

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

Before Commissioners: Brian J. Moline, Chair  
Robert E. Krehbiel  
Michael C. Moffet

In the Matter of the Investigation to Determine a )  
New Affordable Rate for Rate of Return Regulated ) Docket No. 07-GIMT-276-GIT  
Companies and the March 1, 2007 Assessment For )  
the Eleventh Kansas Universal Service Fund Year. )

**ORDER SETTING THE KANSAS UNIVERSAL SERVICE FUND ASSESSMENT  
RATE FOR YEAR ELEVEN AND ESTABLISHING A NEW AFFORDABLE  
RATE FOR RATE OF RETURN REGULATED COMPANIES**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for a decision. Being fully advised in the premises and familiar with its files and records, the Commission finds and concludes as follows:

1. On September 20, 2006, 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. Citizens' Utility Ratepayer Board (CURB) was made a party to the docket and granted intervenor status in the September 20, 2007 Order. All other parties were required to enter their appearances if they wanted to participate in the docket and be served with pleadings and orders, other than the September 20, 2007 Order and the final Order, both of which are served on all parties. The following parties entered their appearances. United Telephone Company of Kansas, d/b/a Embarq, United Telephone Company of Eastern Kansas, d/b/a Embarq, United Telephone Company of

Southcentral Kansas, d/b/a Embarq, Embarq Missouri Inc., d/b/a United Telephone Company of Southeastern Kansas, collectively Embarq, Southwestern Bell Telephone, L.P. (SWBT), State Independent Alliance, and Elkhart Telephone Company, Inc. (Elkhart).

2. The Kansas Universal Service Fund (KUSF) was established by the Commission pursuant to K.S.A. 66-2008 and began operating 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. 2005 Supp. 66-2010(f).

3. K.S.A. 66-2005(e)(1) requires the Commission to determine a new affordable rate, effective March 1, 2007, for residential and business services provided by rural telephone companies subject to rate of return regulation. The affordable residential rate is currently \$12. The affordable business rate is \$15.<sup>1</sup> K.S.A. 66-2005(e)(1) states:

For residential service, an affordable rate shall be the arithmetic mean of residential local service rates charged in this state in all exchanges served by rural telephone companies and in all exchanges in rate groups 1 through 3 ... of all other local exchange carriers, weighted by the number of residential access lines to which each rate applies, and thereafter rounded to the nearest quarter-dollar, ....

K.S.A. 66-2005(e)(1)(C) provides that the March 1, 2007 “affordable residential service rate shall be the weighted arithmetic mean of the local service rates determined as of

---

<sup>1</sup> These rates were determined in Docket No. 02-GIMT-068-KSF.

October 1 of the preceding year” calculated as set out in K.S.A. 66-2005(e)(1). It also provides that if the increase exceeds \$2.00 per month, the requirement to move to the affordable rate may be satisfied by incremental increases of \$2.00 per month per year. K.S.A. 66-2005(e)(2) sets the affordable rate for single line business service at the rate in effect at the time the statute was enacted, 2002, or a monthly amount \$3.00 greater than the affordable residential service rate, whichever is higher. Increases to the affordable business rate may also be limited to \$2.00 per month per year. K.S.A. 66-2005(c) also requires rural local telephone companies to bring their intrastate switched access rates into parity with their interstate switched access rates on March 1, 2007. This issue was addressed in Docket No. 07-GIMT-107-GIT.

4. The Commission issued a protective order on October 11, 2006, for the sole purpose of allowing CURB access to confidential data in this docket. By past agreement of the industry, only the Commission, Staff, and CURB have access to confidential information.

5. On November 17, 2006, Tri-County Telephone Association, Inc. (Tri-County) and FairPoint Communications Missouri, Inc. (FairPoint Missouri) filed a Motion to participate in the Stipulation entered into by most of the rural telephone companies in Docket No. 94-GIMT-478-GIT and approved by the Commission in an Order issued December 27, 1996 in that docket. The Stipulation provided that the stipulating rural telephone companies would assess their customers the same per line charge to recover their KUSF contribution. The per line charge is determined by applying the annual assessment rate to the combined intrastate retail revenues of the

stipulating rural telephone companies and dividing by their total number of access lines. The Commission granted the Motion in an Order issued December 4, 2006.

6. As required by the September 20, 2006 Order, Staff filed the direct testimony of Sandra K. Reams and Gerald A. Lammers on December 21, 2006. Staff filed supplemental testimony of Gerald A. Lammers to revise the calculation of the affordable rate on January 5, 2007. No intervenors filed rebuttal testimony.

7. On January 10, 2007, Elkhart filed a Petition requesting approval to eliminate its mileage rate for rural customers and rebalance the revenue in connection with the movement to a new statewide affordable rate. Elkhart explained that 57 rural customers are paying \$9.40 per month for local service. In addition, they pay a monthly mileage charge ranging from \$0.70 to \$32.20. Non-rural customers pay \$13.60 per month. Elkhart proposed a revenue-neutral rebalancing which would add \$2.15 per line to its rural residential customers' monthly charge. Non-rural residential customers would see a one-time monthly increase of \$0.55.<sup>2</sup> Elkhart proposed to also increase rates for rural residential customers by \$2.00 to move toward the affordable rate. Elkhart explained that 13 of the rural customers would see a total rate increase in excess of the abolished mileage rate ranging from \$3.45 to \$2.05. The remaining 44 rural customers would see an increase in their total rate of less than the \$2.00 increase most customers will realize, or a decrease in their total rate for service. Non-rural residential customers would experience a rate increase of \$1.40 per month in addition to the \$0.55 for a total increase of \$1.95. On March 1, 2008, Elkhart would increase the rate for the rural residential customers by \$2.00 to reach the same rate as Elkhart's other customers,

---

<sup>2</sup> Only residential lines are billed mileage. Petition, ¶ 3.

\$15.55. Elkhart explained the benefits of its proposal at ¶ 4 of the Petition and stated it had worked with Staff on its plan and that Staff is supportive of the plan.

8. On January 16, 2007, Staff filed a Motion requesting the Commission cancel the January 22, 2007 technical hearing, which had been included in the procedural schedule in case a hearing proved necessary. Staff stated all parties that had entered their appearances and CURB agreed that a hearing was not necessary. The Commission granted the Motion by an Order issued January 18, 2007.

9. 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).

10. Staff witness, Ms. Reams, explained how she determined the estimated amount of funding required to meet KUSF payment obligations, including high cost support, funding for the Lifeline program, funding for the Telecommunications Access Program, Kansas Relay Service, Inc. and the Kan-ED programs, as well as administration and audit fees; and the assessable revenue base from which the KUSF requirement will be collected during the Eleventh KUSF Year.<sup>3</sup> She testified that, based on her calculations, the assessment rate for the Eleventh KUSF Year would be 4.35 percent.<sup>4</sup> Based on that assessment rate the maximum assessment per line for SWBT would be \$1.30; for Embarq it would be \$1.21 and for the rural telephone companies it would be \$0.88.<sup>5</sup> Companies are allowed, but not required, to pass through the KUSF assessment to their customers. K.S.A. 66-2008(a).

---

<sup>3</sup> Reams Direct, p. 3.

<sup>4</sup> Reams Direct, p. 4.

<sup>5</sup> Based on the December 4, 2006 Order in this docket, the authorized per line assessment amount is the same for all rural telephone companies, effective March 1, 2007.

11. Ms. Reams observed that the Commission adopted a “hold harmless” approach for Lifeline credits in Docket No. 04-GIMT-653-GIT for the Ninth KUSF Year so that the Lifeline credit increased to correspond with rate increases determined in Dockets No. 01-GIMT-082 and 02-GIMT-068-KSF. The Commission stated at ¶ 7 of that Order that it would review the Lifeline program again in 2007 when it next considered the statewide average rate. Ms. Reams stated Staff witness, Mr. Lammers, testified to a new statewide average rate of \$14.75 to be effective March 1, 2007 and that most rural telephone companies would increase their local rates by \$2.00 per month to move toward that rate level. Since the Commission has not yet reconsidered the “hold harmless approach,” Ms. Reams assumed a commensurate increase in Lifeline support.<sup>6</sup> She also observed that based on the “hold harmless” approach, Kansas Lifeline customers pay different local rates, depending on the rates charged by their local service provider. She recommended the Commission open a docket to review the Lifeline program consistent with its expressed intent in ¶ 7 of the 04-GIMT-653-GIT docket.<sup>7</sup>

12. Staff witness Lammers filed testimony addressing the affordable rate issue. In his pre-filed Direct testimony, he explained his calculation to arrive at the affordable residential rate of \$14.75, which would make the affordable business rate \$17.75 for rural rate of return regulated companies, in accordance with K.S.A. 66-2005(e)(1)-(2).<sup>8</sup> He also observed that some rural companies have adopted a unified rate for business and residential customers and explained his calculation of the new affordable, unified rate.<sup>9</sup> He also pointed out that some rural companies do not currently

---

<sup>6</sup> Reams Direct, pp. 14-15.

<sup>7</sup> Reams Direct, p. 16.

<sup>8</sup> Lammers Direct, pp. 2-3, Attachment 2.

<sup>9</sup> Lammers Direct, pp. 3-4, Attachment 3.

receive KUSF support and that these companies would not increase their rate to the new affordable rate. Most rural companies will increase their rate by \$2 per month starting March 1, 2007, in accordance with K.S.A. 66-2005(e)(1) and increase their rates again next year to reach the affordable rate. Some rural companies, as a result of acquisition of exchanges from another company, have existing rates that exceed the new affordable rate and will not increase their rates.<sup>10</sup>

13. Mr. Lammers also filed Supplemental Testimony in which he corrected an error in determining the affordable rate. Thus, instead of the new affordable residential rate being \$14.75, it is \$15.00. This makes the new affordable business rate \$18.00. He explained that only two companies will be affected by the change in the calculated affordable rate this year: Elkhart and JBN, as they will have lines that will now move to the affordable rate (i.e. \$17.80 business rate would not have been subject to a rate increase under a \$17.75 affordable rate, but will be subject to movement to the \$18.00 affordable rate). This change does not affect the assessment rate developed by Ms. Reams.<sup>11</sup>

#### **FINDINGS AND CONCLUSIONS**

14. There are no contested issues in this docket. The Commission adopts Ms. Reams' recommendation of a 4.35 percent assessment for the KUSF for the Eleventh Year. This rate shall be implemented on March 1, 2007. Companies are allowed to pass through the full amount calculated in Ms. Reams' testimony, which for the rate of return regulated companies is \$0.88. SWBT may pass through \$1.30 to its local service

---

<sup>10</sup> Lammers Direct, p. 5.

<sup>11</sup> Lammers Supplemental, p. 1.

customers per month, while Embarras may pass through \$1.21. No company is required to pass through the assessment to its customers.

15. The Commission finds the affordable residential rate for rural rate of return regulated companies starting March 1, 2007, and continuing until March 1, 2009, shall be \$15.00. The affordable business rate for this group of companies shall be \$18.00 for that time period. As provided by K.S.A. 66-2005(e)(1)(C), the increase necessary to reach the new affordable rate shall not exceed \$2.00 per month per year. The amount of each company's calculated revenue increase will reduce the company's annual KUSF support, consistent with K.S.A. 66-2005(e).

16. Elkhart has requested approval to eliminate its mileage rate for its 57 rural residential customers, who currently pay \$9.40 for local service while customers in town pay \$13.60 per month.<sup>12</sup> The mileage charges range from \$0.70 to \$32.20. Elkhart explained that 13 of the rural customers would see an increase in excess of the abolished mileage charge ranging from \$3.45 to \$2.05 per month by combining the elimination of the mileage charge and a movement toward the affordable rate. Although an increase of \$3.45 in one year is significant, the Commission notes that the customers that receive that level of increase are those that have paid the lowest mileage charge of \$0.70 per month for a total local service cost of \$10.10, compared to the \$13.60 paid by all non-rural customers. Although non-rural customers will realize a rate increase of \$1.95, this increase is still just below the \$2.00 increase that most other rural company residential customers will realize. The Commission finds it reasonable for Elkhart to move away from mileage charges and finds that the rate rebalancing proposed by Elkhart is reasonable. Elkhart's Petition is granted.

---



17. The Commission agrees with Staff's application of the "hold harmless" determination in Docket No. 04-GIMT-653-GIT. Consistent with that Order, the Commission directs Staff to promptly open a docket to address the Lifeline discount so that we may determine whether to continue the "hold harmless" approach. Until the Commission determines whether to continue the "hold harmless" approach, companies shall provide the same amount of Lifeline support to customers as they currently do even though local rates will increase effective March 1, 2007. Thus, Lifeline customer rates will be discounted by the same amount as is in place today and they will realize the same increase in rates for service as other customers. Leaving the current Lifeline credit in place until the Commission makes a determination in the new docket will avoid customer confusion.

18. The Commission notes that Ms. Reams provided some testimony regarding the changes adopted for Year 10 with respect to KUSF reporting.<sup>13</sup> She stated more carriers are reporting by the due date as a result of fines adopted last year for reporting late. The Commission reminds carriers that the due date for reporting and paying is the date the report must be received by Solix. It is not a mail date. Thus, when a report is due on the 15<sup>th</sup> it must be received by Solix on that date. This has always been the requirement. The Commission notes that carriers may fax or e-mail reports to Solix as well as send them by mail. Finally, the Commission informs the parties that, as in the past, Solix will mail an instruction packet to all carriers that report to the KUSF around the 1<sup>st</sup> of February and that all KUSF instructions and reporting materials are available on Solix's website. Further, the Commission's website contains a link to the Solix website for easy access to reporting information.

---

<sup>13</sup> Reams Direct, p. 25.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

- A. The assessment rate for the Eleventh Year of the Kansas Universal Service Fund, beginning March 1, 2007, shall be 4.35 percent. SWBT may assess its customers a maximum of \$1.30 per access line per month. Sprint may assess a maximum of \$1.21 per line per month. Rural rate of return regulated companies may assess a maximum of \$0.88 per line per month.
- B. The residential affordable rate for rural rate of return regulated companies shall be \$15.00 per line per month starting March 1, 2007 and continuing until March 1, 2009. The affordable business rate shall be \$18.00 per line per month for the same time period. The new unified affordable rate shall be implemented by companies that charge a unified rate to residential and business customers. Rates may be increased by a maximum of \$2.00 per line per month for the Eleventh Year. The Lifeline credit shall remain at the current level.
- C. Elkhart's Petition to eliminate its rural mileage rate and rebalance revenue is granted.
- D. Commission Staff is directed to promptly prepare a memorandum to open a new docket to consider the Lifeline discount.
- E. The parties have fifteen days, plus three days if service of this order is by mail, from the date this order was mailed in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118; K.S.A. 2004 Supp. 77-529(a)(1).
- E. 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.; Krehbiel, Com.; Moffet, Com.

Dated: JAN 23 2007

**ORDER MAILED**

**JAN 23 2007**

 Executive  
Director

---

Susan K. Duffy  
Executive Director

ep