

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of Wheat State Telephone)
Company Filing Tariff Revisions to) Docket No. 15-WHST-438-TAR
Introduce Intrastate Ethernet Transport)
Service.)

ORDER APPROVING TARIFF REVISIONS

NOW, 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 record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On March 26, 2015, Wheat State Telephone Company (Wheat State) filed an Application requesting Commission approval of tariff revisions to its MTS, Access & Vertical Tariff. Supplementing its Application, Wheat State included copies of the revised tariff sheets making changes to Section 3, adding a new offering of Ethernet Transport Service, Sheets 1, 19-23. Wheat State anticipates an effective date of April 26, 2015 for implementation of the requested tariff revisions.

2. The Commission Staff (Staff), in its Report and Recommendation incorporated herein and made a part of this Order, states that the Commission derives its authority to review Local Exchange Carrier tariffs from K.S.A. 66-117(d), which reads 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.

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...

Referencing K.S.A. 66-1,189, Staff further indicates the Commission must review rates and terms for jurisdictional telecommunications services to ensure that they are “just and reasonable”. In addition, the Commission must ensure that all classifications, rules, and regulations regarding the services provided 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.¹

3. On April 6, 2015, Staff filed its Report and Recommendation dated March 31, 2015, recommending the Commission grant Wheat State’s Application and approve the requested tariff revisions to become effective April 26, 2015, as requested by the company. According to Staff, Wheat State’s new offering adding Ethernet Transport Service has a projected revenue impact of \$4,500 annually. This figure represents an estimate by the company inasmuch as it is unknown how many customers, if any, might subscribe to this service. Staff states that it has reviewed Wheat State’s filing and does not believe the revenue the company may receive as a result of this filing is materially greater than the company’s authorized cost recovery and rate of return would necessitate. Therefore, Staff does not recommend an audit be commenced at this time as a result of the filing. Wheat State’s last tariff filing occurred in

¹ Report and Recommendation, pages 1-2 and footnote 1.

August, 2014. Staff observes that telecommunications providers are encouraged to develop and market new offerings to be responsive to the newest technologies and customer needs. At the same time, Staff finds that Wheat State's filing is in the public interest in that it offers additional options for customers' communications needs. Staff further notes that Wheat State is current with all required filings and payments to the Commission. Concluding, Staff recommends the Commission grant Wheat State's Application and approve the company's requested tariff revisions, with the same to become effective April 26, 2015.²

4. The Commission adopts Staff's analysis and recommendation of March 31, 2015, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Wheat State's Application should be granted and the requested tariff revisions approved, with the same to become effective April 26, 2015.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Wheat State Telephone Company's Application is hereby granted and the proposed tariff revisions are hereby approved and shall become effective April 26, 2015, as requested by the company.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2014 Supp. 77-529.

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

² Report and Recommendation, pages 2- 3.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: APR 09 2015



ORDER MAILED APR 10 2015

Neysa Thomas
Acting Secretary

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TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Utilities Director

DATE: March 31, 2015

SUBJECT: Docket No. 15-WHST- 438-TAR

EXECUTIVE SUMMARY:

On March 26, 2015, Wheat State Telephone Company (Wheat State), filed a request to make tariff revisions to certain sections of its MTS, Access & Vertical Tariff. Staff recommends Commission approval of this Application.

The Commission action date is Friday, **April 24, 2015**.

ANALYSIS:

The Kansas Corporation Commission (KCC or Commission) derives its authority to review Local 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 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 Section 3 of the tariff. The changes are as listed:

- Add a new offering of Ethernet Transport Service, adding sheets 2,19-23;

The tariff change for the regulated service has a projected revenue impact of \$4,500 annually. The Company indicates this is an estimate. Ethernet Transport Service is a new offering so it is unknown how many customers, if any, might subscribe to this service. Wheat State is current with all filings and payments to the Commission.

Staff has reviewed the filing and does not believe the revenue the Company may receive as a result of this filing is materially greater than its authorized cost recovery and rate of return would necessitate; therefore, Staff does not recommend an audit be commenced at this time, as a result of this filing. The Company's last tariff filing was in August of 2014.

RECOMMENDATION:

Telecommunications providers are encouraged to develop and market new offerings to be responsive to the newest technologies and customer needs. Staff recommends the Commission approve this Application to be effective on April 26, 2015, as requested by Wheat State. Staff finds this filing to be in the public interest by offering additional options for the customers' communications needs.

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."

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
TOM MAURER, DIRECTOR TELECOM SUPPORT SERVICES (TSS) 2800 W WINDERMERE DRIVE TOPEKA, KS 66614-4895		
ARCHIE MACIAS, MANAGER WHEAT STATE TELECABLE INC. 106 W. 1ST ST. P.O. BOX 320 UDALL, KS 67146		

ORDER MAILED **APR 10 2015**

The Docket Room hereby certified that on this _____ day of _____, 20____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.