

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 to)
Review the Kansas Universal Service Fund) Docket No. 18-UTDT-356-GIT
Cap for the United Telephone Companies of)
Kansas d/b/a CenturyLink Pursuant to K.S.A.)
66-2008(d)(2).)

ORDER ADOPTING STAFF'S RECOMMENDATION

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:

Background

1. On February 27, 2018, the Commission issued an Order¹ opening this docket to fulfill its statutory duties under K.S.A. 66-2008(d)(2). The Order established a procedural schedule allowing for comments, reply comments, a Staff Report and Recommendation, and responses to Staff's Report and Recommendation. The Order specifically sought comment on the proper interpretation and implementation of K.S.A. 66-2008(d)(2).

2. K.S.A. 66-2008(d)(2) provides in full:

(2) The commission shall undertake a review of the capped amount of KUSF support available for each local exchange carrier operating under price cap regulation that receives such support, not including Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, and determine if a lesser amount is appropriate for KUSF distributions after March 1, 2019. Reviews of such carriers shall be based on the forward-looking costs of

¹Order Opening Docket; Requiring Entry of Appearance to Participate; Procedural Schedule, Docket No. 18-UTDT-356-GIT (Feb. 27, 2018) (Order).

providing basic voice service, using inputs that reflect the actual geography being served and that reflect the scale and scope of the local exchange carrier providing basic local voice service within each exchange.

3. Initial comments were filed by CenturyLink² and Sprint³ on March 30, 2018. Reply comments were filed by CenturyLink on April 20, 2018.

4. Staff reviewed the initial and reply comments and submitted a Report and Recommendation on May 23, 2018.⁴ No parties provided a response to Staff's Report and Recommendation.

Staff's Report and Recommendation

5. Noting that CenturyLink is the only price-cap carrier in Kansas at this time, Staff reached several conclusions in its Report and Recommendation.

6. First, Staff determined that K.S.A. 66-2008(d)(2) requires the Commission to determine whether the \$11.4 million cap under K.S.A. 66-2008(c)(1) should be reduced, as opposed to the per line support referenced under K.S.A. 66-2008(c)(3).⁵ In connection with this determination, Staff concluded that the Kansas Legislature, not the Commission, has the authority to change the amount of the cap; and the Commission's review of the cap should consider the historical decline in landline subscribership and the resulting impact to CenturyLink's Kansas Universal Service Fund (KUSF) support. Furthermore, the Commission should consider the fact that CenturyLink's annual KUSF support must be offset by Connect America Fund Phase II (CAF II) support, and that future support amounts are unknown at this time.⁶

²United Telephone Company of Kansas, United Telephone Company of Eastern Kansas, United Telephone Company of Southcentral Kansas, and Embarq Missouri, Inc. (collectively referred to as "CenturyLink").

³Sprint Communications Company L.P., Sprint Spectrum L.P. d/b/a Sprint PCS, Nextel West Corp. d/b/a Nextel, NPCR, Inc. d/b/a Nextel Partners, and Virgin Mobile USA.

⁴Notice of Filing of Staff's Report and Recommendation (May 23, 2018).

⁵Id. at 4.

⁶Id.

7. Second, Staff determined that when reading K.S.A. 66-2008(c)(3) and K.S.A. 66-2008(d)(2) together, CenturyLink's KUSF support must be based on the monthly per line KUSF support identified in the April 2000 Notice, adjusted for CAF II support received for each household. Furthermore, the Commission is required to base its review of the cap upon the forward-looking costs to provide basic voice service using inputs that reflect the geography of each exchange served and the scale and scope of providing service within each exchange.⁷

8. Third, Staff determined that the current KUSF cost model reflects the forward-looking costs using inputs that reflect the scale and scope of providing basic voice service in the geography of each exchange, in accordance with the statute.⁸ Furthermore, usage of the current KUSF cost model for purposes of reviewing the cap is most efficient under the circumstances because it does not require parties or the Commission to expend additional resources.⁹ Additionally, Staff noted that several updates are included in determining CenturyLink's annual KUSF support including the number of access lines and CAF II support.¹⁰ Therefore, usage of the current KUSF cost model in conjunction with the true-up data is sufficient for the Commission's review in this docket.¹¹

9. Fourth, Staff determined that if the Commission concludes the cap needs to be reduced, it would need to make a recommendation to the Kansas Legislature.

10. Ultimately, and based upon all available data, Staff recommended that the Commission take no action at this time to modify the cap on KUSF distributions to CenturyLink.¹²

⁷Id. at 6.

⁸Id. at 7.

⁹Id.

¹⁰Id. at 8.

¹¹Id.

¹²Id. at 9.

Commission Findings and Conclusions

11. The Commission has jurisdiction over this matter pursuant to K.S.A. 66-2008(d)(2).

12. Based upon the record, including the fact that no parties filed in opposition to Staff's Report and Recommendation, the Commission finds that Staff's recommendation is reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission will refrain from taking any action with respect to the cap on KUSF support for price-cap carriers at this time.


B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 06/26/2018 _____



Lynn M. Retz

MRN

CERTIFICATE OF SERVICE

18-UTDT-356-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 06/26/2018.

MARK BROWN, VICE PRESIDENT, REGULATORY
AFFAIRS
CHARTER COMMUNICATIONS
601 Massachusetts Ave NW
Suite 400W
Washington, DC 20001
mark.brown@charter.com

MARK E. CAPLINGER
MARK E. CAPLINGER, P.A.
7936 SW INDIAN WOODS PL
TOPEKA, KS 66615-1421
mark@caplingerlaw.net

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL
AFFAIRS
UNITED TELEPHONE CO. OF KANSAS
D/B/A CENTURYLINK
100 CENTURYLINK DR
MONROE, LA 71203
Fax: 913-345-6756
john.idoux@centurylink.com

BENJAMIN L. KING, GENERAL COUNSEL
JIVE COMMUNICATIONS, INC.
1275 W 1600 N STE 102
OREM, UT 84043
bking@getjive.com

MICHAEL NEELEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3167
m.neeley@kcc.ks.gov

DIANE C. BROWNING, ATTORNEY
SPRINT COMMUNICATIONS COMPANY L.P.
KSOPHN0314-3A459
6450 SPRINT PKWY
OVERLAND PARK, KS 66251
Fax: 913-523-0571
diane.c.browning@sprint.com

SUSAN B. CUNNINGHAM, ATTORNEY
DENTONS US LLP
7028 SW 69TH ST
AUBURN, KS 66402-9421
Fax: 816-531-7545
susan.cunningham@dentons.com

COLLEEN R. JAMISON
JAMES M. CAPLINGER, CHARTERED
823 SW 10TH AVE
TOPEKA, KS 66612-1618
Fax: 785-232-0724
colleen@caplinger.net

ROB LOGSDON, DIRECTOR REGULATORY AFFAIRS
COX KANSAS TELCOM, L.L.C.
D/B/A COX COMMUNICATIONS, INC
11505 WEST DODGE RD
OMAHA, NE 68154
Fax: 402-933-0011
rob.logsdon@cox.com

BRUCE A. NEY, ATTORNEY
SOUTHWESTERN BELL TELEPHONE CO.
D/B/A AT&T KANSAS
816 CONGRESS AVE
SUITE 1100
AUSTIN, TX 78701-2471
Fax: 512-870-3420
bn7429@att.com

CERTIFICATE OF SERVICE

18-UTDT-356-GIT

KEVIN K. ZARLING
UNITED TELEPHONE CO. OF KANSAS
D/B/A CENTURYLINK
400 W 15TH ST STE 315
AUSTIN, TX 78701-1647
Fax: 913-345-6756
kevin.k.zarling@centurylink.com

/S/ DeeAnn Shupe

DeeAnn Shupe