

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

Before Commissioners:                    Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Investigation to Determine            )  
the Assessment Rate and the Affordable Local            )  
Service Rate for Rate-of-Return Regulated            )            Docket No. 18-GIMT-084-GIT  
Carriers for the Twenty-Second Year of the            )  
Kansas Universal Service Fund, Effective            )  
March 1, 2018.    )

**ORDER APPROVING TRAFFIC FACTORS FOR BROADSMART GLOBAL, INC.  
AND ASSESSING MONETARY PENALTY**

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 record 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 (October 1, 2005), to contribute to the [Kansas Universal Service Fund (KUSF)] 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.<sup>1</sup> If a Wireless Carrier or VoIP provider utilizes the Safe Harbor percentages, no filings 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 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. If the Wireless Carrier or VoIP provider uses the direct assignment methodology, it does not need to provide the jurisdictional percentages, but it must 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 annual filings referenced above.

3. In a filing dated April 13, 2018, Broadsmart Global, Inc. (Broadsmart) advised the Commission of intrastate traffic factors applicable for the period of March through May 2018. Broadsmart had not filed an application for approval to use the traffic factor methodology.

4. On May 1, 2018, Broadsmart submitted an *Application for Approval of Intrastate Allocation Methodology*, requesting Commission approval of Broadsmart’s company-specific traffic report and its use of the inverse of the federal percentage derived therefrom for KUSF

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<sup>1</sup>See Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd. 7518, ¶65 (June 27, 2006).

reporting purposes. Broadsmart's filing was accompanied by an Affidavit executed by Thomas Fuller, Chief Financial Officer, stating the Company will use a company-specific traffic study for the KUSF reporting period of March 2018 through February 2019. Broadsmart provided its traffic factors using a company-specific traffic study based on actual call origination and termination minutes of use (MOU) data obtained from Broadsmart's call detail records, which MOU are classified as interstate, intrastate or international. Broadsmart derives the percentage of interstate/international MOU by dividing the number of interstate and international MOU into total MOU. This percentage is accepted by the FCC for FUSF reporting purposes. Broadsmart uses the inverse of the federal percentage derived therewith to calculate the percentage for KUSF reporting purposes.<sup>2</sup> The intrastate factors, filed confidentially herein, will be used for the KUSF reporting period from January 2018 through June 2018.

5. The Commission finds Broadsmart's filing appropriate and approves use of the traffic factors cited by the company for the KUSF reporting period from January through June 2018.

6. As for Broadsmart's non-compliance with the requirements imposed by the Commission's January 24 and February 1, 2012 Orders issued in Docket No. 12-GIMT-168-GIT, in failing to provide, for the period March 2017 through February 2018, an Application advising of its use of the traffic factor methodology prior to such use and the required affidavit verifying the methodology and that inverse factor(s) are used for FUSF purposes, the Commission finds that Broadsmart should be assessed a monetary penalty of \$300.<sup>3</sup>

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<sup>2</sup> Fuller Affidavit, page 1.

<sup>3</sup> K.S.A. 2017 Supp. 66-138(a).

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

A. Broadsmart Global, Inc.'s traffic factors for KUSF purposes for the KUSF reporting period from January through June 2018 are hereby approved.

B. With respect to Broadsmart's failure to submit an application advising the Commission of its use of the traffic factor methodology and allocation factors and an affidavit for the period, March 2017 through February 2018, as required by the Commission's January 24 and February 1, 2017 Orders issued in Docket No. 12-GIMT-168-GIT, Broadsmart is assessed a monetary penalty of \$300. Broadsmart's payment shall reference this Docket, 18-GIMT-084-GIT, be made out to the Commission, and mailed to the Commission's Fiscal Office, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, no later than thirty (30) days from the date of this Order.

C. Parties have 15 days, plus three days if service 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. 2017 Supp. 77-529(a)(1).

D. 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.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 05/15/2018



Lynn M. Retz  
Secretary to the Commission

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## CERTIFICATE OF SERVICE

18-GIMT-084-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 05/15/2018.

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