

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

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

In the Matter of the Application of Twin)
Valley Telephone Filing Tariff Revisions) Docket No. 19-TWVT-294-TAR
Changing Rates to its Bundles Services)

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 reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On January 29, 2019, Twin Valley Telephone (Twin Valley) filed an Application to revise its General Exchange Tariff by increasing the rates for certain bundles.¹ Twin Valley requested an effective date of March 1, 2019, for the revisions.

2. K.S.A. § 66-1,190 requires telecommunications public utilities doing business in Kansas 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, and shall furnish the commission copies of all rules and regulations and contracts between such telecommunications public utilities pertaining to any and all jurisdictional services to be rendered by such telecommunications public utilities.”

3. K.S.A. § 66-1,189 requires telecommunications public utilities to establish “just and reasonable” rates for all jurisdictional products and services rendered.

4. K.S.A. § 66-117(d) states in part:

¹Twin Valley is a rate-of-return regulated carrier based on its election under K.S.A. § 66-2005(b).

(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.

5. In Docket No. 04-GIMT-1080-GIT, the Commission stated that proposed tariff revisions made by rate-of-return regulated telecommunications carriers will not prompt an audit unless information indicates the carrier is or will be receiving “materially greater revenue than its authorized cost recovery and rate of return would necessitate...” *See* Order Dismissing Docket, p. 5, Docket No. 04-GIMT-1080-GIT (Sept. 28, 2004).

6. Commission Staff (Staff) submitted a Report and Recommendation regarding the proposed tariff revisions on February 8, 2019, attached hereto and made a part hereof by reference. Staff indicated that Twin Valley proposed to increase rates for certain discount bundles that include access lines, calling feature packages, inside wire maintenance, and various combinations of internet and television service. Staff also indicated that Twin Valley filed a statement in this docket indicating that the increases to the bundles were attributable to non-regulated services, such as internet and television. However, 50 cents of the increase was attributable to the increase in access line rates approved by the Commission in Docket No. 19-GIMT-056-GIT. Based on these facts, Staff recommended approval of Twin Valley’s requested tariff revisions.

7. The Commission finds Staff’s findings and recommendation to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. Twin Valley’s proposed tariff revisions are approved effective March 1, 2019.
- 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.

Keen, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: 02/19/2019



Lynn M. Retz
Secretary to the Commission

MRN

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Dwight D. Keen
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

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

DATE: February 8, 2019

RE: Docket No. 19-TWVT-294-TAR
In the Matter of the Application of Twin Valley Telephone Filing Tariff Revisions
Changing Rates to its Bundled Services.

EXECUTIVE SUMMARY:

On January 29, 2019, Twin Valley Telephone (Twin Valley) filed a request to increase its residential and business rates and rates for bundles including video service in its General Exchange Tariff. Staff recommends Commission approval of this Application.

The Commission action date is **Thursday, February 28, 2019.**

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:

On January 10, 2019, the Commission issued an Order in Docket No. 19-GIMT-056-GIT, in accordance with K.S.A. 66-2005(e), that adopted a \$17.75 affordable residential and \$20.75 single-line business rate for the rate of return regulated Rural Local Exchange Carriers (RLECs). The Commission directed the RLECs to file revised local service tariffs in this Docket by January 29, 2019, with the tariffs to be effective March 1, 2019.

In addition to the increase in the access line rates, Twin Valley is increasing the monthly rates for certain discount bundled rates. These bundles include access lines, calling feature packages, inside wire maintenance, and various combinations of internet and television services.

- Flex Basic bundle business rate group one increases from \$145.25 to \$150.75, business rate group two increases from \$160.75 to \$170.75, and business rate group three increases from \$160.75 to \$171.20. Residential rate group one increases from \$143.65 to \$148.65, rate group two increases from \$150.65 to \$160.65, and rate group three increases from \$150.65 to \$160.65.

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.”

- Pulse bundle business rate group one is set at \$184.25 - this service was not previously available to customers in rate group one, business rate group two increases from \$147.25 to \$192.25, and business rate group three increases from \$147.70 to \$192.70. Residential rate group one is set at \$142.15 - this service was not previously available to customers in rate group one, residential rate group two increases from \$137.15 to \$142.15, and rate group 3 increases from \$137.15 to \$142.15.

At the request of Staff, the Company filed a statement in this Docket stating any increases over and above the 50 cent increase for access lines are attributed to non-regulated services, such as internet and television services.

RECOMMENDATION:

These rate increases are partially a result of the 50 cent increase in access line rates approved by the Commission in Docket No.19-GIMT-056-GIT, in accordance with K.S.A. 66-2005(e), and the remainder of the increases apply to non-regulated services. Staff recommends the Commission approve this tariff filing with an effective date of March 1, 2019, as requested by the Company.

CERTIFICATE OF SERVICE

19-TWVT-294-TAR

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 02/19/2019.

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

TOM MAURER, DIRECTOR
TELECOM SUPPORT SERVICES (TSS)
2708 SAINT CHRISTOPHER CTR
MANHATTAN, KS 66302-2216
Fax: 785-862-2003
tmaurer@tssks.com

BENJAMIN FOSTER, PRESIDENT & CEO
TWIN VALLEY TELEPHONE, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
Fax: 785-427-2216
ben.foster@tvttinc.net

SCOTT LEITZEL, ASSISTANT GENERAL MANAGER
TWIN VALLEY TELEPHONE, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
Fax: 785-427-2216
scott.leitzel@tvttinc.net

/s/ DeeAnn Shupe

DeeAnn Shupe