

**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 the Application of Rainbow)
Telecommunications Association Filing Tariff) Docket No. 19-RNBT-168-TAR
Revisions to its General Exchange Tariff)

ORDER APPROVING TARIFF REVISIONS

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On October 24, 2018, Rainbow Telecommunications Association (Rainbow) filed a request to make tariff revisions in its General Exchange Tariff to modify provisions related to various rates and services. As part of its Application, Rainbow proposed adding Hosted PBX service, but in the course of the Commission's investigation, the request for this service was withdrawn from the filing.

2. K.S.A. 66-1, 190 requires that telecommunications public utilities doing business in Kansas shall:

... publish and file with the commission copies of all schedules of rates, joint rates, tolls, charges, classifications and divisions of rates affecting Kansas traffic, either state or interstate, and shall furnish the commission copies of all rules and regulations and contracts between such telecommunications public utilities pertaining to any and all jurisdictional services to be rendered by such telecommunications public utilities.

The Commission derives its authority to review Local Exchange Carrier tariffs from K.S.A. 66-117(d), which states in part:

Except as provided in subsection (c), no change shall be made in any rate, toll, charge, classification or schedule of charges or joint rates, or in any rule or

regulation or practice pertaining to the service or rates of any such public utility or common carrier, without the consent of the commission.

3. The Commission has the power to review the rates proposed by telecommunications public utilities to determine if they are just and reasonable.¹ The Commission also maintains authority to determine whether or not "...any regulation, practice, act or service ... is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory or otherwise in violation of [the Public Utilities Act]"² Accordingly, the Commission conducts its investigation regarding the reasonableness of the Rainbow request to modify its rates and services.

4. On November 14, 2018, the Commission Staff (Staff) submitted a Report and Recommendation, advising the Commission to grant the tariff revisions proposed by Rainbow. The Staff notes it conducts an evaluation of proposed tariff revisions to determine the reasonableness of proposed rates and services to establish that there is not a material impact on a carrier's revenue as a result of a tariff filing.³ The Staff further indicates with the withdrawal of the Hosted PBX service from the tariff proposal, the revenue effect of the filing is \$800.00 and has a nominal impact of Rainbow's revenue, which does not create a regulatory concern regarding the reasonableness of the request. The Staff states the proposed changes include service charges, National Directory Assistance Service rates, late payment and insufficient fund fees, removal of coin supervision, changes to custom calling services and changes to discount bundles occurring from non-regulated price changes.

5. The Commission adopts Staff's analysis and recommendations of November 14, 2018, as stated in the Report and Recommendation, which is attached hereto and made a part

¹ K.S.A. 66-1,191.

² K.S.A. 66-1,192.

³ See, Order of September 28, 2004 in Docket No. 04-GIMT-080-GIT, at ¶11, at 5.

hereof by reference, and finds that the Rainbow request should be granted. In conjunction with the request, Rainbow has provided tariff revisions to be placed in effect by November 23, 2018, which the Commission authorizes with the issuance of this Order.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Rainbow Telecommunications Association's request filed in this matter on October 24, 2018, is hereby granted with the effective tariff date occurring on November 23, 2018.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529 (a) (1).⁴

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/20/2018



Lynn M. Retz
Secretary to the Commission

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⁴ K.S.A. 66-118b; K.S.A. 77-503 (c) and K.S.A. 77-531(b).

STATE OF KANSAS



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TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: November 14, 2018

SUBJECT: Docket No. 19-RNBT-168-TAR
In the Matter of the Application of Rainbow Telecommunications Association
Filing Tariff Revisions to its General Exchange Tariff

EXECUTIVE SUMMARY:

On October 24, 2018, Rainbow Telecommunications Association (Rainbow) filed a request to make tariff revisions to a certain section of its Local Exchange Tariff modifying various rates and services. The Company initially filed to additionally request Hosted PBX service, but have removed that service from the filing on November 12, 2018.

The Commission action date is Monday, November 26, 2018.

ANALYSIS:

The Kansas Corporation Commission (KCC or Commission) derives its authority to review General Exchange Carrier tariffs from K.S.A. 66-117(d), which states in part:

(d) Except as provided in subsection (c), no change shall be made in any rate, toll, charge, classification or schedule of charges or joint rates, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, without the consent of the commission.

In addition, K.S.A. 66-1,190 requires every public utility doing business in Kansas over which the Commission has control to publish and file with the Commission copies of all schedules of rates, joint rates, tolls, charges, classifications and divisions of rates affecting Kansas traffic, either state or interstate. The Commission has the power to prescribe reasonable rules and regulations regarding the form and filing of all schedules, tariffs and classifications of all rates, joint rates,

tolls and charges, and all rules and regulations of such telecommunications public utilities as the Commission determines reasonable and appropriate.

The KCC must review rates and terms for jurisdictional telecommunications services to ensure they are “just and reasonable” pursuant to K.S.A. 66-1,189. Further, K.S.A. 66-1,189 requires the KCC to ensure that all classifications, rules, and regulations regarding the services are not unduly discriminatory or preferential.

Because telecommunications providers must constantly adapt to consumer needs, the KCC determined in Docket No. 04-GIMT-1080-GIT that rate changes made by telecommunications providers would not be audited for their justness and reasonableness unless the changes result in the provider receiving “materially greater revenue” than its rate-of-return would necessitate.¹

Staff issued an Information Request to Rainbow on November 1, 2018, requesting further information on the Company’s request for Hosted PBX service requested in the initial filing. Staff inquired whether Rainbow’s Hosted PBX would be regulated service and the Company responded on November 12, 2018, that they had decided against offering Hosted PBX and requested to remove it from the filing.

This filing makes changes to Part 2 of the tariff. Per the Company, the changes are as listed:

- Revising Service Charges.
- Changing National Directory Assistance Service rates.
- Adding a Late Payment Charge and Bad Check/Bank Draft Fee.
- Removing Coin Supervision.
- Revising some Custom Calling Services.
- Changing Discount Bundles rates due to non-regulated price changes.

The Company initially provided an annual anticipated revenue increase of \$2,000, and revised that figure to \$800 on November 13, 2018, without the Hosted PBX offering. Staff has reviewed the filing and does not have any concerns with the filing. Rainbow does receive KUSF support. The Company’s last tariff filing was approved March 2, 2017, to modify non-regulated bundle offerings.

¹ Prior to 2004, if a rate of return carrier asked for an increase in revenue outside a rate case, the Commission policy was to adjust the amount received for an increased rate by a corresponding decrease in draw from the KUSF, pursuant to K.S.A. 66-2005(d). However, in *Rural Telephone Service Co. v. Kansas Corporation Commission*, 31 Kan. App. 2d 760, 72 P.3d 937 (2003), the Kansas Court of Appeals held that the Commission did not have statutory authority to reduce Rural's KUSF distribution in response to increased revenue from modifications to tariff filings (Docket No. 02-RRLT-875-TAR). The Court reversed the Order reducing Rural's KUSF support, but it remanded the matter to enable the Commission to determine the reasonableness of the proposed tariff changes in light of the Court's decision to disallow a contemporaneous reduction of KUSF support, 31 Kan. App. 2d at 770. On June 4, 2004, the Commission opened a generic docket to address Staff’s proposal to address tariff increases between KUSF audits. In an Order dated September 28, 2004, in that Docket (04-GIMT-1080-GIT), the Commission stated, “Staff will continue to conduct an individual evaluation of any proposed tariff revision made by a rate-of-return regulated company affecting its revenues to determine the reasonableness of the proposed rates . . . if Staff evaluates information indicating that a rate-of-return regulated carriers is receiving materially greater revenue than its authorized cost recovery and rate of return would necessitate, the Commission will consider whether to conduct an audit.”

RECOMMENDATION:

Staff recommends the Commission approve the replacement tariff sheets provided by Rainbow on October 24, 2018, and November 12, 2018. Modifying existing service filings is acceptable to the Commission, and modifications for clarification are in the public interest. The Company requests the tariff to become effective November 23, 2018.

CERTIFICATE OF SERVICE

19-RNBT-168-TAR

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 11/20/2018.

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