

... 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.

3. According to Staff, Gorham’s filing changes Section 3 of the tariff, adding regulated Ethernet Transport service.

4. Staff has reviewed the filing and does not have any concerns.

5. The Commission adopts Staff’s analysis and recommendation of November 5, 2018, as stated in its Report and Recommendation and finds that Gorham’s Application should be granted and the requested tariff revisions approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Gorham Telephone Company’s Application is hereby granted and its revised General Exchange Tariff is hereby approved and shall become effective November 21, 2018.

B. 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. 77-542.¹


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

¹K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/15/2018



Lynn M. Retz
Secretary to the Commission

AAL

STATE OF KANSAS



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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

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 5, 2018

SUBJECT: Docket No. 19-GRHT-156-TAR
In the Matter of the Application of Gorham Telephone Company Filing Tariff
Revisions to Add Ethernet Transport Service

EXECUTIVE SUMMARY:

On October 22, 2018, Gorham Telephone Company (Gorham) filed a request to make tariff revisions to a certain section of its General Exchange Tariff adding Ethernet Transport service to the tariff.

The Commission action date is Wednesday, November 21, 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

This filing makes changes to Sections 3 of the tariff. Per the Company, the changes are to add regulated Ethernet Transport service.

The changes are as listed:

- Add information and rates related to the Ethernet Transport service offerings in Section 3; pages 12-17, for five speed offerings from 100 Mbps to 1Gbps and add those Ethernet Transport services where indicated in the Table of Contents.

The Company provided an annual anticipated revenue increase of \$15,000. Staff issued Information Request 1 requesting whether the service would be used for regulated or non-regulated service. The Company responded that Ethernet Transport service is a regulated special access service and its filing is jurisdictionally intrastate for those customers wanting intrastate Ethernet Transport service. Per the response to the Information Request the revenue realized from customers that do utilize the service in a jurisdictionally intrastate manner will be included in the Company’s regulated operations.

Staff has reviewed the filing and does not have any concerns with the filing. Gorham does receive KUSF support. The Company’s last tariff filing was approved October 4, 2018, 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 Gorham. Adding Ethernet Transport service for jurisdictionally intrastate service to the tariff is acceptable to the Commission, and in the public interest. The Company requests the tariff to become effective November 21, 2018.

CERTIFICATE OF SERVICE

19-GRHT-156-TAR

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 11/15/2018.

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