

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of a General Investigation Into)
the Adjustment of Intrastate Switched Access)
Charges for Rural Telephone Companies in) Docket No. 19-GIMT-006-GIT
Compliance with K.S.A. 66-2005(c) and)
Federal Communications Commission)
Reforms.)

**ORDER ADOPTING REVISED INTRASTATE ACCESS RATES, REVENUES AND
KUSF ADJUSTMENTS**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On July 19, 2018, the Commission issued an Order Opening Docket and Establishing Procedural Schedule in this docket requiring rural local exchange carriers (RLECs) to submit certain data to the Commission by August 17, 2018. The purpose of the data submission was to enable the Commission to determine the requisite intrastate switched access rate adjustments and Kansas Universal Service Fund (KUSF) support adjustments necessitated by K.S.A. 66-2005(c) for 2019.

2. The Order Opening Docket and Establishing Procedural Schedule required Staff to file Direct Testimony by September 14, 2018. Rebuttal Testimony was due September 21, 2018, and an evidentiary hearing was to be held on October 4, 2018.

3. On September 12, 2018, Sandy Reams filed direct testimony in this proceeding with several attachments. Ms. Reams' pre-filed testimony recommended the Commission issue

an order to: (1) adopt the intrastate originating switched access rates and revenues, along with the corresponding KUSF support adjustments identified in the attachments to her testimony, with an effective date concurrent with the Federal Communication Commission's ("FCC's") July 2019 Intercarrier Compensation (ICC) reforms; (2) adopt a total reduction of \$38,673 to the RLECs' annual KUSF support, effective July 1, 2019; (3) find that the RLECs will not adjust any intrastate terminating access rates as a result of this Docket and, therefore, there is no impact to the RLECs' access revenue or KUSF support arising from terminating access rates; and (4) require the RLECs to file revised intrastate access tariffs in a separate proceeding to be opened by the Commission in the spring of 2019 to address the FCC's July 2019 reforms. Therefore, the testimony should be accepted into the record in this docket for Commission consideration.

4. No other party to the proceeding pre-filed testimony and upon Staff's unopposed motion, the Commission issued its Order Canceling Evidentiary Hearing on October 2, 2018.

Jurisdiction and Due Process

5. The Commission has general supervisory jurisdiction over local exchange carriers pursuant to K.S.A. 66-1,188 and jurisdiction over telecommunications public utility rates pursuant to K.S.A. 66-1,189. Additionally, the Commission has jurisdiction to adjust RLEC intrastate switched access rates and make KUSF modifications each odd-numbered year pursuant to K.S.A. 66-2005(c).

6. K.S.A. 66-2005 does not explicitly require the Commission to follow the Kansas Administrative Procedure Act (KAPA), found in K.S.A. 77-501 *et seq.*, in order to determine intrastate access or KUSF adjustments. However, to ensure parties to this proceeding have received due process, the Commission will follow KAPA voluntarily.

Standard for Approval

7. The Commission's determination in this matter must abide by the parameters espoused in K.S.A. 77-621(c) and K.S.A. 66-2005(c). The Commission's determination, among other things, must be based upon its lawful authority, and supported by substantial evidence when viewed in light of the record as a whole.

Commission Findings

8. Having reviewed Reams' Direct Testimony filed September 12, 2018, the Commission finds the arguments and recommendations contained therein to be compelling. The Commission finds that Reams' recommendations should be adopted in full.

9. Noting that no party formally opposed Reams' findings and recommendations, the Commission finds pursuant to K.S.A. 77-537(a)(3) that a good faith basis exists to believe that its decision in this proceeding will be supported by the applicable standard of proof, should the matter become fully adjudicated.¹

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The intrastate originating switched access rates and revenues identified in the attachments to Sandy Reams' September 12, 2018 Direct Testimony, with an effective date concurrent with the FCC's July 2019 ICC reforms are hereby adopted.

B. The total reduction of \$38,673 to the RLECs' annual KUSF support, effective July 1, 2019, identified in Reams' Direct Testimony and the Attachments to her testimony is adopted.

¹The standard of proof is "preponderance of the evidence." See *Bender v. Clark*, 744 F.2d 1424, 1429 (10th Cir. 1984) (stating "where Congress has failed to establish the degree of proof required in an administrative proceeding, the judiciary is the traditional, and most appropriate, forum to prescribe the standard ... The traditional standard required in a civil or administrative proceeding is proof by a preponderance of the evidence.").

C. The RLECs will not adjust any intrastate terminating access rates as a result of this Docket and, therefore, there is no impact to the RLECs' access revenue or KUSF support arising from terminating access rates.

D. RLECs shall file revised intrastate access tariffs in a separate proceeding to be opened by the Commission in the spring of 2019 to address the FCC's July 2019 reforms.

E. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.²

F. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 10/18/2018



Lynn M. Retz
Secretary to the Commission

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²K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

19-GIMT-006-GIT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 10/18/2018.

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