BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 97-239-C - ORDER NO. 2004-573

NOVEMBER 18, 2004

IN RE: Proceeding to Establish Guidelines for an Intrastate Universal Service Fund.	)	ORDER
	)	APPROVING
	)	PETITION

I. PROCEDURAL BACKGROUND

This matter comes before the South Carolina Public Service Commission ("Commission") upon the Application of United Telephone Company of the Carolinas ("Sprint") for funding from the South Carolina Universal Service Fund ("State USF") pursuant to S.C. Code Ann. § 58-9-280(E) (Supp. 2003) and Commission Order No. 2001-419 in this docket.

Commission Order No. 2001-419 approved a phased-in plan for implementing the State USF. By its Order No. 2001-996, the Commission approved guidelines and administrative procedures relating to the phased-in approach. Pursuant to its statutory authority as implemented in its orders, the Commission implemented the first (access) step of the first phase of State USF on October 1, 2001. This step allowed incumbent local exchange carriers in South Carolina to reduce their access charges by approximately 50% and to recover the resulting lost revenues from the State USF.

The current proceeding was scheduled to implement the second step of the first phase of State USF. According to the plan approved by the Commission, LECs can file tariffs on April 1 of each year, proposing to reduce rates that contain implicit support for basic local service and to

recover those amounts from the State USF. The second step of the first phase of the State USF was limited so that local exchange carriers could not recover more than 1/3 of the total State USF to which they may be entitled pursuant to the cost studies approved in Commission Order No. 98-322 in this docket.

Sprint requested and the Commission granted an extension of time in which to file proposed tariff reductions to implement the second phase of the State USF. Subsequently, on April 13, 2004, Sprint filed proposed tariffs reflecting reductions in certain rates.

Sprint's filing seeks to reduce the Carrier Common Line Charge ("CCLC") from $0.0016 to zero and intrastate Local Switching from $0.010950 per minute to $0.004158 per minute. To offset these reductions on a revenue neutral basis, Sprint proposes to withdraw additional funding from the State USF in the amount of $1,187,655. The changes sought by Sprint are reflected in the tariff filings made by Sprint in this proceeding.

Along with the tariff filings, Sprint filed a detailed cost study clearly demonstrating that implicit support exists in the rates that are sought to be reduced, as required by paragraph 12 of Commission Order No. 2001-419. Sprint filed a Total Service Long Run Incremental Cost ("TSLRIC") study for intrastate Local Switching. Intrastate CCLC was originally created to recover the costs associated with switch port and loop on a minute of use basis. The switch port and loop are non-traffic sensitive and, therefore, there is no additional cost when a consumer places a long distance call. Therefore, CCLC has zero cost associated with switched access and no cost study was filed for the proposed CCLC reduction.

The Commission issued a Notice of Filing and Hearing in this matter under existing Commission Docket No. 97-239-C, which relates to State USF matters. This is an open docket

in which numerous parties have intervened, including the South Carolina Telephone Association ("SCTA"); the South Carolina Telephone Coalition ("SCTC"); BellSouth Telecommunications, Inc. ("BellSouth"); GTE South, Incorporated, now known as Verizon South, Incorporated ("Verizon"); the Consumer Advocate for the State of South Carolina ("Consumer Advocate"); the South Carolina Cable Television Association ("SCCTA"); Southeastern Competitive Carriers Association ("SECCA"); WorldCom, Inc. ("WorldCom"); Alliance for South Carolina's Children ("Alliance"); South Carolina Fair Share and the Women's Shelter ("SC Fair Share"); AT&T Communications of the Southern States, Inc. ("AT&T"); South Carolina Public Communications Association ("SCPCA"); John C. Ruoff, Ph.D. ("Ruoff"); South Carolina Budget and Control Board, Office of Information Resources ("OIR"); LCI International, Inc. ("LCI"); ALLTEL South Carolina, Inc. and ALLTEL Communications, Inc. ("ALLTEL"); Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"); and ITC^DeltaCom.

A public hearing was held in this matter on September 22, 2004. During the hearing, Sprint was represented by Scott Elliott and Jack H. Derrick. Sprint presented the revised direct testimony of John E. Mitus and Talmage O. Cox, III, and the rebuttal testimony of Talmage O. Cox, III.

The Consumer Advocate was represented by Elliott F. Elam, Jr. The Consumer Advocate presented no witnesses.

SCCTA was represented by Frank R. Ellerbe, III. SCCTA presented no witnesses.

Verizon Wireless was represented by John M. S. Hoefer. Verizon Wireless presented no witnesses.

The Commission's Staff was presented by Jocelyn G. Boyd. The Commission Staff presented the testimony of Barbara J. Crawford and David S. Lacoste.

No other appearances were entered.

II. SUMMARY OF TESTIMONY

JOHN E. MITUS

Sprint presented the testimony of John E. Mitus, Senior Regulatory Manager in Sprint's Department of State Regulatory Affairs. Mr. Mitus testified that Sprint was asking that the Commission approve tariff changes eliminating an explicit subsidy in CCLC and intrastate local switching. Mr. Mitus further testified that upon implementation of these tariff changes Sprint would be allowed to draw an additional explicit subsidy of $1,187,655. Mr. Mitus further testified that this is a revenue neutral filing for Sprint. Mr. Mitus showed in his testimony that Sprint's current CCLC and local switching rates are above cost thus creating the implicit subsidy for local rates. Mr. Mitus demonstrated that Sprint is eligible to receive additional State USF funds to support universal service.

TALMAGE O. COX, III

Sprint also presented the testimony of Talmage O. Cox, III, Senior Manager-Network Cost for Sprint Corporation. Mr. Cox explained the development of Sprint's forward-looking economic cost of switched access cost study which used the TSLRIC methodology. Mr. Cox testified that Sprint's study complies with TSLRIC methodology by recognizing total demand, using a time period long enough that fixed costs are variable, using forward-looking least cost technology, and incremental costs required to support total demand. Mr. Cox testified to the need to use a forward-looking economic depreciation rate with a TSLRIC cost study. Mr. Cox

also testified that Sprint's cost study provides proof that implicit support exists in the present local switching rate.

BARBARA J. CRAWFORD

The Commission Staff presented the testimony of Barbara J. Crawford, Auditor with the Public Service Commission of South Carolina. Ms. Crawford summarized the Audit Staff's participation in the review of the documents filed by Sprint in the proceeding. Ms. Crawford testified that the Audit Staff had examined the cost studies filed, and confidential source documentation, and that Sprint's cost study was supported by the company's books and records. Ms. Crawford testified that although she initially raised questions regarding Sprint's cost study, Sprint had revised its cost study and had resolved those concerns to her satisfaction. Ms. Crawford testified that the Commission Staff did not oppose the relief sought by Sprint in this matter.

DAVID S. LACOSTE

The Commission Staff also presented the testimony of David S. Lacoste, Engineer (Associate) with the Commission's Utilities Department. Mr. Lacoste testified that Sprint is seeking approval of reductions to CCLC and local switching rate elements as found in Sprint's access services tariff and that revenue lost as the result of these rate reductions is to be recovered from the State USF. Mr. Lacoste testified that prior Commission orders require that implementation of the State USF is necessary to remove implicit support from rates and make the funding explicit to insure continuation of universal service to all residential and single-line business customers in South Carolina. Mr. Lacoste explained that the cost study that Sprint prepared and filed addresses local switching cost but that as CCLC represents only usage based

revenue, there are no CCLC cost to be studied. Mr. Lacoste testified that the cost studies Sprint filed in support of its request is very detailed and takes into account investment and usage costs associated with switching functions such as processor, line cards, software, SS7 signaling and various trunk expenses. Mr. Lacoste testified that other direct costs that are associated with miscellaneous plant items are also identified within the study. Mr. Lacoste testified that Sprint used a different depreciation rate in the cost study in this matter from that used in other matters, and that the depreciation rate shown in the cost study used in this matter was developed solely for the purpose of developing a local switching rate element that adequately covers forward-looking costs. Mr. Lacoste testified that Sprint is not asking the Commission for a change in the company's Commission approved depreciation rate schedules.

III. MOTIONS

MOTIONS TO DENY SPRINT'S REQUEST AS A MATTER OF LAW

At the close of the evidence, Mr. Elam on behalf of the Consumer Advocate and Mr. Ellerbe on behalf of SCCTA moved, for reasons set forth in appeals of prior orders in this docket, to have the Commission reject Sprint's request for additional USF funds in this docket. TR at 76. Counsel for these parties have made similar motions in other proceedings addressing State USF requests. As counsel for SCCTA stated, "(t)hose objections go to some of our issues about the overall implementation of the Fund, and they don't relate specifically to the request by Sprint in this case." TR at 78. In effect, counsel for the Consumer Advocate and the SCCTA are not arguing in this matter that Sprint has not done all that Sprint is required to do under the Commission's prior State USF orders, but are merely expressing disagreement with those prior orders and asking the Commission to reconsider them.

We hereby deny the motions made by the Consumer Advocate and the SCCTA for the same reasons as before. This Commission has been through years of hearings, beginning in August 1997, on this matter and has issued detailed and exhaustive orders in this case. Some of those orders were appealed to the Circuit Court. Judge Kinard issued a detailed 44-page order in which he affirmed the Commission's orders and concluded: "There is substantial evidence in the record to support the Commission's decisions regarding the State USF. The Commission acted properly and in accordance with its statutory mandate, as well as in the interest of the public, in establishing and implementing the State USF." Order of the Honorable J. Ernest Kinard, Jr. Dated September 30, 2002, at p. 43. The case is currently pending before the Supreme Court of this State. We will proceed to consider Sprint's request on the merits.

IV. OVERVIEW OF STATE USF PROCEEDINGS

This Commission has detailed the concept and goals of universal service in prior orders, most particularly in Commission order No. 2001-419 in this docket, and has made a number of public interest findings in approving a plan for a phased-in implementation of State USF. Our review here will focus on the instant filing and whether it complies with our prior orders and serves the public interest.

The instant proceeding is the Commission's sixth proceeding to address State USF. In the first proceeding in Docket No. 97-239-C, which began in August 1997, the Commission adopted guidelines, as required by S.C. Code Ann. § 58-9-280(E). The guidelines, among other things, define the services that are supportable under the State USF, define eligibility requirements for receiving funding from the State USF, declare that funding is portable to any qualified Carrier of Last Resort, and establish the administrator of the State USF. The

Commission deferred issues relating to the selection of an appropriate cost model(s) and methodologies; sizing the fund; recovery of USF contributions; and maximum allowable rates. See Commission Order No. 97-753, as modified upon reconsideration in Order Nos. 97-942 and 98-201.

With respect to sizing the fund, the State statute provides that the size of the State USF is the sum of the difference, for each carrier of last resort, between its costs of providing basic local exchange services and the maximum amount it may charge for the services. S.C. Code Ann. § 58-9-280(E)(4). The State statute defines basic local exchange telephone service as "for residential and single-line business customers, access to basic voice grade local service with touchtone, access to available emergency services and directory assistance, the capability to access interconnecting carriers, relay services, access to operator services, and one annual local directory listing (while pages or equivalent)." S.C. Code Ann. § 58-9-10(9). At the time of the first proceeding, however, the Commission had not yet determined the appropriate methodology to be used to determine costs and thus was unable to size the fund at that time.

In its second proceeding in November 1997, the Commission primarily addressed the selection of appropriate cost model(s) and methodologies, and sizing the State USF. The Commission adopted the Benchmark Cost Proxy Model 3.1 as the state forward-looking cost model for BellSouth, GTE, and Sprint, after making certain modifications to company specific inputs. The Commission also adopted the South Carolina Telephone Coalition's proposed embedded cost model, including recommended inputs for rural LECs (other than Sprint). All other matters related to the intrastate USF that were not ruled upon were "held in abeyance." See Commission Order No. 98-322.

In the third proceeding, the Commission addressed outstanding issues relating to the State USF and ordered a phased-in implementation of the fund, consistent with the Commission's statutory obligation to "establish a universal service fund (USF) for distribution to a carrier(s) of last resort." S.C. Code Ann. § 58-9-280(E). Under the State USF implementation adopted by the Commission in Order No. 2001-419, there is a series of steps or phases leading to the full implementation of the State USF. The phase-in will occur in at least three stages. The first phase consists of two steps. The first step, which was implemented effective October 1, 2001, required an immediate reduction of approximately 50% in intrastate access rates. In the fourth proceeding, the Commission considered a request for additional State USF funding from six individual LECs to implement the second (end user) step of the first phase of State USF. By Commission Order No. 2003-215, the Commission approved the six LECs' requests to reduce end user rates for MEAS, ACP, and IntraLATA calling services and to recover funding from the State USF on a revenue neutral basis. The initial phase (access and end user steps) was limited to no more than 33.33% of total State USF, sized according to the Commission's previously approved guidelines. In addition, each individual LEC was limited to one third of its maximum State USF on a company-specific basis.

The fifth proceeding addressed the second phase of the State USF for six individual LECs. The second phase is limited to no more than 66.67% of total State USF, sized according to the Commission's previously approved guidelines. In addition, each individual LEC is limited to two-thirds of its maximum State USF on a company-specific basis.

The instant proceeding is to address the second step of the first phase of State USF for Sprint.

Each phase of State USF requires tariff filings to reduce rates in compliance with Section 4 of the State USF guidelines, which requires that carriers of last resort make dollar-for-dollar rate reductions before being permitted to draw funds from the State USF. Tariff filings, if made, are required no later than April 1 of each year, and any rate reductions approved by the Commission for those rates containing implicit support are intended to be implemented on October 1 of each year. In order to receive funding beyond the initial (access) step, any local exchange carrier (LEC) seeking further tariff reductions is required to file detailed cost data with the Commission clearly demonstrating that implicit support exists in the rates that are proposed to be reduced. In addition, each LEC is required to update the results of its cost model before being permitted to withdraw more than one-third of its company-specific State USF amount.

V. FINDINGS AND CONCLUSIONS

1. The Commission has a statutory obligation to establish a State USF for distribution to carriers of last resort. S.C. Code Ann. § 58-9-280(E).

2. The Commission has complied with its statutory obligation to establish a State USF and previously set forth a phased-in schedule for implementing the State USF to ensure that funds are distributed to carriers of last resort. See Order No. 2001-419. The Commission has adopted guidelines and procedures for implementation. See Order No. 2001-996 and State USF Guidelines and Administrative Procedures attached thereto. The Commission has previously granted requests for rate reductions and recovery of lost revenues from the State USF. See Commission Order Nos. 2001-419 and 2003-215.

3. Sprint has filed a TSLRIC cost study that clearly demonstrates that implicit support exists in the rates Sprint seeks to reduce, as required by paragraph 12 of Order No. 2001-

419. See cost study and backup documentation filed as part of Sprint's application and submitted under seal for the hearing record in this proceeding. The study shows that there is implicit support in each of the rates sought to be reduced, and that, with the proposed rate reductions, the respective rates still exceed the cost of providing the services.

4. It is appropriate for Sprint to use a TSLRIC cost study. Commission Order No. 98-322; Commission Order No. 2001-419 at 12.

5. We agree with Sprint and therefore grant Sprint's motion for confidential treatment of the cost study submitted in support of the request in this Docket. In today's competitive environment, we agree that making the information publicly available could give actual and potential competitors an unfair competitive advantage. This is consistent with the manner in which we have treated such information in the past. See Commission Order No. 2002-481.

6. Each of the rates proposed by Sprint for the services Sprint proposes to reduce is above the calculated cost of providing the service. TR at 13.

7. The amount of State USF funding requested by Sprint when combined with the funding received from the first phase of the State USF, does not exceed 1/3 of the State USF for Sprint. TR at 16. Thus, Sprint has not exceeded its allowable State USF for the second phase, as provided for in paras. 13-14 of Commission Order No. 2001-419 and as outlined in the guidelines and administrative procedures for State USF attached to Commission Order No. 2001-996.

8. The amount of State USF funding requested by Sprint, when combined with the funding received from the first phase of State USF, does not exceed 1/3 of the State USF for

Sprint. TR at 16. Therefore, Sprint is not required to update the results of its basic local exchange service cost study at this time. However, should Sprint request additional State USF funding that exceed one-third of its company-specific State USF amount, an updated basic local exchange service cost study will be required, as direct in Commission Order No. 2001-419, para. 22.

9. The testimony presented in the proceeding supported Sprint's request and cost study. Several of the participants in this proceeding participated in cross-examination of Sprint's and the Commission Staff's witnesses. While none of these parties presented testimony in the proceeding, they appear to advocate at least some changes in the guidelines and administrative procedures governing the State USF. However, the points raised through cross-examination and through motions and statements on the record were nothing more than a re-hashing of arguments previously addressed and rejected by this Commission. We again find these arguments unconvincing.

10. Sprint's requests are approved as filed.

IT IS THEREFORE ORDERED THAT:

1. Sprint's request for additional State USF funding in this matter is granted.

2. The proposed tariffs filed by Sprint are approved, effective upon implementation of the State USF funding to offset the tariff reductions proposed by Sprint, consistent with the revenue neutrality principle of the State USF guidelines.

3. The Commission will implement the additional State USF funding approved here as soon as feasible.

4. The motions of the Consumer Advocate and the SCCTA to deny Sprint's request are themselves denied for the reasons stated herein.

5. Sprint's motion for confidential treatment of the cost studies submitted in support of Sprint's request and provided for the record under seal is hereby granted.

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

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
O'Neal Hamilton, Vice-Chairman

(SEAL)