

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

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

In the Matter of an Audit of Twin Valley)
Telephone, Inc. to Determine its Cost-Based) Docket No. 15-TWVT-213-AUD
Kansas Universal Service Fund Support)
Pursuant to K.S.A. 66-2008.)

**ORDER OPENING AN AUDIT OF TWIN VALLEY TELEPHONE, INC.
TO DETERMINE AN APPROPRIATE AMOUNT OF
COST-BASED KANSAS UNIVERSAL SERVICE FUND SUPPORT**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records, the Commission makes the following findings:

1. The Kansas Universal Service Fund (KUSF) was established pursuant to K.S.A. 66-2008. Under K.S.A. 66-2008(b), distributions from the KUSF shall be made in a competitively neutral manner to qualified telecommunications public utilities, carriers and providers. K.S.A. 66-2008(d)(1) authorizes the Commission to periodically review the KUSF to determine if the costs of qualified telecommunications public utilities, carriers and providers to provide local service justify modification of the KUSF. If the Commission determines that any changes are needed, the Commission is to modify the KUSF accordingly.
2. In Docket No. 08-GIMT-154-GIT, the Commission established an "expenditure test" to determine whether carriers should be audited to assess adequate KUSF support.
3. In Docket No. 14-GIMT-468-GIT, and based upon the results of Twin Valley Telephone, Inc.'s (Twin Valley's) expenditure test, the Commission ordered Staff to open a company specific audit proceeding to evaluate whether the amount of KUSF support received by

Twin Valley is appropriate or if an adjustment is necessary. On November 21, 2014, Staff filed a Motion in this docket requesting the Commission order Twin Valley to submit to an audit.

4. The Commission has full power, authority and jurisdiction to supervise and control telecommunications public utilities doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.¹ All grants of power, authority and jurisdiction to the Commission are to be liberally construed.² The Commission has specific statutory authority to examine and audit any and all books, accounts, papers, records, property and memoranda kept by a public utility.³ As noted above, K.S.A. 66-2008(d)(1) specifically authorizes the Commission to periodically review the KUSF and the costs of providing local service and to make any necessary modifications to the KUSF.

5. Pursuant to its statutory authority, the Commission directs Twin Valley to submit to an audit to determine whether its level of KUSF support should be modified. The review of Twin Valley's KUSF support is properly within the scope of the Commission's jurisdiction.

Filing Requirements

6. As a Class A telephone utility having greater than \$1 million in annual operating revenues,⁴ Twin Valley is subject to K.A.R. 82-1-231. Therefore, Twin Valley shall file all data required under K.A.R. 82-1-231 and any additional information required by this Order.

7. To fully and fairly review the issues in this case, a clear understanding of Twin Valley's activities is necessary. Both non-regulated activities and affiliate transactions present

¹ See K.S.A. 66-1,187 and K.S.A. 66-1,188.

² K.S.A. 66-1,194.

³ K.S.A. 66-129.

⁴ K.A.R. 82-1-204a(c)(1).

the possibility of improper cross-subsidization or misallocation of costs. To develop a sufficient record, the Commission directs Twin Valley to provide a company witness who can discuss Twin Valley's corporate structure, cost allocation procedures, affiliate practices and transactions, and facts specific to Twin Valley's operations and policies. The official representative of Twin Valley shall file direct testimony in this docket and be available as a witness at the evidentiary hearing.

8. The test year utilized will be the twelve months ending December 31, 2014. Twin Valley shall make a filing in compliance with K.A.R. 82-1-231 no later than March 31, 2015, based upon 2014 audited financial information.⁵

9. The filing shall include:

- Direct Testimony from an officer or employee of Twin Valley.
- The NECA (National Exchange Carrier Association) cost study that is the basis for the separations factors used in the filing.
- A detailed explanation of the proposed capital structure, including a discussion of cost of capital and rate of return requested by Twin Valley in its filing.
- A structural organizational chart for the company, including all affiliates, parents, and subsidiaries.
- All allocation information required by K.A.R. 82-1-231(c)(4)(L), including, but not limited to, the cost allocation manual and a detailed written description of the procedures, rationales and calculations underlying all allocation formulas and ratios, together with references to the source documents and copies of supporting documents.
- For a subsidiary, the consolidated capital structure and cost of debt for the parent [K.A.R. 82-1-231(c)(4)(G)(iv)] and the most recent annual report for the parent [K.A.R. 82-1-231(c)(M)(i)].

10. To expedite discovery, Twin Valley shall provide the following standard audit items with their initial filing:

⁵Staff indicated in its Motion filed November 21, 2014, that Twin Valley may not possess audited financials by March 31, 2015. If that is the case, Twin Valley shall file using unaudited financials by March 31, 2015, and supplement its information with audited financials by April 30, 2015.

- A complete, fully indexed and cross-referenced set of the work papers, source documents and calculations (including any electronic medium with links and formulas intact) that support the testimony, exhibits, schedules and adjustments filed by Twin Valley.
- An organizational chart of the utility company, identifying various departments, job titles and positions for all employee levels.
- A complete set of the company's accounting manuals, policies and procedures, with a detailed description of the company's accounts and sub-accounts.
- The general ledger, both in hard copy and electronic format.
- Documents to explain and support all allocations, including contracts, leases, work papers and calculations.
- A detailed description, with supporting documentation, of the procedures and criteria used to allocate company personnel time (a) between regulated and non-regulated activities provided by the company; and (b) between Kansas regulated operations and activities for parents, affiliates or subsidiaries.
- A detailed explanation, with supporting documentation, of the methodology used for allocating joint costs and expenses: (a) between regulated and non-regulated activities; and, (b) between Kansas regulated operations and activities for parents, affiliates or subsidiaries.
- For each parent, subsidiary or affiliate of Twin Valley, state its relationship to the utility and provide the following:
 - a. Copies of any leases, contracts, joint service agreements, management or other agreements between the utility and its parent, affiliates or subsidiaries;
 - b. The location and number of employees of each subsidiary or affiliate, with a list of the services offered by the parent, subsidiary, or affiliate;
 - c. A complete list of any services provided by an affiliate to the utility, with a description of how the pricing of the service or product is calculated, the amounts charged to the utility during the test year, and all supporting documentation; and,
 - d. A complete list of any services provided by the utility company to an affiliate, with a description of how the pricing of the service is calculated, the amounts received by the utility during the test year, and all supporting documentation.

All of this information should be readily available as it should have been used by Twin Valley in preparing its filing.

11. Some of the information reviewed in this proceeding may be considered to be confidential under K.S.A. 66-1220a. The Commission will issue a separate Protective Order to protect the confidential nature of information that would fall within K.S.A. 66-1220a.

12. Staff may provide initial data requests to Twin Valley before the company makes its filing. Responses to these data requests are due within 7 days of the date the filing is made, not counting Saturdays, Sundays or legal holidays, unless otherwise specified. Responses to other Staff discovery requests are due within 7 days, not counting Saturdays, Sundays, or legal holidays.⁶ Responses to data requests from other parties are due within 10 days, not counting Saturdays, Sundays, or legal holidays. In computing the period of time for responding, the day on which the data request is issued is not counted. The Commission orders the following discovery procedures:

- (a) All data requests shall be served electronically upon counsel, consultants and designated contacts for each party.
- (b) Responses to data requests shall contain the name of the person providing the information needed to answer the request and the name of the person who can answer any follow-up questions.
- (c) If a party wishes to object to a data request, the party shall serve the opposing party with a written objection to the data request within 5 business days of service of the data request. Failure to make a timely objection will result in the party being deemed to have waived its objection, except for good cause shown.
- (d) An officer or employee of Twin Valley who is knowledgeable about Twin Valley's operations is to verify any company specific data or information relied upon by Twin Valley's consultant or provided in discovery. Discovery responses are to include the name and title of the Twin Valley representative who performs this verification.
- (e) Information deemed to be confidential must be so deemed consistent with K.S.A. 66-1220a.

⁶ K.A.R. 82-1-234a(b).

13. Communication Between Parties. For an audit to proceed smoothly, the parties must have regular communications. However, consistent with Kansas Rule of Professional Conduct 4.2, Staff counsel will communicate only with counsel for the company, and counsel for the company is to communicate with Staff counsel and not directly with Staff witnesses unless Staff counsel consents to direct communications. Company personnel, technical staff, including witnesses, and consultants may at all times communicate directly with each other.

14. Burden of Proof. In Docket No. 01-SKNT-544-AUD (544 Docket), the Order was served on all rural telephone companies operating in Kansas to assure that they were aware of decisions made that would affect all rural audits.⁷ The Commission found the company bears the burden of producing the evidence necessary to conduct the investigation and must provide the information needed to establish that its KUSF support is appropriate, regardless of who initiates the proceeding.⁸ The company also bears the burden of proving its KUSF support is justified and reasonable.⁹

15. Allocations. In the Order in the 544 Docket, the Commission found that utilities had the burden of affirmatively proving that expenditures were reasonable and necessary for regulated operations, and that if common costs are shared by regulated and unregulated operations, the company must propose a fair and reasonable allocation method for dividing the costs.¹⁰

⁷Non-Confidential Order Setting Revenue Requirements, Docket No. 01-SKNT-544-AUD, Sept. 10, 2001, ¶ (D).

⁸ *Id.*, ¶ 26.

⁹ *Id.*, ¶ 28.

¹⁰ *Id.*, ¶¶ 41-42.

16. Pre-Hearing Conference. After Twin Valley's filing is made, the Commission may schedule a pre-hearing conference to establish a procedural schedule and hearing date, and to consider any other matters that may promote the orderly and prompt conduct of the hearing.¹¹

THEREFORE, THE COMMISSION ORDERS:

A. Twin Valley Telephone, Inc. shall submit to an audit to determine the cost-based amount of its KUSF support.

B. Twin Valley shall file the information required by K.A.R. 82-1-231 by March 31, 2015, based on the test year for the twelve months ending December 31, 2014.¹² The filing is to include the information specified in Paragraphs 9 and 10.

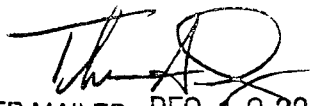
C. The parties have fifteen (15) days from the date of service, plus three (3) days if service is by mail, to petition for reconsideration.¹³

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: DEC 09 2014


ORDER MAILED DEC 10 2014
Thomas A. Day
Acting Executive Director

¹¹ K.A.R. 82-1-222 and K.S.A. 77-517.

¹² As noted in fn 1, Twin Valley may make its filing by March 31, 2015, using unaudited financial information, and supplement its filing by April 30, 2015, using audited financial information.

¹³ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

| NAME AND ADDRESS | NO. CERT. COPIES | NO. PLAIN COPIES |
|--|------------------------|------------------------|
| THOMAS E. GLEASON, JR., ATTORNEY GLEASON & DOTY CHTD PO BOX 6 LAWRENCE, KS 66049-0006 | | |
| MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered*** | | |
| MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered*** | | |
| BENJAMIN FOSTER, PRESIDENT & CEO TWIN VALLEY TELEPHONE, INC. 22 SPRUCE PO BOX 395 MILTONVALE, KS 67466 | | |

ORDER MAILED DEC 10 2014

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.