BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2013-55-C - ORDER NO. 2014-686

AUGUST 19, 2014

IN RE: South Carolina Telephone Coalition Petition to Modify Alternative Regulation Plans Filed Pursuant to S.C. Code Section 58-9-576(B) to Take Into Account Recent Action by the Federal Communications Commission	)))))	ORDER DENYING PETITION FOR RECONSIDERATION OR REHEARING

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Petition for Rehearing and/or Reconsideration of Commission Order Nos. 2014-517 and 2013-908 filed by the South Carolina Cable Television Association (SCCTA). Because of the reasoning stated below, we deny the Petition in its entirety.

With regard to Order No. 2014-517, which denied SCCTA's motion to reduce State USF payments for rural local exchange carriers, SCCTA has presented no new information that would lead this Commission to a different result. SCCTA has simply restated the issues presented to this Commission at oral argument. Each issue has been thoroughly addressed and expressly rejected in Order No. 2014-517. SCCTA argues (1) the Commission's USF plan requires carriers of last resorts' ("COLR") USF withdrawals to be "revenue neutral"; therefore, State USF withdrawals must be reduced to offset the additional revenues from the recent local rate increases; and (2) S.C. Code Ann. § 58-9-280(E) requires reduction in USF withdrawals because it provides that the USF shall be the difference between the cost of providing basic local service and the maximum amount

the COLR can charge for the service.

Clearly, Order No. 2014-517 fully discussed these issues and found them to be without merit. The "net neutrality" requirement in our prior State Universal Service Fund Orders specifically relates to the removal of implicit support from rates for services other than basic local exchange service. The implemented portion of the State Universal Service Fund has been sized on a revenue neutral basis. Basic local rates do not include implicit support and the revenue neutrality requirement does not apply to basic local service rates. Therefore, reductions in State Universal Service Fund withdrawals are not required because of "net neutrality."

Further, no reduction is required of withdrawals from the State USF because of the definition of the State USF, i.e. the difference between the cost of providing basic local service and the maximum amount the carriers of last resort can charge for the service. This is the definition for the maximum size of the USF, not the actual size. The maximum size of the USF was determined in prior Commission Orders. The Supreme Court approved the Commission's establishment of the maximum size of the USF, with the actual size to be implemented gradually. See Office of Regulatory Staff v. Public Service Commission, 374 S.C. 46, 58-59, 647 S.E.2d 223, 229-30 (2007). SCCTA incorrectly assumes that a fluctuation in the theoretical maximum size of the USF would require a reduction in the actual implemented portion of the Funds. This is erroneous, as explained in Order No. 2014-517 at 10-11. Therefore, no reduction of payments from the USF is required.

SCCTA alleges that our Order relied on matters outside of the record, specifically

on the concept that implicit support has dropped dramatically due to changes in federal USF support and available industry statistics regarding the reduction in access lines. Actually, although we made certain statements in the "Discussion" section of Order No. 2014-517 regarding the reduction in implicit support, we did not make a finding in this regard, nor did we rely on this information in reaching a conclusion. I would note that there are several citations in the Order "Discussion" section to the record, and to at least one relevant Order from the FCC. Therefore, after full consideration, the assertions in SCCTA's Petition with regard to Order No. 2014-517 are unavailing.

Further, examination of the SCCTA's arguments with regard to Order No. 2013-908 leads to the same conclusion. SCCTA states that we erred in failing to take judicial notice of the ILEC annual reports and surrogate cost information filed with the Commission or with the Office of Regulatory Staff outside of this proceeding. The decision as to whether or not to take judicial notice was discretionary with this Commission, considering the wording of Commission Regulation 103-846 (C), which states that the Commission "may" take notice of judicially cognizable facts. Clearly, SCCTA's request was untimely, and SCCTA failed to make a sufficient showing of the relevance of the documents to this proceeding. These grounds are sufficient to support our denial of the request to take judicial notice of the specific reports and information discussed.

Accordingly, because of the above-stated reasoning, the SCCTA Petition is denied in its entirety.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Nikiya Hall, Chairman

ATTEST:

Swain E. Whitfield, Vice Chairman
(SEAL)