

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

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

**MOTION FOR WAIVER OF CERTAIN
RATE APPLICATION FILING REQUIREMENTS**

Foothills Rural Telephone Cooperative Corporation, Inc., (“Foothills”), by counsel, in connection with the contemporaneous filing of its rate adjustment application (the “Application”) and pursuant to 807 KAR 5:001, Section 16(10), hereby moves the Public Service Commission of the Commonwealth of Kentucky (the “Commission”) for waiver, for good cause, of certain filing requirements set forth in 807 KAR 5:001, Section 16, and the Commission’s May 29, 2013 Order (the “2013 Order”) in Case No. 2013-00193 (the “2013 Rate Floor Proceeding”). In support of its request, Foothills states as follows.

INTRODUCTION

Foothills files its Application in order to adjust its rates to comply with the 2014 rate floor imposed by the Federal Communications Commission (“FCC”). *See In the Matter of Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (Nov. 18, 2011) (“ICC/USF Order”). In the 2013 Order issued during the 2013 Rate Floor Proceeding, the Commission recognized “the mandatory and time-sensitive nature of the FCC’s rate floor, and that all of the information specified in 807 KAR 5:001, Section 16, may not be necessary to support an increase in basic local exchange rates under these circumstances.” (2013 Order at 2.) Later in that proceeding, the Commission granted Foothills a waiver of

certain requirements of 807 KAR 5:001, Section 16, and the 2013 Order. *See In the Matter of Tariff Filing of Foothills Rural Telephone Cooperative Corporation, Inc.*, Ky. P.S.C. Case No. 2013-00193, Order (March 26, 2014) (“2013 Waiver Order”).

In light of the waivers granted in the 2013 Rate Floor Proceeding, Foothills now moves for waiver of certain requirements of 807 KAR 5:001, Section 16, and the 2013 Order.

ARGUMENT

Upon good cause shown, the Commission shall grant “[a] request for waiver of any of the provisions of [the] filing requirements.” 807 KAR 5:001, Section 16(10). In determining whether good cause exists, the Commission may consider:

- (a) Whether other information provided by the utility is sufficient to allow the Commission to “effectively and efficiently” review the rate application;
- (b) Whether the information for which waiver is requested is normally maintained by the utility or reasonably available to it from the information the utility does maintain; and
- (c) The expense in providing the information which is the subject of the waiver request.

Id.

Foothills’ Application is simply a response to the regulatory pronouncement of the FCC; it has not been filed to address a financial need for additional revenue from Foothills’ ratepayers. Furthermore, the Commission acknowledged in the 2013 Rate Floor Proceeding that “all of the information specified in 807 KAR 5:001, Section 16, may not be necessary to support an increase in basic local exchange rates under these circumstances.” (2013 Order at 2.)

Wherefore, Foothills requests waiver of the filing requirements identified below. These requested waivers are consistent with the waivers the Commission granted to Foothills during the 2013 Rate Floor Proceeding. *See, e.g.*, 2013 Waiver Order (granting waiver of the requirements

of, among others, 807 KAR 5:001, Section 16(4)(b), 16(4)(i), 16(4)(n), 16(4)(q), and 16(4)(r). A brief supporting narrative is included for each of these requests.

A. Filing Requirements Not Specified in the 2013 Order

The information required by the following regulations was not requested by the Commission in the 2013 Order. *See* 2013 Order at 3.

807 KAR 5:001, Section 16(4)(b) **If utility has gross annual revenues exceeding \$5,000,000, prepared testimony of each witness who will support the application.**

Foothills' filing is in response to the FCC's ICC/USF Order and is not driven by a financial need to obtain more revenue from its ratepayers or achieve a higher rate of return. Foothills has provided a detailed narrative explanation of its proposed rate adjustment in Exhibit 1 of the Application. Foothills asserts that the information provided in the Application does not require further explication through prepared testimony. Accordingly, Foothills seeks waiver of 807 KAR 5:001, Section 16(4)(b).

807 KAR 5:001, Section 16(4)(h) **Summary of determination of revenue requirements based on return on net investment rate base, return on capitalization, interest coverage, debt service coverage, or operating ratio, with supporting schedules.**

Foothills has provided a calculation of its regulated TIER, which assesses Foothills' actual revenue position compared to its required operating revenues, in Exhibit 5 of the Application. Foothills believes this information is sufficient to fulfill the requirements of this section as they apply to the Application. To the extent the Commission believes this section

requires provision of additional information, Foothills requests waiver of those requirements for the reasons set forth below.

Foothills does not seek a rate adjustment in this proceeding based on a failure to earn an adequate rate of return. The changes in rates that it seeks are requested in order to maintain eligibility to receive the maximum amount of High Cost Loop Support (“HCLS”) and are expected by Foothills to provide either no additional revenue or nominal additional revenue that will serve as an offset to other revenue reductions imposed by the FCC.

Furthermore, because Foothills’ proposed rate adjustment is simply a response to the regulatory pronouncement of the FCC, Foothills has not prepared a cost study analyzing its revenue requirement at a state level. It would be excessively expensive for Foothills to gather and prepare such information, particularly in light of the fact that the information would provide no discernible advantage in the Commission’s evaluation of Foothills’ Application.

Accordingly, to the extent the Commission believes this section requires more information than Foothills has provided, Foothills seeks waiver of 807 KAR 5:001, Section 16(4)(h).

807 KAR 5:001, Section 16(4)(i)

Reconciliation of rate base and capital used to determine revenue requirements.

Foothills’ Application is filed for the purpose of implementing rates to secure the maximum amount of HCLS funding, and not because of a financial need to obtain more revenue from its customers. The new basic local rate was determined based on the rate floor set in the FCC’s ICC/USF Order, and not determined based on the rate base and capital. This data is thus

irrelevant to the proposed rate adjustment and will not aid the Commission in evaluating Foothills' Application. Accordingly, Foothills seeks waiver of 807 KAR 5:001, Section 16(4)(i).

807 KAR 5:001, Section 16(4)(n)

Summary of latest depreciation study with schedules by major plant accounts, except that telecommunications utilities adopting the Commission's average depreciation rates shall provide a schedule identifying current and test period depreciation rates used by major plant accounts.

Foothills has provided its current and test period depreciation rates used by major plant accounts as Exhibit 7 to its Application. This exhibit satisfies the filing requirements of 807 KAR 5:001, Section 16(4)(n), because Foothills believes it has adopted the Commission's average depreciation rates. In addition, in light of the special circumstances of this rate floor filing, Exhibit 7 provides information sufficient to allow the Commission to efficiently evaluate the Application.

A full depreciation study is irrelevant to the proposed rate adjustment and will not aid the Commission in evaluating Foothills' Application. Accordingly, to the extent the Commission determines that this section requires more information than Foothills has provided, Foothills seeks waiver of 807 KAR 5:001, Section 16(4)(n).

807 KAR 5:001, Section 16(4)(q)

Annual report to shareholders, or members, and statistical supplements covering the two most recent years from the application filing date.

Foothills' independent auditor's opinion letter and its annual financial report for 2013, which covers the test period, are on file with the Commission. Because this information should

be sufficient to allow the Commission to efficiently evaluate the Application, Foothills seeks waiver of 807 KAR 5:001, Section 16(4)(q).

807 KAR 5:001, Section 16(4)(r)

Monthly managerial reports providing financial results for twelve months in test period.

Foothills' annual financial report for 2013, which covers the test period, is on file with the Commission. Because this information should be sufficient to allow the Commission to efficiently evaluate the Application, Foothills seeks waiver of 807 KAR 5:001, Section 16(4)(r).

807 KAR 5:001, Section 16(5)

Information related to pro forma adjustments.

Foothills' Application does not include any pro forma adjustments. To the extent the Commission believes the requirements of this section apply to Foothills' Application, Foothills requests waiver of those requirements for the reasons set forth below.

Foothills' Application is filed for the purpose of implementing rates to secure the maximum amount of HCLS funding, and not because of a financial need to obtain more revenue from its customers. The new basic local rate was determined based on the rate floor set in the FCC's ICC/USF Order, and not determined based on the rate base, capital, or any pro forma adjustments.

Furthermore, because Foothills' proposed rate adjustment is simply a response to the regulatory pronouncement of the FCC, Foothills has not prepared the information required by this section. It would be excessively expensive for Foothills to gather and prepare the

information, particularly in light of the fact that the information would provide no discernible advantage in the Commission's evaluation of Foothills' Application.

Accordingly, Foothills respectfully requests waiver of 807 KAR 5:001, Section 16(5).

B. Filing Requirements Specified in the 2013 Order

2013 Order at ¶ 3.d.

Historical and projected line loss.

Foothills has provided historical data concerning line loss but does not have readily-available data for projected line loss. Accordingly, Foothills seeks waiver of the filing requirements that appear in the 2013 Order at ¶ 3.d.

ALTERNATIVE REQUEST FOR RELIEF

Foothills is required to adjust its rates to comply with the FCC's 2014 rate floor effective December 1, 2014. Failure to comply with the rate floor or failure to meet the regulatory deadline could cause Foothills to lose significant federal subsidies that it has historically been allowed to provide service to the most costly, rural customers. That loss of federal funding could threaten the financial existence of Foothills, which has important obligations under federal and state law as a carrier of last resort. Moreover, the loss of such subsidies could portend even larger rate increases in the future, as Foothills would need to raise its rates dramatically to reflect the full, unsubsidized costs of providing service in high-cost rural areas. Accordingly, it is of paramount importance that Foothills' proposed rates are put into effect on December 1, 2014 as requested in the Application.

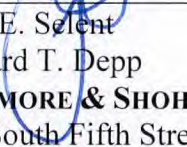
In the event the Commission thinks it appropriate to deny any portion of Foothills' waiver request, Foothills respectfully requests that the Commission not treat any missing information as a deficiency pursuant to 807 KAR 5:001, Section 16(9). Instead, Foothills

respectfully requests that the Commission (i) accept the Application for filing as of October 21, 2014, (ii) grant all waivers on a temporary basis in lieu of denying them, (iii) order that Foothills' proposed rates will be effective subject to refund (if necessary) on December 1, 2014, and (iv) if necessary, order Foothills to file any additional information the Commission believes it needs to fully consider the proposed rate change.

CONCLUSION

Foothills' requested waivers are consistent with the waivers granted by the Commission in the 2013 Rate Floor Proceeding. Furthermore, in each case, Foothills does not prepare the requested reports or budgets or otherwise have the information readily available. In addition, in light of the unique circumstances of this proceeding and the limited value of the information for which Foothills seeks waiver, it would be excessively expensive for Foothills to gather the information and prepare the reports in the timeframe of this case. Accordingly, Foothills has demonstrated good cause and the Commission should grant the requested waivers.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I certify that, on the date this Motion for Waiver of Certain Rate Application Filing Requirements was filed or served with the Kentucky Public Service Commission, a true and accurate copy of the foregoing was served by Federal Express or by hand delivery upon the persons listed below.

Kentucky Attorney General
Office of Rate Intervention
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

On this the 21st day of October, 2014



*Counsel for Foothills Rural Telephone Cooperative
Corporation, Inc.*

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