

...(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.

K.S.A. 66-1,190 provides in part 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...the commission shall have 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...

The Commission 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.

4. According to Staff, S&T’s filing removes services no longer provided. S&T stated that there is no revenue effect as a result of these tariff revisions.

5. Staff has reviewed the filing and does not have any concerns and recommend approval of S&T’s tariff revisions.

6. The Commission adopts Staff’s analysis and recommendation of October 6, 2022, as stated in its Report and Recommendation and finds that S&T’s Application should be granted and the requested tariff revisions approved.

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

A. S&T Telephone Cooperative Association, Inc.’s Application is hereby granted and its revised General Exchange Tariff is hereby approved.

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

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<sup>1</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

Keen, Chair; Duffy, Commissioner; French; Commissioner

Dated: 10/13/2022



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Lynn M. Retz  
Executive Director

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## REPORT AND RECOMMENDATION UTILITIES DIVISION

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

**FROM:** Steve Garrett, Senior Telecommunications Analyst  
Sandy Reams, Assistant Chief of Telecommunications  
Bryan Seamans, Chief of Telecommunications & SPP Affairs  
Jeff McClanahan, Director of Utilities

**DATE:** October 6, 2022

**SUBJECT:** Docket No. 23-S&TT-349-TAR

In the Matter of S&T Telephone Cooperative Association Filing Tariff Revisions to De-Tariffing Non-Regulated Services and Remove Services No Longer Provided.

### **EXECUTIVE SUMMARY**

On September 6, 2022, S&T Telephone Cooperative Association (S&T) filed a request to revise its General Exchange Tariff to remove services no longer provided and de-tariff non-regulated services. On September 21, 2022, S&T filed revised Tariff Sheets to supplement its September 6, 2022, filing to reflect revisions based on discussions with Staff. The tariff revisions do not result in any revenue effect to S&T. Staff recommends the Kansas Corporation Commission (Commission) approve this Application.

The Commission action date is May 4, 2023.<sup>1</sup>

### **BACKGROUND**

The Commission derives its authority to review Incumbent Local Exchange Carrier (ILEC) 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.

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<sup>1</sup> Suspension Order: Thursday May 4, 2023; Sept. 22, 2022.

In addition, K.S.A. 66-1,190 requires:

Every public utility doing business in Kansas over which the Commission has control 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. 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 Commission 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 Commission 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 Commission 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.<sup>2</sup>

On September 6, 2022, S&T filed its Application to revise its Tariff to remove services it no longer provides and to de-tariff Virtual Phone Number (VPN) Service, a call-forwarding feature. In discussions with Staff, S&T clarified that it does not have any customers for its Primary Rate Integrated Services Digital Network (ISDN PRI) or Radio Communications services and, therefore, is removing the services from its Tariff.<sup>3</sup> The Company also agreed to include its VPN service in its Tariff, but to move the service to the calling features portion of its Tariff. The Company submitted revised Tariff sheets to reflect this revision on September 21, 2022.

## **ANALYSIS**

S&T’s filing is a request to remove services no longer provided. The proposed Tariff revisions

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<sup>2</sup> 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.”

<sup>3</sup> Sept. 21, 2022, email from Mr. Tom Maurer, consultant for S&T, to Sandy Reams, Commission Staff.

modify the following sections of the Tariff and all related references in the Table of Content.

- VPN Service is a call-forwarding feature. The revised Tariff moves this service from Section 3, 4<sup>th</sup> Revised Sheet 14 to the calling feature services section in Section 4, 1<sup>st</sup> Revised Sheet 6. The Tariff change also reflects the VPN service revision in Section 4, 1<sup>st</sup> Revised Sheet 7.
- SIP Trunk service, in Section 3, 1<sup>st</sup> Revised Sheet 15, was re-numbered from 3.12 to 3.11 to reflect the move of the VPN Service.
- ISDN PRI is a multipurpose, high speed, multiplexed digital interface service that includes customer premise equipment and facilities. S&T no longer has customers for this service and the service is no longer offered. S&T is removing the service from its Tariff in Section 4, 1<sup>st</sup> Revised Sheets 9 through 12. As a result of this change, Promotional Offerings will move to Section 4, 2<sup>nd</sup> Revised Sheet 12.
- The revised Tariff removes blank pages from Section 4, 1<sup>st</sup> Revised Sheets 13 through 21. The Company previously removed Ethernet Transport Service and Hosted PBX services from its Tariff,<sup>4</sup> resulting in these pages being blank. The Company is eliminating these pages in this Docket.
- Radio Common Carrier Interconnection Service was provided for common carrier interconnection services provided by the Company to all carriers. S&T no longer offers this service and has no customers for this service. The Company removing the service from its Tariff in Section 5, 1<sup>st</sup> Revised Sheets 1 through 9.

S&T stated that there is no (\$0.00) revenue effect as a result of these tariff revisions.

### **RECOMMENDATION**

Staff recommends approval of S&T's Tariff revisions.

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<sup>4</sup> Order Approving Revised Tariff, Docket No. 18-S&TT-471-TAR, May 10, 2018.

## **CERTIFICATE OF SERVICE**

23-S&TT-349-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 10/13/2022.

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