

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners:                    Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of An Investigation to Determine    )  
the Assessment Rate for the Twenty-Second    )  
Year of the Kansas Universal Service Fund,    )        Docket No. 18-GIMT-084-GIT  
Effective March 1, 2018.                            )

**ORDER APPROVING TRAFFIC FACTORS FOR CONSUMER CELLULAR  
INCORPORATED AND ASSESSING MONETARY PENALTY**

The above-captioned 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. Pursuant to K.S.A. 66-2008(a), the Commission requires “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, as defined by 47 C.F.R. 9.3 to contribute to the [Kansas Universal Service Fund (“KUSF”)] based upon the provider’s intrastate telecommunications services net retail revenues on an equitable and nondiscriminatory basis.” On December 27, 1996, in Docket No. 94-GIMT-478-GIT, the Commission declared that the contribution would be a yearly assessment on each provider’s intrastate retail revenues.

2. Pursuant to the Commission’s Order of January 24, 2012, and Amended Order of February 1, 2012, in Docket No. 12-GIMT-168-GIT, wireless carriers and interconnected voice over internet protocol (VoIP) providers have three options for identifying their Kansas intrastate retail revenues. First, a provider may utilize the Federal Communications Commission's (FCC)

Safe Harbor percentages to allocate intrastate and interstate Kansas revenues.<sup>1</sup> If a wireless carrier or VoIP provider utilizes the Safe Harbor percentages, no filings regarding the methodology are necessary. Second, a wireless carrier or VoIP provider may utilize a traffic study to determine revenue allocations between jurisdictions. If the wireless carrier or VoIP provider uses the traffic study methodology, it must file to request use of the methodology for KUSF purposes and provide the jurisdictional percentages (also known as "traffic factors") to the Commission, at least annually in the annual KUSF docket, and identify the specific timeframes for which the traffic factors apply. This filing requirement applies even if the traffic factors did not change from the prior year. Third, a wireless carrier or VoIP provider may directly assign revenue between jurisdictions.<sup>2</sup> If the wireless carrier or VoIP provider uses the direct assignment methodology, it does not need to provide the jurisdictional percentages, but it must request approval to use the methodology and inform the Commission at least annually, in the annual KUSF docket, whether it continues to use such methodology. Additionally, if the wireless carrier or VoIP provider uses either the traffic study or direct assignment methodologies, it must provide an affidavit from an officer of the company attesting that it uses the inverse of the intrastate KUSF revenue percentages for interstate, Federal Universal Service Fund (FUSF) remittance purposes. Such affidavit should accompany the filings referenced above.

3. On August 28, 2018, Consumer Cellular, Incorporated (CCI) filed its traffic study factors for the period beginning January 1, 2017 and ending September 30, 2018. The filing was accompanied by an affidavit signed by Jill Leonetti, Treasurer of CCI, stating that the Company

---

<sup>1</sup>See Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd. 7518 ¶65 (June 27, 2006); See also Petition of Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues, WC Docket No. 06-122 (November 5, 2010).

<sup>2</sup>See Implementation Order Adopting Staff Report and Recommendation and requiring VOIP Providers Operating in Kansas to Report and Remit the Kansas Universal Service Fund by January 15, 2009. ¶14, Docket No. 07-GIMT-432-GIT (Sep. 22, 2008).

uses the traffic factor methodology and calculate its percentage for KUSF reporting purposes from the inverse of the federal percentage.

4. The Commission finds CCI's filing appropriate and approves the traffic study factors submitted for KUSF remittance purpose, but notes that the Company has submitted quarterly factors, starting from January 1, 2017 and, thus, is two years behind schedule.

5. As for CCI's non-compliance with the requirements imposed by the Commission's January 24 and February 1, 2012 Orders issued in Docket No. 12-GIMT-168-GIT, in failing to provide at least annually, for the period starting on January 1, 2017, an update advising of its continued use of the traffic factor methodology and the required affidavit verifying the methodology is used for FUSF purposes, the Commission finds that CCI should be assessed a monetary penalty of \$300.00 per year, or \$600.00.<sup>3</sup>

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

A. Consumer Cellular, Incorporated's traffic study factors filed on August 28, 2018, for the period beginning January 1, 2017, and ending September 30, 2018 are approved.

B. With respect to Consumer Cellular, Incorporated's failure to submit updates at least annually to advise the Commission of its continued use of the traffic factor methodology and allocation factors and an affidavit, for the period of January 2017 through September 2018, as required by the Commission's January 24 and February 1, 2012 Orders issued in Docket No. 12-GIMT-168-GIT, the Company is assessed a monetary penalty of \$600.00. Consumer Cellular, Incorporated's payment shall reference this Docket, 18-GIMT-084-GIT, be made out to the Commission, and mailed to the Commission's Fiscal Office, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, no later than thirty (30) days from the date of this Order.

---

<sup>3</sup>K.S.A. 66-138(a).

C. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.<sup>4</sup>

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

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chairman; Emler, Commissioner; Keen, Commissioner

Dated: 10/02/2018



\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

AAL

\_\_\_\_\_  
<sup>4</sup>K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

## CERTIFICATE OF SERVICE

18-GIMT-084-GIT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 10/02/2018.

THOMAS J. CONNORS, ATTORNEY AT LAW  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
tj.connors@curb.kansas.gov

TODD E. LOVE, ATTORNEY  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
d.nickel@curb.kansas.gov

SHONDA RABB  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
s.rabb@curb.kansas.gov

DELLA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
d.smith@curb.kansas.gov

MARK DOTY  
GLEASON & DOTY CHTD  
401 S MAIN ST STE 10  
PO BOX 490  
OTTAWA, KS 66067-0490  
Fax: 785-842-6800  
doty.mark@gmail.com

THOMAS E. GLEASON, JR., ATTORNEY  
GLEASON & DOTY CHTD  
PO BOX 6  
LAWRENCE, KS 66049-0006  
Fax: 785-856-6800  
gleason@sunflower.com

CARLY FIOLA, COMPLIANCE REPORTING SPECIALIST  
INTESERRA CONSULTING GROUP  
151 SOUTHHALL LANE  
SUITE 450  
MAITLAND, FL 32751  
cfiola@inteserra.com

KIMBERLY GEUDER, COMPLIANCE REPORTING  
SPECIALIST  
INTESERRA CONSULTING GROUP  
151 SOUTHHALL LANE  
SUITE 450  
MAITLAND, FL 32751  
kgeuder@inteserra.com

COLLEEN R. JAMISON  
JAMES M. CAPLINGER, CHARTERED  
823 SW 10TH AVE  
TOPEKA, KS 66612-1618  
Fax: 785-232-0724  
colleen@caplinger.net

## CERTIFICATE OF SERVICE

18-GIMT-084-GIT

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

MARK E. CAPLINGER  
MARK E. CAPLINGER, P.A.  
7936 SW INDIAN WOODS PL  
TOPEKA, KS 66615-1421  
mark@caplingerlaw.net

BRUCE A. NEY, EXEC. DIR.-SENIOR LEGAL COUNSEL  
NEW CINGULAR WIRELESS PCS, LLC  
D/B/A AT&T MOBILITY  
816 CONGRESS AVE  
SUITE 1100  
AUSTIN, TX 78701-2471  
Fax: 512-870-3420  
bn7429@att.com

RACHEL LIPMAN REIBER, ATTORNEY  
REIBER LAW OFFICE, LLC  
214 S CHESTNUT, SUITE 3  
OLATHE, KS 66061  
Fax: 913-782-4445  
rlreiberlaw@gmail.com

DIANE C. BROWNING, ATTORNEY  
SPRINT SPECTRUM L.P.  
KSOPHN0314-3A459  
6450 SPRINT PKWY  
OVERLAND PARK, KS 66251-2400  
Fax: 913-523-0571  
diane.c.browning@sprint.com

DAVID E. BENGTON, ATTORNEY  
STINSON LEONARD STREET LLP  
1625 N WATERFRONT PKWY STE 300  
WICHITA, KS 67206  
Fax: 316-265-1349  
david.bengtson@stinson.com

KEVIN K. ZARLING  
UNITED TELEPHONE CO. OF KANSAS  
D/B/A CENTURYLINK  
400 W 15TH ST STE 315  
AUSTIN, TX 78701-1647  
Fax: 913-345-6756  
kevin.k.zarling@centurylink.com

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe