

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE FUNDING )  
REQUIREMENT AND PROPOSED )  
ASSESSMENT FACTOR FOR THE JULY )  
2010 -- JUNE 2011 FISCAL YEAR OF THE )  
WYOMING UNIVERSAL SERVICE FUND )

Docket No. 90072-32-XO-10  
(Record No. 12473)

AMENDING ORDER ESTABLISHING THE WYOMING  
UNIVERSAL SERVICE FUND ASSESSMENT LEVEL  
(Issued July 8, 2010)

This matter is before the Wyoming Public Service Commission (Commission) for the purpose of establishing the Wyoming Universal Service Fund (WUSF or Fund) assessment level for the upcoming Fund fiscal year as required by W.S. § 37-15-501 and Section 500(l) of the Commission's Rules, as well as establishing other related Fund parameters. The Commission, having heard the comments of the WUSF Manager, the Office of Consumer Advocate (OCA), Qwest Corporation (Qwest), Union Telephone Company (Union) and the Range Companies, having reviewed its files concerning the Fund, the documents filed by the WUSF Manager, applicable Wyoming and federal telecommunications law and rules, and having heard the report of the Fund Manager that he discovered an error in the calculation in the weighted statewide average rate and resulting 130% benchmark, FINDS and CONCLUDES:

1. The Commission's *Order Establishing the Wyoming Universal Service Fund Assessment Level (WUSF Order)* issued on May 14, 2010, should remain in full force and effect with respect to paragraphs 1 through 37, and ordering paragraphs 1, 4 and 5. In order to correct the error found by the Fund Manager, the *WUSF Order* is to be amended with the addition the following paragraphs 38 and 39:

38. At its June 29, 2010, open meeting, the Commission heard, on an emergency basis, a presentation by Mr. Art Schmidt, the WUSF Manager, regarding his discovery of an error in the calculation of the weighted statewide average and associated 130% benchmark based on his review of the calculations for the fiscal year 2010-2011. He stated the original calculation reflected incremental federal Universal Service Fund adjustments for two telecommunications companies for which the adjustment should not have been made. This resulted in a weighted statewide average that is nine cents higher than it should be and a 130% benchmark that is eleven cents higher than it should be. The recalculated weighted statewide average is \$24.60 and the associated 130% benchmark is \$31.98. The change in the 130% benchmark will result in some telecommunications companies receiving a larger distribution than originally calculated for the 2010-2011 Fund fiscal year, for a total increase in WUSF monthly distributions of about \$5,000. The Fund will implement changes to prevent such error from recurring by creating a checklist of the details for each company's calculation. Mr. Schmidt indicated all telecommunication companies will be notified of the changes. The Commission approved the changes on an emergency basis.

39. At its July 1, 2010, open meeting and pursuant to due public notice, the Commission again heard a presentation by Mr. Schmidt regarding the discovered error in the WUSF calculations. He reiterated the reasons for the change in the weighted statewide average from \$24.69 to \$24.60 and in the associated 130% benchmark from \$32.09 to \$31.98. He explained that there was enough reserve left in the WUSF that a change to the 1.20% assessment level was not needed. Mr. Schmidt stated that the Fund will create an individualized procedural checklist for each telecommunications company so that this error will not occur in the future. The calculations will also be subjected to additional independent review by the

Fund Administrator and the Fund Attorney. Mr. Schmidt verified there were no changes to any of the facts presented to the Commission on June 29, 2010, and described his communication with Ms. Liz Zerga, counsel for the Range Companies, in which he discussed the incorrect calculation and the fact that the companies she represents will receive additional WUSF. The Commission confirmed its emergency approval on a formal, noticed basis. Therefore, for the twelve-month period beginning July 1, 2010, the weighted statewide average local exchange service rate is established at \$24.60. The associated 130% support benchmark is established at \$31.98; and, consequently, no Wyoming customer should pay more than \$31.98 per month (excluding taxes, fees, surcharges, custom calling features and other optional services) for basic local exchange telephone service. The Commission directed preparation of an amended order reflecting the approval.

2. Ordering paragraphs 2 and 3 of the *WUSF Order* shall be amended with the following revisions, shown in bold:

2. The Commission establishes the weighted statewide average local exchange service rate for the twelve-month period beginning July 1, 2010, at **\$24.60**. The associated support benchmark for the twelve-month period beginning July 1, 2010, is established at **\$31.98**. Therefore, no Wyoming customer should pay more than **\$31.98** per month, excluding taxes, fees, surcharges, custom calling features and other optional services, for basic local exchange telephone service.

3. The Commission has provided to the twelve telecommunications companies eligible to receive Wyoming Universal Service Fund support a confidential spreadsheet denoting the amount of WUSF support the company is eligible to receive. The aggregate amount of WUSF support proposed to be distributed monthly is **\$277,225**.

3. The Commission finds that the correction of the calculation of the WUSF parameters is a matter of serious immediate concern because the correct figures will govern the WUSF beginning on July 1, 2010. Therefore, the Commission held an emergency meeting and took temporary action without notice as described above. As provided in W.S. § 16-4-404(d) in the Wyoming public meetings law:

(d) The governing body of an agency may hold an emergency meeting on matters of serious immediate concern to take temporary action without notice. Reasonable effort shall be made to offer public notice. All action taken at an emergency meeting is of a temporary nature and in order to become permanent shall be reconsidered and acted upon at an open public meeting within forty-eight (48) hours.

The Commission reconsidered the emergency action within 48 hours in a regular open meeting pursuant to due notice and formally confirmed the action to correct and amend the WUSF Order. It has complied with the requirements of W.S. § 16-4-404(d), making the action permanent.

IT IS THEREFORE ORDERED:

1. The *WUSF Order* is amended as set forth in paragraphs 1 and 2 hereinabove. As herein amended, the *WUSF Order* shall be and remain in full force and effect.

2. The emergency action described hereinabove is formally reconsidered and affirmed.

3. This *Amending Order* is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, this 8<sup>th</sup> day of July, 2010.

PUBLIC SERVICE COMMISSION OF WYOMING

\_\_\_\_\_  
ALAN B. MINIER, Chairman

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STEVE OXLEY, Deputy Chairman

(SEAL)

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KATHLEEN A. LEWIS, Commissioner

Attest:

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J. BLAIR BALES, Assistant Secretary