2003.09.02 14:31:10
Kansas Corporation Commission
/S/ Susan K. Duffy

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Brian J. Moline, Chairman
John Wine
Robert E. Krehbiel

In the Matter of a General Investigation Into Procedures for Recording and Reporting Kansas Universal Service Fund Revenues for Assessment Purposes.	)))	Docket No. 03-GIMT-932-GIT

ORDER

1. The Commission's May 8, 2003 Order requested discussion of several issues related to the Kansas Universal Service Fund (KUSF). Comments were filed by AT&T Wireless PCS, LLC; Cingular Wireless; Southwestern Bell Telephone, L.P. (SWBT); Verizon Wireless; the State Independent Alliance and the Independent Telecommunications Group, Columbus, *et al.*; Sprint; and Commission Staff (Staff). Reply comments were filed by AT&T Wireless; Staff; AT&T; and the Citizens' Utility Ratepayer Board (CURB).

2. The Commission has considered all comments, and makes the findings below. These findings are effective November 1, 2003, to be reflected in the revenues reported to the National Exchange Carrier Association (NECA) in December, 2003. However, the Commission recognizes that carriers may conduct minute-of-use studies at various times during the year, and authorizes carriers to use their current minutes-of-use studies until their next annual updates.

Staff Issues

3. Several parties responded to Staff's proposal for fixed rate monthly calling plans. The Commission agrees with Staff that income from fixed rate plans is not a category of bill and keep revenue, and is reportable for KUSF purposes. The Commission adopts Staff's proposal, finding that it is fair and reasonable. All revenues from fixed rate plans that are solely for

intrastate services are to be reported as intrastate retail revenues. As required by the August 13, 1999 Order in Docket 190,492-U, and by Attachment GL-2 to that Order, fixed charges in plans allowing both intrastate and interstate calling are to be reported as intrastate. For plans offering both intrastate and interstate services, Staff recommends that usage revenue allocations between jurisdictions be based on minute-of-use studies that are updated annually, and that the stand-alone price for local and ancillary services be reported as intrastate retail revenue. AT&T argues that its plans do not have stand-alone prices for local or ancillary services, and that it would be costly to have to provide annual minute-of-use studies for each of the plans it offers in Kansas. It appears that AT&T may misunderstand Staff's proposal. The specific plans themselves do not need to have stand-alone pricing options; the revenues would be determined from the price that AT&T as a company charges for just the local service or the ancillary services. It also is not necessary to conduct minute-of-use studies for each fixed rate plan offered. The minute-of-use study can be performed on an aggregated, statewide basis. If compliance in these areas will cause AT&T undue hardship or expense, then AT&T may request that the Commission conduct a separate review of AT&T's circumstances and KUSF reporting procedures.

4. Staff requests that the Commission reconsider and reverse its prior decision to exempt paging services from KUSF assessments. Staff points out that these services are subject to universal service fund assessments by the Federal Communications Commission (FCC) and by several other states. There was no opposition to this request, and the Commission finds that Staff's proposal is the proper manner in which to treat these services. The Commission orders that paging services be subject to KUSF assessments and adopts the FCC's reporting requirements and guidelines for paging services.

5. Staff also raises the problem of not having all necessary KUSF data provided by the annual November 15 deadline. No one disagrees that it is essential that access line data and

supporting documentation be timely provided. The May 8, 2003 Order noted the possibility of assessing fines against companies that fail to meet the November 15 deadline. Staff should bring any difficulties to the Commission for consideration of this option.

CURB Issues

6. CURB recommends requiring an additional KUSF reporting form to investigate decreases in reportable KUSF revenues and to reconcile where revenues go when a customer leaves a particular carrier. All parties filing comments responded to this proposal, with most opposing it as unnecessary, impracticable or duplicative. Concern about increases in the KUSF funding requirement is appropriate, but changes in assessable revenue from carriers is not necessarily the reason for the increases. SWBT emphasizes that recent increases have instead been driven primarily by Kan-Ed funding and by KUSF administrative and funding needs. Several carriers present compelling arguments that it is not possible to track what happens to revenues after a customer ceases taking service or to provide the type of revenue reconciliation envisioned by CURB. Verizon Wireless explains that some decreases in KUSF revenues from carriers are due to customers taking advantage of competitive alternatives and should be viewed as positive signs. The other objections to the proposed reporting mechanism are also persuasive, and the Commission concludes that additional reporting requirements are not warranted.

7. CURB asks for clarification that wholesale bad debt should not be offset against revenues reported to the KUSF. This does not seem to be in dispute. Only uncollectible revenues associated with reportable KUSF revenues should be deducted when retail intrastate KUSF revenues are reported. CURB also mentions bankruptcies, but the comments were not adequate for a determination and the Commission will address any bankruptcy situations when they arise.

Other Issues

8. Cingular and AT&T Wireless state that the Commission should adopt the FCC

intrastate safe harbor percentages for wireless companies. As explained in Staff's Reply Comments, the Commission has already adopted the FCC safe harbor provisions.

9. Verizon Wireless suggests that the Commission encourage the Kansas Legislature to expand the base of KUSF contributors to include providers of internet-based services which are not currently subject to KUSF assessment. The Commission will consider this proposal.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The above findings and rulings are made, and are effective November 1, 2003, for the monthly reports to NECA in December, 2003. However, companies may use their current minute-of-use studies until their next annual updates. Staff's proposals on reporting of revenues from fixed monthly rate plans and KUSF assessment of paging services are adopted. CURB's request for a new KUSF reporting form is denied. CURB's request for clarification of the proper treatment of wholesale bad debts is granted.

(B) A party may file a petition for reconsideration of this Order within 15 days of the date of this Order. If service is by mail, 3 additional days may be added to the 15-day time limit to petition for reconsideration.

(C) 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.

Moline, Chr.; Wine, Com.; Krehbiel, Com.

Dated: SEP 0 2 2003

ORDER MAILED

SEP 0 3 2003

Susan Duffy Executive Director

Susan K. Duffy
Executive Director