

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

Before Commissioners:                    Andrew J. French, Chairperson  
                                                         Dwight D. Keen  
                                                         Annie Kuether

In the Matter of Rural Telephone Service Co.,   ) Docket No. 24-RRLT-470-TAR  
Inc. dba Nex-Tech Filing Tariff Revisions.       )

**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 records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. BACKGROUND**

1. On December 29, 2023, Rural Telephone Service Company, Inc., d/b/a Nex-Tech (“Nex-Tech”) filed a request to make tariff revisions to its Local Exchange Service Tariff.<sup>1</sup>

2. Nex-Tech’s filing makes revisions to its Local Exchange Tariff with regard to Video Services Bundles, Residential and Business Internet Bundles.<sup>2</sup> Nex-Tech estimates this tariff revision will have no revenue effect.<sup>3</sup>

3. On January 4, 2024, Commission Staff (“Staff”) submitted its Report and Recommendation (“R&R”) recommending the Commission grant Nex-Tech’s Application and approve the requested tariff revisions.<sup>4</sup>

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<sup>1</sup> Tariff for Rural Telephone Service Co., Inc. dba Nex-Tech (Dec. 29, 2023) (“Application”).

<sup>2</sup> Application, pp. 3 – 4.

<sup>3</sup> *Id.*, p. 1

<sup>4</sup> Staff’s Report and Recommendation (Jan. 4, 2024) (“Staff’s R&R” or “R&R”).

## II. LEGAL STANDARDS

4. The Commission derives its authority to review Local Exchange Carrier tariffs from K.S.A. 66-117(d). In significant part, the statute states:

... (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.

5. K.S.A. 66-1,190 provides, in relevant 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...

6. 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.<sup>5</sup>

## III. ANALYSIS

4. Staff analyzed the Application and determined there is no revenue effect of this tariff revision as all changes are due to non-regulated services.<sup>6</sup> Staff has not found any information to indicate Rural is receiving “materially greater revenue” than its authorized cost recovery.<sup>7</sup>

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<sup>5</sup> Staff’s R&R, p. 2.

<sup>6</sup> *Id.*, p. 3.

<sup>7</sup> *Id.*

5. Staff recommends that the Commission approve the revisions proposed by Nex-Tech.<sup>8</sup>

6. The Commission adopts Staff's analysis and recommendation as stated in its R&R, which is attached hereto and made a part hereof by reference, and finds that Nex-Tech's Application should be granted and the requested tariff revisions approved.

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

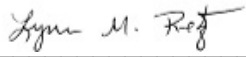
A. Rural Telephone Service Company, Inc., d/b/a Nex-Tech's tariff revisions are hereby approved.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A.-529(a)(1).<sup>9</sup>

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

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 01/23/2024

  
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Lynn M. Retz  
Executive Director

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<sup>8</sup> Staff's R&R, p. 3.

<sup>9</sup> K.S.A. 66-1118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Andrew J. French, Chairperson  
Dwight D. Keen, Commissioner  
Annie Kuether, Commissioner

**FROM:** Drennan Dolsky, Telecommunications Analyst  
Steve Garrett, Deputy Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** January 4, 2024

**SUBJECT:** Docket No. 24-RRLT-470-TAR  
In the Matter of Rural Telephone Service Co., Inc. dba Nex-Tech Filing Tariff Revisions.

**EXECUTIVE SUMMARY**

On December 29, 2023, Rural Telephone Service Co., d/b/a Nex-Tech (Rural Telephone) filed an Application for approval of a revised tariff to make changes to service rates and charges within its Local Exchange Tariff. Staff recommends the Commission approve this Application, with a February 1, 2024 effective date as requested by the Company.

The Commission action date is January 26, 2024.

**BACKGROUND**

Rural Telephone is a certificated Incumbent, Rural Local Exchange Carrier. Rural Telephone is headquartered in Lenora, Kansas, and its CEO is Jimmy Todd.

The 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 Commission 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 Commission 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 (04-1080 Docket) 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.

Prior to 2004, if a rate of return carrier asked for an increase in revenue outside of a rate case, the Commission policy was to adjust the amount received for an increased rate by a corresponding decrease in draw from the Kansas Universal Service Fund (KUSF) pursuant to K.S.A. 66-2005(d). In *Rural Telephone Service Co. v. Kansas Corporation Commission*, 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.<sup>1</sup>

The Commission opened the 04-1080 Docket to determine how to address requests for revenue increases via tariff revisions in between KUSF audits.<sup>2</sup> Ultimately, the Commission determined that Staff should continue to conduct an individual evaluation of any proposed tariff revision made by a rate-of-return regulated company affecting its revenues to determine the reasonableness of the proposed rates.<sup>3</sup> If Staff evaluates information indicating that a rate-of-return regulated carrier is receiving “materially greater revenue” than its authorized cost recovery and rate of return would necessitate, then the Commission will consider whether to conduct an audit.<sup>4</sup>

## ANALYSIS

Rural Telephone’s revision to its Local Exchange Tariff includes the following changes to non-regulated revenues:

- Section 1, Fifteenth Revised Sheet 6 increases the Video Service Bundled Pricing. The Company will increase the pricing from \$103.95 to \$113.95.
- Section 1, Ninth Revised Sheet 7, includes changes to the Company’s Local Exchange Service Rates and Charges.

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<sup>1</sup> 31 Kan. App. 2d 760, 765 (2003); *see* Order Opening Docket, Soliciting Comments and Assessing Costs, ¶ 1, 04-1080 Docket (Jun. 4, 2004) (04-1080 Order Opening Docket).

<sup>2</sup> *See* 04-1080 Order Opening Docket, ¶ 2.

<sup>3</sup> *Id.*, ¶ 11.

<sup>4</sup> *Id.*

- The Company will be implementing the removal of several Mbps offerings for Residential Symmetrical and Business Symmetrical at speeds of 25, 150, and 300 Mbps.
- However, they will add a 500 Mbps service offering for Residential Symmetrical and Business Symmetrical.
- The company will also be lowering the price for the 100 Mbps from 52.01 to 49.01 for Residential Symmetrical and from 88.95 to 69.00 for Business Symmetrical and 1 Gig from 129.01 to 89.01 for Residential Symmetrical and from 303.95 to 199.00 for Business Symmetrical.
- The Business Premium- Includes WI-FI Hotspot Symmetrical speeds of 100, 150, 300, and 1 Gig Mbps will also be removed.

Staff has analyzed the Application and has determined there is no revenue effect of this tariff revision as all changes are due to non-regulated services. Staff has not found any information to indicate Rural is receiving “materially greater revenue” than its authorized cost recovery.

### **RECOMMENDATION**

Staff recommends the Commission approve this tariff filing as requested by the Company, with an effective date of February 1, 2024.

**CERTIFICATE OF SERVICE**

24-RRLT-470-TAR

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 01/23/2024.

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/S/ KCC Docket Room  
KCC Docket Room