

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

Before Commissioners: Brian J. Moline, Chair  
Robert E. Krehbiel  
Michael C. Moffet

In the Matter of the Investigation to Address )  
Obligations of VoIP Providers with Respect )  
to the KUSF )

Docket No. 07-GIMT-432-GIT

**ORDER OPENING DOCKET, ASSESSING COSTS, AND SOLICITING COMMENTS**

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 makes the following findings:

1. On June 27, 2006, the Federal Communications Commission (FCC) released an interim order finding that providers of interconnected Voice over Internet Protocol (VoIP) provide “telecommunications” and are therefore required to contribute to the Federal Universal Service Fund (FUSF).<sup>1</sup> Interconnected VoIP services are defined as those services meeting the following criteria:

(1) enable real-time, two-way voice communications; (2) require a broadband connection from the user’s location; (3) require IP-compatible customer premises equipment; and (4) permit users to receive calls from *and* terminate calls to the PSTN.<sup>2</sup>

---

<sup>1</sup> In the Matter of Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review-Streamlined Contributor Reporting Requirements Associated With Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability,; Truth-in-Billing and Billing Format, IP-Enabled Services, WC Docket No. 06-122, CC Docket Nos. 96-45, 98-171, 90-571, 92-237 NSD File No. L-00-72, 99-200, 95-116, 98-170, WC Docket No. 04-36, *Report and Order and Notice of Proposed Rulemaking*, released June 27, 2006. (“Interim Order”)

<sup>2</sup> Interim Order at ¶ 36.

2. The FCC established a safe harbor for interconnected VoIP providers designating 64.9 percent of traffic as interstate.<sup>3</sup> Interconnected VoIP providers may contribute to the FUSF using the safe harbor. Alternatively, interconnected VoIP providers may contribute to the fund based on actual revenues or based on the results of a traffic study submitted to the FCC for approval.<sup>4</sup> The FCC did not decide in its interim order whether VoIP providers are telecommunications carriers or information service providers.<sup>5</sup> The interim order has been appealed to the D.C. Circuit Court of Appeals.

3. On August 10, 2006, the Commission's staff (Staff) filed testimony in Docket No. 06-GIMT-332-GIT addressing the modifications made by the FCC to the safe harbor percent for assessment of wireless carriers.<sup>6</sup> The modification to the wireless safe harbor percentage was made in the interim order requiring interconnected VoIP providers to contribute to the FUSF. In its testimony, Staff discussed the VoIP safe harbor provisions and recommended the Commission open a docket to address VoIP providers' obligations regarding the KUSF.<sup>7</sup>

4. On September 8, 2006, the Commission issued its order in Docket No. 06-GIMT-332-GIT addressing the new wireless safe harbor percentage.<sup>8</sup> The Commission adopted Staff's recommendation and directed that a docket be opened to address whether to require VoIP providers to contribute to the KUSF.<sup>9</sup>

---

<sup>3</sup> Interim Order at ¶ 53.

<sup>4</sup> Interim Order at ¶ 54.

<sup>5</sup> Interim Order at ¶ 35

<sup>6</sup> In the Matter of the Investigation to Determine the March 1, 2006 Assessment for the Tenth Kansas Universal Service Fund Year, Docket No. 06-GIMT-332-GIT, *Notice of Filing Testimony Regarding Changes Affecting the Kansas Universal Service Fund and Recommending Procedural Schedule*, August 10, 2006 (Staff Testimony).

<sup>7</sup> Staff Testimony at pp. 12-14.

<sup>8</sup> In the Matter of the Investigation to Determine the March 1, 2006 Assessment for the Tenth Kansas Universal Service Fund Year, Docket No. 06-GIMT-332-GIT, *Order Adopting Staff's Supplemental Testimony Regarding Changes Affecting the Kansas Universal Service Fun*, September 8, 2006, (Order in 06-GIMT-332-GIT).

<sup>9</sup> Order in 06-GIMT-332-GIT at ¶ 7.

5. Pursuant to the Commission's September 8, 2006 order in Docket No. 06-GIMT-332-GIT, this docket is opened. K.S.A. 66-1502 authorizes the Commission to assess the expenses of an investigation, opened on its own motion, against public utilities if the expenses reasonably attributable to such investigation exceed the sum of \$100. The Commission will utilize members of its Staff in this investigation, and as deemed appropriate by the Commission, employ special assistants and consultants to investigate all matters connected with this proceeding. The Commission finds that the expenses reasonably attributable to this investigation will exceed \$100. The Commission concludes that the costs of this proceeding should be assessed to all entities that currently contribute to the KUSF: telecommunications public utilities, including telecommunications carriers and wireless telecommunications service providers. This order constitutes notice of the assessment of costs and the assessment will begin three days after the date this order is mailed. The entities assessed are hereby given notice that they may request a hearing as to the necessity of the investigation or the assessment of costs, in accordance with the provisions of the Kansas Administrative Procedure Act.

6. All the entities assessed and all providers of interconnected VoIP services in the state of Kansas are made parties to this investigation. This order and the final order in this docket will be served on all parties. Any party wishing to receive comments, other pleadings and intervening orders shall enter an appearance in this docket by November 15, 2006. Comments and other pleadings shall be served pursuant to the service list associated with this docket on the Commission's website. The Commission has served the providers listed on Attachment A. This list was compiled following a request for help identifying VoIP providers that Staff sent to certificated Local Exchange Companies and Competitive Local Exchange Companies. The Commission has not verified that each of the listed providers is providing VoIP services in

Kansas. Some of the providers on this list are certificated carriers that currently contribute to the KUSF. It is unclear that those parties that provide both traditional wireline services and VoIP services are excluding VoIP traffic when calculating KUSF contributions. A provider listed on Attachment A that does not provide VoIP services or includes all of its Kansas traffic in its KUSF calculation can make a filing in this docket addressing its status on or before November 15, 2006. Parties that are aware of other VoIP providers not included in Attachment A should notify Staff Counsel so that the other providers can be served a copy of this order or otherwise notified of this proceeding.

7. The Commission invites the parties that have entered their appearances to file comments addressing the issues in this docket. While comments may address all issues the commenting party deems relevant, the Commission requests that comments, at a minimum, address the following areas.

- a. The Commission's statutory authority to require VoIP providers to contribute to the KUSF.
- b. The ability of VoIP providers to identify local and interstate traffic.
- c. Whether any decision by the Commission to require contributions should differ based on whether a provider adopts the FCC's safe harbor or utilizes another method to calculate traffic.

8. Comments are due December 15, 2006. Reply comments are due January 12, 2007.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. This docket is opened to investigate whether interconnected VoIP providers should be required to contribute to the KUSF.

B. Costs shall be assessed as set out above. Parties that wish to file comments and receive pleadings and intermediate orders shall enter their appearances, as set out above, by November 15, 2006.

C. Comments are due December 15, 2006. Reply comments are due January 12, 2007.

D. The parties have fifteen days, plus three days if service of this Order is by mail, from the date of service of this Order in which to request rehearing on any matter decided herein. K.S.A. 66-118b, K.S.A. 2005 Supp. 77-529(a)(1).

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

**BY THE COMMISSION IT IS SO ORDERED.**

Moline, Chr.; Krehbiel, Com.; Moffet, Com.

Dated: NOV 02 2006

**ORDER MAILED**

NOV 02 2006

 Executive Director

\_\_\_\_\_  
Susan K. Duffy  
Executive Director

BL

<b>VoIP PROVIDERS IN KANSAS</b>				
<b>Company Name</b>	<b>Street Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
1TouchTone	Nuvio Corporation 8400 W. 110th Street Ste. 450	Overland Park	KS	66210
AllDigitalVoice	Infinet Communications #270-4611 Viking Way	Richmond	BC	V6V 2K9
Ascend Communications	119 W. Iron Ave., 4th Floor	Salina	KS	67402-2091
AT&T Inc.	220 SE Sixth, Room 515	Topeka	KS	66603-3596
BroadVoice, Inc.	P.O. Box 10	Billerica	MA	01862
Broadvox, Ltd.	1225 Euclid Avenue Ste. 390	Cleveland	OH	44115-1800
Cable One	309 N. Penn, Box 427	Independence	KS	67301
Cebridge Communications	16610 N. Dallas Parkway Suite 2300	Dallas	TX	75248
Centric Voice	5001 LBJ Freeway, Ste. 275	Dallas	TX	75244
Cinergy Communications	8829 Bond St.	Overland Park	KS	66214-1707
Clarity Telecommunications	35715 US Highway 40 Ste D104	Evergreen	CO	80439
Comcast	1500 Market St., 34 East	Philadelphia	PA	19102
CommPartners	3291 N. Buffalo Dr., Ste. 150	Las Vegas	NV	89129
Convergent Networks	900 Chelmsford Street Tower III	Lowell	MA	01851
Cox Communications	700 E. Douglas	Wichita	KS	67202
DIECA Communications, Inc., d/b/a Covad Communications Company	100 Congress Ave. Ste. 2000	Austin	TX	78701
Eagle Communications	2703 Hall St., Ste. 13 P.O. Box 817	Hays	KS	67601
EarthLink, Inc.	1375 Peachtree Street Level A	Atlanta	GA	30309
FonVantage	P.O. Box 399	Santa Barbara	CA	93102
Google, Inc.	1600 Amphitheatre Parkway	Mountain View	CA	94043
iConnectHere	deltathree, Inc. 75 Broad Street	New York	NY	10004
Level 3 Communications, LLC	1025 El Dorado Blvd.	Broomfield	CO	80021
Lightyear Network Solutions	1901 Eastpoint Parkway	Louisville	KY	40223

<b>VoIP PROVIDERS IN KANSAS</b>				
<b>Company Name</b>	<b>Street Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
Maximus Telecom	1855 St. Regis Blvd. Ste. 210	Dollard-des-Ormeaux	QC, Canada	H9B 2M9
Mediacom Cable	100 Crystal Run Road	Middletown	NY	10941
Midwest Connections	P.O. Box 188 1105 Baptiste Dr.	Paola	KS	66071
My Phone Company	1072 Madison Ave.	Lakewood	NJ	08701
NetComp	1860 Old Okeechobee Rd. Ste. 510	West Palm Beach	FL	33409
Nex-Tech Inc.	2418 Vine Street P.O. Box 339	Hays	KS	67601
Nuvio Corporation	8400 W. 110th Street Ste. 450	Overland Park	KS	66210
NuVox Communications	16090 Swingley Ridge Rd. Ste. 450	Chesterfield	MO	63017-6029
Opex Communications, Inc.	500 E. Higgins Rd., Ste. 201	Elk Grove Village	IL	60007
Packet 8	8x8 Inc. 3151 Jay St.	Santa Clara	CA	95054
Primus Telecommunications	7901 Jones Branch Dr. Ste. 900	McLean	VA	22102-3316
QCC (Qwest Corporation)	Qwest Law Dept. 1801 California St., 10th Floor	Denver	CO	80202
Reveal Communications	520 W 103rd, Ste. 233	Kansas City	MO	64114
SKT, Inc.	Southern Kansas Telephone 128 N Gorin P O Box 800	Clearwater	KS	67026
Skype Technologies	c/o Goldberg Godles Wiener & Wright 1229 19th Street, NW	Washington	DC	20036-2413
Sunflower Cable	The World Co. 644 New Hampshire P.O. Box 808	Lawrence	KS	66044
SunRocket, Inc.	8045 Leesburg Pike Ste. 300	Vienna	VA	22182
TelCove Investment	121 Champion Way	Canonsburg	PA	15317
Time Warner Cable Inc.	290 Harbor Drive	Stamford	CT	06902

<b>VoIP PROVIDERS IN KANSAS</b>				
<b>Company Name</b>	<b>Street Address</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
Verizon (Voicewing)	140 West Street	New York	NY	10007
ViaTalk Inc.	21 Corporate Drive, Ste. 203	Clifton Park	NY	12065
VoicePulse Inc.	2227 US Highway One, #224	North Brunswick	NJ	08902
VoIP Incorporated	151 S. Wymore Rd. Ste. 3000	Altamonte Springs	FL	32714
Vonage America, Inc.	2147 Rte. 27	Edison	NY	08817
Yahoo!, Inc.	721 First Ave.	Sunnyvale	CA	94089