

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of Certification of Compliance)
with Section 254(e) of the Federal)
Telecommunications Act of 1996 and) Docket No. 23-GIMT-644-GIT
Certification of Appropriate Use of Kansas)
Universal Service Fund Support.)

ORDER DIRECTING SUBMISSION OF CERTIFICATION
LETTERS TO THE FCC AND USAC

This 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. 47 C.F.R. § 54.314(a) requires States that desire eligible telecommunications carriers (ETCs) to receive support pursuant to the federal high-cost subsidy program (also referred to herein as "Federal Universal Service Fund" or "FUSF" support) to file an annual certification with the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC). The certification must indicate that all federal high-cost support provided to such carriers within the State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Using support as intended is also a statutory requirement under 47 U.S.C. § 254(e).

2. Under 47 C.F.R. § 54.314(c), the certification may be filed in the form of a letter from the appropriate regulatory authority for the State and it must identify which carriers in the

State are eligible. 47 C.F.R. § 54.314(d) requires the certification to be filed by October 1 of each year.¹

3. In Docket No. 01-GIMT-595-GIT, in an Order dated August 28, 2001, the Commission adopted a self-certification form to certify, on an annual basis, that FUSF support received by a carrier was used in compliance with 47 U.S.C. § 254(e).

4. In Docket No. 05-GIMT-112-GIT, in an Order dated July 21, 2005, the Commission adopted more comprehensive reporting forms and procedures beginning with reporting year 2006.

5. In Docket No. 06-GIMT-446-GIT, in an Order dated October 2, 2006, the Commission adopted annual reporting requirements for ETCs, including information regarding unfilled service requests, outages, complaints, and quality of service, to ensure ETCs were fulfilling their ETC obligations. The Commission required most of the additional information to be filed concurrent with the annual certification process.

6. On March 21, 2023, the Commission issued an *Order Opening Docket* (Opening Order) in this docket for purposes of collecting data from certain telecommunications carriers in Kansas. The data was due on or before July 1, 2023. However, because July 1, 2023 was a Saturday, filings were accepted as timely on Monday, July 3, 2023. The data is used to determine whether the Commission will certify to the Federal Communications Commission (FCC) that Eligible Telecommunications Carriers (ETCs) in Kansas are utilizing Federal Universal Service Fund (FUSF) funds only for the provision maintenance, and upgrading of facilities and services

¹ 47 C.F.R. 54.314(d)(1) requires certification to occur on or before October 1 each year. October 1, 2023, is a Sunday, therefore, the filings are due the next business day, or Monday, October 2, 2023.

for which support is intended. The data is also used to determine whether ETCs in Kansas utilized their Kansas Universal Service Fund (KUSF) monies appropriately.²

7. On September 12, 2023, the Commission Staff (“Staff”) submitted a Report and Recommendation (R&R) to the Commission dated September 7, 2023, which is attached hereto as Attachment A and made a part hereof by reference.

8. Staff states in its R&R that all ETCs filed the forms required by the Commission’s Opening Order. However, ten individual carriers did not meet the July 3, 2023 deadline. Staff’s R&R explains the circumstances of the delays for each carrier and ultimately recommends penalties for nine carriers: AMG Technology Investment Group (AMG) - \$100; Boomerang Wireless, LLC (Boomerang) - \$100; MoKan Dial, Inc. (MoKan) - \$800; NE Colorado Cellular - \$100; Plains Internet, LLC (Plains Internet) - \$300; Sage Telecom Inc. (Sage) - \$600; Telrite Corporation (Telrite) - \$100; Wisper ISP - \$100; and Yourtel America, Inc (Yourtel) - \$600.

9. With respect to certification of appropriate use of federal high-cost support, Staff recommended the Commission submit letters to the FCC and the Universal Service Administrative Company (USAC) on or before September 29, 2023, certifying that all federal high-cost support provided to the carriers listed on Exhibit 1 of the Report and Recommendation, within Kansas, was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support was intended. This was based on an analysis of the type of support received and expenditures made by the ETCs, as well as their self-certifications.³

10. The Commission finds all of Staff’s findings and recommendations to be reasonable, and hereby adopts the same.

² See Notice of Filing of Staff’s Report and Recommendation (Public)(Sept., 12, 2023)(Staff’s R&R)

³ See *generally Id* at 5-11.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Letters shall be submitted to the FCC and USAC certifying that the carriers listed in Exhibit 1 to Staff's Report and Recommendation have certified that their FUSF support was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

B. The following companies are hereby assessed penalties: AMG Technology Investment Group (AMG) - \$100; Boomerang Wireless, LLC (Boomerang) - \$100; MoKan Dial, Inc. (MoKan) - \$800; NE Colorado Cellular - \$100; Plains Internet, LLC (Plains Internet) - \$300; Sage Telecom Inc. (Sage) - \$600; Telrite Corporation (Telrite) - \$100; Wisper ISP - \$100; and Yourtel America, Inc (Yourtel) - \$600. Payment shall reference this Docket, 23-GIMT-644-GIT, and be made payable 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.⁴

C. 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)(l).

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 09/21/2023



Lynn M. Retz
Secretary to the Commission

AAL

⁴ K.S.A. 66118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3220
Fax: 785-271-3357
<http://kcc.ks.gov/>

Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

Laura Kelly, Governor

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Susan K. Duffy, Chair
Dwight D. Keen, Commissioner
Andrew J. French, Commissioner

FROM: Hemant Bhagat, Senior Telecommunications Analyst
Bryan Seamans, Chief of Telecommunications & SPP Affairs
Jeff McClanahan, Director of Utilities

DATE: September 6, 2023

SUBJECT: Docket No. 23-GIMT-644-GIT

In the Matter of Certification of Compliance with Section 254(e) of the Federal Telecommunications Act of 1996 and Certification of Appropriate Use of Kansas Universal Service Fund Support.

EXECUTIVE SUMMARY

On March 21, 2023, the Commission opened this Docket to collect information from Kansas Eligible Telecommunications Carriers (ETCs) to determine whether each ETC used its high-cost Federal Universal Service Fund (FUSF) support in 2022 and will use that support in 2024 appropriately. For an ETC that is determined to have used its FUSF support appropriately, the Commission must certify the use of such support to the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC), the FUSF administrator, on or before October 2, 2023.¹ The Commission also determines if an ETC appropriately used its high-cost Kansas Universal Service Fund (KUSF) support appropriately in 2022 and will use its KUSF support appropriately in 2024.

Staff recommends the Commission submit letters to the FCC and USAC on or before September 29, 2023, to certify that all high-cost FUSF support provided to the Kansas ETCs listed in Exhibit 1 was used in the preceding calendar year (2022) and will be used in the upcoming calendar year (2024) in accordance with 47 U.S.C. § 254(e). Staff also recommends the Commission levy

¹ 47 C.F.R. 54.314(d)(1) requires certification to occur on or before October 1 each year. October 1, 2023, is a Sunday, therefore, the filings are due the next business day, or Monday, October 2, 2023.

penalties to the following ETCs that submitted their filings after the July 1, 2023,² due date: AMG Technology Investment Group (AMG) - \$100; Boomerang Wireless, LLC (Boomerang) - \$100; MoKan Dial, Inc. (MoKan) - \$800; NE Colorado Cellular - \$100; Plains Internet, LLC (Plains Internet) - \$300; Sage Telecom Inc. (Sage) - \$600; Telrite Corporation (Telrite) - \$100; Wisper ISP - \$100; and Yourtel America, Inc. (Yourtel) - \$600.

Staff is filing both a confidential and a redacted Report and Recommendation (R&R) and Exhibit 2.³ Exhibit 1 contains only public data, therefore, a confidential version is not being filed.

BACKGROUND

Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas), the United Telephone Companies of Kansas a/k/a Brightspeed (Brightspeed),⁴ Consolidated Communications of Kansas (Consolidated - KS), and Consolidated Communications of Missouri (Consolidated - MO) are price-cap regulated carriers for FUSF purposes.

AT&T Kansas is an electing carrier in Kansas and does not receive KUSF support. Brightspeed is price-cap regulated in Kansas and its KUSF support is based on a cost model. Consolidated – KS and Consolidated – MO are Rate-of-Return (ROR) regulated carriers in Kansas. All of the rural Incumbent Local Exchange Carriers (RLECs and ILECs, respectively) are ROR-regulated for both FUSF and KUSF purposes.

The 1996 Federal Telecommunications Act, § 254(e), requires that ETCs receiving high-cost FUSF support shall use the support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” In 2001, the FCC began to require state commissions to file an annual certification affirming that each ETC high-cost FUSF recipient used and will use its FUSF support consistent with § 254(e).⁵ The annual certification must be filed no later than October 1 of each year with the FCC and USAC and affirm that all FUSF support provided to an identified ETC within the State was used in the preceding calendar year and will be used in the following calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.⁶

In response to this requirement, the Commission opened Docket No. 01-GIMT-595-GIT to develop a mechanism to ensure ETCs comply with § 254(e). Through collaboration, parties to the Docket developed a self-certification form for an ETC to attest that it used and, will use, its FUSF support in compliance with § 254(e). On August 28, 2001, the Commission adopted the self-certification form, which is Attachment 1 in the annual certification.⁷

² The USF filing due date was July 1, 2023, a Saturday, therefore, filings made on the first business day following the due date, Monday, July 3, 2023 was an acceptable due date.

³ The majority of the RLECs filed their USF Expenditures and supporting data as confidential, however, several RLECs agreed to Staff releasing their annual and/or 5-year USF Expenditures as public.

⁴ The United Telephone Companies of Kansas includes: United Telephone Companies of Kansas, United Telephone Company of Eastern Kansas, United Telephone of Southcentral Kansas, and Embark Missouri, Inc. These companies have filed applications with the Commission to change their legal names to Brightspeed. See Docket Nos. 24-UTDT-204-CCN, 24-USCT-205-CCN, 24-USET-206-CCN, and 24-UTET-207-CCN

⁵ Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, rel. May 23, 2001.

⁶ See 47 C.F.R. § 54.314.

⁷ Order 3 Adopting Certification Form, Docket No. 01-GIMT-595-GIT, Aug. 28, 2001.

In 2004, the Commission opened Docket No. 05-GIMT-112-GIT to address whether the ETC self-certification process was sufficient to ensure that ETCs used their FUSF support appropriately. At that time, the Federal-State Joint Board on Universal Service issued a Recommended Decision suggesting the FCC encourage states to consider a more rigorous review to ensure that FUSF support is used properly. On July 21, 2005, the Commission issued an Order adopting more comprehensive reporting forms and procedures, beginning with the 2006 certification reporting year.⁸

On October 2, 2006, the Commission adopted additional annual ETC reporting requirements in Docket No. 06-GIMT-446-GIT,⁹ including reporting information regarding Quality of Service and Consumer Protection Standards (e.g. network outages, unfulfilled service requests, number of complaints, functionality during an emergency, and advertising obligations) to ensure ETCs are fulfilling these obligations. ETCs report this information in Attachment 5 of the USF Certification Forms.

In 2007, the Commission opened Docket No. 08-GIMT-154-GIT to address whether ETCs should certify their use of KUSF support. On January 30, 2009, the Commission issued an Order adopting Staff's Report and modifications to the Certification Forms agreed to by the parties to the Docket. The Commission also required ETCs to certify their KUSF funding, in addition to their FUSF funding, beginning in 2009.¹⁰

Effective January 1, 2012, the FCC began to transition the competitive ETCs' (CETC) FUSF support to the Connect America Fund (CAF) over a five-year period, with a CETC's support to be reduced 20% per year. The FCC, however, determined the phase-down would stop if its new Mobility Fund, Phase II, was not operational by June 30, 2014, ensuring CETCs continue to receive FUSF support until the new mechanism becomes operational.

Effective March 2013, KUSF support for CETCs began to be phased-out and, effective March 1, 2018, all KUSF support was eliminated for CETCs.¹¹

Beginning in 2013, the FCC required ETCs to file Form 481 to report their Quality of Service and Consumer Protection information. The FCC also began to require an ETC to file a copy of its Form 481 with respective state commissions by July 1 of each year. This information is filed with the Commission in Attachment 5 of the USF Certification Forms.

The annual USF Certification Forms adopted by the Commission reflected the FUSF support mechanisms in place at the time they were adopted. In 2011, the FCC began to transition FUSF support from legacy high-cost FUSF Loop Support, which supports the voice network, to newer FUSF support mechanisms that support both voice and broadband capable networks. Based on the FCC's transitioning to new FUSF support mechanisms that also provide support for CETCs, Staff modified the USF Certification Forms to recognize not only the legacy Loop Support, but

⁸ Order, Docket No. 05-GIMT-112-GIT, July 21, 2005.

⁹ Order Adopting Requirements for Designation of Eligible Telecommunications Carriers, Docket No. 06-GIMT-446-GIT, Oct. 2, 2006.

¹⁰ Order Adopting Staff Workshop Report and Issue Resolutions and Soliciting Additional Comments, Docket No. 08-GIMT-154-GIT, Jan. 30, 2009.

¹¹ K.S.A. 66-2008(c)(4).

also the new FUSF support mechanisms.

In 2015, the FCC offered price cap carriers Connect America Cost Model Phase II (CACM) based support in lieu of legacy FUSF support and also began awarding Connect America Fund (CAF) support to price cap carriers and to CETCs. CACM support was available for a six-year term, with a seventh year offered in certain circumstances.¹² AT&T Kansas and Brightspeed accepted CACM support for Kansas. The Consolidated entities declined CACM support for Kansas.

In 2016, the FCC offered ROR-regulated RLECs an opportunity to voluntarily switch from legacy high-cost FUSF support to Alternative Connect America Model (A-CAM) support. In 2016, six RLECs elected to receive A-CAM support, with funding received beginning in 2017. In 2019, the FCC provided the ROR-regulated carriers that did not initially elect to transition to A-CAM support the option to transition to A-CAM II support. Five RLECs elected to receive A-CAM II support, with funding received beginning in 2019.

Also in 2016, the FCC began to implement the Connect America Fund, Phase II Auction (CAF II) to provide FUSF support to any ETC awarded the winning bid for eligible census blocks within a price cap ILEC's service area to deploy voice and broadband services.¹³ Five Kansas CETCs accepted and receive CAF II support.

In 2017, the FCC streamlined the annual USF Certification process by eliminating the requirement for a high-cost ETC file information regarding Quality of Service Standards and Consumer Protection Rules and eliminated the requirement for ETCs to file a copy of their Form 481 with the state commissions.¹⁴ In response, the Commission determined that, beginning with USF Certification due July 1, 2018, ETCs are no longer required to file Form 481 with the Commission.¹⁵

In 2020, the FCC continued its goal to expand broadband in price cap areas lacking voice and broadband services and began awarding Rural Development Opportunity Fund, Phase I (RDOF I) support to price cap carriers and CETCs that were awarded the winning bid for eligible census blocks within price cap study areas.¹⁶ Ten Kansas Competitive ETCs receive RDOF I support.

In 2020, the FCC created the 5G Fund for Rural America (5G Fund) to replace the Mobility Fund Phase II.¹⁷ The FCC directed that \$9 billion for a 10 year period from the FUSF to be used for the new 5G Fund to expand fifth generation wireless broadband connectivity. CETCs receiving legacy high-cost support for mobile wireless services are required to use an increased percentage of their legacy support toward the deployment, maintenance, and operation of voice and broadband

¹² *In the Matter of Connect America Fund*, WC Docket 10-90, Report and Order, Rel. Dec. 18, 2014.

¹³ *In the Matter of Connect America Fund*, WC Docket 10-90, Report and Order and Further notice of Proposed Rulemaking, Rel. May 26, 2016.

¹⁴ *In the Matter of Connect America Fund ETC Annual Reports and Certifications*, WC Docket No. 10-90, 14-58, Report and Order, Rel. July 7, 2017.

¹⁵ Amended Order Opening Docket, Docket No. 18-GIMT-394-GIT, Apr. 17, 2018.

¹⁶ Some high-cost ETCs designated as such for RDOF I support; have not been authorized to receive such support and, therefore are not required to be certified this year as funding has not been disbursed. Public Notice, p. 3, AU Docket No. 20-34, Rel. July 21, 2021.

¹⁷ *In the Matter of Establishing a 5G Fund for Rural America*, Report and Order, GN Docket No. 20-32, Rel. Oct. 20, 2020.

networks that support 5G and meet baseline performance for minimum data speed, maximum latency, and minimum monthly data allowance (equal to average U.S. subscriber data usage). The FCC reinstated the remaining two-year phase-down of legacy frozen high-cost support for non-wireless CETCs.

On March 31, 2022, the Commission opened this Docket and directed all ETCs to file their annual ETC Certifications in the Docket on or before July 1, 2023, to allow the Commission to determine whether it should certify that the ETC used all high-cost FUSF support in 2022 and will use all FUSF support in 2024 in compliance with Section 254(e).

ANALYSIS

I. Certification

Lifeline-only ETCs do not receive high-cost USF support and are only required to submit Attachment 5 to certify the ETC is in compliance with its Quality of Service and Consumer Protection Standards. A Lifeline-only ETC must also certify that its Lifeline service plan is comparable to that of the ILEC.

The Commission is required, pursuant to 47 C.F.R. § 54.314(a), to certify all FUSF high-cost support provided to ETCs was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Therefore, all ETCs receiving high-cost FUSF support must certify the use of all of their FUSF support for USF Certification purposes.¹⁸

Effective December 2021, AT&T Kansas and Brightspeed completed their CACM obligations and ceased receiving CACM support. Thus, neither AT&T Kansas nor Brightspeed receive FUSF high-cost support and no longer need to certify FUSF support receipts. December 2021 was also the completion of the two-year phase-out of frozen high-cost legacy support for CETCs. H&B Cable Service, Inc. (H&B), S&T Communications, LLC (S&T), and Wildflower Telecommunications, LLC no longer receive such support and no longer need to certify these FUSF receipts.

All ETCs filed their required USF Certification Forms, albeit ten ETCs filed after the due date. Staff followed-up with several carriers regarding missing filings and/or missing or incorrect information, as addressed later in this R&R.

Staff reviewed each ETC's Attachment 1 Certification Form to ensure that the Form identified the FUSF support being certified and that the ETC certified its use of its USF support received in 2022 and that it would use support received in 2024 as intended. Staff also verified that each ETC receiving KUSF support certified its use of the support. Several ETCs did not identify the type of FUSF support received, therefore, Staff requested the ETC to submit a revised Attachment 1 to identify the FUSF support received and subject to certification.

¹⁸ Order Opening Docket; Requiring Compliance Filings, Docket No. 23-GIMT-644-GIT, March 21, 2023.

II. Validation of Prior Calendar Year's USF Support Certification

The USF Certification Forms require an ETC to provide the amount of FUSF and/or KUSF support spent on new investments and the expenses associated with providing universal service (USF expenditures) during the prior year. To determine if an ETC appropriately spent its FUSF support, Staff compared an ETC's USF expenditures to its FUSF receipts. Staff then compared the ETC's USF expenditures to the ETC's combined FUSF and KUSF support for the preceding year (2022). These comparisons serve as an initial test to determine whether FUSF and KUSF funds were expended appropriately.

Staff recognizes that USF investments and expenditures for telecommunications infrastructure varies from year to year and that an ETC may have made significant USF expenditures in prior years. For the RLECs, if the initial USF test indicates an RLEC may not have used its USF support appropriately, Staff analyzes the RLEC's most recent five-year period (2018 - 2022) investments, expenses, and combined FUSF and KUSF support to determine whether the RLEC appropriately used its combined FUSF and KUSF support over the five-year period.

Staff's analyses for A-CAM recipients recognizes all of an RLEC's A-CAM support. In comparison, A-CAM recipients previously reported an allocated percentage of their A-CAM support for USF Certification purposes prior to 2020. Staff, therefore, conducted a second five-year analysis, shown in Exhibit 2 as "Company Reported", to recognize the allocated A-CAM support. This analysis reveals the impact the allocation of A-CAM support has to an RLEC's USF Certification.

When the five-year analysis indicates an RLEC may not have appropriately expended its combined FUSF and KUSF receipts, Staff inputs the pertinent data from the RLEC's Annual Report for the 2022 calendar year (2022 Annual Report) into the schedules Staff utilizes in a KUSF audit. To gain a better understanding of what the audit results may be, Staff incorporates adjustments to reflect the RLEC's current March 2023 – February 2024 Fiscal Year 27 (FY 27) KUSF support and, for an RLEC receiving legacy FUSF support, Staff reflects the amount the RLEC is estimated to receive in 2023.¹⁹ This analysis is not as detailed or in-depth as the review that occurs in a KUSF audit, however, it provides Staff with a general idea of what the results of an audit might be.

If the audit schedule analysis indicates an audit may be appropriate, Staff contacts the RLEC to discuss whether it anticipates any changes in its expenditures or operations that would affect the result of a KUSF audit. If, after having discussions with the carrier, Staff still believes an audit is appropriate, Staff recommends the Commission consider an audit of the RLEC. This approach allows an RLEC an opportunity to present company-specific information to the Commission. Staff is not recommending any RLEC be subject to an audit this year.

Staff's audit analysis for several RLECs that receive A-CAM support indicates an audit may be appropriate, however, Staff is not recommending any A-CAM recipient be subject to an audit since the issue a methodology to determine the amount of A-CAM support to recognize in the determination of an RLEC's KUSF support is pending before the Commission in Docket No.

¹⁹ USAC High Cost Funding Disbursement Search Tool, <https://opendata.usac.org/High-Cost/High-Cost-Funding-Disbursement-Search/cegz-dzzi>, last viewed Aug. 28, 2023.

23-GIMT-392-GIT (Docket 23-392).

A. Federal USF Certification

1. Competitive ETCs

Staff's analysis of the CETCs' data revealed that LR Communications, Inc. (LR); Plains Internet, LLC (Plains); Resound Networks, LLC (Resound); Twin Valley Communications, Inc (TVCI); and Wisper ISP, LLC (Wisper) received more FUSF support in 2022 than they spent. LR, Plains, Resound, and TVCI are RDOF I recipients and Wisper receives CAF Phase II (CAF II) support. Although these CETCs failed their annual FUSF Certification test, each must meet the FCC's deployment obligations for the FUSF support program for which it receives FUSF support. Each CETC filed an attestation that it used and will use all FUSF support for which the support is intended. Additionally, each must file certifications with the FCC and USAC. Staff will continue to monitor each CETC's annual USF Certification and recommends the Commission certify all CETCs for FUSF purposes.

2. ILEC ETCs

The following RLECs' FUSF support exceeded their total cash USF expenditures:

H&B Communications, Inc. (H&B)
Moundridge Telephone Company, Inc. (Moundridge)
Rural Telephone Service Company, Inc. (Rural)
S&A Telephone Co, LLC (S&A)
Tri-County Telephone Association, Inc. (Tri-County)
Twin Valley Telephone, Inc. (Twin Valley)

B. KUSF Certification

The KUSF analysis is only applicable to the ROR-regulated RLECs since their annual KUSF support is based on company-specific costs. The KUSF support analysis compares an RLEC's combined FUSF and KUSF support receipts to its annual USF expenditures. The following RLEC's did not pass this analysis:

Blue Valley Tele-Communications, Inc. (Blue Valley)
CrawKan Telephone Cooperative, Inc. (CrawKan)
H&B
KanOkla Telephone Association, Inc. (KanOkla)
Rural
Moundridge
S&A
S&T Telephone Cooperative Association, Inc. (S&T)
Tri-County
Tri-County - Council Grove study area (Council Grove)
Twin Valley
Wamego Telecommunications Company, Inc. (Wamego)
Zenda Telephone Company, Inc. (Zenda)

These RLECs did not pass the USF Certification tests, thus, Staff performed the five-year analysis, shown in Exhibit 2, and when an RLEC failed the five-year analysis, Staff performed its audit schedule analysis. The results of Staff's analyses are as follows.

Blue Valley:

Blue Valley's 2022 combined Federal and Kansas USF support exceeded its 2022 expenditures by \$**[REDACTED]**. In contrast, Blue Valley's USF receipts for 2018 - 2022 were \$2.45 million less than its USF expenditures and 2022 was the only year in which the Company's USF receipts exceeded USF expenditures. Staff is satisfied that Blue Valley expended its USF support appropriately.

CrawKan:

CrawKan's 2022 combined Federal and Kansas USF support exceeded its 2022 expenditures by \$433,440, while CrawKan's USF receipts for 2018 - 2022 were \$38.5 million less than its USF expenditures. For the five-year period, this is the first year CrawKan's USF receipts exceeded its expenditures. Staff is satisfied that CrawKan expended its USF support appropriately.

H&B:

H&B's 2022 combined Federal and Kansas USF support exceeded its 2022 USF expenditures by \$963,346. For 2018 - 2022, H&B's combined USF support exceeded its USF expenditures by approximately \$3.86 million, with the Company's USF support exceeded expenditures each year. Staff's analysis, based on H&B's allocation of a percentage of its 2019 and 2020 A-CAM support to the intrastate jurisdiction, revealed that H&B's combined USF support for 2018 - 2022 exceeded its USF expenditures by \$2.86 million.

Staff incorporated H&B's 2022 Annual Report data into the audit schedules. Staff also input H&B's KUSF FY 27 support of \$607,447, a reduction of approximately \$11,178 from its KUSF FY 26 (March 2022 - February 2023) support. This analysis indicates an audit of H&B may be appropriate, however, Staff's results are dependent upon the percentage of A-CAM support recognized when determining its KUSF support. Thus, Staff is not recommending an audit and will continue to monitor the Company's annual USF Certification and advise the Commission accordingly.

KanOkla:

For 2022, KanOkla's combined FUSF and KUSF support exceeded its 2022 USF expenditures by \$**[REDACTED]**. For 2018 - 2022, KanOkla's combined Federal and Kansas USF support exceeded its USF expenditures by \$5.6 million, with the Company's USF support exceeding its USF expenditures each year of the five-year period.

Staff incorporated KanOkla's 2022 Annual Report data into its audit schedules and adjusted its results to recognize KanOkla's KUSF FY 27 support of \$605,418 is approximately \$14,000 less than its KUSF FY 26 support. Staff also recognized that KanOkla's 2023 legacy FUSF support will be \$287,000 less than its 2022 FUSF support. Staff's results indicate an audit of KanOkla is not appropriate at this time as the cost of an audit would likely exceed any benefits. Staff will continue to monitor the Company's annual USF Certification and advise the Commission if it believes an audit is appropriate.

Moundridge:

Moundridge's 2022 Federal USF support exceeded its 2022 USF expenditures by \$**[REDACTED]**. Moundridge receives Federal A-CAM USF support, but does not receive KUSF support. For 2018 - 2022, Moundridge's Federal USF support was \$2.45 million less than its USF expenditures. Staff's second analysis, based on Moundridge's allocation of a percentage of its 2018 – 2022 A-CAM support to the intrastate jurisdiction, revealed that Moundridge's combined USF support for 2018 - 2022 was less than its USF expenditures. Staff believes Moundridge appropriately spent its USF support.

Rural:

For 2022, Rural's combined FUSF and KUSF support exceeded its 2022 expenditures by \$**[REDACTED]** million. Rural's 2018 – 2022 combined USF support exceeded its USF expenditures by \$26.90 million and, when considering Rural's allocation of its A-CAM support to the intrastate jurisdiction for 2019 and 2020, the analysis showed the Company's combined USF support for 2018 - 2022 was \$10.1 million more than its USF expenditures.

Staff incorporated Rural's 2022 Annual Report data into its KUSF audit schedules to determine if an audit of Rural would be appropriate. Staff also recognized that Rural will receive \$2,327,757 of KUSF FY 27 support, a reduction of \$87,000 compared to its KUSF FY 26 support. While this analysis indicates an audit of Rural may be beneficial, the Commission has not determined the allocation of A-CAM at issue in Docket 23-392. Thus, Staff is not recommending an audit at this time and will continue to monitor Rural's annual USF Certification and advise the Commission of its results.

S&A:

For 2022, S&A's combined FUSF and KUSF support exceeded its 2022 USF expenditures by \$**[REDACTED]**. For 2018 - 2022, S&A's combined USF support exceeded its USF expenditures by \$1.77 million, with S&A's combined Federal and Kansas USF support exceeded its USF expenditures each year. Using the A-CAM support S&A allocated to the intrastate jurisdiction for 2019 – 2020, the 2018 – 2022 combined FUSF and KUSF support exceeded USF expenditures by \$1.07 million.

Staff incorporated S&A's 2022 Annual Report data into its audit schedules and recognized that S&A's KUSF FY 27 support of \$305,476 is \$6,436 less than its KUSF FY 26 support. This analysis indicates that an audit of S&A may be appropriate, however, Staff is not recommending an audit occur since the determination of a methodology to recognize A-CAM support for KUSF support purposes is pending before the Commission. Staff will continue to monitor S&A's annual USF Certifications and advise the Commission of its results.

S&T:

For 2022, the Company's combined FUSF and KUSF support exceeded its USF expenditures by \$426,086. For 2018 - 2022, S&T's combined USF support exceeded its USF expenditures by \$3.55 million, with the Company's combined FUSF and KUSF support exceeding USF expenditures every year.

Staff incorporated S&T's 2022 Annual Report data into its KUSF audit schedules. Staff recognized the Company will receive \$1,041,675 of KUSF FY 27 support, approximately \$36,000 less than it received for KUSF FY 26 and also recognized that S&T's 2023 legacy FUSF support is estimated to be \$369,000 less than its 2022 legacy FUSF support. This analysis does not support an audit of S&T as the costs of an audit may outweigh any benefits. Staff will continue to monitor S&T's USF Certifications and advise the Commission if the situation changes.

Tri-County's Council Grove and Tri-County Study Areas:

Tri-County and Council Grove legally merged on January 1, 2008, with Tri-County being the surviving entity. In 2011, the Commission cancelled Council Grove's Certificates of Convenience.²⁰ At that time, Tri-County stated that it intended to merge the two study areas after completing certain construction and installation projects to provide fiber-to-the-home to its customers, however, the study areas have not been combined. As a result, the Tri-County and Council Grove study areas are operated separately for FUSF reporting purposes, with each study area receiving legacy FUSF support. Each study area also receives its own KUSF support. For USF certification purposes, Tri-County submits a separate USF Certification for each study area.

For 2022, the Council Grove study area's combined USF support exceeded its USF expenditures by \$373,822 and, for 2018 - 2022, the combined USF support exceeded USF expenditures by \$2.18 million. For the Tri-County study area, the 2022 combined FUSF and KUSF support exceeded 2022 USF expenditures by \$1.46 million and, for 2018 - 2022, the Tri-County study area's FUSF and KUSF support exceeded USF expenditures by about \$6.45 million. USF receipts exceeded USF expenditures each year, for both study areas.

Both study areas are legally one entity, therefore, Tri-County files one Annual Report that includes the operating results of both study areas. Staff incorporated the 2022 Annual Report data into its audit schedules and recognized changes to each study area's KUSF and FUSF support. The Council Grove study area's KUSF FY 27 support of \$880,698 is \$9,000 less than its KUSF FY 26 support and Tri-County study area's KUSF FY 27 support of \$1,204,896 is \$11,000 less than its KUSF FY 26 support. The Council Grove and Tri-County study areas' 2023 FUSF support is also estimated to decline \$156,000 and \$270,000, respectively, when compared to the 2022 FUSF support. This analysis indicates an audit of Tri-County is not appropriate at this time, with costs likely to exceed any benefits. Staff will continue to monitor Tri-County's annual ETC Certification and advise the Commission if the situation changes.

Twin Valley:

For 2022, Twin Valley's combined Federal and Kansas USF support exceeded its 2022 expenditures by \$**[REDACTED]**. For 2018 - 2022, Twin Valley's combined FUSF & KUSF support exceeded its USF expenditures by \$24.69 million, with USF support exceeding expenditures each year for 2019 - 2022. Staff's analysis based on Twin Valley's allocated percentage of its A-CAM support for 2019 and 2020 revealed the Company's combined FUSF and KUSF support exceeded its USF expenditures by \$15.57 million.

²⁰ Order Cancelling Council Grove Telephone Company's Certificates of Convenience and Order Amending Tri-County Telephone Association, Inc.'s Certificated Area to Include the Council Grove Exchange, Docket Nos. 11-CGTT-370-CCS and 11-TRCT-371-COC, April 28, 2011.

Staff incorporated Twin Valley's 2022 Annual Report data into its audit schedules. Staff also incorporated Twin Valley's \$3,082,656 of KUSF FY 27 support to recognize a \$56,649 reduction from its annual KUSF FY 26 support. This analysis revealed that a KUSF audit of Twin Valley may be appropriate, however, pending the determination of a methodology to recognize A-CAM support for KUSF purposes, Staff is not recommending an audit of Twin Valley. Staff will continue to monitor the Company's USF Certification and advise the Commission if an audit should be conducted.

Wamego:

For 2022, Wamego's combined Federal and Kansas USF support exceeded its USF expenditures by \$286,951. Wamego's 2018 - 2022 combined USF support exceeded its expenditures by \$2.06 million, with its USF support exceeding expenditures each year.

Staff incorporated Wamego's 2022 Annual Report data into its audit schedules. Staff also recognized that Wamego's KUSF FY 27 support of \$1,406,654 is \$26,525 less than its KUSF FY 26 support. This analysis revealed that a KUSF audit of Wamego may be appropriate, however, absent a Commission decision regarding the treatment of A-CAM support for KUSF purposes in Docket 23-392, Staff is not recommending an audit of the Company and will continue to monitor the Company's USF Certification and advise the Commission if an audit should be conducted.

Zenda:

For 2022, Zenda's combined FUSF and KUSF support exceeded its 2022 USF expenditures by \$138,706. Zenda's combined USF support for 2018 - 2022 exceeded its USF expenditures by \$692,570, with support exceeding each year's USF expenditures. Staff's analysis recognized all of Zenda's A-CAM support, therefore, the second five-year analysis that recognized the allocated percentage of A-CAM support reported for 2019 – 2022 shows the Company's combined Federal and Kansas USF support exceeded its USF expenditures by \$578,643.

Staff entered Zenda's 2022 Annual Report data into Staff's KUSF audit schedules. Staff also entered Zenda's KUSF FY 27 support of \$262,800, which is \$4,905 less than the Company's KUSF FY 26 support. Staff is not recommending an audit of Zenda since this analysis indicated the costs of an audit may outweigh any benefits and the Commission has not addressed how A-CAM support should be recognized for KUSF support purposes,

III. Additional ETC Reporting Requirements

As stated previously, the Commission adopted additional reporting requirements for ETCs in 2006, which are reported on Attachment 5 of the USF Certification Forms. All ETCs satisfied the additional ETC reporting requirements.

1. Late Filings

Exhibit 1 to this R&R provides a list of the ETCs that Staff recommends the Commission certify and the date the ETC filed its complete submission.²¹ Ten carriers filed their USF Certifications

²¹ Assurance Wireless USA, LP; Boomerang Wireless; Global Connection Inc. of America d/b/a Stand Up Wireless; i-Wireless, LLC; Midcontinent Communications; Q-Link Wireless; Sage Telecom Communications, LLC; Telrite

after the due date, however, Staff is only recommending penalties for nine of the companies, as follows:

Table 1

ETC	Date Filed	Weeks Late	Recommended Penalty
AMG Technology Investment Group, LLC (AMG)	7/7/2023	1	\$100
Boomerang (Lifeline-only)	7/6/2023	1	\$100
MoKan	7/12/2023	2	\$800
NE Colorado Cellular d/b/a Viaero (NE Colorado)	7/5/2023	1	\$100
Plains Internet, LLC (Plains Internet)	7/19/2023	3	\$300
Resound Networks, LLC	8/7/2023	6	\$0
Sage (Lifeline-only)	7/13/2023	2	\$600
Telrite (Lifeline-only)	7/6/2023	1	\$100
Wisper ISP, LLC (Wisper)	7/6/2023	1	\$100
Yourtel America, Inc (Lifeline-only) (Yourtel)	7/14/2023	2	\$600

Staff continues to recommend a standard penalty of \$200 per week,²² but recommends that some penalties be modified to suit the specific circumstances for each situation, as further explained below.

1. AMG filed its ETC certification on July 7, 2023, after Staff followed-up with the Company on July 5, 2023. Staff reviewed the Company's past four annual ETC certification filings and found that, in the recent five-year period, this is the first time AMG filed its USF Certification after the due date. Staff recommends a \$100 per week penalty be levied to AMG, for a total penalty of \$100.
2. Boomerang did not file its Lifeline-only ETC Certification Forms by the due date, instead filing its Certification on July 6, 2023. Staff reviewed Boomerang's four prior annual ETC certifications and found that this is the first time in the five-year period Boomerang filed its USF Certification Forms after the due date. Therefore, Staff recommends the Commission penalize Boomerang \$100 per week, for a total of \$100.
3. MoKan filed its ETC certification on July 12, 2023, after Staff followed-up with the Company. Staff reviewed the Company's past four annual ETC certification filings and found that, in the recent five-year period, this is the fourth consecutive year MoKan has filed its USF Certification after the due date. Staff recommends a \$400 per week penalty (fourth time offender) be levied to MoKan since the Company has repeatedly filed late, for a total penalty of \$800.

d/b/a Life Wireless; Tempo Telecom, LLC; TracFone Wireless, Inc.; and YourTel America, Inc. are not federal high-cost ETCs and, therefore, are not listed on Exhibit 1.

²² Notice of Filing Staff's Report and Recommendations (Confidential and Redacted), Sept. 16, 2019, Docket No. 19-GIMT-399-GIT; and Notice of Filing Staff's Report and Recommendations (Confidential and Public), Sept. 10, 2020, Docket No. 20-GIMT-415-GIT.

4. NE Colorado did not file ETC Certification Forms by the due date, instead filing its Certification Forms in the Docket on July 5, 2023. Staff reviewed the Company's four annual ETC certifications prior to this one and found that this is the first time NE Colorado has filed late. Staff recommends a \$100 per week penalty, or a total penalty of \$100, to NE Colorado.
5. Plains Internet did not file its ETC Certification Forms by the due date and, instead, the Company filed its ETC Certification in the Docket on July 19, 2023, after Staff followed-up with the Company several times. This is the second time Plains Internet has been late with its filing, but the first year the Company clearly needed to certify its USF support receipts. Staff recommends a \$100 per week penalty, or a total penalty of \$300 to Plains Internet.
6. Resound Networks did not file ETC Certification Forms by the due date and filed Attachment 1 on July 14 after Staff followed up with the Company. Resound explained that it did not believe it needed to certify any FUSF support for 2022 since the FCC authorized the Company to receive FUSF support on December 16, 2022,²³ and the Company received the support in January 2023. Research of this information and USAC databases showed that USAC identified the January 2023 disbursement as support for December 2022.²⁴ Thus, the Company completed and submitted the remaining USF Certification Forms on August 7th. Due to this unique situation, Staff is not recommending any penalty be levied to Resound Networks.
7. Sage did not file its Lifeline-only ETC Certification Forms by the due date, therefore, on July 13, 2023, Staff contacted the Company to advise it that it had not yet filed its USF Certification in the Docket. On July 13, 2023, the Company filed its USF Certification. Staff reviewed Sage's four prior annual ETC certifications and found that this is the fourth time in the five-year period Sage filed its USF Certification Forms after the due date. Therefore, Staff recommends the Commission penalize Sage \$300 per week (fourth-time repeat offender) per week, for a total of \$600.
8. Telrite did not file its Lifeline-only ETC Certification Forms by the due date, instead filing its forms on July 6, 2023. Staff reviewed Telrite's four prior annual ETC certifications and found that this is the first time in the five-year period Telrite filed its USF Certification Forms after the due date. Therefore, Staff recommends the Commission penalize Telrite \$100 per week, for a total of \$100.
9. Wisper did not file its ETC Certification Forms by the due date, instead filing its Forms on July 6, 2023. Staff reviewed Wisper's four prior annual ETC certifications and found that this is the first time in the five-year period Wisper filed its ETC Certification Forms after the due date. Therefore, Staff recommends the Commission penalize Wisper \$100 per week, for a total of \$100.

²³ Public Notice, DA 22-1321, Dec. 16, 2022.

²⁴ Universal Service Administrative Co., High Cost Funding Disbursement Tool, 2022, RDOF support, Kansas, Resound Networks, <https://opendata.usac.org/High-Cost/High-Cost-Funding-Disbursement-Search/cegz-dzzi>, last viewed August 28, 2023.

10. Yourtel filed its annual Lifeline-only ETC Certification Forms on July 14, 2023, after Staff contacted the Company that same day to advise the Company that it had not filed its USF Certification Forms. Staff reviewed YourTel's four prior annual ETC certifications and found that this is the third time in the five-year period YourTel filed its USF Certification Forms after the due date. Therefore, Staff recommends the Commission penalize Yourtel \$300 per week (three-time repeat offender), for a total of \$600.

Staff appreciates that the majority of the ETCs filed their information before the ordered due date and, when requested, filed the requested information in a timely manner.

Incorrect or Incomplete Data

Similar to past years, Staff needed to follow-up with several ETCs that did not identify the specific FUSF support they receive and need to certify. Staff also needed to follow-up with a couple ETCs regarding incomplete Attachments or incorrect information. Staff notes, however, that it needed to follow-up with fewer companies this year.

IV. A-CAM Support Allocation Issues

The FCC's newer high-cost support mechanisms – CACM, CACM, CAF II, A-CAM, and RDOF I – are based on cost models and not carrier-specific costs. Each of these new support mechanisms replaces legacy high-cost loop support and supports the local exchange network and voice and broadband services.

All Federal high-cost USF have certified 100% of their FUSF support for USF Certification purposes, including all A-CAM recipients since 2020. Staff's analysis of whether to recommend an RLEC that receives A-CAM support is affected by the amount of A-CAM support used in the analysis. Thus, the determination of a methodology to recognize A-CAM support for KUSF purposes will allow Staff to incorporate the methodology in its analysis during the USF Certification process.

RECOMMENDATIONS

Staff recommends the Commission submit letters to the FCC and the USAC on or before September 29, 2023, to certify that all high-cost FUSF support provided to the ETCs identified in Exhibit 1 was used in the preceding calendar year (2022) and will be used in the coming calendar year (2024) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Staff also recommends the Commission assess the following penalties for late filings to: AMG - \$100; Boomerang - \$100; MoKan - \$800; NE Colorado - \$100; Plains Internet - \$300; Sage - \$600; Telrite - \$100; Wisper - \$100; and Yourtel - \$600.

CERTIFICATE OF SERVICE

23-GIMT-644-GIT

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 09/21/2023.

PHOENIX Z. ANSHUTZ, ATTORNEY
PENNER LOWE LAW GROUP, LLC
245 N WACO STREET, STE 125
WICHITA, KS 67202
panshutz@pennerlowe.com

ISSA ASAD
Q LINK WIRELESS LLC
499 E SHERIDAN ST STE 400
DANIA BEACH, FL 33004
legal@qlinkwireless.com

RICHARD BALDWIN, PRESIDENT
HOME TELEPHONE COMPANY, INC.
211 S MAIN ST
BOX 8
GALVA, KS 67443
rbaldwin@hci-ks.com

STEVE BURKS, CHIEF OPERATING OFFICER
AMG Technology Investment Group, LLC
D/B/A NextLink Internet
95 Parker Oaks Lane
Hudson Oaks, TX 76087
regulatory@team.nxlink.com

JENNIFER CARTER, CHIEF COMPLIANCE OFFICER
GLOBAL CONNECTION INC. OF AMERICA
D/B/A STAND UP WIRELESS
5555 OAKBROOK PKWY STE 620
NORCROSS, GA 30093
jcarter@standupwireless.com

JULIA REDMAN- CARTER, REGULATORY AND
COMPLIANCE OFFICER
BOOMERANG WIRELESS, LLC
2711 LYNDON B JOHNSON FWY
SUITE 1065
DALLAS, TX 75234
regulatory@entouchwireless.com

LANCE CASEY, REGULATORY COMPLIANCE
CONSOLIDATED COMMUNICATIONS OF KANSAS
COMPANY
2116 S. 17TH STREET
MATTOON, IL 61938
lance.casey@consolidated.com

STEPHANIE CASSIOPPI, SR. DIRECTOR, GOV'T AFFAIRS
USCOC OF NEBRASKA/KANSAS LLC
8410 BRYN MAWR
CHICAGO, IL 60631
stephanie.cassioppi@uscellular.com

SUSAN COCKERHAM, REGULATORY AGENT
YOURTEL AMERICA, INC.
D/B/A TERRACOM
928 MCCALLIE AVENUE
CHATTANOOGA, TN 37403-2724
scockerham@fastektax.com

BRENT CUNNINGHAM, VICE PRESIDENT & GENERAL
MANAGER
CUNNINGHAM TELEPHONE COMPANY, INC.
220 W MAIN
PO BOX 108
GLEN ELDER, KS 67446
brent@ctctelephony.tv

CERTIFICATE OF SERVICE

23-GIMT-644-GIT

RYAN DeCINTO, CONTROLLER
S&A TELEPHONE COMPANY, INC.
D/B/A Highline Kansas
9 CEDARWOOD DRIVE
UNIT 4
BEDFORD, NH 03110
ryan.decinto@highlinefast.com

MYLOC DINN, ASST. GENERAL COUNSEL & SR DIR. OF
GOV. AFFAIRS
SAGE TELECOM COMMUNICATIONS, LLC
1149 S HILL ST STE 400
LOS ANGELES, CA 90015-2894
regulatoryaffairs@truconnect.com

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

MANDI DREILING
NEX-TECH WIRELESS, L.L.C
3001 NEW WAY
HAYS, KS 67601
mdreiling@ntwls.com

MICHAEL FELICISSIMO, PRESIDENT
NE COLORADO CELLULAR, INC.
D/B/A VIAERO WIRELESS
1224 W PLATTE AVE
FORT MORGAN, CO 80701
mike.felicissimo@viaero.com

CRAIG FREEMAN, GENERAL MANAGER
WILSON TELEPHONE COMPANY, INC.
2504 AVE D
PO BOX 190
WILSON, KS 67490-0190
craig@wilsoncommunications.co

MARK M. GAILEY, PRESIDENT & GENERAL MANAGER
TOTAH COMMUNICATIONS, INC.
101 OCHELATA ST
PO BOX 300
OCHELATA, OK 74051-0300
mark@totahcomm.com

RHONDA GODDARD, CFO
NEX-TECH, LLC
145 N. MAIN
PO BOX 158
LENORA, KS 67645
rgoddard@nex-tech.com

RHONDA S GODDARD, CFO*
RURAL TELEPHONE SERVICE COMPANY, INC.
D/B/A Nex-Tech
145 N MAIN
PO BOX 158
LENORA, KS 67645
rgoddard@nex-tech.com

WILLIAM HAAS, MANAGING CORPORATE COUNSEL
ASSURANCE WIRELESS USA, L.P.
P.O. BOX 10076
CEDAR RAPIDS, IA 52410
william.haas@t-mobile.com

CHRISTINA HICKERT, CFO
S&T COMMUNICATIONS LLC
320 KANSAS
PO BOX 99
BREWSTER, KS 67732
christina.hickert@sttelcom.com

CHRISTINA HICKERT, CFO
S&T TELEPHONE COOPERATIVE ASSOCIATION, INC.
PO BOX 99
320 KANSAS AVE
BREWSTER, KS 67732
christina.hickert@sttelcom.com

CERTIFICATE OF SERVICE

23-GIMT-644-GIT

RANDY HOFFMAN, GENERAL MANAGER
WHEAT STATE TELEPHONE COMPANY, INC.
D/B/A WHEAT STATE TECHNOLOGIES, WST
PO BOX 320
UDALL, KS 67146
rhoffman@wheatstate.com

JOHN IDOUX, REGULATORY AFFAIRS MANAGER
EMBARQ COMMUNICATIONS, INC.
D/B/A CENTURYLINK COMMUNICATIONS
KSOPKJ04-4015
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
john.idoux@brightspeed.com

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL
AFFAIRS
UNITED TELEPHONE CO. OF KANSAS
D/B/A BRIGHTSPEED
1120 SOUTH TRYON STREET
SUITE 700
CHARLOTTE, NC 28203
john.idoux@brightspeed.com

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL
AFFAIRS
UNITED TELEPHONE COMPANY OF EASTERN KANSAS
D/B/A BRIGHTSPEED
1120 TRYON STREET
SUITE 700
CHARLOTTE, NC 28203
john.idoux@brightspeed.com

JOHN IDOUX, DIRECTOR GOVERNMENTAL AFFAIRS
UNITED TELEPHONE COMPANY OF SOUTHCENTRAL
KANSAS
D/B/A BRIGHTSPEED
1120 SOUTH TRYON STREET
SUITE 700
CHARLOTTE, NC 28203
john.idoux@brightspeed.com

FLOYD J JASINSKI, DIRECTOR - LEGISLATIVE &
REGULATORY
CONSOLIDATED COMMUNICATIONS OF MISSOURI
COMPANY
114 VERNON STREET
ROSEVILLE, CA 95678
floyd.jasinski@consolidated.com

KELLY JESEL, TREASURER
TELRITE CORPORATION
4113 monticello street
COVINGTON, GA 30014
kelly.jesel@telrite.com

ETHAN KAPLAN, GENERAL COUNSEL
IDEATEK TELCOM, LLC
111 OLD MILL LN
BUHLER, KS 67522
ekaplan@ideatek.com

BRANDON KOCH, PRESIDENT & GM
H&B CABLE SERVICE, INC.
108 N MAIN
PO BOX 108
HOLYROOD, KS 67450
brkoch@hbcomm.net

BRANDON KOCH, PRESIDENT & GM
H&B COMMUNICATIONS, INC.
108 N MAIN
PO BOX 108
HOLYROOD, KS 67450
brkoch@hbcomm.net

JILL KUEHNY, CEO/GENERAL AMANGER
KANOKLA TELEPHONE ASSN., INC.
100 KANOKLA AVE
PO BOX 111
CALDWELL, KS 67022
jkuehny@kanoklanetworks.com

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

CERTIFICATE OF SERVICE

23-GIMT-644-GIT

CHARI LAWRENCE, GOVERNMENT AFFAIRS /
RELATIONS MGR
COX KANSAS TELCOM, L.L.C.
D/B/A COX COMMUNICATIONS, INC
7401 FLORIDA BOULEVARD
BATON ROUGE, LA 70806
chari.lawrence@cox.com

JENNIFER LEACH, GM/CEO
PEOPLES TELECOMMUNICATIONS, LLC
208 N BROADWAY
PO BOX 450
LA CYGNE, KS 66040
jenniferlgm@peoplestelecom.net

HARRY J. LEE, JR., PRESIDENT/GENERAL MANAGER
LAHARPE TELEPHONE COMPANY, INC.
D/B/A LAHARPE LONG DISTANCE
109 W 6TH ST
PO BOX 100
LA HARPE, KS 66751
harry.lee@laharpetel.com

SCOTT LEITZEL, PRESIDENT
TWIN VALLEY TELEPHONE, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
scott.leitzel@tvttinc.net

PAT MASTEL, GENERAL COUNSEL
MIDCONTINENT COMMUNICATIONS
D/B/A MIDCO
3901 N LOUISE AVENUE
SIOUX FALLS, SD 57107
pat.mastel@midco.com

WILLIAM R. MCVEY, COO
SOUTHERN KANSAS TELEPHONE COMPANY, INC.
112 S LEE ST
PO BOX 800
CLEARWATER, KS 67026-0800
bill.mcvey@sktcompanies.com

BILL MORRIS, CHIEF FINANCIAL OFFICER
TEMPO TELECOM, LLC
25925 TELEGRAPH ROAD
SUITE 210
SOUTHFIELD, MI 48033
bill.morris@lingoky.com

CATHERINE MOYER, GENERAL MANAGER & CEO
PIONEER TELEPHONE ASSN., INC.
D/B/A PIONEER COMMUNICATIONS
120 W KANSAS AVE
PO BOX 707
ULYSSES, KS 67880-0707
catherine.moyer@pioncomm.net

MICHAEL J. MURPHY, PRESIDENT & MANAGER
GORHAM TELEPHONE COMPANY
100 MARKET
PO BOX 235
GORHAM, KS 67640
mmurphy@gorhamtel.com

JENNIFER PACHNER, ASSESSMENT
UNITED TELEPHONE ASSN., INC.
1107 MCARTOR RD
PO BOX 117
DODGE CITY, KS 67801
jenniferp@unitedtelcom.net

JENNIFER PACHNER, CONTROLLER
UNITED WIRELESS COMMUNICATIONS, INC.
1107 MCARTOR RD
PO BOX 117
DODGE CITY, KS 67801
jenniferp@unitedtelcom.net

JASON PETTIT, CONTROLLER
TRI-COUNTY TELEPHONE ASSOCIATION, INC.
1568 S 1000 RD
PO BOX 299
COUNCIL GROVE, KS 66846
jpettit@tctkansas.net

CERTIFICATE OF SERVICE

23-GIMT-644-GIT

JEFF PICKERING, ACCOUNTING SUPERVISOR
SKYBEAM, LLC
61 INVERNESS DR EAST
STE 250
ENGLEWOOD, CO 80115147
jpickering@risebroadband.com

MICHAEL A. PIERCE, WIRELESS MANAGER
CELLULAR NETWORK PARTNERSHIP
D/B/A PIONEER CELLULAR
108 E ROBBERTS AVE
PO BOX 539
KINGFISHER, OK 73750
nekretchmar@ptci.com

KATHY PRICE, GENERAL MANAGER*
ZENDA TELEPHONE COMPANY, INC.
208 N. MAIN ST
ZENDA, KS 67159
kprice@zendatelephone.com

JORDAN PRUETT, COMPANY
RESOUND NETWORKS, LLC
100 N CUYLER STREET
PAMPA, TX 79065
jordan.pruett@resoundnetworks.com

SHANA RAINS, ACCOUNTANT
MADISON TELEPHONE COMPANY, INC.
117 NORTH THIRD
P O BOX 337
MADISON, KS 66860
mtn.shana@gmail.com

BEAU REBEL, GENERAL MANAGER
GOLDEN BELT TELEPHONE ASSOCIATION.
103 LINCOLN ST
RUSH CENTER, KS 67575-3000
brebel@gbtlive.com

JAVIER RODRIGUEZ, AREA MANAGER - REGULATORY
RELATIONS AT&T
SOUTHWESTERN BELL TELEPHONE CO.
D/B/A AT&T KANSAS
208 S AKARD ST
DALLAS, TX 75202
jr1515@att.com

KATHY RUOFF, CFO
RAINBOW TELECOMMUNICATIONS ASSOCIATION, INC.
608 MAIN ST
PO BOX 147
EVEREST, KS 66424-0147
kathy@rainbowtel.com

RICHARD B. SALZMAN, EXECUTIVE VICE PRESIDENT
TRACFONE WIRELESS, INC.
D/B/A Safe Link
9700 NW 112TH AVE
MIAMI, FL 33178
rsalzman@tracfone.com

MATTHEW SAMS, CHIEF OF STAFF
MERCURY WIRELESS KANSAS, LLC
1100 WALNUT STREET, SUITE 2050
KANSAS CITY, MO 64106
matthew.sams@mercurybroadband.com

BECKY SCOTT
ELKHART TELEPHONE COMPANY, INC.
610 S COSMOS
PO BOX 817
ELKHART, KS 67950
bscott@epictouch.com

CARLA SHEARER, CEO/GENERAL MANAGER
SOUTH CENTRAL TELEPHONE ASSN. INC.
215 S ILIFF
PO BOX B
MEDICINE LODGE, KS 67104
cshearer@sctelcom.com

CERTIFICATE OF SERVICE

23-GIMT-644-GIT

DAVE SOPER, GENERAL MANAGER
COLUMBUS COMMUNICATIONS SERVICES, LLC
224 SOUTH KANSAS AVENUE
COLUMBUS, KS 66725
dsoper@columbus-telephone.com

TAMMY SOUZA, ACCOUNTING MANAGER
MOKAN DIAL, INC.
P.O. Box 729
LEWISVILLE, AR 71845
tsouza@townes.net

NATHAN STOOKE, CEO
WISPER ISP LLC
9711 FUESSER RD
MASCOUTAH, IL 62258
nstooke@wisperisp.com

JOHN TIETJENS, PRESIDENT AND GENERAL MANAGER
LR COMMUNICATIONS, INC.
D/B/A MUTUAL TELECOMMUNICATIONS
365 MAIN ST
PO BOX 338
LITTLE RIVER, KS 67457
jtietjens@mtc4me.com

JOHN TIETJENS, PRESIDENT AND GENERAL MANAGER
MUTUAL TELEPHONE COMPANY
365 MAIN ST
PO BOX 338
LITTLE RIVER, KS 67457
jtietjens@mtc4me.com

JIMMY TODD, CEO
MOUNDRIDGE TELEPHONE COMPANY
145 N MAIN
LENORA, KS 67645
jtodd@nex-tech.com

MARK WADE, VP OF OPERATIONS
HAVILAND TELEPHONE COMPANY, INC.
104 N MAIN
PO BOX 308
HAVILAND, KS 67059
mark@havilandtelco.com

MARK WADE, VP OF OPERATIONS
J.B.N. TELEPHONE COMPANY, INC.
PO BOX 111
HOLTON, KS 66436
mark@havilandtelco.com

KEVIN WAULIGMAN, COMPLIANCE MANAGER
I-WIRELESS, LLC
ONE LEVEE WAY STE 3116
NEWPORT, KY 41071-1661
kwauligman@iwirelesshome.com

JEFF WICK, PRESIDENT/GENERAL MANAGER
WAMEGO TELECOMMUNICATIONS COMPANY, INC.
1009 LINCOLN
PO BOX 25
WAMEGO, KS 66547-0025
jwick@wtcks.com

JEFF WICK, PRESIDENT/GENERAL MANAGER
WTC COMMUNICATIONS, INC.
1009 LINCOLN
PO BOX 25
WAMEGO, KS 66547
jwick@wtcks.com

CRAIG WILBERT, GENERAL MANAGER
CRAW-KAN TELEPHONE COOPERATIVE, INC.
200 N OZARK
PO BOX 100
GIRARD, KS 66743
crwilbert@ckt.net

CERTIFICATE OF SERVICE

23-GIMT-644-GIT

CANDACE WRIGHT, CEO/GM
BLUE VALLEY TELE-COMMUNICATIONS, INC.
1559 PONY EXPRESS HWY
HOME, KS 66438
cwright@bluevalleyinc.net

**ANDREW MONROE, COO
PLAINS INTERNET, LLC
7519 CANYON DR
AMARILLO, TX 79519**

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