

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

In the Matter of the Petition of

Ellensburg Telephone Company dba  
FairPoint Communications,

Petitioner

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

DOCKET UT-143022

ORDER 01

ORDER GRANTING  
DISTRIBUTION OF FUNDS FROM  
THE STATE UNIVERSAL  
SERVICE COMMUNICATIONS  
PROGRAM

**BACKGROUND**

- 1 On May 22, 2014, the Washington Utilities and Transportation Commission (Commission) issued General Order R-575 in Docket UT-131239 amending and adopting rules in Washington Administrative Code (WAC) 480-123 to implement the state universal communications service program (State USF Program) established by the legislature.<sup>1</sup> The State USF Program addresses two concerns. The first is the temporary replacement support for the universal service support pool (Traditional USF) created in Docket U-85-23 and administered by the Washington Exchange Carrier Association (WECA). The second is replacing the cumulative reduction in support the company received from the federal Connect America Fund (CAF) Phase 1 up through and including the year for which program support is distributed.<sup>2</sup>
- 2 A company is eligible to receive distributions from the State USF Program if the company can demonstrate that absent such additional funding, its customers are at risk of

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<sup>1</sup> RCW 80.36.650, *et seq.* establishes a state universal communications services program to support small incumbent telephone companies serving high-cost rural areas of Washington. This program 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 and is scheduled to terminate after five years.

<sup>2</sup> WAC 480-123-120(2).

rate instability, service interruptions, or cessations.<sup>3</sup> 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 Phase 1.

3 On May 23, 2014, the Commission terminated the Traditional USF in Docket UT-971140 and ordered WECA to cease distributing Traditional USF funds to its members effective July 1, 2014. Ellensburg Telephone Company dba FairPoint Communications (Ellensburg or Company) did not receive Traditional USF pool support, and is only eligible to receive disbursements from the fund replacing the cumulative reduction in support the company received from the federal CAF Phase 1 up through and including the year for which program support is distributed.

4 On July 31, 2014, Ellensburg Telephone Company dba FairPoint Communications filed a petition to receive support from the State USF Program for 2015.

5 The Company filed a supplement to its petition expressing concern about aging infrastructure in the Ellensburg service area, which could lead to interruptions in service. To address this condition, at least in part, the Company plans to introduce new technologies for providing service. State USF Program support will be used to fund Voice over Internet Protocol (VoIP) service and a power distribution addition. The estimated cost for these projects is \$382,800, which exceeds the amount Ellensburg is eligible to receive from the universal service program.

6 The supplement also states that Ellensburg will make a commitment to deposit funds distributed from the State USF Program into a special fund for these projects to ensure construction expenditures are made in 2015. The Company will also provide an initial detailed status report, including expenditures and project progress, by July 1, 2015, and a final report no later than January 31, 2016.

7 Staff reviewed the financial results included with the petition and found that the Company's 2013 total operations rate of return exceeds 10 percent. Staff determined this

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<sup>3</sup> WAC 480-123-120(1) defines the factors the Commission will use to determine if a provider has demonstrated that its customers are at risk of rate instability, service interruptions, or cessations. To make that determination, 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.

resulted from a decrease in the regulated net plant balance caused by lower capital expenditures (CapEx) than the annual depreciation expense added to accumulated depreciation. Staff requested additional information concerning the Company's capital expenditures in 2014 and projected capital expenditures for 2015. The Company provided 2014 CapEx (10 month actual and 2 month forecast), which totaled approximately \$1.9 million, compared to \$850,000 in 2013. Approximately 60 percent of the 2014 capital expenditures related to broadband growth, which meets one of the objectives of the State USF Program of transitioning from legacy voice telephone service to broadband service. Staff also received the 2015 budgeted CapEx, which is approximately \$1,200,000 including the projects funded by the State USF Program.

8 Staff determined that the company meets the prerequisites for requesting program support, petition requirements, and eligibility requirements of WAC 480-123-100, WAC 480-123-110 and WAC 480-123-120.

9 Staff believes that Ellensburg has demonstrated that its financial circumstances place its customers at risk of rate instability. While Ellensburg's earned rate of return exceeds 10 percent, its consolidated return on equity is negative and its parent company, FairPoint Communications, has large existing debt obligations. In addition, a majority of its 2014 Capital expenditures were incurred for network broadband growth and a proposed project to transition from legacy voice telephone service.

10 Staff recommends that the Commission find the Company eligible for State USF Program support in the amount of \$313,127, to be distributed January 2015.

### **DISCUSSION**

11 We agree with Staff that the Company has demonstrated its eligibility for a distribution from the State USF Program for 2015. Even though the earned rate of return is high, the parent company is highly leveraged and has negative equity at a level that reflects a risk of rate instability or service cessation. The Company has also demonstrated with its capital expenditure program business plan that it is transitioning away from legacy voice telephone service to broadband service. We find that a distribution in the amount of \$313,127 from the State USF Program is in the public interest, is consistent with the purposes underlying the regulation and applicable statutes, and should be granted and distributed by January 15, 2015.

## FINDINGS AND CONCLUSIONS

- 12 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate public service companies.
- 13 (2) Ellensburg Telephone Company dba FairPoint Communications is a local exchange company as defined in WAC 480-120-021 and a public service company subject to Commission jurisdiction.
- 14 (3) Ellensburg Telephone Company dba FairPoint Communications has demonstrated that its earned rate of return on regulated operations exceeds 10 percent; however, its rate of consolidated return on equity is negative, and a large long-term debt obligation demonstrates a risk of rate instability or service cessation.
- 15 (4) Ellensburg Telephone Company dba FairPoint Communications has demonstrated that it is transitioning from legacy voice telephone to broadband service with current and budgeted capital expenditures.
- 16 (5) Ellensburg Telephone Company dba FairPoint Communications is eligible to receive funding from the State USF Program in the amount of \$313,127, which will be disbursed by January 15, 2015.
- 17 (6) Ellensburg Telephone Company dba FairPoint Communications is required to deposit funds from the State USF Program in a separate account dedicated to the projects described in the supplement petition, and to provide an accounting of such funds by July 1, 2015, and January 31, 2016.

## ORDER

### THE COMMISSION ORDERS:

- 18 (1) Ellensburg Telephone Company dba FairPoint Communication's request for funds from the State USF Program for 2015 in the amount of \$313,127 is granted, and will be disbursed by January 15, 2015.
- 19 (2) Ellensburg Telephone Company dba FairPoint Communications is required to deposit funds from the State USF Program in a separate account dedicated to the projects described in the supplement petition, and provide an accounting of such funds to the Commission by July 1, 2015, and January 31, 2016.

- 20 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this order.

DATED at Olympia, Washington and effective December 11, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner