

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

Before Commissioners: Thomas E. Wright, Chairman
Joseph F. Harkins
Ward Loyd

Generic Proceeding to Address Kansas Universal)
Service Fund Support Supplemental Funding) Docket No. 10-GIMT-667-KSF
Procedures, as Adopted by the Commission)
in Docket No. 00-GIMT-842-GIT.)

**ORDER REDEFINING ELIGIBLE LINE FOR KUSF SUPPORT,
LIMITING FREQUENCY OF REQUESTS FOR SUPPLEMENTAL KUSF
SUPPORT, REQUIRING NET 12-MONTH LINE INCREASE OF FIVE
PERCENT OR GREATER, REQUIRING INCLUSION OF PREVIOUS
COMMISSION ADJUSTMENTS, SETTING APPROPRIATE DATE FOR
PAYMENT OF SUPPLEMENTAL KUSF SUPPORT,
DECLINING TO RULE UPON ISSUES NOT NOTICED UP IN THIS DOCKET,
AND DIRECTING STAFF TO OPEN DOCKET**

The above-captioned matter comes on before the State Corporation Commission of the State of Kansas (Commission or KCC) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission (a) redefines “line eligible for supplemental Kansas Universal Service Fund (KUSF) support,” (b) eliminates between quarters and consecutive quarter requests for supplemental KUSF support, (c) requires a carrier to demonstrate it has experienced a five percent, or greater, 12-month net increase in lines to be eligible for supplemental KUSF support, (d) requires carrier requesting supplemental KUSF support to include adjustments approved by the Commission in the carrier’s previous request for supplemental KUSF support, (e) establishes effective date for payment of initial and supplemental KUSF support to the first day of the month following the Commission Order addressing the request, (f) declines to rule upon issues not noticed up in this docket and (g) directs Commission staff (Staff) to open new docket.

1. By its Order dated June 16, 2010, the Commission sought comments on the following questions: (a) Is the current definition of a line eligible for supplemental KUSF support adequate? (b) Is the current filing frequency appropriate in permitting carriers to request supplemental KUSF funding for lines in service at the end of each quarter or between quarters if a 2% or greater 12-month net increase in lines occurs, appropriate? (c) How can the Commission ensure that the adjustments it adopted in one supplemental fund filing are incorporated in the carrier's subsequent request for supplemental KUSF support? and, (d) What is the appropriate effective date for payment of supplemental KUSF support.

2. In its Initial Comments, Staff explained that the supplemental KUSF support procedures were applicable to Southwestern Bell Telephone Company d/b/a AT&T Kansas, the United Telephone Companies of Kansas d/b/a CenturyLink, and any competitor designated as an eligible telecommunications carrier (ETC) for KUSF support purposes. The supplemental KUSF support procedures are not applicable to the rural local exchange carriers because their KUSF support is based on company-specific audits and is not adjusted for change in access lines. *Id.* ¶ 9.

3. Staff reported that there are currently six competitive ETCs (CETCs) receiving KUSF support. Three other carriers have obtained ETC designation but have not yet filed a request for KUSF support. The CETCs have not only caused significant increase of resources to process initial and supplemental requests for KUSF support, but also have greatly contributed to the increased demand on KUSF funds. *Id.*

Comments

4. Initial comments were filed by CenturyLink, Citizens' Utility Ratepayer Board (CURB), and Staff.

5. CenturyLink did not address the questions posed by the Commission. Rather, it urged the Commission to follow the action taken by the Federal Communications Commission and cap the amount of the KUSF available to CETCs. According to CenturyLink, CETCs' KUSF support has increased from \$26,000 in 2002 to over \$5 million in 2010, contributing to a significantly increased KUSF assessment surcharge to customers. CenturyLink Comments ¶ 4. In addition, CenturyLink asserted that the current process of extensive cost proceedings to determine the appropriate KUSF support for incumbent local exchange carriers, while CETCs do not undergo such costly proceedings, is not competitive parity. *Id.* ¶¶ 5-6.

6. CURB shared CenturyLink's concerns about the burgeoning KUSF and an ever-increasing KUSF assessment surcharge. CURB also supported CenturyLink's proposal that the Commission cap the CETCs' take from the KUSF, but would prefer to analyze the issue at length in another docket. CURB Reply Comments ¶ 13.

7. **Commission conclusion.** The Commission concludes that it may not determine whether capping the amount of KUSF funds available to CETCs is appropriate in this docket because notice to CETCs did not include the issue of capping KUSF funds available to CETCs.

Definition of eligible line

8. The current definition of an access line eligible for KUSF support is, "any revenue-producing access line over which universal service is provided and meets the

KCC's definition of a supported line." CURB offered this definition, "any revenue-producing access line, and any other technology-neutral means, over which universal service is provided and meets the KCC's further definitions of a supported line." CURB Initial Comments ¶ 3. Staff provided a similar definition, "any revenue-producing access line, or technological equivalent, over which universal service is provided and meets the KCC's definition of a supported line." CURB advised the Commission that Staff's definition was reasonable and acceptable to CURB. CURB Reply Comments ¶ 2.

9. **Commission conclusion.** The Commission concludes the proposed definition of an eligible line as "any revenue producing access line, or functionally equivalent, over which universal service is provided and meets the Commission's definition of a supported line" should be adopted. The Commission deems it beneficial to again identify those lines which are not eligible for KUSF support:

- Non-revenue producing lines, including company-official and test lines.
- Non-Kansas jurisdictional lines.
- Non-company owned lines, including payphones.
- Lines that do not provide two-way, voice-grade quality, universal service, like one-way alarm, fire, etc., or that are used specifically for non-regulated purposes, for instance, Internet access.
- Key and hunt lines, including all lines that terminate in a PBX, Centrex, or other hunt group setting. To ensure KUSF support is distributed in a competitively and technologically neutral manner, a wireless business customer with four or more lines at the same billing address is considered to be using a hunt line and all lines for that business are ineligible for KUSF support.

The Commission also believes, as suggested by Staff, that it is beneficial to reiterate that KUSF support for wireless lines is based on the billing address of the line and that concession lines qualify for the same percentage of support as the customer pays for

monthly service. For example, a line provided free of charges receives zero KUSF support, while a line provided at 50% of the monthly service charge receives 50% of the KUSF support.

Current supplemental KUSF funding frequency

10. Staff suggested that the Commission modify the current supplemental KUSF funding process frequency for several reasons. For one, the KUSF assessment rate is determined annually, but the number and amount of the requests for supplemental KUSF support is unknown. Requests for supplemental KUSF support impact the amount of KUSF money available to other qualified carriers.. For another, the increase in CETCs and supplemental KUSF support requests have “significantly increased the resources necessary to process initial and supplemental requests for KUSF support, as well as the demand for KUSF support monies.” Staff Initial Comments ¶ 9.

11. Both CURB and Staff argued for elimination of the in-between quarters requests for supplemental KUSF support. CURB Initial Comments ¶ 7(a); Staff Initial Comments ¶ 12. And, both CURB and Staff proposed a minimum 12-month net increase in lines of five percent or greater in order for a carrier to qualify for supplemental KUSF funding *Id.* ¶7(c); ¶ 13. CURB further suggested that carriers be prohibited from requesting supplemental KUSF funding for consecutive quarters, noting that the restriction would promote certainty, efficiency and reduced administrative burdens. CURB Initial Comments ¶¶ 9 – 10; CURB Reply Comments ¶ 7.

12. **Commission conclusion.** The Commission concludes that it should (a) eliminate the option to file a request for in-between quarters and consecutive quarterly requests for supplemental KUSF support and (b) increase the minimum 12-month net

increase in lines to five percent in order for a carrier to qualify for supplemental KUSF funding.

Treatment of prior adjustments in carrier's subsequent requests

13. CURB was concerned that, when a carrier filed for supplemental KUSF support within two consecutive quarters, Staff's review of the second filing might not be substantially completed before the Commission renders a decision related to the first filing. Staff, working on the second request, would not know precisely which adjustments the Commission would adopt for the first request for supplemental KUSF support by the carrier. CURB reached the conclusion that the current process permitting consecutive quarter requests by a carrier appeared to be administratively burdensome, unduly complicated and inefficient. CURB Initial Comments ¶ 9.

14. In the event that the Commission decided to continue with the opportunity of consecutive quarter requests, CURB suggested that, if the Commission issued a determination of the first request during Staff's review of the second request, the Commission should require the carrier to amend the second request with the adjustments adopted by the Commission in its determination of the first request. *Id.* ¶ 10.

15. Staff explained that, with consecutive quarter requests for supplemental KUSF support by a carrier, it was placed in the position of incorporating adjustments adopted for one request while, at the same time, reviewing the second request and proposing adjustments to it. Because it has a short time frame within which to review a request for supplemental KUSF support and submit its recommendations to the Commission, Staff began to direct the carrier to file an amended second request incorporating the Commission's adjustments for the first request of the carrier. Staff

Initial Comments ¶ 16. Staff recommended that the Commission order carriers to amend their subsequent request, consecutive or otherwise, to incorporate the Commission's adjustments determined in the carrier's preceding request for supplemental KUSF support. *Id.* ¶ 11.

16. Staff explained that most of the adjustments it proposed to a carrier's request for supplemental KUSF support are to correct customer address locations. Staff suggested that GoogleEarth, Batchgeocode.com, and Mapquest offer free geocoding and/or mapping programs. Further, customers are frequent users of these programs. Staff also explained that the Commission's Information Technology Geological Information Systems (ITGIS) is a useful tool, providing electronic copies of incumbent local exchange boundaries and Base Rate Areas, or zones, for KUSF purposes, upon carrier request.

17. **Commission conclusion.** This import of this issue is diminished by the Commission's conclusion *supra* that consecutive quarter requests by a carrier is eliminated. Nonetheless, it bears repeating that carriers requesting supplemental KUSF support must include in its then current request the adjustments approved by the Commission in the carrier's previous request for supplemental KUSF support.

Appropriate effective date for payment of supplemental KUSF support

18. Staff and CURB believed initial or supplemental KUSF support should be payable the first day of the month following a Commission order pertaining to the request for initial or supplemental KUSF support, for all requesting carriers. Staff Initial Comments ¶ 21; CURB Reply Comments ¶ 8. This approach is consistent with K.S.A. 2009 Supp. 66-2008(b) which requires KUSF distributions to be made in a competitively

neutral manner. Staff was concerned that the current process, in particular retroactive payments, is not consistent with 66-2008(b) because the CETCs KUSF support is adjusted retroactively, but the RLECs KUSF support is not.

19. Staff recommended that retroactive adjustments for CETCs be eliminated, consistent with the law. Staff Initial Comments ¶¶ 21 -22.

20. **Commission conclusion.** The Commission concludes that the effective date for payment of supplemental KUSF support is the first day of the month following a Commission determination of a carrier's request for supplemental KUSF support. Retroactive payments will no longer be made in order to comply with Kansas law.

Additional CURB Issue

21. CURB suggested that the Commission revisit whether KUSF support should be limited to the primary line.

22. **Commission conclusion.** The Commission concludes that it may not make a determination in this docket relative to limiting KUSF support to the primary line because there was no notice to CETCs that this matter would be addressed here.

23. The Commission directs Staff to open a new docket that will address whether (a) the amount of KUSF funds available to CETCs should be capped, (b) KUSF support should be limited to the primary line and (c) other issues pertaining to supplemental KUSF support that the parties suggest.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. An eligible line is now defined as “any revenue-producing access line, or functionally equivalent, over which universal service is provided and meets the Commission’s definition of a supported line.”

B. In-between quarters and consecutive quarter requests for supplemental KUSF support are prohibited.

C. The carrier requesting supplemental KUSF support must demonstrate a minimum 12-month net increase in lines of five percent or greater for non-consecutive quarter filings in order to qualify for supplemental KUSF support.

D. A carrier requesting supplemental KUSF support must include in its then request for supplemental KUSF support the adjustments approved by the Commission in the carrier's previous request for supplemental KSUF support.

E. The effective date of payment of supplemental KUSF support shall be the first day of the month following Commission determination of the carrier's request. Retroactive payment will no longer be paid in order to comply with the law.

F. The Commission may not here determine whether (a) distribution of KUSF support to CETCs should be capped, or (b) KUSF support should be limited to the primary line, because the CETCs were not given notice that these issues would be taken up and determined by the Commission in this docket.

G. Staff shall open a new docket to address the issues described in ¶ 23 above.

H. If a party wishes to have the Commission reconsider any final action taken herein, it must file a petition for reconsideration within 15 days of the service of this Order. If this Order is mailed, the petitioning party may add three days to the 15-day suspense period. All petitions for reconsideration must be served on the Commission's executive director.

BY THE COMMISSION IT IS SO ORDERED

Wright, Chmn.; Harkins, Com.; Loyd, Com.

Dated: SEP 24 2010

ORDERED MAILED

SEP 24 2010

Susan K. Duffy EXECUTIVE
DIRECTOR

Susan K, Duffy, Executive Director

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