¹ An Officer signed affidavit attesting to the detail and estimated amount of the 2020 capital expenditure budget plan that will be reviewed by staff and ultimately accepted by the commission.

from the State USF Program for the fiscal year ending June 30, 2020. The company satisfied the prerequisites for receiving program support found in WAC 480-123-100(1)(a)-(e). The company also provided, along with its petition, information including that which responds to WAC 480-123-110(1)(a)-(h).

On October 16, 2019, the company amended its financial template in response to commission staff (staff) questions. This information, previously provided information, and the statement that the company will continue to provide communications services pursuant to its tariffs on file with the commission throughout its service territory in Washington during the entirety of 2020, qualify the company as eligible to receive State USF (even though the company's regulated rate of return is above the benchmark) for the reasons outlined in WAC 480-123-120(1) including *other relevant factors*; if the commission so determines should be authorized.

History

In 2013, the Legislature established the State USF program to be administered by the Washington Utilities and Transportation 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 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.²

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

² WAC 480-123-120(2)

- 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.³

Discussion

Staff reviewed 2017 and 2018 financial data filed by the company. This information included specifically the total Washington earned ROR based on its regulated operation (22.5 percent)⁴ and the consolidated ROE, which consists of both regulated and nonregulated operations.⁵

Staff also reviewed the company's current circumstances with respect to the status of its existing debt obligations. The company has been able to improve its capital structure (from where it was last year) after reorganizing its debt with payments due in order to benefit for a lower interest rate (subject to the condition that it makes all of its payments going forward). However, it is expected that the sum of the loan payments⁶ this year will exceed the company's cash flow, absent the full distribution from the State USF program.

WeavTel is a small rural incumbent local exchange company operating in the Stehekin exchange area with 80 working loops. The Stehekin exchange area is located in a remote high-cost area.

Based on staff's review and analysis of the company's petition and exhibits staff concludes that absent any distribution from the State USF program, the customers may be at risk, and the commission should consider the sum of the loan payments for the coming year as an "other relevant factor" in this case. The debt reorganization requires that all payments be made going forward in order to benefit from the lower interest rate. In addition, in the event the company does not pay in full any monthly installment due on the loans within five days of the date that such payment is due, the agreement may be terminated without notice. In the event of such termination, the original amortization schedule for the loan, including all accrued interest at the original interest rate provided under the original loan agreement, will revert to the prior amortization schedule.

Regarding the business plan modifications to transition or expand from primary provision of legacy voice telephone service to broadband service staff has reviewed WeaveTel's compliance plan from last year's filing in Docket UT-180661. Although the company continues to provide its basic telecommunications, broadband and internet services to the customers that are located within its exchange area, staff believes that conditioning the second half of the fund distribution (by March 31, 2020) will encourage the company to improve service to its customers in these areas during the entirety of 2020.

³ WAC 480-123-120(1)

⁴ The revised financial template filed by the company indicated 20.8 percent and the staff adjusted is 22.5 percent. See Attachment to this Memo for more details.

⁵ The R.O.E. calculation, for this company, is negative (and perhaps meaningless) due to its capital structure.

⁶ See audited Financial Statements that were submitted by the company on August 1, 2019, as Exhibit 5; *for the current and expected loan payments at pages 7 and 17, respectively.*

Conclusion

Staff recommends the commission enter an order granting the fund distribution with condition as described in the recommendation paragraph outlined above.

Attachment