

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Jay Scott Emler

In the Matter of a General Investigation into)
the Adjustment of Intrastate Switched Access)
and Reciprocal Compensation Charges) Docket No. 19-GIMT-423-GIT
Pursuant to the Federal Communications)
Commission's Reforms, Effective July 1,)
2019.)

ORDER OPENING DOCKET; REQUIRING TARIFF AND COMPLIANCE FILINGS

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

BACKGROUND

1. On November 18, 2011, the Federal Communications Commission (FCC) released a *Report and Order and Further Notice of Proposed Rulemaking* (USF/ICC Order) which, among other things, overhauled the traditional inter-carrier compensation regime for all intrastate and interstate telecommunications traffic traditionally classified as “access” traffic.¹ Relevant to this docket, the FCC set forth a transition path for terminating end-office switching and certain transport rate elements and reciprocal compensation charges.² States are charged with overseeing the modifications to rates in intrastate access tariffs to ensure carriers are

¹See Connect America Fund, 26 F.C.C.R. 17663 ¶ 762 (Fed. Comm. Comm’n November 18, 2011) (Report and Order and Further Notice of Proposed Rulemaking) (USF/ICC Order).

²See Id. at ¶ 800-801.

complying with the framework adopted in the USF/ICC Order and not shifting costs or otherwise seeking to gain excess recovery.³

2. The Commission has complied with the FCC's directives and overseen the rate transition contemplated in the USF/ICC Order every year since adoption. Rate adjustments generally occur on July 1 of each year, and the transition period runs from 2011-2020. Rate adjustments occur for price cap carriers, rate-of-return carriers, and competitive local exchange carriers (CLECs). For a complete history of this transition at the Commission, refer to the following dockets: 12-GIMT-170-GIT; 13-GIMT-004-GIT; 13-GIMT-611-GIT; 14-GIMT-446-GIT; 15-GIMT-068-GIT; 15-GIMT-436-GIT; 16-GIMT-413-GIT; 16-GIMT-587-GIT; 17-GIMT-426-GIT, 18-GIMT-448-GIT and 19-GIMT-0006-GIT.

3. On April 12, 2019, Commission Staff (Staff) submitted a Report and Recommendation (R&R) to the Commissioners, dated April 8, 2019, explaining the USF/ICC Order requirements for July 2, 2019, attached hereto and made a part hereof by reference.⁴

4. Staff explained in its R&R that effective July 2, 2019, rural local exchange carriers (RLECs) will transition their intrastate terminating end-office access and reciprocal compensation rates to \$0.0007. Pursuant to K.S.A. 66-117, an RLEC must file its proposed tariff revisions at least 30 days prior to the July 2, 2019, effective date and United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink) must file its tariff at least 21 days prior to the effective date.

5. Staff notes in its R&R the RLECs' revised tariffs will reflect the FCC's July 2, 2019 terminating rates and the intrastate originating rates approved by the Commission in Docket 19-GIMT-006-GIT. Competitive LEC's (CLEC's) that benchmark to an RLEC's rates must reduce their terminating switched end office, transport, and reciprocal compensation rates accordingly.

³Id. at ¶ 35.

⁴Report and Recommendation (Apr. 8, 2019) (R&R).

Because of the FCC's reforms, a majority of the RLECs and CLECs' intrastate access tariffs include a Uniform Resource Locator (URL) or reference to their interstate access tariffs. As a result, these LECs do not need to file revised intrastate access tariffs.

6. Staff states it will review the proposed tariffs to verify compliance with the FCC's requirements. If a proposed tariff does not comply with the FCC's requirements, Staff will work with the LEC to ensure such compliance. After its review of the RLECs' and CenturyLink's revised intrastate access tariffs, Staff will submit a Report & Recommendation regarding its review and its recommendation to the Commission.

7. Staff further states an Order approving the tariffs will need to be approved prior to the effective date of July 2, 2019. Additionally, consistent with the FCC's rules, the RLECs, CenturyLink and Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) AT&T must submit their Baseline and Eligible Recovery and annual certification documentation to the Commission.

8. Staff recommends that the Commission issue an Order to open a Docket to address the FCC's July 2019 ICC reforms and that the Commission:

- 1) The RLECs shall file revised intrastate access tariffs in the Docket by May 17, 2019, to include both the terminating rates pursuant to the FCC's reforms and the originating rates approved by the Commission in Docket No. 19-GIMT-006-GIT;
- 2) Competitive LECs that benchmark to an RLEC's rates shall file its revised tariff in this Docket no later than June 14, 2019, and if a tariff will be effective after July 2, 2019, inform the Commission of its effective date;

- 3) The RLECs, AT&T, and CenturyLink shall file all FCC required documentation, including their Baseline, Eligible Recovery, and annual Duplicative Recovery Certification, in the Docket the earlier of June 17th or the date the Company files this data with the FCC; and
- 4) Any LEC required to file a revised interstate access tariff shall notify the Commission, submit its revised intrastate access tariff, if applicable, and advise the Commission of the revised tariff's effective date within three (3) business days of filing the revised tariff with the FCC; and
- 5) The Commission should remind LECs that they may incorporate a uniform resource locator (URL) and/or reference to their interstate access tariff in their intrastate access tariff and, if an LEC has already done so, it will not need to file a revised intrastate access tariff absent other revisions and avoid annual intrastate access tariff filings absent any other revision.

JURISDICTION AND DUE PROCESS

9. The Commission has general supervisory jurisdiction over LECs pursuant to K.S.A. 66-1,188, and jurisdiction over telecommunications public utility rates pursuant to K.S.A. 66-1,189. The Commission retains jurisdiction over telecommunications carrier and electing carrier intrastate switched access rates, including the implementation of federal law concerning inter-carrier compensation pursuant to K.S.A. 66-2005(z)(2)(C).

10. K.S.A. 66-117 requires all proceedings concerning changes in rates to be conducted in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

STANDARD FOR APPROVAL

11. As the Commission is not being tasked with making a determination of fact at this stage, Staff's recommendations may be adopted so long as the recommended actions are within the jurisdictional authority of the Commission and conform to applicable federal and state law.⁵

COMMISSION FINDINGS

12. Having reviewed Staff's R&R in this matter and the applicable law, the Commission finds that at this stage, summary proceedings are appropriate pursuant to K.S.A. 77-537(a).

13. The Commission finds that Staff's recommendations contained in its April 8, 2019, R&R are lawful and reasonable, and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) This docket shall be opened for the purpose of addressing the FCC's July 2, 2019 ICC reforms.

(B) The RLECs shall file revised intrastate access tariffs in the Docket by May 17, 2019, to include both the terminating rates pursuant to the FCC's reforms and the originating rates approved by the Commission in Docket No. 19-GIMT-006-GIT.

(C) Competitive LECs that benchmark to an RLEC's rates shall file its revised tariff in this Docket no later than June 14, 2019, and if a tariff will be effective after July 2, 2019, inform the Commission of its effective date;

(D) The RLECs, AT&T, and CenturyLink shall file all FCC required documentation, including their Baseline, Eligible Recovery, and annual Duplicative Recovery Certification, in the Docket the earlier of June 17th or the date the Company files this data with the FCC; and

⁵See generally K.S.A. 77-621; USF/ICC Order; K.S.A. 66-101 *et seq.*; K.S.A. 66-2001 *et seq.*; 47 C.F.R. § 51.1 *et seq.*; 47 C.F.R. § 54.304.

(E) Any LEC required to file a revised interstate access tariff shall notify the Commission, submit its revised intrastate access tariff, if applicable, and advise the Commission of the revised tariff's effective date within three (3) business days of filing the revised tariff with the FCC.

(F) All LECs are hereby reminded that they may incorporate a URL and/or reference to their interstate access tariff in their intrastate access tariff, and, if a LEC has already done so, it does not need to file a revised intrastate access tariff absent other revisions.

(G) Filings made in compliance with this Order do not need to be served on other parties to the proceeding. The Commission waives K.A.R. 82-1-216 with respect to the specific filings required by this Order.

(H) 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).⁶

(I) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: 04/23/2019



Lynn M. Retz
Secretary to the Commission

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⁶ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

REPORT AND RECOMMENDATION

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

From: Sandy Reams, Assistant Chief of Telecommunications
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

Date: April 8, 2019

Re: Docket No. 19-GIMT-423-GIT
In the Matter of a General Investigation into the Adjustment of Intrastate Switched Access and Reciprocal Compensation Charges Pursuant to the Federal Communications Commission's Reforms, Effective July 1, 2019.

EXECUTIVE SUMMARY

Pursuant to Federal Communications Commission's (FCC) Order,¹ rate-of-return Local Exchange Carriers (LECs) must reduce their interstate and intrastate terminating switched end-office access and reciprocal compensation rates² to .0007, effective July 2, 2019.³ Pursuant to FCC rules, some LECs are required to file their tariffs 15 days prior to the effective date, meaning these LECs would have to file their tariffs on Sunday, June 16th.⁴ The FCC, therefore, modified the tariff effective date from July 1st to July 2nd. All of the Kansas rural LECs (RLECs) operate under rate-of-return regulation.⁵ All competitive LECs that benchmark to an RLEC's rates must also reduce their terminating end-office access and reciprocal compensation rates. Pursuant to K.S.A. 66-117, an

¹ Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 (*Connect America Fund et. al*), Rel. Nov. 18, 2011 (November 2011 Order), ¶ 801, Figure 9.

² Reciprocal compensation, in general, applies to calls that originate and terminate within the same calling area. Reciprocal compensation rates are typically set in negotiated interconnection or commercial agreements. (*Id.*, note 1286). Traffic not accounted for through interconnection agreements is subject to the access regime; therefore, carriers do not need to file separate reciprocal compensation tariffs.

³ Order, *In the Matter of July 1, 2019 Annual Access Charge Tariff Filings*, WC Docket No. 19-47, rel. April 4, 2019.

⁴ *Ibid.*, ¶ 3.

⁵ All Kansas RLECs, except Consolidated Communications of Kansas and Consolidated Communications of Missouri, operate under rate-of-return regulation in the interstate jurisdiction. For Intercarrier Compensation (ICC) reform purposes, all of the Kansas RLECs must comply with the rate-of-return LEC rules.

RLEC must file proposed tariff revisions no later than 30 days prior to the effective date and CenturyLink must file proposed revised tariff revisions no later than 21 days prior to the requested effective date. Staff will need to review the proposed tariffs, work with companies if questions arise, and submit a Report and Recommendation regarding its review of the RLECs and United Telephone Companies of Kansas d/b/a CenturyLink's (Century Link) tariffs. The Kansas Corporation Commission (Commission) must issue an Order approving the tariffs prior to the July 2, 2019, effective date.

Staff recommends that the Commission issue an Order to open a Docket to address the FCC's July 2019 ICC reforms and that the Commission:

1. direct the RLECs to file revised intrastate access tariffs in the Docket by May 17, 2019, to include both the terminating rates pursuant to the FCC's reforms and the originating rates approved by the Commission in Docket No. 19-GIMT-006-GIT (19-006);⁶
2. direct any competitive LEC that benchmarks to an RLEC's rates to file its revised tariff in this Docket no later than June 14, 2019, and if a tariff will be effective after July 2, 2019, inform the Commission of its effective date;
3. direct the RLECs, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T), and the United Telephone Companies of Kansas d/b/a CenturyLink to file all FCC required documentation, including their Baseline, Eligible Recovery, and annual Duplicative Recovery Certification, in the Docket the earlier of June 17th or the date the Company files this data with the FCC; and
4. direct any LEC that files a revised interstate access tariff to notify this Commission and file the applicable revised intrastate access tariff in this Docket within three (3) business days of filing the revised tariff with the FCC.

The Commission should also remind all of the LECs that have not done so that they may incorporate a Uniform Resource Locator (URL) and/or reference to their interstate access tariff in their intrastate access tariff and avoid annual intrastate access tariff filings absent any other revision.

BACKGROUND

On November 18, 2011, the FCC released an Order to reform the intercarrier compensation (ICC) regime by transitioning all price cap, rate-of-return, and competitive LEC⁷ interstate and intrastate terminating switched end-office and reciprocal compensation rates to a bill-and-keep methodology.⁸ The FCC created the Connect America Fund (CAF) and the Access Recovery Charge (ARC)⁹ to allow price cap and rate-of-return LECs to recover the reduction in their access

⁶ Order Adopting Revised Intrastate Access Rates, Revenues and KUSF Adjustments, Docket No. 19-GIMT-006-GIT, Oct. 18, 2018.

⁷ 47 C.F.R. §51.911(a) provides that if a competitive LEC operates in an RLEC's service area or is subject to the rural exemption in §61.26(e), the competitive LEC's intrastate originating access service shall remain subject to the state rate regulation in effect as of December 31, 2011.

⁸ November 2011 Order, ¶¶ 798, 801.

⁹ Ibid., ¶ 38.

revenues. The FCC's ICC reforms require all LECs to reduce their interstate and intrastate terminating access switched end-office and reciprocal compensation rates in July of each year.

Price cap carriers transitioned these rates to bill-and-keep, effective July 3, 2018.¹⁰ The rate-of-return LECs (and competitive LECs that benchmark their rates) will reduce their switched end-office and reciprocal compensation rates to \$.0007, effective July 2, 2019.

The FCC recognized state commissions play a significant role in the ICC reforms and have oversight authority over a LEC's compliance with the FCC's directives.¹¹ To that end, any LEC that recovers its access revenue via the ARC and/or CAF must certify to the FCC and a state commission exercising jurisdictional authority over a LEC's intrastate costs that it is not seeking duplicative revenue recovery in the state jurisdiction,¹² and provide the certification with its access tariff filing. A LEC must also file its annual Baseline and Eligible Recovery data with the FCC and state commission.

The Commission first addressed the FCC's ICC reforms in Docket No. 12-GIMT-170-GIT. The Commission subsequently opened dockets each year to address the ICC reforms.¹³ Effective July 2018, all price cap LECs completed the transition of their interstate and intrastate terminating switched end-office rates to the bill-and-keep methodology and, for terminating traffic within a tandem serving area when the terminating price cap LEC owns the serving tandem switch, the rates were reduced to \$.007. In July 2018, the RLECs implemented the second phase of a three-year phase down in their interstate and intrastate terminating switched end-office access and reciprocal compensation rates, from \$.005 to \$.0007.¹⁴

The FCC allows competitive LECs that benchmark to a LEC's rate to file their tariffs fifteen days after the effective date of the LEC's tariff.¹⁵ Additionally, 47 C.F.R. § 61.26(c) provides that when an incumbent LEC lowers a rate to which a competitive LEC benchmarks, the competitive LEC's benchmark rate must be revised to the lower rate within fifteen days of the effective date of the incumbent LEC's revised rate.

For interstate tariff purposes, many of the RLECs concur in the National Exchange Carrier Association, Inc.'s (NECA) tariff, however, Columbus Communications Services, LLC (Columbus); LaHarpe Telephone Company (LaHarpe); Moundridge Telephone Company (Moundridge); Pioneer Telephone Association, Inc. (Pioneer); Rural Telephone Service Co., Inc. (Rural); Totah Telephone Co., Inc. (Totah); and Wamego Telecommunications Company (Wamego) maintain their own interstate tariffs.¹⁶

¹⁰ November 2011 Order, ¶ 801, Figure 9.

¹¹ *Ibid.*, ¶813.

¹² *Ibid.*, footnote 1664.

¹³ See Docket Nos. 13-GIMT-004-GIT; 13-GIMT-611-GIT; 14-GIMT-446-GIT; 15-GIMT-068-GIT; 15-GIMT-436-GIT; 16-GIMT-413-GIT; 16-GIMT-587-GIT; 17-GIMT-426-GIT; 18-GIMT-448-GIT; and 19-GIMT-006-GIT.

¹⁴ November 2011 Order, ¶ 801, Figure 9.

¹⁵ November 2011 Order, ¶ 807.

¹⁶ Moundridge, Pioneer and Totah's interstate tariffs are included in John Staurulakis, Inc.'s interstate tariff. Rural's interstate tariff is contained in Alexicon's interstate tariff.

Blue Valley, Columbus, and LaHarpe also maintain their own intrastate access tariffs. In contrast, Moundridge, Pioneer, Rural, Totah, and Wamego concur, in part of in Blue Valley's intrastate tariffs, but also include company-specific rates within Blue Valley's tariff for rates with which they do not concur. The remaining RLECs concur in Blue Valley's tariff and do not need to file separate intrastate access tariffs.

The Commission, in Docket 19-006, addressed the requirement in K.S.A. 66-2005(c) for the RLECs to adjust their intrastate access rates to parity with their interstate rates. The Commission recognized that it would open a new docket to address the FCC's July 2019 reforms and directed the RLECs to include their new intrastate originating access rates in the tariffs filed in conjunction with the FCC's July 2019 reforms.¹⁷

ANALYSIS

Effective July 2, 2019, the RLECs will transition their interstate and intrastate terminating end-office access and reciprocal compensation rates to \$0.0007. Pursuant to K.S.A. 66-117, an RLEC must file its proposed tariff revisions at least 30 days prior to the July 2, 2019, effective date and CenturyLink must file its tariff at least 21 days prior to the effective date.

The RLECs' revised tariffs will reflect the FCC's July 2, 2019, terminating rates and the intrastate originating rates approved by the Commission in Docket 19-006. Competitive LECs that benchmark to an RLEC's rates must reduce their terminating switched end office, transport, and reciprocal compensation rates accordingly. Because of the FCC's reforms, a majority of the RLECs and competitive LECs' intrastate access tariffs include a Uniform Resource Locator (URL) or reference to their interstate access tariffs. As a result, these LECs do not need to file revised intrastate access tariffs.

Staff will review the proposed tariffs to verify compliance with the FCC's requirements. If a proposed tariff does not comply with the FCC's requirements, Staff will work with the LEC to ensure such compliance. After its review of the RLECs' revised intrastate access tariffs, Staff will submit a Report and Recommendation regarding its review and its recommendations to the Commission. The Commission will then need to issue an Order approving the tariffs prior to the effective date of July 2, 2019. Furthermore, consistent with the FCC's rules, the RLECs, CenturyLink, and AT&T must submit their Baseline and Eligible Recovery and annual certification documentation to the Commission.

RECOMMENDATION

Staff recommends that the Commission issue an Order to open a new Docket to address the FCC's July 2019 ICC reforms. Staff recommends that the RLECs that need to file revised intrastate access tariffs be directed to file their tariffs in the new Docket by May 17, 2019. Staff recommends that the RLECs, CenturyLink, and AT&T file all documentation required by the FCC, including their Baseline, Eligible Recovery, and annual Duplicative Recovery Certification documentation, in the Docket the earlier of June 17th or the date the Company files this data with the FCC. Staff also recommends any competitive LEC that benchmarks its rates to an RLEC's rate be directed to

¹⁷ Order Adopting Revised Intrastate Access Rates, Revenues and KUSF Adjustments, Docket No. 19-GIMT-006-GIT, Oct. 18, 2018.

file its revised intrastate access tariffs in the Docket no later than June 14, 2019, and if a tariff will be effective after July 2, 2019, inform the Commission of its effective date. Finally, Staff recommends that if a LEC is required to file a revised interstate access tariff, the affected LEC should notify the Commission, submit any applicable revised intrastate access tariff, and advise the Commission of the effective date of the revised tariff.

CERTIFICATE OF SERVICE

19-GIMT-423-GIT

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 04/23/2019.

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19-GIMT-423-GIT

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