

¹ K.S.A. 2018 Supp. 66-1,195.

3. The FCC's Wireline Competition Bureau removed Chanute from further consideration for RBE funding, because it missed the deadlines for submitting a letter of credit commitment letter and ETC designation documentation. Chanute did not receive RBE funding, but continued to submit annual ETC certification filings through 2018. However, in 2019, the City of Chanute failed to file for ETC certification by July 1, 2019, when due, and did not respond to Commission Staff's efforts to determine why Chanute had not filed its ETC certification.

4. The FCC requires ETCs to submit specific information to the states, the Universal Service Administration Company (USAC), and the FCC under 47 C.F.R. § 54.313 by July 1st of each year. In addition, states wanting ETCs to receive federal high-cost program support must file annual certifications with the USAC and the FCC stating the funds in the preceding calendar year and the following calendar year are used solely for the provision, maintenance and upgrading of facilities and services intended to receive support.²

5. The Commission opened a docket to collect the information to be submitted to the USAC and FCC on April 11, 2019.³ As noted, Chanute did not submit its ETC certification for 2019 and did not respond to Staff follow up on the status of any filing Chanute might make.

6. On October 17, 2019, the Commission Staff (Staff) submitted a Report and Recommendation, which is attached and incorporated by reference, regarding Chanute's failure to submit its ETC certification for 2019 as required by the Commission in Docket No. 19-GIMT-399-GIT. Based on the Staff analysis, the Commission finds the Staff's recommendation to open a proceeding to require Chanute to show cause why this Commission should not initiate sanctions and fines and cancel, suspend or revoke its telecommunications authority is appropriate. Consequently, the Commission determines that a Show Cause Docket should be opened, and

² 47 C.F.R. § 54.314 and 47 U.S.C. § 254(e).

³ Docket No. 19-GIMT-399-GIT.

Chanute be given the opportunity to respond to the Staff Report and Recommendation of October 17, 2019.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The City of Chanute shall show cause, within thirty (30) days of receipt of this Order, why it should not be subject to sanctions and fines and its Eligible Telecommunications Carrier authority should not be cancelled, suspended and/or revoked.

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 parties for the purpose of entering such further orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 11/14/2019



Lynn M. Retz
Executive Director

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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Dwight D. Keen
Commissioner Shari Feist Albrecht
Commissioner Susan K. Duffy

FROM: Christine Aarnes, Chief of Telecommunications & SPP Affairs
Jeff McClanahan, Director of Utilities

DATE: October 17, 2019

SUBJECT: **Docket No. 20-CHNE-210-SHO**

In the Matter of a General Investigation for the City of Chanute, Kansas to Show Cause Why this Commission Should Not Initiate Sanctions and Fines and/or Suspend, Cancel, or Revoke and Fines and Cancel, Suspend and Revoke Any Authority the Carrier Currently Holds.

EXECUTIVE SUMMARY:

The City of Chanute (Chanute) failed to make its annual eligible telecommunications carrier (ETC) certification filing, in accordance with the Commission's April 11, 2019 Order in Docket No. 19-GIMT-399-GIT. Staff recommends the Commission open a proceeding requiring Chanute to show cause why this Commission should not initiate sanctions or fines and cancel, suspend or revoke any authority the carrier currently holds.

BACKGROUND:

On March 13, 2015, Chanute filed an Application with the Commission requesting ETC status in thirty-seven census blocks in Kansas. Chanute requested ETC status in order to be eligible to receive Rural Broadband Experiment (RBE) funds from the Federal Communications Commission (FCC). The FCC provisionally selected Chanute on March 4, 2014, to receive \$508,467 in RBE funds to deploy broadband in the designated census blocks in Kansas. The Commission granted the Application in an Order dated May 7, 2015.

The FCC's Wireline Competition Bureau announced on September 15, 2015, that it removed Chanute from further consideration for RBE funding because it "missed both the May 4th letter of credit commitment letter submission deadline and the June 2nd ETC designation documentation

submission deadline.”¹ According to the Universal Service Administrative Company (USAC) high-cost disbursement tool, Chanute has not received any RBE funding and does not appear authorized to do so.²

Despite not being eligible to receive RBE funding from the FCC, Chanute has continued to submit its annual ETC certification filings with the Commission, as required. However, this year, Chanute failed to file its annual ETC certification filing by the July 1, 2019, due date and failed to respond to any of Staff’s contact attempts regarding Chanute’s annual ETC certification filing.

ANALYSIS:

The FCC requires ETC to submit specific information as outlined in 47 C.F.R. § 54.313 to the states, the USAC, tribal governments (where relevant), and the FCC by July 1st of each year. In addition, pursuant to 47 C.F.R. § 54.314 and 47 U.S.C. § 254(e), states that want ETCs in their state to receive funding pursuant to the federal high-cost program must file an annual certification with USAC and the FCC stating that all federal high-cost support provided to such carriers within that 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.

The Commission opened Docket No. 19-GIMT-399-GIT in an April 11, 2019 Order to collect the required information. As discussed, Chanute failed to make its required filing and failed to respond to Staff’s repeated contact attempts to determine that status of the filing.

RECOMMENDATION:

As indicated above, Chanute failed to file its annual ETC certification filing, as required by the Commission’s April 11, 2019 Order in Docket No. 19-GIMT-399-GIT. Staff recommends the Commission open a proceeding requiring Chanute to show cause why this Commission should not initiate sanctions or fines and cancel, suspend or revoke any authority the carrier currently holds.

¹ FCC Public Notice, DA 15-1024, Rel. September 15, 2015.

² <https://www.usac.org/hc/tools/disbursements/default.aspx>, last viewed October 16, 2019.

CERTIFICATE OF SERVICE

20-CHNE-210-SHO

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 11/14/2019.

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/S/ DeeAnn Shupe
DeeAnn Shupe
