

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

In the Matter of the Petition of

YCOM Networks, Inc. dba FairPoint
Communications,

Petitioner

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

DOCKET UT-143023

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.¹ The State USF Program addresses two concerns. One 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)² up through and including the year for which program support is distributed.³
- 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 rate instability, service interruptions, or cessations.⁴ An eligible company will receive a

¹ 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.

² CAF Phase 1

³ WAC 480-123-120(2).

⁴ 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

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 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. Prior to the rule change, eligible companies received monthly Traditional USF distributions throughout the year. The State USF Program begins in January 2015, which results in a cash flow issue for some of the companies eligible for support. The Commission, however, has the flexibility to grant a one-time partial distribution of State USF Program funds equal to the amount eligible companies received from the Traditional USF for 2012. The remainder of the annual distribution comprised of the cumulative reduction in support from the CAF will be distributed in January 2015.

4 On July 31, 2014, YCOM Networks, Inc. dba FairPoint Communications (Company) filed a petition to receive support from the State USF Program (Petition) for 2015 which includes a partial distribution.

5 Staff reviewed the Company's Petition, including related work papers, and has determined that the Company meets the requirements of WAC 480-123. Staff finds that the Company's total operations rate of return and the Company's consolidated return on equity of combined operations, both regulated and non-regulated, are not excessive. Staff recommends that the Commission find the Company be eligible for State USF Program support in the amount of \$235,314. A \$ 80,662 portion should be distributed to the Company in October 2014, and the remainder, \$154,652, should be disbursed in January 2015. Subsequent annual disbursements of the Traditional USF will be made in January with the State USF Program disbursement.

DISCUSSION

6 We agree with Staff that the Company has demonstrated its eligibility for a distribution from the State USF Program for 2015. The Company has demonstrated that its earned rate of return on regulated operations and rate of consolidated return on equity are both at levels that reflect a risk of rate instability or service cessation. We find that a distribution in the amount of \$235,314 from the State USF Program is in the public interest, is

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.

consistent with the purposes underlying the regulation and applicable statutes, and should be granted. We will also exercise our discretion to authorize a partial distribution from that amount of \$ 80,662 by October 31, 2014. The remaining \$154,652 by January 15, 2015.

FINDINGS AND CONCLUSIONS

- 7 (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.
- 8 (2) YCOM Networks, Inc. dba FairPoint Communications is a local exchange company as defined in WAC 480-120-021 and a public service company subject to Commission jurisdiction.
- 9 (3) YCOM Networks, Inc. dba FairPoint Communications has demonstrated that its total operations rate of return and its consolidated return on equity of combined operations, both regulated and non-regulated, are not excessive.
- 10 (4) YCOM Networks, Inc. dba FairPoint Communications has demonstrated that its earned rate of return on regulated operations and rate of consolidated return on equity are both at levels that demonstrate a risk of rate instability or service cessation
- 11 (5) YCOM Networks, Inc. dba FairPoint Communications is eligible to receive funding from the State USF Program in the amount of \$235,314, and should receive a one-time partial distribution of \$ 80,662 by October 31, 2014. The remaining \$154,652 will be disbursed by January 15, 2015.

ORDER

THE COMMISSION ORDERS:

- 12 (1) YCOM Networks, Inc. dba FairPoint Communications's request for funds from the State USF Program for 2015 in the amount of \$235,314 is granted.
- 13 (2) A \$ 80,662, equal to the amount YCOM Networks, Inc. dba FairPoint Communications received from the Traditional USF for 2012, will be distributed no later than October 31, 2014. The remaining \$154,652 will be disbursed by January 15, 2015.

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

DATED at Olympia, Washington and effective October 20, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner