

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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

In the Matter of An Investigation to Determine)
the Assessment Rate for the Twenty-Second)
Year of the Kansas Universal Service Fund,) Docket No. 18-GIMT-084-GIT
Effective March 1, 2018.)

**ORDER APPROVING TRAFFIC FACTORS FOR USCOC OF NEBRASKA/KANSAS,
LLC AND KANSAS #15, LP D/B/A/ U.S. CELLULAR**

The above-captioned 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. Pursuant to K.S.A. 66-2008(a), the Commission requires “every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services and, to the extent not prohibited by federal law, every provider of interconnected VoIP service, as defined by 47 C.F.R. 9.3 to contribute to the [Kansas Universal Service Fund (“KUSF”)] based upon the provider’s intrastate telecommunications services net retail revenues on an equitable and nondiscriminatory basis.” On December 27, 1996, in Docket No. 94-GIMT-478-GIT, the Commission declared that the contribution would be a yearly assessment on each provider’s intrastate retail revenues.

2. Pursuant to the Commission’s Order of January 24, 2012, and Amended Order of February 1, 2012, in Docket No. 12-GIMT-168-GIT, wireless carriers and interconnected voice over internet protocol (VoIP) providers have three options for identifying their Kansas intrastate retail revenues. First, a provider may utilize the Federal Communications Commission's (FCC)

Safe Harbor percentages to allocate intrastate and interstate Kansas revenues.¹ If a wireless carrier or VoIP provider utilizes the Safe Harbor percentages, no filings regarding the methodology are necessary. Second, a wireless carrier or VoIP provider may utilize a traffic study to determine revenue allocations between jurisdictions. If the wireless carrier or VoIP provider uses the traffic study methodology, it must file to request to use the methodology for KUSF purposes and provide the jurisdictional percentages (also known as "traffic factors") to the Commission, at least annually in the annual KUSF docket, and identify the specific timeframes for which the traffic factors apply. This filing requirement applies even if the traffic factors did not change from the prior year. Third, a wireless carrier or VoIP provider may directly assign revenue between jurisdictions.² If the wireless carrier or VoIP provider uses the direct assignment methodology, it does not need to provide the jurisdictional percentages, but it must request approval to use the methodology and inform the Commission at least annually, in the annual KUSF docket, whether it continues to use such methodology. Additionally, if the wireless carrier or VoIP provider uses either the traffic study or direct assignment methodologies, it must provide an affidavit from an officer of the company attesting that it uses the inverse of the intrastate KUSF revenue percentages for interstate, Federal Universal Service Fund (FUSF) remittance purposes. Such affidavit should accompany the filings referenced above.

3. On October 26, 2018, USCOC of Nebraska/Kansas, LLC and Kansas #15, d/b/a U.S. Cellular (U.S. Cellular) filed its traffic study factors as of November 1, 2018. The filing was accompanied by an affidavit signed by John C. Gockley, Vice President for Legal and Regulatory

¹See Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd. 7518 ¶65 (June 27, 2006); *See also* Petition of Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues, WC Docket No. 06-122 (November 5, 2010).

²See Implementation Order Adopting Staff Report and Recommendation and requiring VOIP Providers Operating in Kansas to Report and Remit the Kansas Universal Service Fund by Jan. 15, 2009. ¶14, Docket No. 07-GIMT-432-GIT (Sep. 22, 2008).

Affairs for U.S. Cellular stating that the Company uses the traffic factor methodology and calculates its percentage for KUSF reporting purposes from the inverse of the federal percentage.

4. The Commission finds U.S. Cellular's filing appropriate and approves the traffic study factors submitted for KUSF remittance purposes.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. USCOC of Nebraska/Kansas, LLC and Kansas #15, d/b/a U.S. Cellular's traffic study factors, filed October 26, 2018, for the period ending November 30, 2018, are approved.

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. 77-542.³

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/27/2018 _____



Lynn M. Retz
Secretary to the Commission

AAL

³K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

18-GIMT-084-GIT

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 11/27/2018.

THOMAS J. CONNORS, ATTORNEY AT LAW
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
tj.connors@curb.kansas.gov

TODD E. LOVE, ATTORNEY
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.nickel@curb.kansas.gov

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
s.rabb@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3116
d.smith@curb.kansas.gov

MARK DOTY
GLEASON & DOTY CHTD
401 S MAIN ST STE 10
PO BOX 490
OTTAWA, KS 66067-0490
Fax: 785-842-6800
doty.mark@gmail.com

THOMAS E. GLEASON, JR., ATTORNEY
GLEASON & DOTY CHTD
PO BOX 6
LAWRENCE, KS 66049-0006
Fax: 785-856-6800
gleason@sunflower.com

CARLY FIOLA, COMPLIANCE REPORTING SPECIALIST
INTESERRA CONSULTING GROUP
151 SOUTHHALL LANE
SUITE 450
MAITLAND, FL 32751
cfiola@inteserra.com

KIMBERLY GEUDER, COMPLIANCE REPORTING
SPECIALIST
INTESERRA CONSULTING GROUP
151 SOUTHHALL LANE
SUITE 450
MAITLAND, FL 32751
kgeuder@inteserra.com

COLLEEN R. JAMISON
JAMES M. CAPLINGER, CHARTERED
823 SW 10TH AVE
TOPEKA, KS 66612-1618
Fax: 785-232-0724
colleen@caplinger.net

CERTIFICATE OF SERVICE

18-GIMT-084-GIT

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

MARK E. CAPLINGER
MARK E. CAPLINGER, P.A.
7936 SW INDIAN WOODS PL
TOPEKA, KS 66615-1421
mark@caplingerlaw.net

BRUCE A. NEY, EXEC. DIR.-SENIOR LEGAL COUNSEL
NEW CINGULAR WIRELESS PCS, LLC
D/B/A AT&T MOBILITY
816 CONGRESS AVE
SUITE 1100
AUSTIN, TX 78701-2471
Fax: 512-870-3420
bn7429@att.com

RACHEL LIPMAN REIBER, ATTORNEY
REIBER LAW OFFICE, LLC
214 S CHESTNUT, SUITE 3
OLATHE, KS 66061
Fax: 913-782-4445
rlreiberlaw@gmail.com

DIANE C. BROWNING, ATTORNEY
SPRINT SPECTRUM L.P.
KSOPHN0314-3A459
6450 SPRINT PKWY
OVERLAND PARK, KS 66251-2400
Fax: 913-523-0571
diane.c.browning@sprint.com

DAVID E. BENGTSON, ATTORNEY
STINSON LEONARD STREET LLP
1625 N WATERFRONT PKWY STE 300
WICHITA, KS 67206
Fax: 316-265-1349
david.bengtson@stinson.com

KEVIN K. ZARLING
UNITED TELEPHONE CO. OF KANSAS
D/B/A CENTURYLINK
400 W 15TH ST STE 315
AUSTIN, TX 78701-1647
Fax: 913-345-6756
kevin.k.zarling@centurylink.com

/S/ DeeAnn Shupe

DeeAnn Shupe