

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

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

In the Matter of Mutual Telephone)
Company Filing Tariff Revisions to) Docket No. 17-MTLT-206-TAR
Mutual Bundle Services Changes.)

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 November 14, 2016, Mutual Telephone Company (Mutual) filed an Application requesting Commission approval of tariff revisions to its bundled service packages in its General Exchange Tariff. Supplementing its Application, Mutual included as an attachment a copy of the proposed revisions to its General Exchange Tariff, which includes the following:

- Part 2, 3rd Revised Sheet 29

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...as the commission determines reasonable and appropriate.

K.S.A. 66-1,189, also requires that the Commission 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 December 7, 2016, Staff filed its Report and Recommendation dated December 6, 2016, providing its analysis and recommendation regarding Mutual’s requested tariff revisions. According to Staff, Mutual’s filing grandfathers bundled service discounts of 10% for 4 or more bundled services; 7% for 3 bundled services; and 5% for 2 bundled services when the bundles include local telephone service provided by Mutual. The Bundled Services may include long distance service, broadband service, cellular service, or television service. Mutual anticipates no revenue effect associated with the requested changes. Staff believes customers will continue to have many choices for bundled services under the remaining bundles offered by the company. Concluding, Staff recommends the Commission grant Mutual’s Application and approve the requested tariff revisions.²

¹ Report and Recommendation, footnote 1.

² Id., page 2.

4. The Commission adopts Staff's analysis and recommendation of December 6, 2016, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Mutual's Application is reasonable, in the public interest, and should be granted and the requested tariff revisions approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Mutual Telephone Company's Application is hereby granted and the company's proposed tariff revisions are hereby approved and shall become effective as of the date of this Order.


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. 2015 Supp. 77-529.

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

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: DEC 13 2016



Amy L. Green
Secretary to the Commission

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Order Mailed Date

DEC 13 2016

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

FROM: Kelly Mabon, Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: December 6, 2016

RE: Docket No. 17-MTLT-206-TAR
In the Matter of Mutual Telephone Company Filing Tariff Revisions to
Mutual Bundle Service Changes.

EXECUTIVE SUMMARY:

On November 14, 2016, Mutual Telephone Company (Mutual) filed a request to make tariff revisions to its bundled service packages in its General Exchange Tariff. Staff recommends Commission approval of this Application.

The Commission action date is **Wednesday, December 14, 2016.**

BACKGROUND:

The Kansas Corporation 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 over which the Commission has control, 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

ANALYSIS:

This filing grandfathers bundled service discounts of 10% for 4 or more bundled services, 7% for 3 bundled services, and 5% for 2 bundled services when the bundles include local telephone service provided by Mutual. Bundled Services may include long distance service, broadband service, cellular service, or television service. The Company expects no revenue effect associated with these changes.

RECOMMENDATION:

Staff believes customers will continue to have many choices for bundled services under the remaining bundles offered by the Company. Staff recommends the Commission approve this Application with an effective date no later than December 14, 2016.

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 Rural 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.”

CERTIFICATE OF SERVICE

17-MTLT-206-TAR

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/hand delivered on DEC 13 2016.

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/s/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date
DEC 13 2016