

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Dwight D. Keen, chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of Certification of Compliance)
with Section 254(e) of the Federal)
Telecommunications Act of 1996 and) Docket No. 19-GIMT-399-GIT
Certification of Appropriate Use of Kansas)
Universal Service Fund Support

**SEPARATE RESPONSE OF HOME TELEPHONE COMPANY TO STAFF REPORT
AND RECOMMENDATION REGARDING ADDITIONAL PENALTIES**

Comes now Home Telephone Company (“Home” or “company”) and submits its separate Response to the October 8, 2019 Report and Recommendation of Commission Staff herein. Regarding the propriety of assessing penalties generally against small rate of return rural telephone companies Home adopts by reference the response of the Independent Telecommunications Group, Columbus *et al.*, (“Columbus”) filed herein. This Response additionally addresses the apparent Staff recommendation for a penalty specific to Home.

1. Home submitted a timely initial filing June 28, 2019 pursuant to the Commission’s Order of April 11, 2019. The company first became aware of Staff questions regarding that filing through an email from Christine Aarnes to the company received after business hours on July 24, 2019.

2. Home disputes the Staff assertion that its June 28, 2019 filing herein was in error or incomplete. Staff’s identification of an “issue” with that response addresses a

claimed need “to obtain the response to question 1, which was not answered on Attachment 6.”

3. Question 1 in Attachment 6, provide to carriers in the Commission’s Order of April 11, 2019, is as follows:

All ETCs must provide detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect: (i) at least 10% of the end users served in a designated service area; or (ii) a 911 specialty facility as defined in 47 CFR 4.5(e).

Home had no information responsive to this question, as the company and its customers experienced no outages meeting the specified description during the year for which information was requested.

4. The question as submitted to the company in the Commission-approved attachment to the Order of April 11, 2019 did not ask *whether there had been any such outages*, nor did it direct that the company should state “None” if that would be an accurate statement. A blank response to question 1 in this case is both accurate and complete.

5. Home’s first contact from Staff regarding the subject question was received after business hours July 24, 2019, 23 days after the filing deadline and 28 days after the company’s filing. Home’s counsel, who had received a copy of Staff’s email, replied at 5:18 that day that counsel would check on the issue but assumed the blank answer meant that there had been no applicable outages.

6. Rather than engage in a potentially lengthy communication regarding the intent of the earlier blank response the company sent a revised response to Staff at 9:03 a.m. July 25, 2019, stating the question was “not applicable.” In response to a further

email from Staff, Home promptly clarified further that “not applicable” was a confirmation that there had been no outages meeting the question’s terms.

7. Staff responded to Home’s clarification via email at 9:45 a.m. July 25, 2019 as follows: “Thank you for the clarification, Tina. I will print this email off and put it with your filing. In the future, please state ‘none’ instead of not applicable to avoid any possible confusion.”

8. Home appreciates Staff’s cooperation in resolving any uncertainty arising from the form of the question at issue and commends Staff for avoiding the need for additional administrative costs that would have resulted from requiring preparation and filing of a formal “corrected” response. The simplicity and promptness of Home’s response to Staff’s July 24 initial inquiry, and the minimal time and effort required of Staff and the company, clearly indicate imposition of penalties in such circumstances would be wasteful and an unreasonable creation of an unnecessary regulatory burden.


9. Whether or not the company expressly stated there had been no such outages, the complete absence of outages formed no factual basis affecting consideration of the company’s recertification as an Eligible Telecommunications Carrier (“ETC”). Neither the company’s accurate initial response nor its prompt response to Staff’s request for clarification did anything to delay or impede Staff’s performance of its responsibilities in this Docket.

10. The company clarified its initial timely and accurate response almost immediately upon the company’s first ability during business hours to address Staff’s inquiry. Staff’s report and recommendation of October 8, 2019 would appear to recommend that Home be subjected to a penalty of \$750 or more based on these circumstances. The Commission may want to clarify the requirements for response to

this question in subsequent proceedings, but Home's timely and accurate initial response forms no basis for imposition of a penalty in any amount.

WHEREFORE Home Telephone Company urges that the Commission determine a penalty to be unreasonable and unwarranted in the foregoing circumstance.

Respectfully Submitted,



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VERIFICATION

STATE OF KANSAS, DOUGLAS COUNTY, ss:

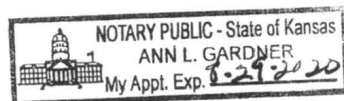
Thomas E. Gleason, Jr., of lawful age, being first duly sworn, on his oath states: He is the attorney for Home Telephone Company; that he has read the above and foregoing Answer; that the statements, allegations and matters contained therein are true and correct.


Thomas E. Gleason, Jr.

Subscribed and sworn to before me this 11th day of October, 2019.


Notary Public

My Appointment Expires: 8-29-2020



CERTIFICATE OF SERVICE

Thomas E. Gleason, Jr., hereby certifies that a true and correct copy of the above and foregoing Response was servrd electronically on the following on this 11th day of October, 2002:

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