

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

WESTGATE COMMUNICATIONS LLC,
d/b/a WEAVTEL,

Requesting distribution of funds from the
state universal communications services
program created in RCW 80.36.650

DOCKET UT-190644

ORDER 01

ORDER GRANTING
DISTRIBUTION OF FUNDS FROM
THE STATE UNIVERSAL
COMMUNICATIONS SERVICES
PROGRAM SUBJECT TO
CONDITIONS

BACKGROUND

- 1 RCW 80.36.650 establishes a state universal communications services program (State USF Program) to support small incumbent telephone companies serving high-cost rural areas of Washington.¹ The State USF Program temporarily replaces both the universal service support pool (Traditional USF) that was eliminated on July 1, 2014, and the annualized cumulative reduction in support from the federal Connect America Fund Intercarrier Compensation (CAF) up through and including the year for which program support is distributed.²
- 2 A company is eligible to receive distributions from the State USF Program if it can demonstrate that, absent such additional funding, its customers are at risk of rate instability, service interruptions, or cessations. An eligible company will receive a distribution not to exceed the sum of the amount the company received from the Traditional USF for 2012 and the cumulative reduction in support the company received from the federal CAF.³
- 3 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:

¹ This is a transitional program that partially offsets reductions of the small companies' intrastate terminating access revenues implemented by the Federal Communications Commission (FCC) in its order FCC 11-161. The program makes available an annual fund of up to \$5 million to provide distributions to qualifying companies.

² WAC 480-123-120(2).

³ *Id.*

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.

4 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. Accordingly, the current State USF Program rules that were used for the first five years of the program govern 2019 (the sixth year).

5 On August 1, 2019, Westgate Communications LLC, d/b/a WeavTel, (WeavTel or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting support from the State USF Program (Petition) for fiscal year ending June 30, 2020. On October 16, 2019, the Company amended its financial template in response to questions from Commission staff (Staff).

6 Commission staff (Staff) reviewed the Company's Petition, including related work papers, and believes that the Company meets the requirements of WAC 480-123-120, which sets out the factors the Commission considers to determine whether a provider has demonstrated that its customers are at risk of rate instability, service interruptions, or cessations.⁴

7 Staff recommends the Commission find the Company eligible for State USF Program support in the amount of \$105,770, with the first half (\$52,885) disbursed by December 31, 2019, and the second half disbursed by March 31, 2020, subject to the condition that the Company must, prior to disbursement of the second half, submit a specific officer-approved 2020 capital expenditure budget plan for investing at least \$52,885 toward regulated rate base benefitting WeavTel's Washington exchange area service territories.⁵

⁴ Pursuant to WAC 480-123-120(1), the Commission will consider the provider's earned rate of return on a total Washington company books and unseparated regulated operations basis, the provider's return on equity, the status of the provider's existing debt obligations, and other relevant factors including, but not limited to, the extent to which the provider is planning or implementing operational efficiencies and 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.

⁵ An officer-signed affidavit attesting to the detail and estimated amount of the 2020 capital expenditure budget plan, which will be reviewed by Staff and ultimately accepted or rejected by the Commission.

DISCUSSION AND DECISION

8 We agree with Staff that the Company should be eligible for a distribution from the State
USF Program for fiscal year ending June 30, 2020.

9 Typically, in evaluating whether the Company's total operations rate of return (ROR) and
the Company's consolidated return on equity of combined operations, both regulated and
non-regulated, are not excessive, we use an ROR threshold of 10 percent. WeavTel's
ROR was 22.5 percent in 2018. However, based on our review of the Company's filings
(both its Petition and its amended template filed on October 16, 2019), we determine that
customers may be at risk absent any distribution from the State USF program. The
Company has improved the status of its existing debt obligations by reorganizing its debt
with payments due in order to benefit from a lower interest rate, which is subject to the
condition that it makes all of its payments going forward on time (within five days of the
date that payment is due). Unfortunately, absent the full distribution from the State USF
program, it is apparent that the sum of such loan payments this year would exceed the
Company's cash flow. In the event of the Company's failure to make such loan payments
and subsequent termination of the loan, the original amortization schedule, which
includes all accrued interest at the original interest rate provided under the original loan
agreement, will revert to the prior amortization schedule. Additionally, the Company has
stated that it 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.

10 In consideration of these factors, we determine that the Company should be eligible to
receive funds from the State USF program, but that these factors also justify placing
certain conditions on the distribution of funds to WeavTel. The conditions we place on
the Company, in particular the budget plan described in paragraph 7, above, to encourage
investment in the services provided to WeavTel's Washington exchange area service
territories, should help reduce the Company's reliance on support from the State USF
program.⁶

11 Accordingly, we find that, subject to WeavTel satisfying the conditions set out in
paragraph 7, above, a total distribution in the amount of \$105,770 from the State USF
Program is in the public interest, is consistent with the purposes underlying the
regulations and applicable statutes, and should be granted.

⁶ See WAC 480-123-120(1)(e).

FINDINGS AND CONCLUSIONS

- 12 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate public service companies, including local exchange companies.
- 13 (2) WeavTel is a local exchange company as defined in WAC 480-120-021 and a public service company subject to Commission jurisdiction.
- 14 (3) WAC 480-123-120(1) provides the factors that the Commission will consider when determining eligibility for a distribution from the State USF program.
- 15 (4) Absent any distribution from the State USF program, customers may be at risk.
- 16 (5) Absent any distribution from the State USF program, the Company will be unable to complete loan payments this year, which benefit the Company and its customers by reducing the interest rate the Company must pay toward its debt obligations.
- 17 (6) WeavTel 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.
- 18 (7) Despite WeavTel's ROR being above the threshold typically used to evaluate whether a company's total operations ROR and consolidated return on equity are not excessive, other factors that the Commission must consider when determining a company's eligibility pursuant to WAC 480-123-120(1) indicate that WeavTel should be eligible for a distribution from the State USF program.
- 19 (8) It is appropriate under the circumstances of this case to place conditions on the distribution of funds from the State USF program that will benefit the services to WeavTel's Washington exchange area service territories and help reduce WeavTel's reliance on support from the State USF program.
- 20 (9) The Commission should find that WeavTel is eligible to receive funding from the State USF Program in the amount of \$105,770, with half to be disbursed by December 31, 2019, and half to be disbursed by March 31, 2020, subject to the condition described in paragraph 7, above.

ORDER

THE COMMISSION ORDERS:

- 21 (1) Westgate Communications LLC, d/b/a WeavTel's, request for funds from the State USF Program for fiscal year ending June 30, 2020, in the amount of \$105,770 is granted, with half of the \$105,770 (\$52,885) disbursed by December 31, 2019, and the second half disbursed by March 31, 2020, subject to the condition that Westgate Communications LLC, d/b/a WeavTel, must, prior to disbursement of the second \$52,885, submit an approved budget plan as described in paragraph 7, above, for investing at least \$52,885 toward regulated rate base benefitting Westgate Communications LLC, d/b/a WeavTel's, Washington exchange area service territories.
- 22 (2) The funds will be disbursed as described in paragraph 21, above.
- 23 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this order.

DATED at Lacey, Washington and effective November 7, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner