

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**ELECTRONIC APPLICATION OF Foothills Rural     )  
Telephone Cooperative Corporation, Inc.     ) CASE NO. 2017-00086  
FOR A GENERAL ADJUSTMENT IN RATES     )**

**MOTION OF Foothills Rural Telephone  
Cooperative Corporation, Inc.  
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. In support of its request, Foothills states as follows.

**INTRODUCTION**

Foothills files its Application in order to adjust its rates to comply with the 2017 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”). Foothills was one of several carriers that filed similar rate floor proceedings in 2016 to comply with the FCC rate floor and the Commission’s 2013 Order (the “2016 Rate Floor Proceedings”). *See, e.g., In the Matter of Application of Foothills Rural Telephone Cooperative Corporation, Inc. for a General Adjustment In Rates, Ky.*

P.S.C. Case No. 2016-00051, Order (March 29, 2016) (“2016 Waiver Order”). As part of those proceedings, carriers requested and were granted by the Commission waivers of certain requirements of 807 KAR 5:001, Section 16, and the 2013 Order. *Id.*

In light of the waivers granted in the 2016 Rate Floor Proceedings, Foothills now moves for waiver of certain requirements of 807 KAR 5:001, Section 16.

### 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 a regulatory pronouncement of the FCC; it has not been filed to address a financial need for additional revenue from Foothills’ ratepayers.

Wherefore, Foothills requests waiver of the filing requirements identified below. These requested waivers are consistent with the waivers the Commission previously granted to Foothills and other carriers. *See, e.g.*, 2016 Waiver Order (granting waiver of the requirements of, among others, 807 KAR 5:001, Section 16(4)(b), 16(4)(h), 16(4)(i), 16(4)(n), 16(4)(q), 16(4)(r), and 16(5)); *see also In the Matter of Tariff Filing of Ballard Rural Tele. Coop. Corp., Inc.*, Case No. 2013-00190, Order (March 26, 2014) (granting Ballard Rural Telephone

Cooperative Corporation, Inc. waiver of the requirements of Paragraph 3.d of Ballard’s 2013 rate floor order). A brief supporting narrative is included for each of these requests.

**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 parts A and B of its 2016 RUS operating report containing its TIER calculation, 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 unduly 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; it was and not determined based on the rate base and capital. This data is thus irrelevant to the proposed rate adjustment and would 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 provided its current and test period depreciation rates used by major plant accounts in Case 2014-00328 (Exhibit 8 to Application). Those rates are the Commission's average depreciation rates, and they have not changed. In addition, in light of the special circumstances of this rate floor filing, Foothills has provided information sufficient to allow the Commission to efficiently evaluate the 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.**

Foothill's most recent audited financial statement, including its most recent independent auditor's opinion letter, is provided in Exhibit 6 of the Application. Because this information should be sufficient to allow the Commission to efficiently evaluate the Application, Ballard seeks waiver of 807 KAR 5:001, Section 16(4)(q). This constitutes the most recent such information presently available to Foothills, and Foothills respectfully submits that it should be sufficient to allow the Commission to efficiently evaluate the Application. Consequently, Foothills seeks a 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' has provided its most recent independent auditor's opinion letter as Exhibit 6 to the Application. Foothills has also filed relevant portions of its 2016 RUS report as Exhibit 5 to the Application. This constitutes the most recent such information presently available to Foothills, and Foothills respectfully submits that it should be sufficient to allow the Commission

to efficiently evaluate the Application. Consequently, Foothills seeks a 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. It was 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 unduly 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).

**2013 Order at ¶ 3.d.**

**Historical and projected line loss.**

Foothills has provided historical data concerning line loss through December of 2016 in Exhibit 1 to its Application. Foothills does not have readily-available data for projected line loss beyond that point in time. Accordingly, to the extent the Commission believes this paragraph requires the production of more information than Foothills has provided, Foothills seeks waiver of the filing requirements that appear in the 2013 Order at ¶ 3.d.

### ALTERNATIVE REQUEST FOR RELIEF

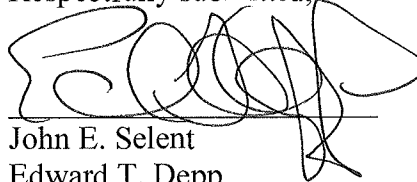
Foothills is required to adjust its rates no later than June 1, 2017 to comply with the FCC's 2017 rate floor. Failure to comply with the rate floor or failure to meet the regulatory deadline will cause Foothills to lose significant federal subsidies that have, historically, allowed it to provide service 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 could be forced 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 no later than June 1, 2017, 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 April 28, 2017, (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) no later than June 1, 2017, 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 2016 Waiver Order. 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 unduly expensive for Foothills to gather the information and prepare the reports in the timeframe of this case. Accordingly, Foothills has demonstrated good cause, and it respectfully requests that the Commission grant the requested waivers.

Respectfully submitted,



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