



April 2, 2014

RECEIVED

APR 02 2014

PUBLIC SERVICE
COMMISSION

Mr. Jeff Derouen
Executive Director
PUBLIC SERVICE COMMISSION
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

RE: Foothills Rural Telephone Cooperative Corporation, Inc. – Notice of Intent to File Rate Application

Dear Mr. Derouen:

Foothills Rural Telephone Cooperative Corporation, Inc. (“Foothills”) gives this notice pursuant to 807 KAR 5:001 Section 16(2), through counsel, of its intent to file no sooner than thirty (30) days from today, but not more than sixty (60) days from today, an application for a general adjustment in its rates. The general adjustment in rates will be supported by a twelve (12) month historical test period that may include adjustments for known and measurable changes.

The anticipated rate application is intended to meet the rate floor mandated in 47 CFR § 54.318, compliance with which is required to ensure that Foothills continues to receive high-cost support that is essential to its operations. (*See In the matter of Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (Nov. 18, 2011).*) In order to comply with the 2014 rate floor, Foothills must establish its new rates effective no later than June 1, 2014. (*See Federal Communications Commission Public Notice, DA 14-384, WC Docket No. 10-90 (March 20, 2014), a true and accurate copy of which is attached to this letter.*)

As the attached public notice indicates, the Federal Communications Commission (the “FCC”) is currently evaluating the possibility of postponing the June 1, 2014 deadline for meeting the rate floor. In the event the FCC postpones the June 1, 2014 compliance deadline, Foothills may elect to withdraw this notice and postpone the filing of an application for a general adjustment in its rates. Foothills would then submit a new notice of intent at a later date in accordance with any such federally-mandated, revised deadline to implement the rate floor.


A copy of this notice in a portable document format has been transmitted to the Attorney General’s Office of Rate Intervention by electronic mail at rateintervention@ag.ky.gov.

Please serve any order or other documents pertaining to this matter upon the following persons in addition to the undersigned:

Ruth Conley, CEO
Foothills Rural Telephone Cooperative Corporation, Inc.
P.O. Box 240
Staffordsville, KY 41256
Email: ruthc@foothills.coop
Phone: (606) 297-3501

Very truly yours,

DINSMORE & SHOHL LLP


Edward T. Depp

ETD/ksc

cc: Ruth Conley, Foothills Rural Telephone Cooperative Corporation, Inc.
Attorney General's Office of Rate Intervention (via hand-delivery and email)
John E. Selent, Esq.



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 14-384
Released March 20, 2014

WIRELINE COMPETITION BUREAU ANNOUNCES RESULTS OF URBAN RATE SURVEY FOR VOICE SERVICES; SEEKS COMMENT ON PETITION FOR EXTENSION OF TIME TO COMPLY WITH NEW RATE FLOOR

WC Docket No. 10-90

Oppositions Date: March 21, 2014
Replies Date: March 31, 2014

Today, the Wireline Competition Bureau announces the results of the urban rate survey for fixed voice services, which will be used to determine the 2014 rate floor for incumbent eligible telecommunications carriers (ETCs) and the reasonable comparability benchmark for voice services.¹ We also seek comment on a petition to extend the deadline for compliance with the 2014 rate floor.

In the *USF/ICC Transformation Order*, the Commission adopted a rate floor “to ensure that states are contributing to support and advance universal service and that consumers are not contributing to the Fund to support customers whose rates are below a reasonable level.”² To be consistent with section 254(b) of the Communications Act, the Commission also determined that “ETCs must offer voice telephony service, including voice telephone service offered on a standalone basis, at rates that are reasonably comparable to urban rates,”³ and it adopted a presumption that “a voice rate is within a reasonable range if it falls within two standard deviations above the national average.”⁴ In the *USF/ICC Transformation Order*, the Commission directed the Wireline Competition Bureau and Wireless Telecommunications Bureau to conduct a survey of residential urban rates for, among other things, fixed voice and fixed broadband services.⁵

On April 3, 2013, the Wireline Competition Bureau (Bureau) and the Wireless Telecommunications Bureau adopted an order setting the form and content for a survey of urban rates for

¹ See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Inter-carrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17694, 17751, paras. 84-85, 238 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. argued Nov. 19, 2013).

² *USF/ICC Transformation Order*, 26 FCC Rcd at 17751, para. 238 (emphasis and footnote omitted).

³ *Id.* at 17693, para. 81.

⁴ *Id.* at 17694, para. 84.

⁵ *Id.* at 17694, 17708, paras. 85, 114.

fixed voice and fixed broadband residential services, as required by the *USF/ICC Transformation Order*.⁶ On December 16, 2013, the Bureau initiated the survey and collected the rates offered by a statistically valid sample of facilities-based providers of fixed services identified using the most recent FCC Form 477 data in 500 urban Census tracts.⁷

Based on the survey results, the Bureau has calculated that the average local end-user rates plus state regulated fees of the surveyed ILECs in urban areas is \$20.46. The *USF/ICC Transformation Order* defined the average urban rate to include local end-user rates plus state regulated fees (specifically, state subscriber line charges (SLCs), state universal service, and mandatory extended area service charges).⁸ The Commission specifically did not include the federal SLC in the calculation for the rate floor. The Bureau found that non-ILEC provider recurring monthly rates collected in the survey typically were higher than ILEC reported recurring monthly rates. Non-ILEC providers who do not separately charge and report a federal SLC may charge recurring monthly rates similar to an ILEC's monthly charge plus the federal SLC. The Bureau calculated the average using urban ILEC rates from the sample in order to avoid inclusion of rates that may be designed to match the ILEC's monthly local rate plus the federal SLC.

Based on the survey responses, the Bureau also calculated the reasonable comparability benchmark for voice services to be \$46.96.⁹ For purposes of the reasonable comparability benchmark, the Bureau concluded that the rates of all local flat-rate providers (both ILEC and non-ILEC providers) and, consistent with existing precedent, federal SLCs, should be included.¹⁰ The purpose of the reasonable comparability measurement is to ensure that rural rates do not significantly exceed urban rates. From the consumer's perspective, it is the total local rate (the base charge plus the federal SLC) that is relevant. Therefore, establishing a benchmark based on the price of local voice services offered by all voice providers in urban areas is the most reasonable basis for comparison.

Under the Commission's rules, by July 1, 2014, all ETCs that are ILEC recipients of high-cost support must report the number of residential service lines for which the sum of the rate and state fees are below \$20.46 as of June 1, 2014.¹¹ In addition, each ETC, including competitive ETCs, must certify that the pricing of the voice services is no more than \$46.96.¹²

On March 11, 2014, the Eastern Rural Telecom Association (ERTA), the Independent Telephone & Telecommunications Alliance (ITTA), NTCA, the National Exchange Carrier Association (NECA), the

⁶ *Connect America Fund*, WC Docket No. 10-90, Order, 28 FCC Rcd 4242 (Wireline Comp. Bur. and Wireless Telecom. Bur. 2013).

⁷ *Wireline Competition Bureau Announces Timeline for Completion of Urban Rates Survey*, WC Docket No. 10-90, Public Notice, 28 FCC Rcd 16753 (Wireline Comp. Bur. 2013). The sample included fixed, facilities-based, terrestrial (not mobile) voice providers, including incumbent local exchange carriers (ILECs), cable companies, and fixed wireless providers.

⁸ *USF/ICC Transformation Order*, 26 FCC Rcd at 17751, para. 238.

⁹ *Id.* at 17694, para. 84.

¹⁰ *Id.*

¹¹ 47 C.F.R. § 54.313(h). To the extent that an ILEC's local rates (plus state regulated fees) are less than the urban rate floor, that carrier's high-cost support will be reduced on a dollar-for-dollar basis. This applies both to price cap and rate-of-return carriers, and to high-cost loop support as well as Connect America Fund Phase I frozen support. See *USF/ICC Transformation Order*, 26 FCC Rcd at 17751-52, para. 239.

¹² 47 C.F.R. § 54.313(a)(10).

United States Telecom Association (USTelecom), and WTA – Advocates for Rural Broadband filed a joint petition requesting that the deadline for compliance with the 2014 local service rate floor be extended from July 1, 2014 to January 2, 2015, and that subsequent adjustments to the rate floor should then be made annually on January 2.¹³ Pursuant to section 1.45 of the Commission’s rules, oppositions to the petition are due on March 21, 2014, and replies would be due on March 26, 2014. Pursuant to section 1.3 of the Commission’s rules,¹⁴ however, we waive the provisions in section 1.45(c) of the Commission’s rules relating to the replies filing deadline and the substantive content of replies, to extend the reply period to March 31, 2014 in order to allow more time for parties to comment on the petition, as well as any alternative approaches that would protect consumers while ensuring swift implementation of the Commission’s statutory obligation to ensure reasonably comparable rates. For example, we seek comment on a longer phase-in of the rate floor than the extension requested by petitioners.

Pursuant to sections 1.45, 1.47-1.49, and 1.51-1.52 of the Commission’s rules,¹⁵ interested parties may file **oppositions to the petition on or before March 21, 2014 and replies on or before March 31, 2014**. All pleadings are to reference **WC Docket No. 10-90**. Pleadings may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁶

- *Electronic Filers:* Pleadings may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Additional Copies. In addition, we request that you send one copy of each pleading to each of the following:

¹³ Petition for Extension of Time by ERTA, ITTA, NECA, NTCA, USTelecom and WTA, WC Docket No. 10-90 (filed Mar. 11, 2014).

¹⁴ 47 C.F.R. § 1.3.

¹⁵ 47 C.F.R. §§ 1.45, 1.47-1.49, 1.51-52.

¹⁶ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1999).

- (1) Suzanne Yelen, Industry Analysis and Technology Division, Wireline Competition Bureau, 445 12th Street, SW, 6-B115, Washington, DC 20554; e-mail: Suzanne.Yelen@fcc.gov.
- (2) Alexander Minard, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, 5-A334, Washington, DC 20554; e-mail: Alexander.Minard@fcc.gov.

Ex Parte Rules. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

For further information, please contact Alexander Minard, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484, or Alexander.Minard@fcc.gov.

- FCC -

¹⁷ 47 C.F.R. §§ 1.1200 *et seq.*