

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Proceeding to Conduct a )  
Financial and Operational Audit of Kansas )  
Relay Services, Inc.'s (KRSI) )  
Administration of the Dual Party Relay )  
Service and Telecommunications Access )  
Program (TAP) to Determine that Costs )  
Recovered Through the Kansas Universal )  
Service Fund (KUSF) for These Programs )  
are Reasonable and Appropriate. )

Docket No. 07-KRST-143-KSF

STATE CORPORATION COMMISSION

MAR 15 2011



**STAFF'S PETITION FOR CLARIFICATION AND/OR RECONSIDERATION**

COMES NOW the Staff of the State Corporation Commission of the State of Kansas  
(Staff and Commission, respectively) and for its Petition for Clarification and/or Reconsideration  
of the Commission's Order Directing KRSI to File 2010 Cost Study for Staff Review (Order)  
dated February 25, 2011 and mailed February 28, 2011, states as follows:

1. On August 10, 2006 in this docket the Commission issued its Order Opening  
Docket. The Commission concluded that:  
  
a financial and operation audit of [the Kansas Relay Service, Inc.] KRSI is  
necessary to ensure the costs recovered through the KUSF are reasonable. Staff is  
directed to conduct the audit. The audit will require a review of KRSI's financial  
records as well as financial data of the [Kansas Telecommunications Industry  
Association] KTIA. Again, since KTIA has contracted to manage the KRSI and  
[Telecommunications Access Program] TAP programs with the resulting  
management fees being recovered through the [Kansas Universal Service Fund]  
KUSF, those fees and associated financial records must be reviewed. Beyond  
financial needs, Staff is directed to examine the operations of KRSI to determine  
the reasonableness of costs incurred to manage the programs. Staff should review  
compliance with Commission orders, efficiency of TAP's voucher system,  
outreach efforts, etc. to determine whether the cost incurred is reasonable.<sup>1</sup>
2. As noted in the Order at paragraphs 19 and 20, the audit is necessary in that dual  
party relay service and TAP are funded through the KUSF and the Commission is charged with

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<sup>1</sup> Order Opening Docket, ¶21.

the responsibility to ensure that recovery from the KUSF is cost-based, or as the Commission noted in paragraph 20 of the Order, “reasonable and appropriate.”

3. Staff conducted its audit and on October 25, 2010 filed its audit report. As noted at page 2 of Staff’s report and in paragraph 2 of the Order, KRSI’s day-to-day management was initially assigned to KTIA by the Commission and there was no competitive bidding process used. As Staff’s report stated on page 2:

Management agreements have been executed between KRSI and KTIA that effectively set a *fixed price* for the day-to-day administrative functions for KRSI. [Emphasis added].

The paragraph further explains the contracts allow for the payment of common/joint costs between KTIA and KRSI *and* the payment of a base administrative fee such that the total equals the monthly fixed fee stated in the agreements.

4. Staff summarized its major audit findings as follows:

(1) as the management agreements are structured, it is impossible to tell if KRSI is paying KTIA cost-based fees, and (2) there is an absence of written procedures outlining the methodology for the allocation of common/joint costs between KRSI and KTIA. The current methodologies of allocating common costs to the organizations are based on outdated information and the methodologies should be changed to provide a higher degree of accuracy in allocating costs. Without a proper allocation of the joint costs, an accurate cost of providing services cannot be determined.<sup>2</sup>

5. Staff report notes, at page 11, that:

Staff’s findings are that the costs charged by KTIA to KRSI cannot be considered cost based due to a lack of supporting documentation. Staff also finds that the financial records maintained by KTIA are not sufficient to unequivocally state that KRSI bears no more than a reasonable allocation of cost. As noted above, there is neither cost allocation manual nor a sufficient time study to support the allocation of costs between KRSI and KTIA.

6. Staff may have inadvertently confused the Commission by over emphasizing the fact that KTIA’s cost allocations are outdated and lacking in supporting documentation. Staff’s

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<sup>2</sup> Staff Report, p. 2.

recommendation to pursue an RFP to provide KRSI's day-to-day management is primarily based on the overarching problem that KRSI's payments to KTIA are based on a *fixed* fee that exceeds the amount of documented costs allocated to KRSI from KTIA. As described by Staff, the monthly charges to KRSI consist of a description of costs allocated to KRSI and a base administrative fee that is a "plug" number representing the difference between the total fixed fee per the management agreements and the costs allocated to KRSI. [See "KTIA Monthly Billings to KRSI and TAP" attachment to Staff Report and Recommendation]. Therefore, Staff's conclusion that it cannot state that the payments to KTIA are cost based is primarily due to the fact that there is no support and there can be no support for the fixed management agreement fees charged to KRSI that are over and above the allocated costs. That is, the "plug" figure described as the base administrative fee.

7. Of secondary importance is the fact that KTIA's current allocation process is not current or well supported. The allocation process and related documentation can be remedied, which seems to be what the Commission intends from its order; however, as described above, remedying the allocation process does not remedy the fact that KTIA charges KRSI a fixed price above its allocated costs. The end result is that Staff cannot state KTIA's charges to KRSI are cost based because the fixed fees per the management agreement have never been competitively bid.

8. The Commission's Order concludes that it would be a waste of resources to move to a bidding process for KRSI management at this time. The Commission further indicates that KRSI should be close to finishing, or has already completed, its "2010 cost study, which should be reviewed before the Commission determines whether it should engage in the Request for Proposals process."

9. Staff requests the Commission reconsider how to address the KRSI issues. More specifically, in Staff's opinion, it makes more sense to determine whether an RFP process should be undertaken prior to ordering KRSI and Staff to work on the cost issues. There will be considerable time spent and costs associated with KRSI and Staff working on remedying the cost allocation issues. This time and cost will be wasted if the Commission ultimately decides to require an RFP process. Moreover, it is Staff's opinion that a competitively-bid RFP process will result in cost-based fixed fees for the day-to-day management of KRSI, thereby negating the need to document and track common costs for any successful bidder.

10. If the Commission determines that it does not want an RFP process, then a review of KTIA's cost allocation process may be warranted; however, any agreement on the cost allocation process between Staff and KTIA will still not enable Staff to consider the fixed fees charged by KTIA to KRSI cost based because the fixed fees exceed the allocated common/joint costs. At this time, Staff is unsure as to how to remedy this situation without an RFP.

11. Staff also requests the Commission to clarify what is meant by use of the term "cost study." As noted above, Staff's audit had two major findings, that as the management agreements are currently structured it cannot tell if KRSI is paying KTIA cost-based fees, and that there is an absence of written procedures outlining a methodology for the allocation of common and joint costs. In the Comments of KRSI to Staff's Report and Objection to Recommendations on November 5, 2010, KTIA at paragraph three stated that it "has been engaged in a year long cost study which is in its fourth quarter." The Commission's Order at paragraph 12 also used the term "cost study." Staff requests clarification as to what the Commission means by use of the term "cost study" since KRSI performed a time study, not a cost study. Staff also requests clarification on its recommendation that KRSI develop a cost

allocation manual. KRSI's Comments to Staff's report state, in the conclusion, that a cost allocation manual will be "easily attainable" yet the Commission did not address that in its Order. Staff notes that on March 14, 2011, KRSI filed a "2010 Time Allocation Cost Study." This study was performed by KRSI specifically to track the time of each of its employees and how that time is allocated between KTIA, TAP, and KRSI but is not a traditional cost study. And a cost allocation manual means a document that formalizes the methodologies used to allocate common and joint costs.

WHEREFORE Staff requests the Commission consider its Petition for Reconsideration and Clarification and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,

A handwritten signature in black ink, reading "Colleen R. Harrell", written over a horizontal line.

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**VERIFICATION**

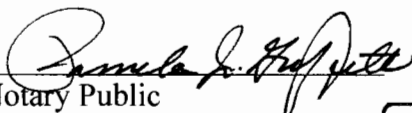
STATE OF KANSAS            )  
  )  
COUNTY OF SHAWNEE    )       SS:

Colleen R. Harrell, of lawful age being first duly sworn upon oath states:

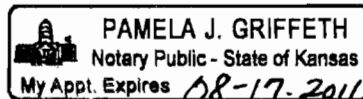
That she is the attorney for the Corporation Commission Staff in this matter; that she has read and is familiar with the foregoing Petition and that the statements made therein are true and correct to the best of her information, knowledge and belief.

  
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Colleen R. Harrell

Subscribed and sworn to before me Tuesday, March 15, 2011.

  
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Notary Public

My appointment expires:



## CERTIFICATE OF SERVICE

07-KRST-143-KSF

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff's Petition For Clarification and/or Reconsideration was placed in the United States mail, postage prepaid, or hand-delivered this 15th day of March, 2011, to the following:

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