

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Complaint of Ideatek )  
Telcom, LLC Against Nex-Tech and Rural )  
Telephone Service Company Regarding ) Docket No. 19- RRLT-277-COM  
Disconnection of Service, Request for Interim )  
Ruling and Request for Expedited Review. )

**PETITION FOR RECONSIDERATION OF  
IDEATEK TELCOM, LLC**

Ideatek Telcom, LLC (“Ideatek”), pursuant to K.S.A. 66-118b, K.S.A. 2017 Supp. 77-529, and K.A.R. 82-1-235, hereby respectfully petitions the State Corporation Commission of the State of Kansas (Commission) for reconsideration of its *Order Assessing Costs*, issued in this matter on January 29, 2019 (Assessment Order).

1. Ideatek’s *Complaint and Request for Expedited Review and Request for Interim Ruling* filed January 28, 2019, as amended on January 30, 2019 (“Complaint”), stated that the costs of this docket should be assessed against Rural Telephone Service Company (“Rural Telephone”). Ideatek asserted that the Commission’s assessment statute, K.S.A. 66-1502, provides that the Commission shall assess such expenses “against the public utility or common carrier investigated”, which in this case is Rural Telephone<sup>1</sup>. Further, Ideatek stated that assessing all costs to Rural Telephone would be equitable since an extended period of time had elapsed since Ideatek first sent a draft interconnection agreement (“ICA”) to Rural Telephone in an attempt to resolve this dispute without litigation and Rural Telephone had not yet provided a counter-proposal for review but had

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<sup>1</sup> Complaint, p. 9, ¶21.

threatened disconnection for non-payment of a disputed invoice that is part of the Complaint. Ideatek explained that blocking customer calls is in direct conflict with the FCC's admonishment that no carrier may block, choke, reduce or restrict traffic in any way.<sup>2</sup> Thus, under the language of the statute and for equitable reasons, Ideatek requested that the costs of this docket be assessed only to Rural Telephone.

2. In its Assessment Order, the Commission found that "the costs of this proceeding should be assessed to Ideatek Telecom, LLC and Rural Telephone Service Company, Inc., d/b/a Nex-Tech."<sup>3</sup> Ideatek's arguments regarding assessment were not discussed in the Order.

3. In the *Examiner Order on Request for Expedited Review and Other Procedural Rulings* issued February 1, 2019 ("Examiner's Order"), issues to be considered in the docket were listed, including the following:

- (10) What is an appropriate allocation of Commission assessment costs in a complaint matter involving an incumbent local exchange public utility and a VoIP service operator."<sup>4</sup>

As such, the question of assessment continues to be an unresolved issue at this time.

4. Ideatek requests the Commission reconsider its finding in the Assessment Order that costs should be assessed against both parties in this case. In addition to the language of K.S.A. 66-1502 and the fact that Rural Telephone has not provided a counter-proposal to Ideatek's ICA submitted to Rural Telephone on November 2, 2018, Rural Telephone has not provided any authority for its position and threat of disconnection and has engaged in anti-competitive behavior that jeopardizes uninterrupted service to customers in Kansas, all of which violate the federal

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<sup>2</sup> Complaint, p. 9, ¶21.

<sup>3</sup> Order Assessing Costs, p. 1, ¶1.

<sup>4</sup> Examiner's Order, p. 7, ¶10.

requirements for Rural to negotiate these matters in good faith<sup>5</sup>. This behavior is the reason the Complaint had to be filed, thus, the costs of this proceeding should be assessed to Rural Telephone. Accordingly, Ideatek petitions the Commission to reconsider its Assessment Order and modify it to assess all costs of this docket to Rural Telephone.

5. In the alternative, Ideatek requests that the Commission grant reconsideration of the Assessment Order for purposes of taking further evidence and postpone a final order on the assessment question until a final order on the substantive matters is issued. Ideatek does not believe a separate hearing on the assessment question is necessary since the issue can be addressed in conjunction with the other issues involved in the docket and, in fact, the resolution of the other issues may impact the assessment determination. However, the ultimate decision as to the proper party for assessment should apply back to the inception of this docket for all costs incurred. To prevent the possibility that the Assessment Order might later be considered final as to costs incurred during the course of the proceeding, with the final order in the docket applying only to costs incurred after the issuance of such final order, Ideatek is filing this request for reconsideration.

WHEREFORE, for the reasons set forth above,

(1) Ideatek respectfully requests the Commission reconsider its Assessment Order and modify it to assess all costs of this docket to Rural Telephone.

(2) In the alternative, Ideatek requests this petition for reconsideration be granted for purposes of taking further evidence on the issue, with the final order addressing the matter as to all costs of this docket from its inception.

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<sup>5</sup> See 47 C.F.R. 251(c)(1).

Respectfully submitted,

*/s/ Glenda Cafer*

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**COUNSEL FOR IDEATEK TELCOM, LLC**

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the above pleading was electronically served this 12<sup>th</sup> day of February, 2019 to:

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*Glenda Cafer*

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