

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Mark Sievers, Chairman
Ward Loyd
Thomas E. Wright

In the Matter of a General Investigation to)
Determine the Assessment Rate for the) Docket No. 12-GIMT-168-GIT
Sixteenth Year of the Kansas Universal)
Service Fund Effective March 1, 2012.)

**AMENDED ORDER SETTING THE KANSAS UNIVERSAL SERVICE FUND
ASSESSMENT RATE FOR YEAR SIXTEEN AND CANCELLING 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 29, 2011, the Commission issued, in this docket, its Order Opening Docket and Establishing Procedural Schedule. The Commission made all telecommunications public utilities operating in the state parties to this docket and required parties that wanted to receive pleadings and non-final orders to enter their appearances. The Citizens' Utility Ratepayer Board (CURB) filed for Intervention which was granted. An appearance was also entered by Southwestern Bell Telephone Company, TCG Kansas City, Inc., AT&T Communications of the Southwest, Inc., AT&T Corp., SBC Long Distance, LLC, Bell South Long Distance, Inc., SNET America, Inc., and New Cingular Wireless PCS (collectively AT&T). Cox Communications and the United Telephone Companies of Kansas d/b/a CenturyLink also entered appearances.

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, 2011, and Supplemental Testimony on January 11, 2012. No other party filed testimony. CURB, AT&T, Cox and CenturyLink have informed the Commission that there is no need to hold the hearings scheduled for January 17 and 18, 2012.

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 sixteenth KUSF Year should be 6.13%.

FINDINGS AND CONCLUSIONS

6. Because there are no contested issues in this docket, the Commission finds it appropriate to adopt Staff's recommendation of 6.13% for the KUSF assessment for the sixteenth year and cancel the hearings scheduled for January 17 and 18, 2012. The assessment rate shall be implemented on March 1, 2012. 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 \$1.45 for their local

service customers. AT&T may pass through \$2.02 to its local service customers per month, while CenturyLink may pass through an assessment of \$1.63 per month to its local service customers.

7. The Commission further finds it appropriate to adopt Staff's proposed Transition Factor of 1.181623.

8. Staff made one additional recommendation to the Commission concerning VoIP and wireless providers. Staff recommended that the Commission clarify that wireless and VoIP providers are required to submit a pleading to the Commission prior to using a method other than the respective Safe Harbor to allocate revenue to the intrastate jurisdiction for KUSF purposes and submit an update to the Commission whenever their traffic study factors change. In the alternative, Staff recommended that an update occur at least annually in the annual KUSF docket to which the traffic study factors apply and identify the intrastate factor(s) used for KUSF purposes and the applicable period each factor relates to. Staff also recommended that a company continue to be required to provide an affidavit, signed by an officer of the company, verifying that the same methodology and the inverse traffic factors were used for federal USF purposes for the same time frame.

9. The Commission clarifies that, as recognized in Ms. Reams' Direct Testimony, the Commission requires both wireless and VoIP providers to submit a pleading to the Commission if the provider elects to use an allocation methodology other than the Safe Harbor. Each pleading must be accompanied by an affidavit from an officer of the company to verify the same methodology and the inverse factors, as applicable, are used for federal USF purposes. We recently expanded this requirement to prepaid wireless providers in our December 22, 2011, Order in Docket No. 11-GIMT-842-GIT. Thus, to ensure consistency in

KUSF reporting, we assume traditional and prepaid wireless, and interconnected VoIP providers allocate their revenues between the interstate and intrastate jurisdictions using the Safe Harbor methodology unless the company submits a pleading to the Commission requesting to use either the direct assignment or traffic study methodology, or a combination. The pleading shall be accompanied by an affidavit signed by a company official to verify that the company uses the same methodology for federal USF purposes. A wireless provider may file one pleading and affidavit for both prepaid and traditional wireless services. A pleading to elect to use a methodology and the accompanying affidavit shall be submitted before the company first uses the methodology for KUSF purposes. Once a methodology is selected and approved, a company is encouraged to submit, to the Commission, a pleading to advise the company whenever the allocation percentages change. However, the Commission recognizes that some companies may make such changes quarterly and while we encourage an update to occur prior to a change in the allocation percentages, we require that a company provide updates to its methodology and allocation factors at least annually, even if such pleading verifies that no change has occurred. All such pleadings will be entered into the annual KUSF docket for which the methodology and factor(s) are applicable.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The hearings in this docket previously scheduled for January 17 and 18, 2012, are cancelled since there are no contested issues in this docket. The KUSF assessment rate for the 16th year of the KUSF, beginning March 1, 2012, shall be 6.13 percent.

B. AT&T may assess its local service customers a maximum of \$2.02 per access line. CenturyLink may assess a maximum of \$1.63 per access line to its local service customers. The rural local exchange companies may assess a maximum of \$1.45 per access line to their local service customers. The Transition Factor is 1.181623.

C. Any traditional or prepaid wireless provider or interconnected VoIP provider wanting to allocate revenue to the interstate and intrastate jurisdiction for USF purposes using the direct assignment or traffic study methodology, or a combination, must file a pleading with the Commission prior to using such methodology. The pleading shall be accompanied by an affidavit signed by an officer of the company and verify that the same methodology is used for federal USF purposes. A pleading must be filed if the company elects a new methodology.

D. The Commission hereby requires a company to provide updates to its methodology and allocation factors at least annually, even if such pleading verifies that no change has occurred. A company must submit an affidavit with each pleading to verify that the methodology and that inverse factor(s) are used for federal USF purposes. All such pleadings will be entered into the annual KUSF docket for which the methodology and factor(s) are applicable.

E. 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. 2009 Supp. 77-529(a)(1).

F. 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.

Sievers, Chmn.; Loyd, Com.; Wright, Com.

Dated: FEB 01 2012


ORDER MAILED FEB 02 2012

Patrice Petersen-Klein
Executive Director

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