



2. On October 8, 2004, the Commission issued its order opening this docket to determine the Year 9 KUSF assessment rate. The Commission served the order on all telecommunications carriers, telecommunications public utilities, and wireless carriers in the state of Kansas, and directed parties that wished to receive further pleadings in the docket to enter their appearance by October 29, 2004. The Citizens' Utility Ratepayer Board (CURB) was made a party to the docket.

3. The following parties filed entries of appearance on or before October 29, 2004: Southwestern Bell Telephone, L.P., Sprint Communications Company, L.P., the United Telephone Companies of Kansas, and Sprint Spectrum L.P., Sage Telecom, Inc., and Western Wireless Corporation and WWC Licensee, LLC. The State Independent Alliance and the Independent Telecommunications Group, Columbus *et al.* (collectively the RLECs) and Verizon Wireless filed entries of appearance out of time and moved the Commission for leave to enter appearances out of time. The Commission granted those motions in an order dated January 19, 2005.

4. On December 22, 2004, Commission staff (Staff) filed the direct testimony of Sandra Reams. Ms. Reams testified that based on Staff's Year 9 calculations, the KUSF assessment rate should be 4.57% for both wireline and wireless providers.<sup>1</sup> Reams indicated this is a slight reduction from the current Year 8 assessment rate of 4.87% for both wireline and wireless providers.<sup>2</sup>

5. On January 13, 2005, the RLECs filed the direct testimony of Roger G. Bales. The RLECs argued that Staff's method of calculating the KUSF support for the RLECs was faulty in that it reduced some RLEC support on a per line basis without any supporting evidence

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<sup>1</sup> Direct Testimony of Sandra K. Reams, filed December 22, 2004, p. 4, ll. 13-14.

<sup>2</sup> *Id.*, ll. 14-15.

of a reduction in costs, increases in other revenues, or a lawful change in authorized rate of return for that particular RLEC.<sup>3</sup> The RLECs argue that the Commission “by reducing KUSF support without a concomitant review of the costs of the affected companies, violates K.S.A. 66-2008(e).”<sup>4</sup> They argue that continuing “carrier of last resort” (COLR) obligations pursuant to K.S.A. 66-2009(a) make costs for even a disconnected line recoverable.<sup>5</sup> In addition, the RLECs argue that a per line determination of KUSF support conflicts “with the federal requirement for sufficiency of universal support mechanisms”<sup>6</sup> if support is reduced independent of actual costs. Finally, the RLECs argue that should the Commission adopt Staff’s recommendation, it “would violate both the language and intent of [the] Stipulated Agreement and Order approving it [in Docket No. 02-GIMT-068-GIT]”<sup>7</sup> in which the signatory parties agree to, among other things, rely on the RLECs’ embedded costs to determine KUSF support.

6. Bales’ testimony also noted a possible miscalculation in Staff’s initial testimony<sup>8</sup> that apparently overstated the projected support for one rural company by almost \$3 million. On January 18, 2005, Staff witness Reams filed supplemental direct testimony correcting the miscalculation and noting that, with the correct figures, the monthly KUSF assessment rate proposed by Staff to begin March 1, 2005, would be further reduced to 4.32%.<sup>9</sup>

7. Also on January 18, 2005, Staff filed a motion requesting the Commission cancel the hearing scheduled for January 20, 2005, and allow the parties to submit the issues in the docket via written briefs to be filed on January 21, 2005. Staff’s motion indicated the RLECs joined in the motion. The Commission issued its order granting Staff’s motion on January 19,

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<sup>3</sup> Direct Testimony of Roger G. Bales, filed January 13, 2005, p. 4, ll. 12-16.

<sup>4</sup> *Id.*, p. 5, ll. 22-23 & p. 6, l. 1.

<sup>5</sup> *Id.*, p. 6, ll. 6-8.

<sup>6</sup> *Id.*, p. 6, ll. 15-21.

<sup>7</sup> *Id.*, p. 7, ll. 20-21.

<sup>8</sup> *Id.*, p. 10, beginning at line 7.

<sup>9</sup> Supplemental Direct Testimony of Sandra K. Reams, filed January 18, 2005, p. 3, l. 4.

2005, and on January 21, 2005, Staff and the RLECs filed briefs arguing the issues raised in testimony. No other party filed briefs.

8. The Commission notes that in order for companies to properly adjust billing systems an order setting the Year 9 KUSF assessment rate is necessary in a short time frame.

9. The only contested issue raised by the parties is that addressed by the testimony of Mr. Bales regarding the distribution of KUSF support on a per line basis. The Commission observes that it made the decision to distribute KUSF support on a per line basis in Docket No. 03-GIMT-284-GIT and continued that decision in Docket No. 04-GIMT-331-GIT. Staff's proposal for distribution of KUSF support for Year 9 is identical to the distribution methods adopted by the Commission for Year 7 and 8. The RLECs have appealed that determination and argument on that appeal is scheduled before the Court of Appeals on February 8, 2005.

10. The Commission finds that with respect to the arguments made in Mr. Bales' testimony, the Commission has previously, and in detail, addressed those arguments in its orders of February 28, 2003, and April 17, 2003, in Docket No. 03-GIMT-284-GIT. The Commission finds that its determinations have been appealed and finds it appropriate to allow that appeal to run its course. As a result, the Commission finds that companies may assess a maximum of 4.32% rate for KUSF purposes beginning March 1, 2005. Other than the arguments by the RLECs regarding the impermissibility of a per line reduction in KUSF support, amounting to approximately \$1 million, the Commission finds that no other argument has been advanced against Staff's January 18, 2005 calculations arriving at the 4.32% figure. Accordingly, that figure shall be adopted as the Year 9 KUSF assessment rate. Incumbent local exchange companies may assess their customers on a per line basis. Southwestern Bell Telephone, L.P.'s maximum monthly per line assessment is \$1.31. Sprint/United's maximum monthly per line

assessment is \$1.36. Cass County's is \$1.66 and Tri-County's is \$0.96. For all other RLECs, the maximum monthly per line assessment is \$0.79.<sup>10</sup>

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Effective March 1, 2005, the KUSF assessment rate for both wireline and wireless providers is 4.32%. The maximum monthly per line assessment for incumbent local exchange companies is set out above.

B. The Commission finds it is appropriate to continue its determination of support on a per line basis until the resolution of the judicial process.

C. The parties have fifteen days, plus three days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118; K.S.A. 2003 Supp. 77-529(a)(1).

D. 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 27 2005

ORDER MAILED

JAN 28 2005

 Executive Director

Susan K. Duffy  
Executive Director

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<sup>10</sup> *Id.*, l. 10.