COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF BRANDENBURG TELEPHONE COMPANY, INC.	))	CASE NO. 2013-00191

ORDER

On April 23, 2013, Brandenburg Telephone Company ("Brandenburg") filed with the Commission revised tariff sheets that contained a general adjustment of its rates for basic local exchange service. Brandenburg 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 also required Brandenburg 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.

Brandenburg filed with the Commission on June 11, 2013, most of the information requested along with a request for 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)(o), 16(9)(q), 16(9)(r), 16(1)(b)(4), 16(1)(b)(6), 16(9)(d), and 16(9(h).[1] Brandenburg 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 paragraphs 3.a. and 3.d. of the May 29, 2013 Order. Brandenburg 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.

Brandenburg 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 Brandenburg, 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 Brandenburg seeks deviation have been renumbered since the filing of Brandenburg's 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 Brandenburg's 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.

Brandenburg is a rural incumbent local exchange carrier serving individuals and businesses within Breckinridge, Hardin, and Meade counties (the "Service Territory"). Brandenburg was established in 1950 to provide local telephone service to business and individual customers within the exchanges of Brandenburg, Battletown, Payneville, North Garrett, Irvington, Custer, Radcliff, and Vine Grove, Kentucky. Brandenburg provides service to approximately 13,112 residential lines and 4,104 business lines. Brandenburg is an eligible telecommunications carrier ("ETC") in the communities it serves and is also the carrier of last resort ("COLR") in its Service Territory. Brandenburg is not currently a recipient of High Cost Loop Support ("HCLS"); however it will be able to receive support in the future, and without this rate increase it would be otherwise unable to collect the support.

Brandenburg states it would not otherwise make this filing were it not for the FCC's ICC/USF Order. Brandenburg has provided ample notice to its members and is fearful that the increase will result in service abandonment. Because Brandenburg's current rates were below the June 1, 2013 rate floor established by the FCC, Brandenburg had to increase its rate in order to remain eligible to receive HCLS in the future. To meet the $14.00 residential rate floor established by the FCC, Brandenburg proposed to increase its residential and business services rates by $8.40, or 150 percent. However to offset this rate increase the company has modified its bundled service to provide an $8.00 credit to any customer purchasing a qualifying package of services. Therefore a significant majority of the customers will experience an increase of only $0.40. Brandenburg estimates that the proposed rate increase will produce an annual increase in revenue of [confidential number]. Brandenburg further forecasts that line loss in 2013-2014 will further erode revenue.

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, Brandenburg cannot collect more than the maximum intercarrier compensation revenue amount established by the FCC. This reduction was approximately [confidential number] for Brandenburg's 2012 fiscal year, and the cumulative reduction at the end of Brandenburg's 2013 fiscal year is approximately [confidential number]. Therefore, when combined with the increase in revenue from the proposed rate increase, Brandenburg's revenue will be lower than it was 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 Legislature 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 finds that, based on the foregoing information submitted by Brandenburg and the potential loss of high-cost support, the rate increase should be granted on a permanent basis. Brandenburg 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, Brandenburg 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), 16(4)(d), and 16(4)(h).[7] The Commission finds that Brandenburg should not be required to file the information requested in ordering paragraphs 3.a. and 3.d. of the May 29, 2013 Order. The Commission also finds that Brandenburg's 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. Brandenburg 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), 16(4)(d), and 16(4)(h).

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[5] KRS 278.541–544.

[6] KRS 278.541(1).

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

2. Brandenburg is granted deviation from the filing requirements in ordering paragraphs 3.a. and 3.d. of the Commission's May 29, 2013 Order.

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

4. Brandenburg's 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, Brandenburg 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 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

MAR 26 2014

KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

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