

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

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

In the Matter of an Investigation to Determine)
the Assessment Rate and the Affordable Local)
Service Rate for Rate-of-Return Regulated) Docket No. 15-GIMT-073-GIT
Carriers for the Nineteenth Year of the Kansas)
Universal Service Fund, Effective March 1,)
2015.)

ORDER ELIMINATING KUSF LOCAL SERVICE PER LINE RATES

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 makes the following findings:

1. On August 28, 2014, the Commission opened this docket to determine the Kansas Universal Service Fund (KUSF) Year 19 Assessment Rate, effective March 1, 2015, through February 29, 2016, pursuant to K.S.A. 66-2008(a) and Docket No. 94-GIMT-478-GIT. The Commission also opened the docket to determine the affordable rates for local exchange service provided by rural telephone companies subject to rate of return regulation pursuant to K.S.A. 66-2005(e).

2. On December 18, 2014, Sandra K. Reams filed direct testimony on behalf of Commission Staff (Staff) recommending the Commission establish: (1) a 6.47% Assessment Rate for KUSF Year 19; (2) affordable monthly local service rates of \$17.00 for residential service, and \$20.00 for single-line business service; (3) per line KUSF assessment rates for the Rural Local Exchange Carriers (RLECs) of \$1.56, the United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink) of \$1.99, and Southwestern Bell Telephone Company (SWBT)

of \$3.28; (4) a January 30, 2015 deadline for the RLECs to file their revised local service tariffs, to be effective March 1, 2015; and (5) a schedule for comments and reply comments regarding whether to maintain the per line KUSF assessment rates for the RLECs, SWBT, and CenturyLink.¹

3. On January 15, 2015, the Commission issued its Order Adopting Assessment Rate and Affordable Service Rate explaining it would be prudent to examine the policy regarding per line assessments to determine their current relevance and fairness.² To assist its review of the relevance and fairness of the per line assessments, the Commission directed the parties interested in addressing the issue of maintaining per line KUSF assessment rates for the RLECs, SWBT, and CenturyLink to file initial comments by February 24, 2015, and reply comments by March 17, 2015, and directing Staff to file its company-specific analysis and a summary Report and Recommendation by May 1, 2015.³

4. Currently there is a two-tier or bifurcated approach to KUSF assessments. SWBT, CenturyLink, and the RLECs are assessed on a per-line basis for their local service revenues, whereas wireless, cable, VoIP, and other providers are assessed using a percentage assessment rate methodology. SWBT, CenturyLink, and the RLECs are also assessed under the percentage assessment rate methodology for their non-local service revenues.

5. On February 24, 2015, AT&T⁴ and CenturyLink filed their initial comments. AT&T recommends maintaining the per-line assessment approach until the FCC acts on the federal USF contribution methodology.⁵ In the alternative, AT&T recommends allowing

¹Direct Testimony of Sandra K. Reams, p. 3 (Dec. 18, 2014).

²Order Adopting Assessment Rate and Affordable Local Service Rate, Jan. 15, 2015, ¶ 6.

³*Id.*, ¶ E.

⁴AT&T filed its comments on behalf of SWBT, Cricket Communications, Inc., and New Cingular Wireless PCS, LLC. *See* Late Filled Entry of Appearance, Oct. 15, 2014.

⁵Comments of AT&T, Feb. 24, 2015, ¶ 4.

companies that currently use the per line KUSF assessment rate methodology the option of converting to the percentage assessment rate methodology on their own timetable, provided they notify the Commission and the KUSF Administrator of which methodology they adopt.⁶ CenturyLink claims a flat, per-connection based assessment mechanism, where every Kansas consumer pays the same KUSF assessment regardless of carrier, technology, or services, would alleviate the variances caused by fluctuating revenues, varying allocation methodologies and other factors which contribute to the disparity in KUSF assessments.⁷ CenturyLink advocates maintaining the current per-line assessment approach for SWBT, CenturyLink and the RLECs until the FCC issues its Order regarding federal contributions, and once the FCC acts, the Commission should investigate developing a connection-based KUSF assessment approach for all wireline and wireless carriers in a competitive and technology neutral manner.⁸

6. On April 28, 2015, Staff filed its Report and Recommendation, which concluded using a per-line assessment rate for SWBT, CenturyLink, and the RLECs is no longer appropriate as it runs counter to K.S.A. 66-2008(a)'s requirement that carrier contributions to the KUSF be made on an equitable and non-discriminatory basis.⁹ Accordingly, Staff recommends requiring all carriers to contribute to the KUSF based upon the Commission-approved percentage assessment rate methodology, effective March 1, 2016.¹⁰

7. On May 7, 2015, CenturyLink filed its Comments on Staff's Report and Recommendation, stating it agrees the per-line assessment rate methodology is no longer appropriate and all contributors to the KUSF should be assessed under the same methodology.¹¹

⁶ *Id.*, ¶5.

⁷ CenturyLink Comments on Staff's Report and Recommendation, Feb. 24, 2015, ¶ 11.

⁸ *Id.*, ¶17.

⁹ Notice of Filing of Staff's Report and Recommendation; Motion for Order, Apr. 28, 2015, ¶ 4.

¹⁰ *Id.*, ¶ 5.

¹¹ CenturyLink Comments on Staff's Report and Recommendation, May 7, 2015, ¶ 6.

But CenturyLink proposes a slight modification to the effective date suggested by Staff. Accordingly, CenturyLink suggests eliminating the per-line assessment rate methodology no later than March 1, 2016, rather than becoming effective March 1, 2016.¹² CenturyLink explains the proposed modification would allow it more flexibility to expedite implementation of the Commission-approved percentage rate methodology. No other parties submitted comments on Staff's April 28th Report and Recommendation.

8. On May 8, 2015, Staff filed its Response to CenturyLink Comments, supporting CenturyLink's proposal to allow carriers to shift over to the percentage assessment rate methodology before Staff's proposed March 1, 2016 deadline, provided notice is provided to both the Commission and all affected customers before implementation.¹³

9. In relevant part, K.S.A. 66-2008(a) provides:

The commission shall require every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services and, to the extent not prohibited by federal law, every provider of interconnected VoIP service... to contribute to the KUSF on an equitable and nondiscriminatory basis.

10. Staff asserts that allowing one provider, based on its status as an incumbent LEC or an electing carrier, to be assessed under one methodology while all other providers (and their subscribers) are assessed under a different methodology is neither equitable nor nondiscriminatory.¹⁴

11. Staff agrees with CenturyLink's position that eliminating the per line assessment rates would be more competitively and technologically neutral and would result in all companies

¹² *Id.*, ¶ 7.

¹³ Staff's Response to CenturyLink Comments, May 8, 2015, ¶ 3.

¹⁴ Report and Recommendation, Apr. 24, 2015, p. 1.

paying, and collecting, their local service assessments on the same basis, regardless of how service is provided.¹⁵

12. Consistent with the direction in K.S.A. 66-2008(a), the Commission concludes all providers and their subscribers should contribute to the KUSF on an equitable and nondiscriminatory basis. Therefore, the Commission finds the per-line assessment rate methodology should be eliminated. By adopting a uniform methodology, all carriers and subscribers will be on an equal footing, benefitting customers who wish to reduce their local service bill, which would also lower the KUSF assessment on their bill.¹⁶

13. The Commission believes that maintaining the two-tiered approach until the FCC acts is likely to result in disparate treatment of carriers and their subscribers, which would provide competitive advantages to some providers and subscribers in violation of K.S.A. 66-2008(a). Similarly, AT&T's proposal to allow each company to elect between two different assessment methodologies on their own schedules would further perpetuate competitive and/or technological advantages or disadvantages between companies and their subscribers in violation of K.S.A. 66-2008(a).

14. Accordingly, the Commission finds all carriers' and telecommunication providers' contribution to the KUSF will be assessed using the percentage assessment rate methodology, no later than March 1, 2016.

15. Before converting to the percentage assessment rate methodology, a carrier must provide at least 60 days' notice to both the Commission and the KUSF Administrator, and 30 days' notice to all affected customers. Copies of the customer notice shall also be provided to the Commission's Office of Public Affairs and Consumer Protection.

¹⁵ *Id.*, p. 8.

¹⁶ *Id.*

THEREFORE, THE COMMISSION ORDERS:

A. By March 1, 2016, SWBT's, CenturyLink's, and the RLECs' contribution to the KUSF will be assessed under a percentage assessment methodology.

B. SWBT, CenturyLink, and the RLECs shall provide notice to both the Commission and all affected customers before implementing the percentage assessment rate methodology.

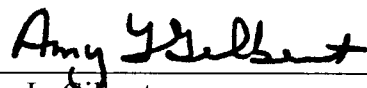
C. Parties have 15 days from the date this Order was electronically served to petition for reconsideration.¹⁷

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further orders, as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: **MAY 21 2015**



Amy L. Gilbert
Secretary

BGF

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¹⁷ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

MAY 21 2015

CERTIFICATE OF SERVICE

15-GIMT-073-GIT

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Order Eliminating KUSF Local Service Per Line Rates was served by electronic service on this 21st day of May, 2015, to the following parties who have waived receipt of follow-up hard copies.

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