

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of Blue Valley Telecommunications)
Filing Tariff Revisions to Reflect Changes of) Docket No. 17-BLVT-353-TAR
Bundles & Public Telephone 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 examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On February 3, 2017, Blue Valley Tele-Communications, Inc. (Blue Valley) filed an Application requesting Commission approval of tariff revisions to its General Exchange Tariff. Supplementing its Application, Blue Valley included as attachments copies of its proposed tariff revisions which include the following:

- Index, 7th Revised Sheet 1
- Section 2, 2nd Revised Sheet 14
- Section 2, 4th Revised Sheet 15
- Section 3, 5th Revised Sheet 5

Blue Valley anticipates an effective date of March 6, 2017.

2. The Commission Staff (Staff), in its Report and Recommendation incorporated herein and made a part of this Order, states that the Commission derives its authority to review Local Exchange Carrier (LEC) tariffs from K.S.A. 66-117(d), which reads 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.

K.S.A. 66-1,190 provides in part that telecommunications public utilities doing business in Kansas shall:

... 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...the commission shall have 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...

K.S.A. 66-1,189, also requires that the Commission review rates and terms for jurisdictional telecommunications services to ensure that they are “just and reasonable”. In addition, the Commission must ensure that all classifications, rules, and regulations regarding the services provided are not unduly discriminatory or preferential. Because telecommunications providers must constantly adapt to consumer needs, the Commission 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

3. On February 20, 2017, Staff filed its Report and Recommendation dated February 16, 2017, providing its analysis and recommendation regarding Blue Valley’s requested tariff revisions. According to Staff, Blue Valley’s filing in this matter decreases the number of Discount Bundled Service (DBS) packages offered by the company from ten to three. The DBS packages remaining include some reductions ranging from -\$7.00 to -\$5.35 per month for business and residential customers; and some increases ranging from \$0.25 to \$1.90 per month for business and residential customers. Blue Valley’s filing also increases the prices for the company’s DBS packages to account for the increase in local rates of \$0.25 pursuant to K.S.A. 66-2005(e) and the January 19, 2017 Order issued in Docket No. 17-GIMT-008-GIT, and an

¹ Report and Recommendation, pages 1 and 2.

additional increase of \$1.40 to meet the federal local service rate floor. Blue Valley anticipates additional monthly revenue of \$3,500. Staff adds that pursuant to K.S.A. 66-2005(e), the Commission will determine a new affordable rate for the rural LECs, effective March 1, 2019, based on rates in effect October 1, 2018. Consequently, the additional revenues generated by the current rate increase will be captured as an adjustment to Blue Valley's Kansas Universal Service Fund (KUSF) support at that time. Blue Valley's filing also deletes Public Telephone Service since the company no longer provides this service.²

4. Staff determines that the amount of revenue generated from Blue Valley's requested increases is consistent with the increase in local rates of \$0.25 pursuant to K.S.A. 66-2005(e) and the January 19, 2017 Order issued in Docket No. 17-GIMT-008-GIT and an additional increase of \$1.40 to meet the Federal Local Service rate floor. The additional revenues generated by the current rate increase will be captured as an adjustment to Blue Valley's KUSF support in the Commission's 2018 docket to determine a new affordable rate. Concluding, Staff recommends the Commission grant Blue Valley's Application and approve the requested tariff revisions, effective March 6, 2017, as requested by the company.³

5. The Commission adopts Staff's analysis and recommendation of February 16, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Blue Valley's Application is reasonable, in the public interest, and should be granted and the requested tariff revisions approved.

² Id., page 2.

³ Ibid., page 3.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Blue Valley Tele-Communications, Inc.'s Application is hereby granted and the company's proposed tariff revisions are hereby approved and shall become effective March 6, 2017.

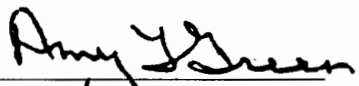
B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2015 Supp. 77-529.

C. The Commission retains jurisdiction over Blue Valley Tele-Communications, Inc. and the subject matter of this docket for the purpose of entering such further order, or orders, as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: FEB 23 2017



Amy L. Green
Secretary to the Commission

oan

Order Mailed Date

FEB 24 2017

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

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

DATE: February 16, 2017

RE: Docket No. 17-BLVT-353-TAR
In the Matter of Blue Valley Tele-Communications, Inc. Filing Tariff Revisions
to Reflect Changes of Bundles & Public Telephone Services.

EXECUTIVE SUMMARY:

On February 3, 2017, Blue Valley Tele-Communications, Inc. (Blue Valley) filed a request to make tariff revisions to add a new Custom Calling Feature to its General Exchange Tariff. Staff recommends Commission approval of this Application.

The Commission action date is **Sunday, March 5, 2017.**

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:

This filing decreases the number of Discount Bundled Service (DBS) packages offered by Blue Valley from ten to three. The remaining DBS packages have been modified to include long distance minutes and broadband service. Pricing of the remaining DBS packages includes some reductions, ranging from -\$7.00 to -\$5.35 per month for business and residential customers; and some increases ranging from \$.25 to \$1.90 per month for business and residential customers.

This filing also increases the prices for Blue Valley’s DBS packages to account for the increase in local rates of \$.25 increase pursuant to K.S.A. 66-2005(e) and the January 19 Order in Docket No. 17-GIMT-008-GIT and an additional increase of \$1.40 to meet the federal local service rate floor. Blue Valley anticipates additional monthly revenue of \$3,500. Pursuant to K.S.A. 66-2005(e), the Commission will determine a new affordable rate for the rural LECs, effective March 1, 2019, based on the rates in effect October 1, 2018. Thus, the additional revenues generated by the current rate increase will be captured as an adjustment to Blue Valley’s KUSF support at that time.

The filing also deletes Public Telephone Service as Blue Valley no longer provides this service.

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.”

RECOMMENDATION:

The amount of revenue generated from these increases is consistent with the increase in local rates of \$.25 increase pursuant to K.S.A. 66-2005(e) and the January 19 Order in Docket No. 17-GIMT-008-GIT and an additional increase of \$1.40 to meet the federal local service rate floor. The additional revenues generated by the current rate increase will be captured as an adjustment to Blue Valley's KUSF support in the Commission's 2018 docket to determine a new affordable rate.

Staff recommends the Commission approve this Application with an effective date of March 6, 2017, as requested by the Company.

CERTIFICATE OF SERVICE

17-BLVT-353-TAR

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on **FEB 23 2017**.

TOM MAURER, DIRECTOR
TELECOM SUPPORT SERVICES (TSS)
2800 SW WINDERMERE DRIVE
TOPEKA, KS 66614-4895
Fax: 785-862-2003
tmaurer@tssks.com

OTTO NEWTON, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3167
o.newton@kcc.ks.gov
Hand Delivered

BRIAN THOMASON, GENERAL MANAGER
BLUE VALLEY TELE-COMMUNICATIONS, INC.
1559 PONY EXPRESS HWY
HOME, KS 66438
Fax: 785-799-3530
bthomason@bluevalleyinc.net

/S/ DeeAnn Shupe
DeeAnn Shupe

Order Mailed Date

FEB 24 2017