



Control Number: 50188



Item Number: 29

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**DeAnn T. Walker**  
Chairman

**Arthur C. D'Andrea**  
Commissioner

**Shelly Botkin**  
Commissioner

**John Paul Urban**  
Executive Director



**Greg Abbott**  
Governor

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## *Public Utility Commission of Texas*

TO: DeAnn T. Walker, Chairman  
Arthur C. D'Andrea, Commissioner  
Shelly Botkin, Commissioner

All Parties of Record

FROM: Gregory R. Siemankowski  
Administrative Law Judge

A handwritten signature in black ink, appearing to be "G. Siemankowski".

RE: **Open Meeting of December 17, 2020**  
**Docket No. 50188** – *Application of Border to Border Communications, Inc. for True-Up of 2017 Federal Universal Service Fund Impacts to the Texas Universal Service Fund*

DATE: November 5, 2020

**Because of the COVID-19 state of disaster, the Commission has moved to a work at home environment and is working to maintain operations as normally as possible. However, all known challenges have not yet been overcome and the dates provided in this notice are subject to change.**

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, December 17, 2020, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties must file corrections or exceptions to the Proposed Order on or before Tuesday, November 23, 2020.

**If there are no corrections or exceptions, no response is necessary.**

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**DOCKET NO. 50188**

<b>APPLICATION OF BORDER TO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>BORDER COMMUNICATIONS, INC.</b>	<b>§</b>	
<b>FOR TRUE UP OF 2017 FEDERAL</b>	<b>§</b>	<b>OF TEXAS</b>
<b>UNIVERSAL SERVICE FUND</b>	<b>§</b>	
<b>IMPACTS TO THE TEXAS</b>	<b>§</b>	
<b>UNIVERSAL SERVICE FUND</b>	<b>§</b>	

**PROPOSED ORDER**

This Order addresses the application of Border to Border Communications, Inc. (BTBC) for true-up of 2017 Federal Universal Service Fund (FUSF) impacts to the Texas Universal Service Fund (TUSF). The Commission approves BTBC's request to receive an additional \$262,605 from the TUSF for calendar year 2017.

**I. Background**

In Docket No. 47387,<sup>1</sup> the Commission approved BTBC's application to recover funds from the TUSF and ordered a true-up of revenues for 2017. The final order in Docket No. 47387 required BTBC to, by October 1, 2019, perform a true-up and report to the Commission the final and actual FUSF impacts for 2017.<sup>2</sup>

**II. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. BTBC is a Texas non-profit corporation registered with the Texas secretary of state under file number 120571000.
2. BTBC is an incumbent local exchange carrier that serves fewer than 31,000 access lines.

**Application**

3. On October 31, 2019, BTBC filed the application at issue in this proceeding to true-up 2017 FUSF impacts recovered from the TUSF.

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<sup>1</sup> *Application of Border to Border Communications, Inc. to Recover Funds from the Texas Universal Service Fund Under 16 TAC § 26.406* Docket No. 47387, Order (Nov. 17, 2017).

<sup>2</sup> *Id.*, Finding of Fact No. 12; Ordering Paragraph No. 2.

4. In Docket No. 47387, the Commission approved BTBC's request to recover \$1,075,358 from the TUSF to address projected reductions of the amount BTBC would receive in FUSF revenue for 2017.
5. BTBC states that the FUSF revenue reductions for 2017 were higher than projected and requests approval to receive an additional \$262,605 from the TUSF for calendar year 2017.
6. On August 7, 2020, BTBC supplemented its application.
7. In Order No. 3 filed on December 19, 2019, the administrative law judge (ALJ) found the application administratively sufficient.

#### **Notice**

8. Notice of the application appeared in the November 22, 2019, issue of the *Texas Register*.
9. In Order No. 3 filed on December 19, 2020, the ALJ found notice sufficient.

#### **Evidence**

10. On September 8, 2020, the parties filed a joint proposed motion to admit evidence.
11. In Order No. 8 filed on November 4, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) BTBC's application, including all attachments, filed on October 31, 2019; (b) Notice of the application published in the *Texas Register* on November 22, 2019; (c) Commission Staff's recommendation on the sufficiency of the application filed on December 17, 2019; (d) BTBC's response to Commission Staff's first request for information filed on February 28, 2020; (e) BTBC's correction and supplemental data in support of 2017 True-Up, including all attachments filed on August 7, 2020; and (f) Commission Staff's recommendation on final disposition, including all attachments, filed on August 19, 2020.

#### **True-Up of 2017 Impact Recovery**

12. In Docket No. 47387, it was reasonably projected that the Federal Communications Commission's (FCC) *USF/ICC Transformation Order*,<sup>3</sup> *Regression Analysis Order*,<sup>4</sup>

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<sup>3</sup> *In the Matter of 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).

<sup>4</sup> *Id.*, Order, DA 12-646 (Apr. 25, 2012).

*Third Order on Reconsideration*,<sup>5</sup> and the *March 2016 Order*<sup>6</sup> would reduce the amount that BTBC received in FUSF revenue by \$1,075,358 for the calendar year 2017. It was determined that BTBC would recover this amount from the TUSF.

13. The difference between the projected amount in FUSF revenue reductions that BTBC recovered from the TUSF in Docket No. 47387 and the actual amount in FUSF revenue reductions for calendar year 2017 was \$262,605.
14. Based on the additional revenue reductions for calendar year 2017 of \$262,605, and the supporting documentation, BTBC should recover \$262,605 from the TUSF.

**Informal Disposition**

15. At least 15 days have passed since the completion of notice in this docket.
16. No person filed a protest or motion to intervene.
17. BTBC and Commission Staff are the only parties to this proceeding.
18. No party requested a hearing and no hearing is necessary.
19. This decision is not adverse to any party.
20. Commission Staff recommended approval of the application.

**III. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under PURA<sup>7</sup> § 56.025.
2. Notice of the application complies with 16 Texas Administrative Code (TAC) § 22.55.
3. The Commission processed the application in accordance with the requirements of PURA, the Administrative Procedure Act,<sup>8</sup> and Commission rules.
4. The application meets the requirements of PURA § 56.025 and 16 TAC § 26.406.

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<sup>5</sup> *Id.*, Third Order on Reconsideration, FCC 12-52 (May 14, 2012).

<sup>6</sup> *Id.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (Mar. 30, 2016).

<sup>7</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

<sup>8</sup> Tex. Gov't Code ch. 2001.

5. The application complies with the requirement to perform a true-up addressed in the final order in Docket No. 47387.
6. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

#### **IV. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the application and BTBC will recover an additional \$262,605 from the TUSF.
2. The administrator of the TUSF will timely make the payment to BTBC upon presentation of this order at the next scheduled payment to BTBC.
3. In the event that there are future actions by the FCC that would be retroactive and impact the 2017 true-up numbers, the Commission retains the opportunity to modify its true-up calculations.
4. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the \_\_\_\_\_ day of December 2020.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN T. WALKER, CHAIRMAN**

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**ARTHUR C. D'ANDREA, COMMISSIONER**

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**SHELLY BOTKIN, COMMISSIONER**