

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF Foothills Rural)	CASE NO.
TELEPHONE COOPERATIVE CORPORATION, INC.)	2016-00051
FOR A GENERAL ADJUSTMENT IN RATES)	

ORDER

On March 16, 2016, Foothills Rural Telephone Cooperative Corporation, Inc. (“Foothills”) tendered for filing an application for a general adjustment of its rates for basic local exchange service (“Application”). In its Application, Foothills informed the Commission of its intent to place its proposed rates into effect on and after June 1, 2016, in order to meet the rate floor mandated in 47 C.F.R. § 54.318. With its Application, Foothills filed a motion requesting Commission approval to deviate from certain filing requirements. By Order, the Commission granted Foothills’ motion for deviation, and the Application was deemed filed on March 29, 2016.

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, be eligible to receive high-cost support in a study area only if their rates for local exchange

¹ 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) (“FCC’s ICC/USF Order”).

² *Id.*, paragraph 238.

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.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.⁴ 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.⁵ The revised schedule allowed for a four-year period to meet the rate floor of \$20.46.⁶ 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 second phase of the modified schedule required that the residential rates of companies be no lower than \$18.00 beginning July 1, 2016.

The Commission is cognizant that Foothills' 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 \$18.00 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.

³ *Id.*, paragraph 239.

⁴ *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*, Public Notice, DA 14-84, released Mar. 20, 2014.

⁵ *In the Matter of Connect America Fund et. al, 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).

⁶ *Id.*, paragraph 80.

Foothills is a rural incumbent local exchange carrier serving individuals and businesses within all or parts of Magoffin, Johnson, Lawrence, and Breathitt counties in Kentucky (“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 10,748 residential lines and 1,864 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 2015, Foothills received \$3,745,245 from the HCLS to support its COLR responsibilities in its service territory and anticipates receiving approximately \$2,700,000 in 2016.

Foothills has not had a general rate increase since 1981;⁷ however, Foothills increased rates in 2013⁸ and 2014⁹ to meet the rate floor. Foothills states it would not otherwise make this filing if not for the FCC’s ICC/USF Order. Foothills has provided ample notice to its members. Because Foothills’ current rates are below the July 1, 2016 rate floor established by the FCC, Foothills proposes to increase its rates in order to avoid a loss of HCLS. Based on its current access line count, failure to meet the FCC’s \$18.00 rate floor would deprive Foothills of \$257,952 in HCLS to which the

⁷ Case No. 7948, *Application of Foothills Rural Telephone Cooperative Corporation, Inc. to Adjust Its Rates* (Ky. PSC Jan. 23, 1981).

⁸ Foothills increased its rates in 2013 to meet the \$14.00 residential rate floor. See Case No. 2013-00193, *Tariff Filing of Foothills Rural Telephone Cooperative Corporation, Inc.* (Ky. PSC Mar. 26, 2014).

⁹ Foothills increased its rates in 2014 to meet the \$16.00 residential rate floor. See Case No. 2014-00328, *Application of Foothills Rural Telephone Cooperative Corporation, Inc. for a General Adjustment in Rates* (Ky. PSC Nov. 26, 2014).

company would otherwise be entitled. To meet the \$18.00 residential rate floor established by the FCC, Foothills proposes to increase its residential services rates by \$2.00, which will produce an annual increase in revenue of \$257,952.¹⁰ To offset a portion of the rate increase, Foothills proposes to expand local calling for all subscribers, at a cost of \$100,288 per year, to the rate centers in Johnson, Lawrence, and Magoffin counties.¹¹ As a result of the combined changes in rates, some of Foothills' customers will receive a decrease in their bills. With the combined increase in local service charge and expanded local calling area, Foothills will experience a net annual increase in revenue of \$157,664.¹²

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 and each year thereafter for five years. With this change, Foothills cannot collect more than the maximum intercarrier compensation revenue amount established by the FCC. The cumulative reduction in intercarrier compensation has grown larger each fiscal year,¹³ and when this reduction in revenue is combined with the increase in revenue from the

¹⁰ Application, Exhibit 1, Attachment C.

¹¹ *Id.*

¹² *Id.*

¹³ Application, Exhibit 1 at 6.

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 Kentucky General Assembly has enacted significant changes to the authority of the Commission in light of competitive choices and options available to consumers.¹⁴ For example, the Commission, with the exceptions enumerated in KRS 278.5435, has jurisdiction only over basic service rates of telecommunication companies, which includes only a single business or residential service line.¹⁵ 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. 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 increase in basic local residential exchange service rate, and the expansion of local calling, as set forth in the tariffs attached to its Application filed on March 29, 2016, and shown in the Appendix attached to this Order, are approved.

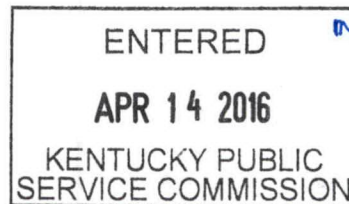
¹⁴ See, e.g., KRS 278.541–544 and KRS 278.5435.

¹⁵ KRS 278.541(1).

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 June 1, 2016.

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.

By the Commission



ATTEST:



Acting Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2016-00051 DATED **APR 14 2016**

The following Basic Service Rates are prescribed for the customers in the area served by Foothills Rural Telephone Cooperative Corporation, Inc. for service rendered on and after June 1, 2016. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of the Commission prior to the effective date of this Order.

Basic Exchange Monthly Rates

A. All Exchanges

	<u>Residence</u>
Network Access Charge	\$18.00

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