COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF FOOTHILLS RURAL TELEPHONE COOPERATIVE CORPORATION, INC. FOR A GENERAL ADJUSTMENT IN RATES	)))	CASE NO. 2014-00328

ORDER

Foothills Rural Telephone Cooperative Corporation, Inc. ("Foothills") filed an Application with the Commission for a general adjustment of its rates for basic local exchange service that was deemed filed on October 29, 2014. Foothills informed the Commission of its intent to place its proposed rates into effect on and after November 30, 2014, in order to meet the rate floor mandated in 47 C.F.R. § 54.318.

Foothills filed its proposed increased rates to comply with the 2011 directive of the Federal Communications Commission ("FCC") that, *inter alia*, comprehensively reformed intercarrier compensation.[1] In addition to establishing a glide path to reduce access charges to zero, the FCC's ICC/USF Order also established a rate floor for local exchange rates.[2] The FCC required that Local Exchange Carriers, such as Foothills, shall be eligible to receive high-cost support in a study area only if their rates for local exchange service are at or above the rate floor on June 1 of every subsequent year. Failure to meet the rate floor will result in forfeiture of the high-cost support that the

[1] *See, In the matter of Connect America Fund et. al., Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 (November 18, 2011) ("FCC's ICC/USF Order").

[2] *Id.* para. 238.

carrier would have otherwise received for that year.[3] On March 20, 2014, the FCC released the results of its urban rate floor survey that established the 2014 rate floor of $20.46 and also sought comment on a petition to extend the deadline for compliance with the 2014 rate floor. On June 10, 2014, the FCC issued an order on reconsideration that modified the schedule for imposition of rate floor penalties and allowed for a phase-in of the residential floor.[4] The revised schedule allowed for a four year period to meet the rate floor of $20.46.[5] The first phase of the modified schedule required that the residential rates of companies be no lower than $16.00 beginning December 1, 2014.

The Commission is cognizant that Foothills's ability to receive High Cost Loop Support ("HCLS") will be jeopardized if its rates for basic local exchange service are not at or above the $16.00 rate floor mandated in the FCC's ICC/USF Order. The loss of HCLS would necessitate even larger rate increases in the future to offset loss of federal funding.

Foothills is a rural incumbent local exchange carrier serving individuals and businesses within all or parts of Magoffin, Johnson, Lawrence, and Breathitt counties ("Service Territory"). Foothills was established in 1950 as a member-owned cooperative to provide local telephone service to business and individual customers within the exchanges of Blaine, Chapman, Fallsburg, Flat Gap, Royalton, Salyersville, and Staffordsville, Kentucky. Foothills provides service to approximately 11,473 residential

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[3] *Id.* para. 239.

[4] Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (June 10, 2014) ("FCC's Modified Rate Floor Order").

[5] *Id.* para. 80.

lines and 1,479 business lines. Foothills is an eligible telecommunications carrier in the communities it serves and is also the carrier of last resort ("COLR") in its Service Territory. In 2013, Foothills received approximately $4,574,547 from the HCLS to support its COLR responsibilities in its Service Territory and anticipates receiving $3,900,000 in 2014.

Foothills has not had a general rate increase since 1981 and states it would not otherwise make this filing if not for the FCC's ICC/USF Order.[6] Foothills has provided ample notice to its members. Because Foothills' current rates are below the December 1, 2014 rate floor established by the FCC, Foothills proposes to increase its rate in order to avoid a loss of HCLS. Based on its current access line count, failure to meet the FCC's $16.00 rate floor would deprive Foothills of approximately $275,351 in HCLS to which the company would otherwise be entitled. To meet the $16.00 residential rate floor established by the FCC, Foothills proposes to increase its residential services rates by $2.00, or 14 percent, which will produce an annual increase in revenue of approximately $275,351. However, Foothills is also making rate reductions to other services, which the company expects will generate a net reduction in the cost of the average customer's service and Foothills' revenue overall. Foothills will offer call waiting and three-way calling to all residential customers as part of their basic local service. These features are currently priced at $1.75 and $3.00, respectively. Subscribers of other bundles that include call waiting and three-way calling will also have a corresponding reduction in the rate of the bundle. As a result of the changes in rates, a majority of Foothills' customers will receive a decrease in their bills, while the

[6] Foothills increased its rates in 2013 to meet the $14.00 residential rate floor. Case No. 2013-00193, *In the Matter of Tariff Filing of Foothills Rural Telephone Cooperative Corporation, Inc.* (Ky. PSC Mar 26, 2014).

customers who do not subscribe to either of these features will see an increase of $2.00, but will now receive call waiting and three-way calling at no charge. When combined with the increase in local service charge, Foothills will experience an annual increase in revenue of $28,900.

Additionally, as part of the FCC's ICC/USF Order, the FCC established that the intercarrier compensation collected in 2011 fiscal year, from October 1, 2010, to September 30, 2011, was the maximum amount of allowed revenues from intercarrier compensation. In addition, the FCC's ICC/USF Order established a phase-down schedule of those maximum amounts allowed, requiring that the maximum intercarrier compensation amount be reduced by 5 percent for the 2012 fiscal year, 4.75 percent for the 2013 fiscal year, and 4.5 percent for the 2014 fiscal year. With this change, Foothills cannot collect more than the maximum intercarrier compensation revenue amount established by the FCC. The reduction in intercarrier compensation has grown larger each fiscal year,[7] and when this reduction in revenue is combined with the increase in revenue from the proposed rate increase, Foothills' revenue will be lower than its level prior to the FCC's ICC/USF Order.

The Commission also notes that the telecommunications market has gone through and continues to go through major changes. The General Assembly has enacted significant changes to the authority of the Commission in light of competitive choices and options available to consumers.[8] For example, the Commission has jurisdiction only over basic service rates of telecommunication companies, which

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[7] Application of Foothills Rural Telephone Cooperative Corp., Inc., Confidential Exhibit 1, filed October 29, 2014.

[8] KRS 278.541–544.

includes only a single business or residential service line.[9] All other retail rates of the telecommunications companies are not subject to the Commission's rate regulation. The Commission also notes that Foothills is a cooperative organization subject to the board of directors of the cooperative and its member owners.

The Commission finds that, based on the foregoing information submitted by Foothills, the rate increase should be granted on a permanent basis. Foothills has demonstrated that the proposed rate increase is necessitated by the FCC's ICC/USF Order and is reasonable.

IT IS THEREFORE ORDERED that:

1. Foothills' proposed increases in basic local residential exchange service rate, and elimination of the rates for call waiting and three-way calling, as set forth in the tariffs attached to its application deemed filed on October 29, 2014, are approved.

2. Within 20 days of the date of this Order, Foothills shall file, using the Commission's electronic Tariff Filing System, its revised tariff sheets containing the rates approved herein and signed by an officer of the utility authorized to issue tariffs. The tariff sheets shall reflect that they were approved pursuant to this Order, and shall contain an effective date of November 30, 2014.

3. Any future increases to basic local exchange rates necessitated by the FCC's ICC/USF Order shall be filed as an application in compliance with Commission regulations.

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[9] KRS 278.541(1).

By the Commission

ENTERED

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KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

Executive Director

Case No. 2014-00328

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