

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE ANNUAL )**  
**REVISION OF THE UNIVERSAL SERVICE ) CASE NO. GNR-T-09-05**  
**FUND SURCHARGES TO BECOME )**  
**EFFECTIVE OCTOBER 1, 2009. ) ORDER NO. 30951**  
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On September 2, 2009, the Commission issued Order No. 30894 addressing the annual review and adjustment to the state Universal Service Fund (USF) distributions and surcharges after considering the USF Administrator's Annual Report. The USF was established by the Telecommunications Act of 1988, Chapter 6, Title 62, Idaho Code, specifically Section 62-610 of the Act. The purpose of the fund is to maintain the availability of local exchange telephone service at reasonable rates and promote the availability of message telecommunications service (long-distance service) at reasonably comparable rates throughout the State of Idaho. The USF is funded through a statewide end-user surcharge on local exchange services and intrastate MTS and Wide Area Telephone Service (WATS) type services. The USF Administrator submits an annual report to the Commission that details the program activities of the previous year and recommends surcharge rates to meet funding requirements for the following year.

After reviewing the annual report and Staff's recommendation, the Commission determined to leave the surcharge rates unchanged and to issue a notice to the eight companies that receive USF disbursements that their rates do not meet USF eligibility requirements. The Commission subsequently issued a notice to USF recipients that their funding levels must be adjusted, and identified the amount that each company's disbursement would be reduced. The notice also stated that *Idaho Code* § 62-610 requires each USF recipient company to increase its residential rates to remain eligible to receive USF disbursements. Finally, the notice established a 21-day period for interested parties to file written comments. The Idaho Telecom Alliance (ITA) filed a Motion to Extend the Time for Filing Written Comments, which was granted by the Commission. The comment period subsequently ended October 23, 2009, and written comments were filed by the ITA and Commission Staff.

*Idaho Code* § 62-610 states the eligibility requirements for companies to receive USF disbursements. First, the company's average residence and business local exchange rates must be in excess of 125% of the weighted statewide average rates for those services. Second, the company's average per-minute charge for MTS/WATS (long-distance) access services must be in excess of 100% of the weighted statewide average for those same services. The Commission determined the eight recipient companies' MTS/WATS access rates were not at issue, but found that each of the eight companies' average residence rates are below the standard established by *Idaho Code* § 62-610 for USF eligibility.

ITA in its comments takes issue with the determination of the weighted statewide average rates for residence and business lines. ITA stated its understanding that the weighted statewide average rate was determined "by simply multiplying the posted tariff or price list rates times each company's line counts, with no consideration given to promotional discounts, credits or bundled line discounts." ITA Comments at 2. Because Qwest and Verizon offer discounts for bundled services that include residential lines, and those companies comprise 84% of the total residential lines in Idaho, ITA believes the actual weighted statewide average rate for residential customers may be lower than as determined by the USF Administrator. *Id.*

ITA also notes that a statute allows use of historic rather than current statewide weighted average rates to determine USF eligibility. *Id.* at 3. *Idaho Code* § 62-605(5)(e) states that the residence and business basic local exchange rates in effect on July 1, 2005, shall constitute the basis for determining the weighted statewide average rates for those services, "unless the Commission determines that changes in basic local exchange rates subsequent to July 1, 2005, should be used for such calculation for the purpose of determining the eligibility of the telecommunications carriers for distributions from the Universal Service Fund." ITA requests that the Commission use the residential and business basic local exchange rates in effect on July 1, 2005, as the basis for calculating the weighted statewide average rates. *Id.* at 4.

Staff in its comments explained the Administrator's method to determine the annual statewide weighted average rates, which is not the method ITA believes is used. Each year the Administrator obtains information from Idaho telephone companies regarding their line counts and revenues for residence and business lines. The Administrator uses the total state revenues and line counts to determine the average statewide residential and business rates. Staff Comments at 3. The Administrator reported that the 2009 statewide weighted average rate for

residential service is \$20.61 and is \$32.43 for business service. The USF eligibility rates for residential service (125% of the statewide average) is \$25.76 and for business service the eligibility rate is \$40.54. See Order no. 30894 at 2. Staff also asserted it is appropriate for the Commission to use current rather than 2005 statewide weighted average rates for determining USF eligibility, arguing “the USF was never intended to permanently subsidize lower rates for small company customers, while all other customer rates increase.” Staff Comments at 3.

The eligibility standards stated in *Idaho Code* § 62-610 for USF distributions are not optional. The section states that a company’s average residence and business line rates must meet the threshold rate (125% of the weighted statewide average) to be eligible to receive USF distributions. The Commission’s USF rules allow some leeway in requiring revisions to the company rates and USF distributions. IDAPA 31.46.01.106 provides that company rates and USF distributions must be revised only if the difference in the company’s average rate and the statewide average threshold rate is greater than three percent, and the difference in annual revenue associated with the Company’s rate and the revenue associated with the statewide average rate is more than \$6,000. IDAPA 31.46.01.106. All of the eight recipient companies’ average residential rates differ by more than three percent from the 2009 statewide weighted average rate and the difference in the annual revenue is greater than \$6,000.

Each year the USF Administrator reports on the current statewide average rates and makes her recommendations based on that calculation. The Commission’s Order each year has used current statewide average rates rather than the 2005 weighted average rates. As ITA noted, Section 62-605(5)(e) allows some Commission discretion in determining USF eligibility by directing the use of historic statewide average rates rather than current average rates unless the Commission determines otherwise. Section 62-605 was significantly revised in 2005 to provide terms for a telecommunications company to elect removal from traditional regulation under Idaho Code, Title 61, for the lighter regulation of Title 62. *Idaho Code* § 62-610, rather than Section 62-605, contains the terms for USF eligibility and distribution. Paragraph (5)(e) was added to Section 62-605 in the 2005 revision due to a concern that deregulation of the major carriers’ rates could result in increases and thus higher statewide average rates. If statewide average rates increased dramatically, the Commission was authorized by Section 62-605(5)(e) to use the 2005 rates to determine eligibility for USF distributions.

The Commission has determined it is appropriate to use current statewide average rates for the eligibility standards for disbursements from the state USF. The USF is funded by all telephone customers in the state, and is used to defray traditionally higher costs in rural, less populated areas. Although statewide average rates for residential and business service have steadily increased since deregulation in 2005, the increases have not been enough to drive up customer rates for USF recipients until this year. This is the first year that the residential rates have fallen below the threshold standard for the eight companies to remain eligible for USF distributions, and their business rates do not require adjustment. The residential line rate for the eight USF companies is \$24.10 and to retain their USF eligibility, the companies will need to raise their residential rates to \$25.76. The lower rate has been in place for ten years or more for most of these companies, and they now are only required to increase the rate by \$1.67 per month to continue receiving USF funds.

When the USF fund was created, the Legislature established the rate relationship between USF recipients and the statewide customers that provide the USF funds. That rate relationship is the eligibility standard requiring USF company rates that are at least 125% of the statewide average. The USF was not intended to support rural company rates at historic levels in perpetuity while all other telephone customer rates increase over time. Absent a rapid, dramatic increase in the statewide average rates, we believe the Legislature intended that rate relationship be maintained.

The notice issued by the Commission to the USF recipient companies notified them that "the USF funding for each company will be adjusted as if the company's rates meet the minimum threshold required rates." Notice to USF Recipients at 2. The Notice stated the USF reduction for each company. Because the recipient company rates currently do not meet the USF eligibility standards established by the Legislature, the Commission will adjust the USF funding for each company as set forth in the Notice.

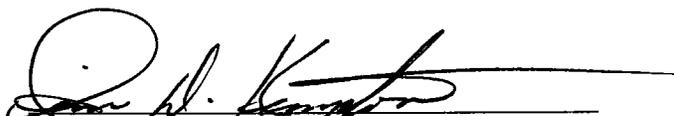
#### **ORDER**

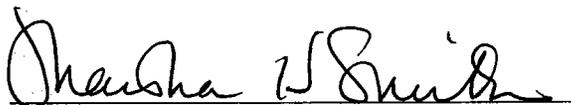
IT IS HEREBY ORDERED that the USF funding for each company receiving USF funds will be adjusted as if the company's rates meet the minimum threshold required rates. The annual USF distributions to each company will be reduced as follows: ATC Communications, \$63,850; Cambridge Telephone Company, \$29,218; Direct Communications Rockland, \$19,446;

Fremont Telecom, \$66,636; Inland Telephone Company, \$15,557; Midvale Telephone Company, \$28,875; Rural Telephone Company, \$13,907; Silver Star Telecom, \$7,424.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 4<sup>th</sup> day of December 2009.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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