

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

Before Commissioners: Thomas E. Wright, Chairman  
Ward Loyd

In the Matter of the Proceeding to Conduct a )  
Financial and Operational Audit of Kansas )  
Relay Service, Inc.'s (KRSI) Administration )  
Of the Dual Party Relay Service and ) Docket No. 07-KRST-143-KSF  
To Determine that Costs Recovered through )  
The Kansas Universal Service Fund (KUSF))  
For these programs Are Reasonable and )  
Appropriate. )

**ORDER GRANTING IN PART AND DENYING IN PART STAFF PETITION  
FOR CLARIFICATION AND/OR RECONSIDERATION AND  
DIRECTING STAFF TO UNDERTAKE RFP PROCESS FOR BIDS**

The above-captioned matter comes on before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission grants in part, and denies in part, the Petition for Reconsideration of Commission staff (Staff) and directs Staff to proceed with the request for proposal (RFP) process to obtain a manager for the Kansas Relay Service, Inc. (KRSI).

1. In its October 13, 2006 Order in this docket, the Commission concluded that a financial and operational audit of KRSI was necessary to ensure the costs recovered through the Kansas Universal Service Fund (KUSF) were reasonable and appropriate.

2. Staff conducted the audit of the operational and financial aspects of KRSI's management of the telecommunications relay service (TRS) and telecommunications access program (TAP).<sup>1</sup> In its Report, Staff determined, among other things, that no documentation was available to support the monthly fee that the Kansas

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<sup>1</sup> Staff Report and Recommendation, October 25, 2011 (Report), p. 1.

Telecommunications Industry Association (KTIA) charged KRSI. Staff was unable to ascertain whether management agreements were cost-based because of the very structure of the agreements. And, there was a lack of current written procedures outlining the methodology for the allocation of common/joint costs between KRSI and KTIA. *Id.*, pp. 3, 5. In the long run, Staff recommended that (1) the Commission subject KRSI to a competitive bidding process and (2) exclude the KRSI Chairman from evaluating the RFP responses to avoid any appearance of conflict of interest. *Id.*, p. 12.

3. In its reply to Staff,<sup>2</sup> KRSI explained that the KRSI Board subcommittee developed the management contract and identified the “common/joint” costs. *Id.* para. 1. Further, KRSI complained that Commission Staff never advised it of the sort of cost study and cost allocation manual that would satisfy Staff. *Id.* para. 2. KRSI management reported that it was in the final quarter of a year-long cost study. *Id.*

4. Because of this assurance from KRSI management, the Commission determined that it would be a waste of resources to move to immediate bidding when KRSI’s cost study was nearly completed.

5. KRSI filed its “Time Allocation Cost Study 2010” on March 14, 2011 (2010 Study).

6. The 2010 Study is less than what the Commission anticipated.

7. In its Report, Staff determined, “Management agreements have been executed between KRSI and KTIA that effectively set a fixed price for the day-to-day administrative functions for KRSI.” Thus, according to Staff, “The agreements allow for the payment of common/joint costs between KTIA and KRSI and the payment of a fixed monthly fee that escalates on an annual basis. The agreements are structured to identify

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<sup>2</sup> Comments of KRSI to Staff Report and Objection to Recommendation (Reply).

the common/joint costs allocated between KTIA and KRSI, which are added to a ‘plug’ number representing a base administrative fee such that the total equals the monthly fee stated in the agreements.” Report p. 2.

8. In its Petition,<sup>3</sup> Staff reported that its recommendation to pursue a request for proposal to provide KRSI’s day-to-day management is “primarily based on the overarching problem that KRSI’s payments to KTIA are based on a *fixed* fee that exceeds the amount of documented costs allocated to KRSI from KTIA.” *Id.* para. 6.

9. The Commission finds that the KRSI’s Time Allocation Cost Study is a cost study in name only. Allocation of expenses, including salaries, wages and benefits, is an important element in determining the cost of providing a service. However, such allocation does not address all costs incurred to provide a service. KRSI’s Time Allocation Cost Study does not support all of the costs the KTIA charged KRSI.

10. The Commission further finds that the KRSI management team had notice of Staff’s concern of the fixed fee basis of KRSI payments to KTIA. Staff’s concern was articulated in its October 25<sup>th</sup> Report, p. 2. KRSI made no comment on Staff’s concern other than stating that the KRSI Board subcommittee “based the administrative fee on percentage of salary, prorated share of rent, equipment rental, postage, telephone expenses, etc. KRSI staff had to provide documentation to justify the figures used.”<sup>4</sup>

11. The Commission concludes that KRSI’s Time Allocation Cost Study fails to show that all costs recovered through the KUSF are reasonable and appropriate. The Commission further concludes that the Staff should proceed with the RFP process to obtain a manager for the Kansas Relay Service, Inc. By this Order, the Commission by

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<sup>3</sup> Staff’s Petition for Clarification and/or Reconsideration, filed March 15, 2011 (Petition).

<sup>4</sup> Comments of KRSI to Staff Report and Objection to Recommendations, para. 1, November 5, 2010.

no means excludes the present KRSI management from bidding the RFP. However, the Commission agrees with Staff that the Chairman of KRSI should be excluded from the evaluation of the RFP responses to avoid any appearance of conflict of interest.

12. In view of the foregoing, the Commission concludes that Staff's petition for clarification is moot, and the Commission declines to address moot matters.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The KRSI Time Allocation Cost Study fails to demonstrate that all costs paid to KTIA through the Kansas Universal Service Fund are reasonable and appropriate.

B. The Commission directs Staff to proceed with the request for proposal process to obtain a manager for Kansas Relay Service, Inc. The current KRSI management is not excluded from responding to the RFP. However, the Chairman of KRSI is excluded from the evaluation of the responses to the RFP to avoid any appearance of conflict of interest.

C. If the current KRSI management wants the Commission to reconsider any final issue determined herein, it must file a petition for reconsideration within 15 days of service of this Order. If this Order is mailed, service is complete upon mailing and petitioner may add three days to the 15-day suspense date. All petitions for reconsideration must be served on the Commission's Executive Director.

D. The Commission retains jurisdiction over the subject matter of this docket for the purpose of issuing such additional orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Wright, Chmn.; Loyd, Comm.

Dated: APR 12 2011

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**ORDERED MAILED**  
**APR 13 2011**  
*Susan K. Duffy* **EXECUTIVE**  
**DIRECTOR**

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Susan K. Duffy, Executive Director

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROBERT A. FOX, ATTORNEY FOX LAW LLC 2107 SW VILLAGE HALL RD TOPEKA, KS 66614-5014		
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COLLEEN HARRELL, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
JOYCE HIGHTOWER, KRSI/TAP DIRECTOR KANSAS RELAY SERVICE, INC. (KRSI) 4848 SW 21ST STREET, SUITE 201 TOPEKA, KS 66604-4415		

ORDER MAILED **APR 13 2011**

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.