

COLLEEN R. JAMISON
JAMISON LAW, LLC

May 24, 2024

Lynn M. Retz, Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Rd.
Topeka, KS 66604

RE: RLEC Initial Comments
Depreciation
Docket No. 24-GIMT-459-GIT

Dear Ms. Retz:

Attached please find the initial comments of the rural incumbent local exchange carriers in the above-captioned docket.

If you have any questions, please let me know.

Sincerely,

JAMISON LAW, LLC

Colleen R. Jamison

Colleen R. Jamison

Att.

cc: Carly Masenthin
Kyler Wineinger
Anthony Veach
Mark Doty

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

In the Matter of a General Investigation into)
Depreciation Rates applicable to Rural) Docket No. 24-GIMT-459-GIT
Incumbent Local Exchange Carriers)

COMMENTS OF THE RURAL INCUMBENT LOCAL EXCHANGE CARRIERS

COME NOW the Kansas rural incumbent local exchange carriers listed below (“RLECs”)¹ and submit these comments in response to the Kansas Corporation Commission’s (the “Commission”) general investigation into depreciation rates applicable to Kansas RLECs initiated by the Commission’s January 4, 2024, Order Opening General Investigation and Setting Comment Deadline in this docket.

1. The RLECs welcome the Commission’s decision to open a general investigation into the depreciation rates applied to the RLECs’ intrastate telecommunications property, plant, and equipment, and request input on whether any changes are needed. Current RLEC depreciation rate ranges were set over 25 years ago, and since then, there have been many advances in technology and equipment used by RLECs to deliver communications services to their customers.

2. As explained in more detail herein, there are a few sensible updates that the Commission should make to the RLEC common depreciation schedule: (1) the addition of

¹ The “RLECs” are the following companies: Blue Valley Tele-Communications, Inc., Columbus Communications Services, LLC, Craw-Kan Telephone Cooperative, Inc., Cunningham Telephone Co., Inc., Golden Belt Telephone Association, Inc., Gorham Telephone Co., Inc., H&B Communications, Inc., Haviland Telephone Co., Inc., Home Telephone Co., Inc. JBN Telephone Company, Inc., KanOkla Telephone Association, LaHarpe Telephone Co., Inc., Madison Telephone, LLC, Moundridge Telephone Co., Inc., Peoples Telecommunications, LLC, Pioneer Telephone Association, Inc., Rainbow Telecommunications Association, Inc., Rural Telephone Service Co., Inc. d/b/a Nex-Tech, S&A Telephone Co., LLC, S&T Telephone Cooperative Association, Inc., South Central Telephone Association, Inc., Southern Kansas Telephone Co., Inc., Totah Communications, Inc., Tri-County Telephone Association, Inc., Twin Valley Telephone, Inc., United Telephone Association, Inc., Wamego Telecommunications Co., Inc., Wilson Telephone Co., Inc., and Zenda Telephone Co., Inc.

depreciation rate ranges for fiber optic cable – underground, buried, and aerial; (2) the addition of depreciation rate ranges for fixed wireless equipment and towers used to provide fixed wireless service; and (3) the removal of categories of obsolete telecommunications equipment, such as electromechanical switches and payphones. Additionally, the Commission should confirm the existing process for RLECs requesting approval for the use of a depreciation rate that falls outside of the depreciation schedule’s approved range.

3. By adopting the RLECs’ proposed revisions to the common depreciation schedule, the Commission can account for technology changes which have come into use since the guidelines were last updated and provide RLECs a greater degree of flexibility in their accounting and decision-making.

I. The Commission Should Adopt Separate Ranges of Depreciation Rates for Underground, Buried, And Aerial Fiber Optic Cable

4. One of the most evident omissions from the current RLEC common depreciation schedule is the absence of depreciation rate ranges for fiber optic cable. RLECs deploy fiber optic cables in three ways: (1) underground (placed within a buried conduit); (2) buried (placed directly in the soil or placed in flexible/protective sheathing); and (3) aerial (strung on poles or structures). Every Kansas RLEC is deploying fiber today and will continue to prioritize fiber networks for the foreseeable future. Accordingly, the Commission should adopt separate depreciation rate ranges for underground, buried, and aerial fiber optic cables. Those ranges of depreciation rates should take into account the useful life of fiber optic cable when using each type of deployment method. Adopting a range of annual depreciation rates for fiber optic cable will allow RLECs to more accurately account for the depreciation of their fiber in use today and the fiber that will be deployed in the future, as opposed to the copper cable that was generally in use at the time that the existing common depreciation rate schedule was established.

A. Underground And Buried Fiber Optic Cable

5. Due to the absence of specific rate ranges for underground and buried fiber optic cable on the common depreciation schedule, many RLECs use underground and buried copper cable as a stand-in for fiber. The useful lives of copper and fiber cable can be somewhat different, so it is important to establish separate rate ranges for each. For example, to account for the depreciation of its buried fiber optic cable in service, Rural Service Telephone Company, Inc. d/b/a Nex-Tech currently uses the upper limit of buried cable, which is 5.68%. This reflects a useful life of 17.61 years. However, the use of copper cable depreciation rates for fiber is an imprecise work-around, as those rates do not accurately reflect the useful life of fiber. In order to avoid the confusion the sudden change could bring, the rate ranges for fiber should overlap those for buried and underground cable giving companies the flexibility to stay the course or elect a longer useful life. The following depreciation ranges the RLECs propose would accomplish that goal.

6. The common depreciation schedule's rate ranges for underground and buried copper cable – 5.17% to 5.38% and 5.15% to 5.68% – reflect useful life ranges of 18.58 years to 19.34 years and 17.61 years to 19.41 years, respectively. In comparison to fiber, the telecommunications industry, by and large, views both underground and buried fiber as having longer useful lives than their copper cable counterparts. The RLECs propose for underground (in conduit) fiber rates reflecting a useful life of 18.59 to 30 years, which produces a depreciation range of 3.33 to 5.38%. Likewise, the RLECs propose for buried fiber a useful life of 15 to 25 years reflecting a depreciation range of 4.00% to 6.66%.

7. The RLECs support the adoption of separate ranges of depreciation rates for underground and buried fiber optic cable that reflect a maximum useful life of 30 and 25 years,

respectively. Most RLECs have been deploying fiber in their networks for over two and a half decades. Experience with engineering and constructing fiber projects during this time indicate that this proposed maximum life is reasonable. Although, one caveat applies – the useful life of underground fiber is understandably longer because it is placed within a conduit.

8. The proposed rates for fiber would be consistent with treatment provided by the U.S. Department of Agriculture (“USDA”) and the U.S. Department of Commerce’s National Telecommunications and Information Administration (“NTIA”), both of which provide significant funding for the deployment of fiber-based networks. First, for its ReConnect program, USDA prescribes a depreciation rate of 5.00% for the categories of “Fiber-Buried” and “Fiber-Underground Cable.”² A simple calculation shows the USDA depreciation rate of 5.00% corresponds to a 20-year useful life. Second, NTIA has estimated fiber’s useful life to be 20 years, regardless of the method of deployment.³ Additionally, the U.S. Government Accountability Office, when examining federal dig once policies in 2012, found that “[i]ndustry documentation estimates that the expected useful life of fiber cables is between 20 and 25 years.”⁴

B. Aerial Fiber Optic Cable

9. Another straightforward change the Commission should make to the common depreciation schedule is the addition of a range of rates for aerial fiber optic cable. While RLECs

² USDA, Forms And Resources, ReConnect Program Round 5 Application and Award Forms, Construction Procedures, p. 29 (last accessed May 16, 2024), <https://www.rd.usda.gov/media/file/download/reconnect-program-construction-procedures-updated-depreciation-rates-2222024.pdf>.

³ NTIA, Fact Sheet, Broadband Technology Opportunities Program, Useful Life Schedule (2010), https://www2.ntia.doc.gov/files/fact_sheet_useful_life_schedule_082510_v1.pdf.

⁴ U.S. Government Accountability Office, GAO- 12-687R Broadband Conduit Deployment, *Planning and Flexibility Are Key to Effectively Deploying Broadband Conduit through Federal Highway Projects*, p. 4 (June 27, 2012), available at <https://www.gao.gov/assets/gao-12-687r.pdf> (explaining that industry documentation estimates that the expected useful life of fiber cables is between 20 and 25 years and that the expected useful life of underground conduit is between 25 and 50 years).

prefer to bury their fiber assets to protect them from natural and manmade destruction, aerial fiber is used in some RLEC networks. Like the workaround for buried fiber, some RLECs choose to use aerial copper cable rates as a substitute for aerial fiber in their networks. However, the common depreciation schedule's range of rates for aerial copper cable may not accurately portray how long aerial fiber can last. The common depreciation schedule's range for aerial cable is 8.87% to 17.58%, which calculates to a useful life of 5.68 to 11.27 years. For aerial fiber, the upper limit should be raised. The lower limit should overlap that of aerial copper cable for the same accounting considerations addressed above.

10. The RLECs support the establishment of a range of depreciation rates for aerial fiber optic cable that is based on a minimum useful life of 5.68 years and a maximum of 20 years. Using a straight-line approach, this useful lifetime period would produce a depreciation range of 5.00% to 17.58%. A maximum useful life of 20 years would be consistent with depreciation standards adopted by federal regulatory bodies overseeing grant programs that fund fiber networks. For example, USDA has set a default depreciation rate of 5.1% for aerial fiber for the Reconnect Program,⁵ which puts the useful life of aerial fiber at 19.6 years. The Rural Utilities Service ("RUS") has published median depreciation rates for telecom plant which are to be used by RUS loan applicants that do not have depreciation rates approved by their respective state utility commission. RUS' median depreciation rate for aerial fiber is 5.4%,⁶ which calculates the useful life of aerial fiber at 18.5 years.

II. The Commission Should Adopt a Range of Depreciation Rates for Fixed Wireless Equipment, and a Range of Depreciation Rates for Towers Used to Provide Fixed Wireless Service

⁵ USDA, Forms And Resources, ReConnect Program Round 5 Application and Award Forms, Construction Procedures, p. 29 (last accessed May 16, 2024), <https://www.rd.usda.gov/media/file/download/reconnect-program-construction-procedures-updated-depreciation-rates-2222024.pdf>.

⁶ Department Of Agriculture, Rural Utilities Service, *Publication of Depreciation Rates for Telecommunications Plant*, 88 Fed. Reg. 78,719 (Nov. 16, 2023).

11. Today, many Kansas RLECs utilize fixed wireless technology to bring service to those customers located in remote and hard to reach places where deployment of fiber may not be feasible. However, since fixed wireless technology arrived many years after the Commission last adjusted RLEC depreciation rates, the common depreciation schedule does not include categories for fixed wireless equipment or the towers used in the provision of fixed wireless service. The Commission should fill this gap by adding new categories setting ranges of annual depreciation rates for fixed wireless equipment and towers.

12. Recently, two RLECs, Twin Valley Telephone, Inc. and The Southern Kansas Telephone Company, Inc., requested Commission approval of depreciation rates for fixed wireless equipment and towers associated with their fixed wireless services.⁷ Both requested approvals to use a 15.53% depreciation rate for fixed wireless equipment, which is based on the upper limit used for central office transmission equipment, a functional equivalent of fixed wireless equipment. And, both requested approval for a 5% depreciation rate for their towers, which is based on the depreciation rate used by USDA for its ReConnect program.

13. Based on recommendations from Commission Staff, the Commission approved, for both companies, the use of a 14.28% depreciation rate for fixed wireless equipment on an interim basis and the use of a 5% depreciation rate for towers on an interim basis.⁸ In its Report And Recommendation in both dockets,⁹ Commission Staff found the 5% rate requested for towers to be reasonable, noting it equates to a 20-year life and that it matches the depreciation

⁷ Application of Twin Valley Telephone, Inc. for Approval of Depreciation Methodology, Docket No. 24-TWVT-300-DRS (Sep. 29, 2023); Application of the Southern Kansas Telephone Company, Inc. for Approval of Depreciation Methodology, Docket No. 24-SNKT-299-DRS (Sep. 29, 2023).

⁸ Order Adopting Staff's Report And Recommendation, Setting Interim Rates, Docket Nos. 24-TWVT-300-DRS and 24-SNKT-299-DRS (Dec. 28, 2023).

⁹ Report And Recommendation, Docket Nos. Docket Nos. 24-TWVT-300-DRS and 24-SNKT-299-DRS, p. 3 (Nov. 2, 2023).

rate used by USDA for the ReConnect Program. Commission Staff recommended the Commission set a range of 7.43% to 14.28% for fixed wireless equipment which matches the current Commission approved range of depreciation rates for radio systems. Commission Staff concluded that the radio systems category is the closest operationally equivalent category to fixed wireless equipment, rather than central office transmission equipment.

A. Fixed Wireless Equipment

14. The RLECs support the use of a 6.67% rate as the lower limit of a range of depreciation rates for equipment used in the provision of fixed wireless service. As for the range's maximum rate, the RLECs support the use of a 20% depreciation rate. Using this range would set the useful life of fixed wireless equipment at 5 to 15 years. This range of rates for fixed wireless equipment will provide RLECs with decision-making flexibility, which is needed due to the variety of fixed wireless equipment available and rapid advances in technology that can render the equipment obsolete in as short as 5 years.

B. Fixed Wireless Towers

15. The RLECs support the use of a 5% rate as the lower limit of a range of depreciation rates for towers used in the provision of fixed wireless service. As for the range's maximum rate, the RLECs support the use of a 10% depreciation rate. Using this range would set the useful life of fixed wireless towers at 10 to 20 years. This range of rates for fixed wireless towers will provide RLECs with decision-making flexibility, especially when considering there are many sizes and types of fixed wireless towers and the sites where these towers are installed vary, leaving them relatively safe from the elements or very exposed.

III. The Commission Should Remove Obsolete Telecommunications Equipment from the RLEC Common Depreciation Schedule

16. The depreciation ranges on the common depreciation schedule in use today were established in 1996. Since then, the telecommunications industry has experienced significant changes brought on by rapid technological advances. These advances have resulted in longer lives for certain equipment, shorter lives for other equipment, and some equipment being rendered obsolete at a faster pace than others.

17. In light of technological changes, the Commission should clean up the common depreciation schedule by removing those categories of equipment that are considered obsolete and no longer used by RLECs. These categories include Electromechanical Switch and Public Telephone Terminal Equipment. With respect to the former, RLECs have moved away from electromechanical switches to digital soft switches. As for the latter, very few public pay telephones remain in use today. If, in the rare circumstance an RLEC is using equipment within any category that is classified as obsolete, the Commission should allow the RLEC to continue applying the existing depreciation rate until the equipment is fully depreciated or removed from service.

IV. The Commission Should Confirm the Existing Process For Requesting Approval Of A Depreciation Rate That Falls Outside Of The Approved Range

18. The RLEC common depreciation schedule contains acceptable ranges of depreciation rates for various classes of intrastate telecommunications property, plant, and equipment. The upper and lower limits for each rate range listed on the depreciation schedule were calculated by adding and subtracting a standard deviation from the mean of the given data set. (Order, Docket No. 94-GIMT-082-DRS, ¶ 3 (Dec. 19, 1996)). By adopting acceptable ranges of rates, the Commission is able to presume that RLEC applications for depreciation rates falling within those ranges are reasonable, and therefore approve them expediently. (Order, Docket No. 94-GIMT-082-DRS, ¶ 3 (Dec. 19, 1996)). This benefits RLECs with a simple process for seeking

Commission approval of rate changes without having to provide extensive supportive evidence or data. The RLECs support the continued use of this approach, along with continuing to allow RLECs to make application to the Commission for use of a rate outside the approved ranges upon an individual company showing of extraordinary circumstances, either in the context of an individual application docket or a general rate case proceeding. See, e.g., Docket No. 08-S&AT-1118-DRS.

WHEREFORE, the RLECs respectfully request that the Commission update the RLEC common depreciation schedule by adding depreciation rate ranges for underground, buried, and aerial fiber optic cable; adding depreciation rate ranges for fixed wireless equipment and towers used to provide fixed wireless service; removing categories of obsolete telecommunications equipment; and confirming the process for RLECs to request approval to use a depreciation rate that falls outside of the depreciation schedule's approved range.

Respectfully submitted,

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S&T Telephone Coop. Assoc., Inc.
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Wamego Telecommunications Co., Inc.
Wilson Telephone Co., Inc.
Zenda Telephone Co., Inc.

VERIFICATION

I, the undersigned, hereby certify under penalty of perjury pursuant to K.S.A. 53-601 that I am an attorney for the companies listed above and that the foregoing is true and correct.
Executed on May 24, 2024.

Colleen R. Jamison
Colleen R. Jamison

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the above and foregoing was sent via electronic mail this 24th day of May 2024, addressed to the following:

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