

**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 the March 1, 2006            )  
Assessment for the Tenth Kansas       )  
Universal Service Fund Year.            )                    Docket No. 06-GIMT-332-GIT

**ORDER SETTING THE KANSAS UNIVERSAL SERVICE FUND ASSESSMENT  
RATE FOR YEAR TEN AND ESTABLISHING REPORTING REQUIREMENTS**

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 October 6, 2005, 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. Appearances were entered by Steven Rarrick on behalf of Citizens' Utility Ratepayer Board; Bruce Ney on behalf of Southwestern Bell Telephone L.P.; James M., James M. Jr. and Mark Caplinger on behalf of the State Independent Alliance. Kenneth A. Schifman and Diane C. Browning on behalf of Sprint; John Wine, Jr. on behalf of AllTel Kansas Limited Partnership; Thomas E. Gleason on behalf of the Independent Telecommunications Group and Mark P. Johnson and Trina R. LeRiche on behalf of U.S. Cellular Corporation.

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. 66-2010(f) as amended by House Bill 2526 (2005 Session).

3. Sandra Reams pre-filed Direct Testimony for Staff on December 22, 2005. She filed Supplemental Testimony on January 5, 2006. No other party filed testimony on these issues. Counsel for the State Independent Alliance and Independent Telecommunications Group requested an opportunity to ask Ms. Reams questions. The hearing was therefore held on January 18, 2006, as scheduled.

4. At the hearing appearances were entered by counsel for the parties set out in ¶ 1 of this Order, except for Sprint, whose counsel had asked to be excused.

5. 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).

6. The only witness, Ms. Reams testified that based on her calculations the assessment rate for the Tenth KUSF Year would be 6 percent.<sup>1</sup> In her Supplemental Testimony, she confirmed that assessment rate, but also proposed an option to allow more rapid repayment of KUSF support to the rate of return regulated companies based on the decision of the Court of Appeals in *Bluestem Telephone Co. et al. v. Kansas*

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<sup>1</sup> Reams Direct, p. 8.

*Corporation Commission*, 33 Kan App. 2d. 817 (2005) (*Bluestem*). Staff calculated an optional assessment rate of 6.07 percent which would recover the projected Ninth Year KUSF deficit over 6 months instead of 12 months. She explained that increasing the assessment rate from 6 percent to 6.07 percent would increase the per line assessment charged by the incumbent local exchange companies to their customers to recover the KUSF assessment by 1 cent for SWBT, Sprint and Cass County. Tri-County customers would see an increase of 2 cents, while the remaining rate of return regulated company customers would experience an assessment increase of 1 cent per month. Companies are allowed, but not required to pass through the KUSF assessment to their customers.<sup>2</sup> K.S.A. 66- 2008(a).

7. Staff also addressed difficulties in making projections to establish the assessment level for the next year. Many carriers submit their worksheets late every month. In addition some carriers have changed their reporting and payment from a monthly to a quarterly or annual basis, often without notifying NECA, the KUSF administrator.<sup>3</sup> Ms. Reams testified the Commission directed NECA to apply a late payment fee of 1 percent (12% APR) cumulatively on delinquent KUSF payments in a February 18, 1997 Order in Docket No. 94-GIMT-478-GIT. Pursuant to that Order, NECA assesses a late payment fee, however there is no penalty for submitting worksheets late.<sup>4</sup> When worksheets are not timely received, NECA does not know the monthly revenue to be received and cannot calculate a late payment fee in a timely manner. In addition, failure of a company to file a worksheet often leads to additional work for NECA, since it may need to research whether this is only a case of late filing or

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<sup>2</sup> Reams Supplemental, p. 7.

<sup>3</sup> Reams Supplemental, p. 13.

<sup>4</sup> Reams Supplemental, p. 14.

whether the company has changed its name , merged with another company or made some other change that affects its reporting. It also makes it much more difficult to project revenue for the annual KUSF assessment rate calculation.<sup>5</sup> Staff and NECA recommended that the Commission establish a penalty of not less than \$50 for filing worksheets late. As an alternative, Staff suggested the Commission could adopt a \$100 penalty or the larger of one of these amounts or one percent of the late payment amount. Staff noted that if the Commission were to adopt this third alternative, NECA would not be able to assess the penalty until the worksheet is submitted.<sup>6</sup>

8. Ms. Reams also testified that NECA needs to know the reporting and payment frequency for all carriers. She explained that the Commission has directed carriers to report and pay on a monthly basis. However, NECA has informed Staff of an increasing frequency of carriers deviating from reporting and paying monthly, often without notifying NECA. This random pattern increased the difficulty in projecting revenues for developing the assessment rate. Staff recommended that the Commission adopt the following criteria for reporting and paying: 1) carriers with less than \$10,000 in annual revenues may file and pay annually; 2) carriers with annual revenue between \$10,001 and \$25,000 may file and pay semi-annually; carriers with annual revenue between \$25,001 and \$50,000 may file and pay quarterly; carriers with annual revenue above \$50,000 must file and pay monthly.<sup>7</sup> Staff further recommended adding a new page to the KUSF Carrier Instruction Packet, setting out these criteria for reporting and paying and requiring companies to select an option. Any company could elect to file more frequently than allowed by the criteria, but no company would be allowed to file

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<sup>5</sup> Reams, Supplemental, pp, 14-15.

<sup>6</sup> Reams Supplemental, p. 15.

<sup>7</sup> Reams Supplemental, pp. 15-16.

less frequently. Staff recommended the Commission require that an officer of the company sign the election page and that the election remain in place for the full assessment year. Staff suggested the Commission could allow a carrier to change once during the year by sending in a new election page and that if a carrier seeks to change more than once a year a fee of at least \$50 and at most \$100 should apply. Staff explained that allowing such changes would permit small carriers to determine which option best suits the company.<sup>8</sup>

### **FINDINGS AND CONCLUSIONS**

9. There are no contested issues in this docket, however, Staff provided two options for setting the assessment rate and provided recommendations relating to timeliness of reports filed by companies with NECA and reporting intervals.

10. The Commission adopts the optional recommendation of 6.07 percent for the KUSF assessment for the Tenth Year. This rate shall be implemented on March 1, 2006. The Commission finds that it is appropriate to adopt this slightly higher rate set out in Ms. Reams' Supplemental Testimony because it will allow the payment of KUSF support resulting from the *Bluestem* case more rapidly. No party objected to this rate and the impact on customers is insignificant compared to the other option of 6 percent. Customers of most companies will only see an increase of 1 cent per month if the full assessment is passed through. The Commission observes that companies are allowed to pass through the full amount calculated in Ms. Reams' testimony, which for most rate of return regulated companies would be: \$1.14. SWBT may pass through \$1.78 to its local service customers per month, while Sprint may pass through \$1.82, Cass County \$1.98 and Tri-County \$1.25.

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<sup>8</sup> Reams Supplemental, pp. 17-18.

11. The Commission finds it appropriate to adopt a penalty for carriers that file their worksheet late. Staff provided some options. No other party provided input on this issue. The Commission adopts Staff's recommendation to assess the higher of \$100 or one percent of the amount due on the worksheet. The purpose of the penalty is to encourage companies to submit their worksheets on time in order to ensure the efficient operation of the KUSF. It is necessary that the penalty be set high enough to catch a company's attention and assure timely submission. We believe \$100 is sufficient to do so for companies with low revenues, while it would not be sufficient for the larger payors. We therefore require NECA to assess one percent of the amount reported on the worksheet on carriers for which that would be the higher amount.

12. The Commission further finds Staff's recommendation regarding reporting and payment intervals appropriate and adopts it. Thus, carriers with less than \$10,000 in annual revenues may file and pay annually; carriers with annual revenue between \$10,001 and \$25,000 may file and pay semi-annually; carriers with annual revenue between \$25,001 and \$50,000 may file and pay quarterly; and carriers with annual revenue above \$50,000 **must** file and pay monthly. The Commission also adopts Staff's recommendation to add a new page to the KUSF Carrier Instruction Packet, setting out the options and requiring companies to select. Any company may elect to file and pay more frequently than allowed by these criteria, but no company may file and pay less frequently. The Commission adds the election page to the Carrier Instruction Packet and, as recommended by Staff, requires that an officer of the company sign the election page and that the election remain in place for the full assessment year. The Commission agrees with Staff that some change should be allowed in order to allow small carriers to

determine which option will work best for them. We will therefore allow a carrier to change once during the year by sending in a new election page. If a carrier seeks to change more than once a year NECA shall assess a fee of \$100 for the change.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The KUSF assessment rate for the Tenth Year of the KUSF, beginning March 1, 2006, shall be 6.07 percent. SWBT may assess its customers a maximum of \$1.78 per access line. Sprint may assess a maximum of \$1.82 per line, Call County may assess a maximum of \$1.98 per line, Tri-County may assess a maximum of \$1.25 per line and all other rate of return regulated companies may assess a maximum of \$1.14 per line.

B. NECA shall apply a penalty of \$100 or one percent of the amount due, whichever is higher, for the late filing of worksheets.

C. Companies shall file their worksheets and pay their assessments in accordance with the schedule set out in ¶ 12. Companies may file and pay more frequently, but not less frequently. One change per year is permitted and requires submission of a revised election sheet. If a company wishes to change more than once per KUSF year, NECA shall assess a fee of \$100.

D. 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.

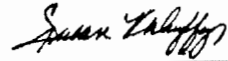
BY THE COMMISSION IT IS SO ORDERED.

Moline, Chr.; Krehbiel, Com.; Moffet, Com.

Dated: JAN 23 2006

ORDER MAILED

JAN 24 2006

 Executive  
Director

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Susan K. Duffy  
Executive Director

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