

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners: Jay Scott Emler, Chairman  
Shari Feist Albrecht  
Pat Apple

In the Matter of An Investigation to Determine )  
the Assessment Rate for the Twentieth Year of ) Docket No. 16-GIMT-067-GIT  
the Kansas Universal Service Fund, Effective )  
March 1, 2016. )

**ORDER APPROVING STIPULATION AND AGREEMENT, CANCELING  
THE JANUARY 27, 2016 EVIDENTIARY HEARING AND ADOPTING  
ASSESSMENT RATE**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission finds:

1. On August 20, 2015, the Commission issued an Order Opening Docket; Protective Order Applicable to CURB; Requiring Entries of Appearance to Actively Participate and Establishing Procedural Schedule (Order) to determine the Kansas Universal Service Fund (KUSF) contribution rate for the next KUSF fiscal year. As part of the Order, the Commission set an evidentiary hearing for January 13, 2016, with an order adopting the Year 20 assessment due by January 22, 2016.<sup>1</sup> The Order did not set a starting time for the evidentiary hearing, as parties have traditionally elected to waive the evidentiary hearing in dockets setting the annual KUSF assessment rate.

2. Entries of Appearance were filed by the State Independent Alliance, the Independent Telecommunications Group, Southern Kansas Telephone Co. Inc., Mutual

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<sup>1</sup> Order, Ordering Clause C.

Telephone Company, Wheat State Telephone, CenturyLink, and Southwestern Bell Telephone Company / AT&T.

3. On December 18, 2015, Sandy Reams, Assistant Chief of Telecommunications for the Commission Staff (Staff) filed testimony recommending the Commission adopt a 6.53% assessment rate for the twentieth year of the KUSF.<sup>2</sup>

4. On January 5, 2016, Daniel Meszler filed rebuttal testimony on behalf of the State Independent Alliance, the Independent Telecommunications Group, Southern Kansas Telephone, Wheat State Telephone and Mutual Telephone (RLECs). While not contesting Reams' recommendation to adopt a 6.53% assessment rate, Meszler took issue with a portion of Reams' testimony involving intrastate access revenue, which is not at issue in this docket. Meszler acknowledges that the Commission must issue an order setting the Year 20 assessment rate in time to permit carriers to use the rate in their billings effective March 2016.<sup>3</sup>

5. On January 6, 2016, Staff filed a Motion for Summary Judgment for Approval of the Year 20 KUSF Assessment Rate and Waiver of the Evidentiary Hearing, explaining that since none of the parties have objected to Staff's recommended assessment rate, the Commission should cancel the evidentiary hearing and approve the 6.53% assessment rate for Year 20 of the KUSF.

6. On January 11, 2016, the RLECs filed their Response to Staff Motion for Summary Judgment, opposing Staff's motion to waive the evidentiary hearing. While the RLECs noted the Motion for Summary Judgment was defective as it contained no notice of hearing, the RLECs did not raise any objection regarding notice for the January 13 evidentiary hearing.

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<sup>2</sup> Direct Testimony of Sandy Reams, Dec. 18, 2015, p. 3.

<sup>3</sup> Testimony of Daniel Meszler, Jan. 5, 2016, p. 4.

7. On January 13, 2016, the Commission called the evidentiary hearing to order. Thomas E. Gleason appeared on behalf of the Independent Telecommunications Group.<sup>4</sup> Colleen R. Jamison appeared on behalf of the State Independent Alliance.<sup>5</sup> At the hearing, counsel for the Independent Telecommunications Group and the State Independent Alliance jointly objected to notice, claiming the Commission lacked jurisdiction to hold a hearing on January 13, 2016, since the Order did not specify a starting time for the hearing.

8. The Commission sustained the objections to notice and canceled the hearing.

9. On January 14, 2016, the Commission issued an Order Amending Procedural Schedule, explaining that based on the joint objection from counsel for the Independent Telecommunications Group and the State Independent Alliance, the Commission elected to postpone the evidentiary hearing and the order due date until January 27, 2016, and February 10, 2016, respectively. On January 15, 2016, the Commission issued an Amended Order Amending Procedural Schedule, clarifying the location of the January 27, 2016 hearing.

10. On January 20, 2016, Staff filed a Motion to Approve Stipulation and Agreement (Motion), explaining that the parties to the docket agree an evidentiary hearing is unnecessary and that the 6.53% assessment rate recommended by Staff for Year 20 of the KUSF should be approved.<sup>6</sup> In addition to agreeing to waive the evidentiary hearing and agreeing all outstanding

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<sup>4</sup> The members of the Independent Telecommunications Group are: Columbus Communications Services, LLC; Cunningham Telephone Co., Inc.; Moundridge Telephone Co., Inc.; Totah Communications, Inc.; Gorham Telephone Co. Inc.; Twin Valley Telephone, Inc.; H & B Communications, Inc.; Home Telephone Co., Inc.; LaHarpe Telephone Co. Inc.; Wamego Telecommunications Co., Inc.; Wilson Telephone Co., Inc.; and Zenda Telephone Co., Inc.

<sup>5</sup> The members of the State Independent Alliance are: Bluestem Telephone Company; Blue Valley Telecommunications, Inc.; Craw-Kan Telephone Cooperative, Inc.; The Golden Belt Telephone Association, Inc.; Haviland Telephone Company, Inc.; JBN Telephone Company, Inc.; KanOkla Telephone Association, Inc.; Madison Telephone, LLC; MoKan Dial, Inc.; Peoples Telecommunications, LLC; The Pioneer Telephone Association, Inc.; Rainbow Telecommunications Association, Inc.; Rural Telephone Service Company, Inc. d/b/a Nex-Tech; S & A Telephone Company; The S & T Telephone Cooperative Association, Inc.; South Central Telephone Association; Sunflower Telephone Company, Inc.; The Tri-County Telephone Association, Inc.; and United Telephone Association, Inc.

<sup>6</sup> Staff's Motion to Approve the Stipulation and Agreement, Jan. 20, 2016, ¶ 5.

motions are rendered moot upon approval of the Stipulation and Agreement, the parties to the proposed Stipulation and Agreement agree to strike a portion of Reams' testimony in return for withdrawing all of Meszler's rebuttal testimony.

11. K.S.A. 77-537 allows the Commission to render decisions in summary proceedings without holding a hearing.<sup>7</sup> K.S.A. 77-524(d) enables evidence to be received in written form if it will expedite the process without substantial prejudice to the interest of any party.<sup>8</sup> Pursuant to K.S.A. 77-537 and K.S.A. 77-524(d), the Commission finds it appropriate to accept the parties' prefiled testimony in place of a hearing as it will expedite the process without prejudicing the interests of any of the parties.

12. The Commission approves Staff's uncontested recommendation to adopt a 6.53% assessment rate for KUSF Year 20.

**THEREFORE, THE COMMISSION ORDERS:**

- A. The Commission approves the proposed Stipulation and Agreement.
- B. The Evidentiary Hearing set for January 27, 2016 is canceled.
- C. The Assessment Rate for KUSF Year 20, effective March 1, 2016, through February 28, 2017, shall be 6.53%.
- D. The parties have fifteen days from the date this order was electronically served to petition for reconsideration.<sup>9</sup>
- E. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it deems necessary.

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<sup>7</sup> K.S.A. 77-537.

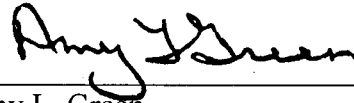
<sup>8</sup> K.S.A. 77-524(d).

<sup>9</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

**BY THE COMMISSION IT IS SO ORDERED.**

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: JAN 26 2016



Amy L. Green  
Secretary to the Commission

BGF

**EMAILED**

JAN 26 2016

## CERTIFICATE OF SERVICE

16-GIMT-067-GIT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

**JAN 26 2016**

Electronic Service on \_\_\_\_\_.

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***EMAILED***

JAN 26 2016