

<sup>1</sup> Sprint's Initial Comments, pgs. 1 – 2, ¶¶2 – 3.

general rule of statutory construction that every word in a statute is presumed to mean something and have a purpose.<sup>2</sup>

2. Moreover, by failing to address the Commission’s specific questions, Sprint’s preferred statutory construction of K.S.A. 66-2008(d)(2) requires the Commission to ignore the resulting conflict with K.S.A. 66-2008(c)(3), which was the subject of Commission Question No. 2. CenturyLink’s Initial Comments pointed out that K.S.A. 66-2008(c)(3) fixes the amount of monthly per line KUSF support that CenturyLink is entitled to receive.<sup>3</sup> Sprint’s construction of K.S.A. 66-2008(d)(2) is based in large part on an argument that it makes no sense for subsection (d)(2) to mandate a review of only the support cap because the Commission is not authorized to actually lower the cap.<sup>4</sup> However, Sprint’s argument would equally apply to defeat Sprint’s interpretation of K.S.A. 66-2008(d)(2), because K.S.A. 66-2008(c)(3) prohibits the Commission from adjusting CenturyLink’s monthly per line KUSF support. Consequently, it would make no sense to interpret K.S.A. 66-2008(d)(2) to apply to CenturyLink’s support amounts, as Sprint does, when K.S.A. 66-2008(c)(3) does not allow the Commission to modify CenturyLink’s monthly per line support amounts.

3. By avoiding Commission’s Question No. 2 in its Initial Comments, Sprint offers no method for harmonizing the conflict that its interpretation of K.S.A. 66-2008(d)(2) creates with the plain language of K.S.A. 66-2008(c)(3). In contrast, CenturyLink’s Initial Comments point out that by interpreting K.S.A. 66-2008(d)(2) as mandating a review of the support cap, there is

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<sup>2</sup> See, e.g., *In re Adoption of H.C.H.*, 297 Kan. 819, 304 P.3d 1271, 2013 Kan. LEXIS 591, 2013 WL 3378679 (addressing a statutory cross-reference to provisions that no longer exist, and citing to a U.S. Supreme Court opinion noting the canon of statutory construction that courts should try to give effect to every word, “if possible.”) The use of “capped” in K.S.A. 66-2008(d)(2) can be read as merely descriptive, but that would make the word totally unnecessary. It makes far more sense to interpret “capped amount” as the amount of the cap.

<sup>3</sup> CenturyLink’s Initial Comments, pgs. 3 – 4.

<sup>4</sup> Sprint’s Initial Comments, pg. 2, ¶3.

no direct conflict with K.S.A. 66-2008(c)(3),<sup>5</sup> and subsection (d)(2) does not *clearly* authorize the Commission to either reduce the cap *or* reduce CenturyLink's support.<sup>6</sup> Subsection (d)(2) authorizes the Commission to "determine if a lesser amount" is appropriate in the future but, whether the "amount" referred to is the amount of the cap or the amount of CenturyLink's support, there are other statutory provisions that appear to prohibit the Commission from acting to lower either.<sup>7</sup> What the Commission can do is make a determination and report that determination to the Legislature for its consideration and use in possibly revising K.S.A. 66-2008.

4. Sprint focuses the remainder of its Initial Comments on the requirement in K.S.A. 66-2008(d)(2) that the Commission's review "shall be based on the forward-looking costs of providing basic voice service, using inputs that reflect the actual geography being served and that reflect the scale and scope of the local exchange carrier providing basic local voice service within each exchange." Commission Question No. 3 asks what inputs to the Hybrid-Proxy Cost Model ("HCPM"), used for KUSF support calculations, should be modified, if any? Sprint's Initial Comments support the idea that certain inputs should be updated, but predictably Sprint only proposes updating inputs that would have the effect of producing lower forward-looking costs. CenturyLink's Initial Comments made clear that after the passage of 20 years, all inputs would need to be updated, including inputs for costs that have increased over the past 20 years. Only by updating all inputs will the calculated forward-looking costs "reflect the economic realities of providing service," which is the outcome Sprint argues for, and CenturyLink couldn't agree more that the economic realities of CenturyLink's obligation to provide service is what the

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<sup>5</sup> CenturyLink's Initial Comments, pgs. 3 – 4, ¶6.

<sup>6</sup> *Id.*, pg. 7, ¶10.

<sup>7</sup> K.S.A. 66-2008(c)(1) as to the cap, and (c)(3) as to CenturyLink's support.

Commission must examine. However, unlike CenturyLink's Initial Comments, Sprint's Initial Comments do not recognize the necessity of using current cost model technology to accurately model forward-looking costs.

5. Finally, Sprint argues the Commission should take notice of changing trends in wireless and wireline subscription rates as a factor to consider in its review,<sup>8</sup> although only within the framework of Sprint's interpretation that K.S.A. 66-2008(d)(2) mandates a review of CenturyLink's monthly per line KUSF support. Perhaps Sprint is unaware that as CenturyLink sees a decrease in wireline customers whose lines are supported, the amount of KUSF support CenturyLink receives decreases. Regardless of Sprint's comments, Kansas law still requires CenturyLink to be the Carrier of Last Resort ("COLR") and to provide universal service, and Kansas law requires the cost of that service in rural high cost areas to be supported. "Consumer choice" may have driven the amount of CenturyLink's KUSF support to historically low levels, but consumers' need for wireline service at reasonable rates has not abated. However, CenturyLink does agree with Sprint that the decline in wireline subscription is a factor the Commission should consider, whether the Commission reviews the support cap or CenturyLink's monthly per line KUSF support.

6. As CenturyLink pointed out in its Initial Comments, the decrease in wireline subscribers combined with CenturyLink's COLR obligations have made it increasingly expensive for CenturyLink to provide wireline universal service throughout the entirety of its Kansas territory (including areas that do not receive KUSF support), especially as measured on a per access line basis. CenturyLink's KUSF support has dropped nearly one-third since House Bill 2201 (2013) was enacted and CenturyLink currently receives only \$8 million in high-cost KUSF support –

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<sup>8</sup> Sprint's Initial Comments, pg. 3, ¶5.

more than \$3 million below the statutory cap.<sup>9</sup> Even CenturyLink's gross high-cost KUSF support amount – the amount before CAF II funding offsets – is below the statutory cap. A review of the per-line support amount as suggested by Sprint would first require the selection of a relevant cost model and it is highly likely that the result of an updated forward-looking cost calculation would be a need for increased support because CenturyLink's total KUSF support has declined more than 50% since 2010 while it is required to maintain 100% of its COLR network.

7. In conclusion, CenturyLink asserts that Sprint's Initial Comments failed to address all the interrelated statutory elements that the Commission sought input about in its Order Opening Docket and Soliciting Comments, dated February 27, 2018. CenturyLink's Initial Comments did address all the Commission's questions and, when CenturyLink's and Sprint's respective Initial Comments are considered together, the *overall* legislative intent of the relevant components of K.S.A. 66-2008(c) and (d) is arguably ambiguous. What Staff's Report and Recommendation, and CenturyLink's Initial Comments, show is that there is currently no urgency to lower CenturyLink's KUSF support cap. Furthermore, because CenturyLink's KUSF support has been steadily declining, there is no urgency to engage in a resource-intensive cost model and forward-looking cost review to set new per line support amounts. CenturyLink has presented a coherent and harmonized interpretation of K.S.A. 66-2008(c) and (d) that can allow the Commission to move forward with its statutory mandate under K.S.A. 66-2008(d)(2).

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<sup>9</sup> CenturyLink's Initial Comments, pg. 3, ¶3.

Respectfully submitted,  
CENTURYLINK

A handwritten signature in dark ink, appearing to read "Kevin K. Zarling". The signature is fluid and cursive, with the first name "Kevin" and last name "Zarling" clearly distinguishable.

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VERIFICATION

STATE OF TEXAS                   )  
  ) ss.  
COUNTY OF TRAVIS            )

Kevin K. Zarling, of lawful age, being first duly sworn, on oath deposes and states:

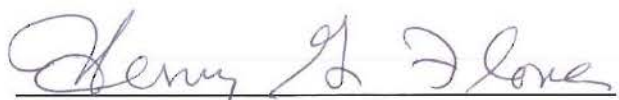
That he is an attorney for CenturyLink in the above-referenced matter; that he has read the Reply Comments of CenturyLink in Docket No. 18-UTDT-356-GIT, knows and understands the contents thereof and states that the statements and allegations contained therein are true and correct, according to his knowledge, information and belief.

  
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KEVIN K. ZARLING

Subscribed and sworn to before me this 18<sup>th</sup> day of April, 2018.

My Appointment Expires:



  
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Notary Public in and for said County and State

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 20<sup>th</sup> day of April 2018, a copy of the above and foregoing was served via electronic mail to each of the following:

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