



Control Number: 42254



Item Number: 8

Addendum StartPage: 0

APPLICATION OF SOUTHWEST  
ARKANSAS TELEPHONE  
COOPERATIVE, INC. TO RECOVER  
FUNDS FROM THE TEXAS  
UNIVERSAL SERVICE FUND  
PURSUANT TO P.U.C. SUBST. R.  
26.406

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PUBLIC UTILITY COMMISSION  
OF TEXAS

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FILING CLERK

## COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files Commission Staff's Recommendation on Final Disposition and would show the following:

### I. BACKGROUND

On February 19, 2014, Southwest Arkansas Telephone Cooperative, Inc. (SWAT) filed an application pursuant to the requirements of Section 56.025 of PURA<sup>1</sup> and P.U.C. SUBST. R. 26.406. SWAT seeks recovery of funds from the Texas Universal Service Fund (TUSF) due to Federal Communications Commission (FCC) actions resulting in a reduction in the Federal Universal Service Fund (FUSF) revenues available to SWAT. The application requests that the Commission allow recovery in the amount of \$83,468.36 for the projected impacts to 2012, 2013, and 2014 FUSF revenues associated with its Texas Bloomberg exchange.<sup>2</sup>

On March 10, 2014, the Commission issued Order No. 2 requiring Staff to file a recommendation on final disposition by June 13, 2014. Therefore, this pleading is timely filed.

### II. RECOMMENDATION

Based on the attached memorandum of Jeffrey Wirth of the Commission's Competitive Markets Division, Staff recommends approval of the application subject to the conditions recommended in Mr. Wirth's memorandum. Staff recommends that the Commission order an

<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (West 2007 & Supp. 2013).

<sup>2</sup> *Application of Southwest Arkansas Telephone Cooperative* ("Application") at 3-4 (Feb. 19, 2014).

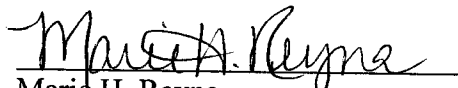
increase of \$83,468.36 in TUSF support for SWAT in order to partially offset SWAT's projected revenue impacts. SWAT indicated in its application that it is willing to true up any TUSF support ordered in this proceeding.<sup>3</sup> Staff recommends that the Commission order SWAT to true up its TUSF support in accordance with the procedure outlined in Mr. Wirth's memorandum.

**Dated: June 13, 2014**

Respectfully Submitted,


Joseph P. Younger  
Division Director-Legal Division

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Managing Attorney-Legal Division

  
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#### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 13, 2014, in accordance with P.U.C. Procedural Rule 22.74.

  
Marie H. Reyna

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<sup>3</sup> *Id.* at 4.

# *Public Utility Commission of Texas*

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## **Memorandum**

To: Marie Reyna - Attorney  
Legal Division

From: Jeffrey Wirth - Market Analyst  
Competitive Markets Division

Date: June 13, 2014

Subject: Docket No. 42254 – *Application of Southwest Arkansas Telephone Cooperative, Inc. to Recover Funds from the Texas Universal Service Fund Pursuant to P.U.C. SUBST. R. 26.406*

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### **RECOMMENDATION**

#### **Regarding Approval of Petition to Receive § 56.025 Funds**

On February 19, 2014, Southwest Arkansas Telephone Cooperative, Inc. (“SWAT” or “the Company”) filed a petition pursuant to the requirements of Section 56.025 of PURA<sup>1</sup> and P.U.C. SUBST. R. 26.406. SWAT seeks recovery of funds from the Texas Universal Service Fund (TUSF) due to Federal Communication Commission (FCC) actions resulting in a reduction in the Federal Universal Service Fund (FUSF) revenues available to SWAT. Four areas of SWAT’s FUSF revenues were impacted by the FCC’s actions in its *USF/ICC Transformation Order* (“USF/ICC Order”)<sup>2</sup>: (1) High-Cost Loop Support (HCLS); (2) Interstate Common-Line Support (ICLS); (3) Safety Net Additive Support (SNA); and (4) Local Switching Support (LSS). SWAT is a cooperative with less than 31,000 access lines that is located in Arkansas. SWAT is unique in that it has one exchange, Bloomburg, that is

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<sup>1</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.017 (Vernon 2007 & Supp. 2013) (PURA).

<sup>2</sup> Connect America Fund, WC Docket No. 10-90 et. Al., Report and Order and Further Notice of Proposed Rulemaking, FCC No. 11-161, 26 FCCR 17663 (Nov. 18, 2011).

located in Texas. The Company is seeking recovery for projected 2012, 2013, and 2014 FUSF revenue reductions only for the Bloomberg exchange. The Company's petition requests that the Public Utility Commission of Texas ("Commission") reimburse SWAT \$83,468.36, in funds from the TUSF for the reduction in FUSF revenues for the Bloomberg exchange. The Company's request includes recovery of projected FUSF revenue reductions for the Bloomberg exchange as follows: \$32,231.53 for 2012, \$25,906.67 for 2013, and \$25,330.16 for 2014. SWAT's current residential local rates, including mandatory charges, are in excess of \$25.00 and its business rates for local service are in excess of \$41.00. The Company's local rates exceed the rate floor established by the FCC. SWAT did not have any residential or business local service rate increases during the 2014 calendar year nor do I recommend an increase in local rates be required as an offset to FUSF revenue reductions identified in this petition.

P.U.C. SUBST. R. 26.406(b)(2) provides that an incumbent local exchange company (ILEC) serving fewer than 31,000 access lines may seek to recover funds from the TUSF in the event of an FCC order, rule or policy, which changes the federal universal service fund revenues of an ILEC. The Commission shall allow the ILEC, through the TUSF or an increase to rates if that increase would not adversely impact universal service, to replace the reasonably projected reduction in revenues caused by the regulatory action. SWAT is an ILEC with fewer than 31,000 access lines and is eligible to recover funds from the TUSF under these rules. No party intervened in this docket.

Upon my review of SWAT's petition, I find that the FCC actions can reasonably be projected to reduce SWAT's 2012, 2013 and 2014 FUSF revenue in its Texas Bloomberg exchange by a net amount of \$83,468.36. I recommend that SWAT's petition seeking reimbursement from the TUSF of \$83,468.36 for the projected reduction in FUSF revenues for

2012, 2013 and 2014, be **GRANTED** conditioned upon SWAT's compliance of the true-up process outlined in Subsection II.

## **I. Analysis**

### **A. FCC Order, Rule, or Policy**

The USF/ICC Order, *Regression Analysis Order*<sup>3</sup> and *Third Order on Reconsideration*<sup>4</sup> set in motion reforms to the FUSF support mechanisms that have impacted the FUSF revenues of SWAT. Through the USF/ICC order, the FCC sought to adopt fiscally responsible, accountable, incentive-based policies to transition from the outdated universal service and intercarrier compensation systems to the Connect America Fund (CAF) in order to provide affordable voice and broadband service, both wireline and mobile.

### **B. Projected FUSF Revenue Impact**

The FCC stated in the USF/ICC order that it was laying a foundation that would place rate-of-return companies such as SWAT on a path toward a more incentive-based form of regulation. The reforms implemented by the FCC are intended to: (1) limit reimbursable capital and operations expenses for purposes of determining HCLS and extend the limit on recovery of corporate operations expenses that are currently only applicable to HCLS and to ICLS; (2) ensure that carriers in rural areas are not unfairly burdening consumers across the nation by using excess universal service support to subsidize artificially low end-user rates by imposing a reduction of HCLS on a dollar-for-dollar basis to the extent a carrier's local rates are below a specified urban local rate floor; (3) eliminate the SNA program because it was being used by carriers to replace

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<sup>3</sup> Id. Order, DA 12-646 (April 25, 2012)

<sup>4</sup> Id. Third Order on Reconsideration, FCC 12-52, (May 14, 2012)

the support for lost access lines rather than for new investment; (4) elimination of LSS, however any allowable recovery of switching investment will occur through the recovery mechanism adopted as part of ICC reform; (5) elimination of support for rate-of-return companies in any study area that is completely overlapped by an unsubsidized competitor; and (6) support in excess of \$250 per line per month will no longer be provided to any carrier.

Four areas of SWAT's FUSF revenues were impacted by the FCC's actions in its USF/ICC Order: 1) HCLS was reduced due to the limitation of allowable capital and operation expenses; (2) ICLS was reduced due to the limitation of allowable corporate operations expenses; (3) SNA was eliminated; and (4) LSS was eliminated but does provide a provision for an allowable amount of recovery to occur through mechanism that is part of the ICC reform.

### **C. Recovery of Reduction in 2014 FUSF Revenues**

#### **1. Rates**

Because SWAT's current residential rates, including basic local telecommunications service (BLTS) rates and allowed surcharges, are in excess of \$25.00 per month and its current business rates, including BLTS rates and allowed surcharges, are in excess of \$41.00 per month, SWAT is not requesting a rate increase for its customers nor do I recommend an increase in these rates.

#### **2. TUSF**

SWAT will recover \$83,468.36 in projected FUSF revenue reductions for 2012, 2013 and 2014 from the TUSF for the Company's Bloomberg exchange which is located in Texas.

## **II. True-Up Process**

I recommend that a true-up of the projected FUSF revenue reductions for 2012, 2013 and 2014 shall be performed. The process I recommend is as follows:

### **2012 True-Up**

1. SWAT shall report to the Commission on or before October 31, 2014, the final and actual FUSF impacts for 2012.
2. SWAT shall make a filing and provide all supporting documentation from NECA with the Commission, supported by affidavits that will show the actual impact to SWAT's FUSF revenues including the impact to HCLS, ICLS, SNA, Funding Cap and LSS.
3. In the event the actual reductions in calendar year 2012 FUSF revenues realized by SWAT exceed the revenue realized in the same period from the revenue recovered from the TUSF, SWAT may recover the additional realized reduction in FUSF revenues from the TUSF or through increases in customer rates.
4. In the event the actual reductions in calendar year 2012 FUSF revenues realized by SWAT are less than the recovery realized by SWAT from the additional TUSF recovery, SWAT shall be required to refund to the TUSF the amount of recovery received from the TUSF in excess of its actual lost FUSF revenues.

### **2013 True-Up**

1. SWAT shall report to the Commission on or before October 31, 2015, the final and actual FUSF impacts for 2013.
2. SWAT shall make a filing and provide all supporting documentation from NECA with the Commission, supported by affidavits that will show the actual impact



to SWAT's FUSF revenues including the impact to HCLS, ICLS, SNA, Funding Cap and LSS.

3. In the event the actual reductions in calendar year 2013 FUSF revenues realized by SWAT exceed the revenue realized in the same period from the revenue recovered from the TUSF, SWAT may recover the additional realized reduction in FUSF revenues from the TUSF or through increases in customer rates.

4. In the event the actual reductions in calendar year 2013 FUSF revenues realized by SWAT are less than the recovery realized by SWAT from the additional TUSF recovery, SWAT shall be required to refund to the TUSF the amount of recovery received from the TUSF in excess of its actual lost FUSF revenues.

#### **2014 True-Up**

1. SWAT shall report to the Commission on or before October 31, 2016, the final and actual FUSF impacts for 2014.

2. SWAT shall make a filing and provide all supporting documentation from NECA with the Commission, supported by affidavits that will show the actual impact to SWAT's FUSF revenues including the impact to HCLS, ICLS, SNA, Funding Cap and LSS.

3. In the event the actual reductions in calendar year 2014 FUSF revenues realized by SWAT exceed the revenue realized in the same period from the revenue recovered from the TUSF, SWAT may recover the additional realized reduction in FUSF revenues from the TUSF or through increases in customer rates.

4. In the event the actual reductions in calendar year 2014 FUSF revenues realized by SWAT are less than the recovery realized by SWAT from the additional TUSF

recovery, SWAT shall be required to refund to the TUSF the amount of recovery received from the TUSF in excess of its actual lost FUSF revenues.

### **III. Recommendation**

Based upon my review of SWAT's petition, I find that the FCC's actions can be reasonably projected to reduce SWAT's FUSF revenue by \$83,468.36 for 2012, 2013 and 2014. I recommend that SWAT's petition to recover from the TUSF the net total of \$83,468.36 in FUSF revenue reductions for 2012, 2013 and 2014 be **GRANTED** conditioned upon the Company's compliance of the true-up process outlined in Subsection II.