

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 An Investigation to Determine)
the Assessment Rate and the Affordable Local)
Service Rates for Rate-of-Return Regulated) Docket No. 19-GIMT-056-GIT
Carriers for the Twenty-Third Year of the)
Kansas Universal Service Fund, Effective)
March 1, 2019.)

ORDER APPROVING TRAFFIC FACTORS FOR MIDCONTINENT
COMMUNICATIONS D/B/A MIDCO

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. Pursuant to K.S.A. 66-2008(a), the Commission requires “every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services and, to the extent not prohibited by federal law, every provider of interconnected VoIP service, as defined by 47 C.F.R. 9.3 to contribute to the [Kansas Universal Service Fund (“KUSF”)] based upon the provider’s intrastate telecommunications services net retail revenues on an equitable and nondiscriminatory basis.” On December 27, 1996, in Docket No. 94-GIMT-478-GIT, the Commission declared that the contribution would be a yearly assessment on each provider’s intrastate retail revenues.

2. Pursuant to the Commission’s Order of January 24, 2012, and Amended Order of February 1, 2012, in Docket No. 12-GIMT-168-GIT, wireless carriers and interconnected voice over internet protocol (VoIP) providers have three options for identifying their Kansas intrastate

retail revenues. First, a provider may utilize the Federal Communications Commission's (FCC) Safe Harbor percentages to allocate intrastate and interstate Kansas revenues.¹ If a wireless carrier or VoIP provider utilizes the Safe Harbor percentages, no filings regarding the methodology are necessary. Second, a wireless carrier or VoIP provider may utilize a traffic study to determine revenue allocations between jurisdictions. If the wireless carrier or VoIP provider uses the traffic study methodology, it must file to request to use the methodology for KUSF purposes and provide the jurisdictional percentages (also known as "traffic factors") to the Commission, at least annually in the annual KUSF docket, and identify the specific timeframes for which the traffic factors apply. This filing requirement applies even if the traffic factors did not change from the prior year. Third, a wireless carrier or VoIP provider may directly assign revenue between jurisdictions.² If the wireless carrier or VoIP provider uses the direct assignment methodology, it does not need to provide the jurisdictional percentages, but it must request approval to use the methodology and inform the Commission at least annually, in the annual KUSF docket, whether it continues to use such methodology. Additionally, if the wireless carrier or VoIP provider uses either the traffic study or direct assignment methodologies, it must provide an affidavit from an officer of the company attesting that it uses the inverse of the intrastate KUSF revenue percentages for interstate, Federal Universal Service Fund (FUSF) remittance purposes. Such affidavit should accompany the filings referenced above.

3. On January 24, 2019, Midcontinent Communications d/b/a Midco (Midco) filed their traffic study factors for the period beginning January 1, 2018, and ending December 31, 2018.

¹See Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd. 7518 ¶65 (June 27, 2006); *See also* Petition of Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues, WC Docket No. 06-122 (Nov. 5, 2010).

²See Implementation Order Adopting Staff Report and Recommendation and requiring VOIP Providers Operating in Kansas to Report and Remit the Kansas Universal Service Fund by January 15, 2009. ¶14, Docket No. 07-GIMT-432-GIT (Sep. 22, 2008).

The filing was accompanied by a verification signed by Patrick J. Mastel, General Counsel for Midco.

4. The Commission finds Midco's filing appropriate and approves the traffic study factors submitted for KUSF remittance purpose.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Midcontinent Communications d/b/a Midco's traffic study factors filed on January 24, 2019, for the period beginning January 1, 2018, and ending December 31, 2018, are approved.


B. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.³

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: 02/05/2019 _____



Lynn M. Retz
Secretary to the Commission

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³K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

19-GIMT-056-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 02/05/2019.

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CERTIFICATE OF SERVICE

19-GIMT-056-GIT

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