COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF FOOTHILLS RURAL TELEPHONE COOPERATIVE CORPORATION, INC.	))	CASE NO. 2013-00193

ORDER

On April 22, 2013, Foothills Rural Telephone Cooperative Corporation, Inc. ("Foothills") filed with the Commission revised tariff sheets that contained a general adjustment of its rates for basic local exchange service. Foothills informed the Commission of its intent to place its proposed rates into effect on and after May 31, 2013, in order to meet the rate floor mandated in 47 C.F.R. § 54.318. On May 29, 2013, the Commission found that further proceedings were necessary to determine the reasonableness of the proposed rates and that such proceedings could not be completed prior to the proposed effective date. The Commission suspended the proposed rates from May 31, 2013, until June 1, 2013, when they were allowed to go into effect subject to refund.

The Commission's May 29, 2013 Order required Foothills to comply with certain filing requirements related to a general rate increase in accordance with the Commission's administrative regulations. The Order also requested certain information related to the proposed rate increase, due to be filed no later than June 10, 2013.

Foothills filed with the Commission on June 11, 2013, most of the information requested, along with a deviation from 807 KAR 5:001, Sections 16(1)(b)(5), 16(2), 16(9)(b), 16(9)(g), 16(9)(i), 16(9)(j), 16(9)(k), 16(9)(m), 16(9)(n), 16(9)(q), 16(9)(r), 16(1)(b)(4), 16(1)(b)(6), and 16(9(d).[1] Foothills states that it does not have the data requested by the Commission in the May 29, 2013 Order, and requests that the Commission allow it to deviate from the filing requirements in ordering paragraph 3.a. of the May 29, 2013 Order. Foothills also requested a one-day extension of time in which to file the requested information, stating that the application was placed in the Commission's night depository box just a few hours after the Commission's close of business and that no prejudice will result from the granting of the extension.

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.[2] 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.[3] The FCC required that Local Exchange Carriers, such as Foothills, only 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 carrier would have otherwise received for that year.[4]

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[1] The administrative regulations from which Foothills seeks deviation have been renumbered since the filing of Foothills' motion for deviation.

[2] 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").

[3] *Id.* at ¶ 238.

[4] *Id.* at ¶ 239.

The Commission is cognizant that Foothills' ability to receive high-cost loop support will be jeopardized if its rates for basic local exchange service are not at or above the $14.00 rate floor mandated in the FCC's ICC/USF Order. The loss of Federal funding will 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 (the "Service Territory"). Foothills was established in 1951 as a member-owned cooperative to provide local telephone service to business and individual customers within the exchanges of Staffordsville, Flat Gap, Salyersville, Blaine, Chapman, Fallsburg, and Royalton, Kentucky. Foothills provides service to approximately 11,759 residential lines and 1,513 business lines. Foothills is an eligible telecommunications carrier ("ETC") in the communities it serves and is also the carrier of last resort ("COLR") in its Service Territory. In 2012, Foothills received approximately $4,300,000 from the High Cost Loop Support ("HCLS") to support its COLR responsibilities in its Service Territory.

Foothills has not had a rate increase since 1981 and states it would not otherwise make this filing were it not for the FCC's ICC/USF Order. Foothills has provided ample notice to its members. Because Foothills' current rates were below the June 1, 2013 rate floor established by the FCC, Foothills had 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 $14.00 rate floor would deprive Foothills of approximately $282,216 in HCLS to which the company would otherwise be entitled. To meet the $14.00 residential rate floor established by the FCC, Foothills proposes to increase its residential services rates by $2.00, or 16 percent, which will produce an annual increase in revenue of approximately $282,216. 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 caller ID to all residential and business subscribers as part of their basic local service. This feature was previously priced at $3.50. Subscribers of other bundles that include caller ID will also have a corresponding reduction in the rate of the bundle. As a result of the changes in rates, 89 percent of Foothills' customers will receive a decrease in their bills, while the remaining 11 percent will see an increase of $2.00, but will now receive caller ID at no charge. When combined with the increase in local service charge, Foothills will experience an annual decrease in revenue of [confidential number].

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 5.00 percent for the 2012 fiscal year and 4.75 percent for the 2013 fiscal year. With this change, Foothills cannot collect more than the maximum intercarrier compensation revenue amount established by the FCC. This reduction was approximately [confidential number] for Foothills' 2012 fiscal year, and the cumulative reduction at the end of Foothills' 2013 fiscal year is approximately [confidential number]. Therefore, when combined with the decrease in revenue from the proposed rate increase, Foothills' revenue will experience a modest decrease from 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.[5] For example, the Commission has jurisdiction only over basic service rates of telecommunication companies, which includes only a single business or residential service line.[6] All other retail rates of the telecommunication's companies are not subject to the Commission's rate regulation. The Commission also notes that in the case of Foothills, it 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. The Commission finds that, under the circumstances of this case, Foothills should be granted deviation from the filing requirements of 807 KAR 5:001, Sections 16(1)(b)(4), 16(2), 16(4)(b), 16(4)(g), 16(4)(i), 16(4)(j), 16(4)(k), 16(4)(m), 16(4)(n), 16(4)(o), 16(4)(q), 16(4)(r), 16(1)(b)(3), 16(1)(b)(5), and 16(4)(d).[7] The Commission also finds that Foothills should not be required to file the information

[5] KRS 278.541–544.

[6] KRS 278.541(1).

[7] As noted, *supra*, the regulations from which Foothills seeks deviation have been renumbered; accordingly, the regulations listed here correspond to the regulations as currently numbered and promulgated.

requested in ordering paragraph 3.a. of the May 29, 2013 Order. Finally, the Commission finds that Foothills' motion for an extension of time in which to respond to the Commission's Order of May 29, 2013, should be granted.

IT IS THEREFORE ORDERED that:

1. Foothills is granted deviation from 807 KAR 5:001, Sections 16(1)(b)(4), 16(2), 16(4)(b), 16(4)(g), 16(4)(i), 16(4)(j), 16(4)(k), 16(4)(m), 16(4)(n), 16(4)(o), 16(4)(q), 16(4)(r), 16(1)(b)(3), 16(1)(b)(5), and 16(4)(d).

2. Foothills is granted deviation from the filing requirements in ordering paragraph 3.a. of the Commission's May 29, 2013 Order.

3. Foothills' proposed increases in basic local exchange service rates, as set forth in the tariffs attached to its application filed on June 11, 2013, are approved.

4. Foothills' motion for an extension of time in which to file responses to the Commission's Order of May 29, 2013, is granted.

5. 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, shall reflect that they were approved pursuant to this Order, and shall contain an effective date of June 1, 2013.

6. 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.

By the Commission

ENTERED

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KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

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