

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Received
on

AUG 3 2012

by
State Corporation Commission
of Kansas

In the Matter of Staff's Motion Requesting)
The Commission Order Zenda Telephone)
Company, Inc. to Submit to an Audit for) Docket No. 13-ZENT-065-KSF
Purposes of Determining Its Cost-Based)
Kansas Universal Service Fund Support,)
Pursuant to K.S.A. 66-2008.)

**ENTRY OF APPEARANCE AND
RESPONSE TO STAFF'S MOTION**

COMES NOW Thomas E. Gleason, Jr., of Gleason & Doty, Chartered, and enters appearance as counsel on behalf of Zenda Telephone Company, Inc. ("Zenda" or "company").

For its response to Commission Staff's motion herein, Zenda states as follows:

1. Zenda is a Kansas corporation providing local exchange and exchange access services pursuant to one or more Certificates of Convenience and Authority issued by this Commission. Zenda is also an Eligible Telecommunications Carrier for both federal and state support pursuant to this Commission's Order of December 5, 1997 in Docket No. 98-GIMT-241-GIT.

2. Zenda is a Carrier of Last Resort in its authorized service area pursuant to K.S.A. 66-2009 (2011 Supp.), operating under traditional rate of return regulation as authorized by K.S.A. 66-2005(b). Zenda is also a rural telephone company as defined by K.S.A. 66-1,187(1).

3. Zenda recognizes and supports this Commission's authority to conduct an audit to determine the company's cost-based Kansas Universal Service Fund ("KUSF") support. In choosing when to exercise this authority it is in the public interest for the Commission to consider the expense of such a proceeding ultimately borne by Kansas ratepayers.

4. Zenda supports the public interest in a cost-based KUSF, the public interest in financially stable providers of public utility services and the public interest in avoiding imposition of unnecessary or duplicative administrative expenses on KUSF-supported carriers.

5. At the time Staff filed its motion in this proceeding to initiate the proposed audit Staff was likely unaware of significant new investment and construction presently being undertaken by Zenda. This scheduled plant improvement is substantial, budgeted to include approximately \$***** in new investment in its rural Kansas exchange area.

6. At this time Zenda has secured financing, designed plant upgrades and received bids for a new fiber-optic facilities project to provide to its customers advanced services comparable to those available to urban telecommunications customers at comparable rates. Bids for construction of the new fiber facilities were opened August 1, 2012, and Zenda reasonably anticipates completion of this project by March 31, 2013. The immediate initial phase of this investment will provide basic and advanced communications capabilities for the Flat Ridge 2 wind energy generation project in Harper County, further supporting the public interest by facilitating development of renewable energy resources for Kansas consumers.

7. Zenda believes its new investment and costs for its new Kansas facilities will be eligible for consideration in establishment of the company's revenue

requirement in any KUSF audit. It is in the public interest that Zenda maintain its financial stability by having the opportunity for recovery of its approved investments and costs without undue delay.

8. Commission Staff should be afforded the reasonable opportunity to review Zenda's new investment and to make appropriate recommendations regarding inclusion of new facilities in the company's rate base. Under existing Commission policy and practice, such review and recommendation would be an appropriate issue to be addressed in Staff testimony in the audit proceeding presently contemplated.

9. Typically Staff testimony in a rural telephone company's KUSF audit would be filed approximately 150 days after the company's initial filing and testimony, and Zenda understands a period of some thirty days would be appropriately allowed for Staff's review of information relating to the new investment.

10. Taking the foregoing factors into account, Staff could review and make recommendations on recoverability of Zenda's entire new investment (in addition to all other issues) if Staff testimony were to be filed on or about May 1, 2013. Allowing for typical and customary scheduling and practices, this date could be accommodated by an initial company filing in a KUSF audit on or about December 1, 2013.

10. Proceedings in a full KUSF audit are lengthy, time-consuming and costly. The costs incurred in such an audit by Commission Staff and Zenda under current Commission policy and practice would be borne ultimately by ratepayers. Zenda would initially bear its own costs and a portion of Commission Staff costs, subject to recovery through amortization over five years. If any significant portion of Zenda's new investment were completed too late for consideration in the present audit the company would be obliged to initiate an immediate subsequent KUSF support proceeding in order to recover its allowable investment and costs not considered and resolved in the

audit. Such a series of events would risk imposition of multiple and duplicative expenses on the Kansas ratepayers contributing to the KUSF.

11. It would not be reasonable or prudent to impose the burdens of a KUSF audit on Zenda and the state's ratepayers if there is a high likelihood that significant portions of the process would be repeated shortly thereafter, due solely to a schedule that did not permit timely and efficient consideration of all known and measurable additional investment. Accordingly, a slight delay in the commencement of the proposed audit is in the public interest.

12. A related consideration is the burden that the proposed audit will impose on Zenda personnel. The new Zenda fiber project will by itself impose new demands on the limited time of its small staff, particularly in the project's earliest stages. The simultaneous imposition of initial audit responsibilities could interfere with the company's ability to meet ordinary consumer service needs and expectations. If the timing of the proposed audit resulted in arbitrary exclusion of new investment from consideration in a present audit a subsequent KUSF proceeding would require not only duplication of expense but also added repeated diversion of company personnel effort, compounding the likelihood that resources would be diverted unnecessarily from customer service.

12. In presentations to the Kansas Senate Utilities Committee January 10, 2012 and to the House Energy and Utilities Committee January 17, 2012, this Commission's chairman noted:

Participating in and complying with this quasi-judicial, quasi-legislative regulatory process is expensive – it typically involves many lawyers, consultants, expert witnesses and the like... It is a cost that's borne by Kansas consumers in the form of higher rates and investors in the form of higher costs and thus of lower returns on investments made in Kansas regulated entities. Minimizing that regulatory cost by pursuing

operational efficiencies is an important management mission of the Commission.

Zenda respectfully submits avoidance of costly and unnecessarily repetitious proceedings is an obvious operational efficiency available in meeting this important management mission.

13. It is in Zenda's interest to begin recovery of approved investment at the earliest time. Zenda has no motivation to defer an audit other than its interest in assuring that a timely audit addresses the legitimate interests of the company and the public alike. The proposed audit would determine the amount of additional recovery of that investment to which the company is entitled from the KUSF and Kansas ratepayers. Zenda believes that a short, specific deferral in scheduling of its KUSF audit would allow for the earliest possible review of its new costs and investments at the least possible public and administrative expense.

14. Even without regard to Zenda's forthcoming investments it is reasonable and appropriate for the commission to set an initial filing date later than would be customary in similar audits. Zenda has not been subjected previously to a KUSF audit, and its cost consultant has not participated in such an audit for any client. It is reasonable to allow longer than usual for a carrier and a consultant lacking such prior experience to meet extensive initial filing requirements. Additionally, cooperative preliminary exchange of information between the consultants and Commission Staff has the potential to identify areas of a typical audit that would be inapplicable in the case of such a small carrier as Zenda, potentially avoiding unnecessary effort and unnecessary costs.

15. Finally, and admittedly of lesser consequence, Zenda's counsel is already actively engaged in KUSF audits of two other clients. A brief deferral in initiating the

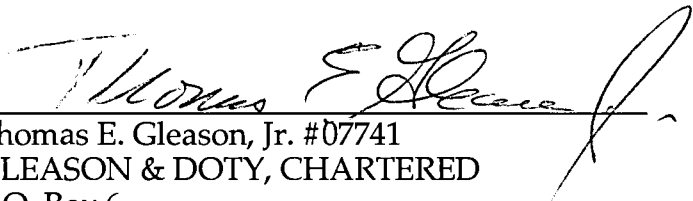
proposed audit of Zenda would relieve conflicting demands on counsel's time while minimizing the potential for scheduling difficulties for parties in multiple proceedings.

16. Zenda submits the foregoing information regarding the budgeted amount for new investment as proprietary and confidential under seal. Zenda believes that this information is of such competitive sensitivity that its disclosure to any person other than the individual carrier, the Commission, and Staff is prohibited by K.S.A. 66-1220(a). Disclosure of trade secrets and confidential information to any person, including parties to this proceeding, is prohibited unless the Commission finds the disclosure is warranted, after considering all of the factors in that statute. Zenda believes that disclosure of this information would have a significant and adverse impact on its competitive stance regarding existing or potential competing entities including wireless carriers and competitive local exchange carriers. Regulatorily mandated disclosure of any or all of the subject information would create a competitive bias in favor of any actual or potential competitor not required to provide comparable information, reducing or eliminating any benefit to consumers otherwise resulting from unbiased competition and damaging the submitting company's ability to engage in fair competition.

17. WHEREFORE Zenda requests that the order for audit requested by Staff be deferred only briefly, until later in 2012, and/or that the audit be initiated subject to a delayed initial filing for the company. As suggested above, a requirement that Zenda submit its additional testimony and information on or about December 1, 2012 would be appropriate, on the assumption and belief that such date would begin a procedural schedule reasonably permitting consideration of all of Zenda's new investment in a single comprehensive proceeding. The proposed brief deferral will permit timely opportunity for Zenda to recover its approved investments and costs while minimizing

the administrative burden on Commission Staff and company personnel, ultimately restraining the resulting burden on the KUSF and Kansas ratepayers.

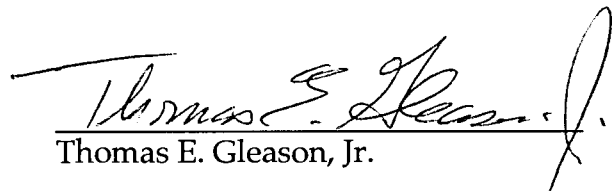
Respectfully submitted,


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VERIFICATION

STATE OF KANSAS, DOUGLAS COUNTY, ss:

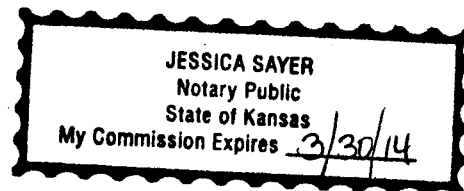
Thomas E. Gleason, Jr., of lawful age, being first duly sworn, on his oath states: He is the attorney for Zenda Telephone Company, Inc.; that he has read the above and foregoing pleading; that the statements, allegations and matters contained therein are true and correct.


Thomas E. Gleason, Jr.

Subscribed and sworn to before me this 3rd day of August, 2012.


Notary Public

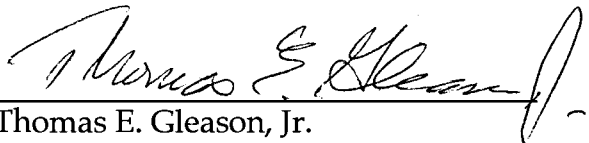
My Appointment Expires: 3/30/14



CERTIFICATE OF SERVICE

Thomas E. Gleason, Jr., hereby certifies that a true and correct copy of the above and foregoing pleading was personally delivered to the office of the following on this 3rd day of August, 2012:

Robert A. Fox, litigation counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604


Thomas E. Gleason, Jr.