

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Thomas E. Wright, Chairman
 Michael C. Moffet
 Joseph F. Harkins

In the Matter of a General Investigation to)
Determine the Assessment Rate for the) Docket No. 10-GIMT-188-GIT
Fourteenth Year of the Kansas Universal)
Service Fund Effective March 1, 2010)

**ORDER SETTING THE KANSAS UNIVERSAL SERVICE FUND
ASSESSMENT RATE FOR YEAR FOURTEEN AND
CANCELING JANUARY 20, 2010 TECHNICAL HEARING**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records and being fully advised in the premises, the Commission finds and concludes as follows:

1. On September 24, 2009, the Commission issued its Order Opening Docket, Assessing Costs, and Establishing Procedural Schedule in this docket. The Commission made all telecommunications public utilities operating in the state parties to the docket and required parties that wanted to receive pleadings and non-final orders to enter their appearances. The Citizens' Utility Ratepayer Board (CURB) was made a party to the docket and was not required to file an entry of appearance. Appearances were entered by Bruce A. Ney on behalf of Southwestern Bell Telephone Company, L.P. d/b/a AT&T Kansas, AT&T Communications of the Southwest, Inc., and TCG Kansas City, Inc., Kenneth Schifman and Diane Browning on behalf of Sprint Communications Company, L.P., Mark Caplinger on behalf of the State Independent Alliance, and Thomas E. Gleason, Jr., on behalf of the Independent Telecommunications Group and H&B Cable Service, Inc.

2. The Kansas Universal Service Fund (KUSF) was established by the Commission pursuant to K.S.A. 66-2008 and began operations March 1, 1997. The Commission annually establishes the rate to be assessed on intrastate retail revenues of all contributors to the fund. Contributors are allowed to pass through the assessment to their customers, limited to the amount of the actual assessment. K.S.A. 66-2008(a). The assessment also funds Lifeline service, K.S.A. 66-2002(f); dual party relay service and telecommunications equipment for persons with visual impairment and persons with other special needs, K.S.A. 66-2002(g); and KAN-ED support, K.S.A. 66-2010(f).

3. Sandra Reams pre-filed Direct Testimony for Staff on December 23, 2009, and on January 11, 2010 filed minor clerical corrections to a chart on page 5 of her direct testimony. No other party filed testimony and the parties agreed to waive the hearing scheduled for January 20, 2010. Staff informed the Commission by motion dated January 12, 2010, that the parties had all informed Staff that there was no need for the January 20, 2010 technical hearing and requested the Commission issue an order adopting Staff's proposed Year 14 assessment rate, effective March 1, 2010.

4. The Commission has jurisdiction over the parties and the subject matter of the docket pursuant to K.S.A. 66-1,188 and K.S.A. 66-2008(c).

5. Ms. Reams' pre-filed direct testimony indicated that based on her calculations, the assessment rate for the Fourteenth KUSF Year should be 6.06%.¹ In addition to calculating the assessment rate for Year 14, Ms. Reams also discussed other policy issues regarding the KUSF, beginning at page 26 of her testimony. Ms. Reams suggested that the Commission "clarify whether the late payment penalty of 1% per month (12% annum) applies only to the KUSF assessment principle or if it also applies to late fees." Staff suggested the Commission clarify its

¹ Reams Direct, p. 2, 1 12.

prior late payment penalty order to make clear that the late payment penalties apply not only to the KUSF assessment principle, but also to late fees as an incentive to companies to pay delinquent balances in a timely manner.

6. Ms. Reams also suggested "the Commission address the appropriate treatment of Integrated Services Digital Network (ISDN) Primary Rate Interface (PRI) arrangements for KUSF support and assessment purposes." Ms. Reams noted that the majority of companies with this type of customer arrangements provision this service only to businesses with PBX-type services, and that since the Commission has previously determined KUSF support should not be paid for lines terminating in a hunt-group, Centrex, or PBX, Staff has informed companies that all PRI arrangements be treated similarly. Staff's recommendation is for the PRI arrangements to be "counted consistent with the FCC's determination that each arrangement is counted as five lines and its determination that federal USF charges apply to PRI arrangements." Staff notes, too that PRI arrangements are "fairly expensive" compared to regular plain old telephone service, or POTS, or even other Internet-capable services, and suggest that a residential subscriber may be better served by a competing, less expensive technology. In sum, Staff suggests that for PRI arrangements, companies apply the KUSF assessment rate to five lines, but should not collect KUSF support for any such arrangement.

7. Finally, Ms. Reams, as previously directed by the Commission, raised the issue of a new quarterly true-up process so that all affected carriers are aware of the process. Ms. Reams' testimony thoroughly discusses the current true-up process and the Commission sees no need to repeat her discussion here. Ms. Reams suggests that the Commission direct any company of sufficient size to be required to report its KUSF-assessable revenues on a monthly basis now be required to true-up the reports on a quarterly basis. Such a company should true-up its revenues

for the March 2010 through May 2010 data months, no later than July 15, 2010, and so on, as provided for in the table in Ms. Reams' testimony on page 32.

FINDINGS AND CONCLUSIONS

8. There are no contested issues in this docket.

9. The Commission finds it appropriate to adopt Staff's recommendation of ~~6.06~~ percent for the KUSF assessment for the Fourteenth Year. The rate shall be implemented on March 1, 2010. The Commission observes that companies are allowed to pass through the full amount calculated in Ms. Reams' testimony, which for the rural local exchange companies results in a maximum per line assessment of ~~\$1.39~~ for their local service customers. ~~AT&T~~ may pass through ~~\$1.90~~ to its local service customers per month, while CenturyLink may pass through an assessment of ~~\$1.81~~ per month to its local service customers.

10. The Commission clarifies its late payment penalty policy and adopts the two policy recommendations made by Staff, in full, as described in Ms. Reams' December 23, 2009 testimony.

11. The Commission adopts Staff's recommendation to cancel the technical hearing scheduled for January 20, 2010.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The KUSF assessment rate for the 14th year of the KUSF, beginning March 1, 2010, shall be ~~6.06~~ percent.

B. AT&T may assess its local service customers a maximum of ~~\$1.90~~ per access line. CenturyLink may assess a maximum of ~~\$1.81~~ per access line to its local service customers. The rural local exchange companies may assess a maximum of \$1.39 per access line to their local service customers.

C. Late payment penalties shall be assessed not only on the KUSF assessment principle, but also on any accrued late fees.

D. For PRI arrangements, companies may apply the KUSF assessment rate to five lines, but shall not collect KUSF support for any such arrangement.

E. Companies required to report KUSF-assessable revenues on a monthly basis shall true-up those reports on a quarterly basis. For the data months of March through May, the true-up shall be received by the KUSF administrator no later than July 15. For the data months of June through August, the true-up shall be received no later than October 15. For the data months of September through November, the true-up shall be received no later than January 15. And for the data months of December through February, the true-up shall be received no later than April 15. As noted in the testimony, actual true-up dates may vary depending on the number of days in the month, whether the year is a leap year, and whether the applicable due date falls on the weekend or holiday. Forms and a description of the process are available from the KUSF administrator, at <http://www.gvnw.com/usf/kansas/index.htm>.

F. The parties have fifteen days, plus three days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2008 Supp. 77-529(a)(1).

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn.; Moffet, Com; Harkins, Com.

Dated: JAN 13 2010

ORDERED MAILED

JAN 14 2010

Susan K. Duffy EXECUTIVE
DIRECTOR

Susan K. Duffy
Executive Director

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