

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

Before Commissioners:                   Dwight D. Keen, Chair  
                                                  Shari Feist Albrecht  
                                                  Susan K. Duffy

In the Matter of Mutual Telephone Company    )  
Filing Tariff Revisions to Federal Lifeline    ) Docket No. 20-MTLT-200-TAR  
Support                                                    )

**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 reviewed its pleadings and records and being duly advised in the premises, the Commission makes the following findings:

**I.       Background**

1.       On October 29, 2019, Mutual Telephone Company (“Mutual”) filed a request to make tariff revisions to a certain section of its General Exchange Tariff, which would change the verbiage of the company’s Lifeline offering.<sup>1</sup> These changes are to reflect the modifications made by the Federal Communications Commission (“FCC”) in the Lifeline Modernization Order and the Kansas Corporation Commission’s (“the Commission”) Order in 16-GIMT-575-GIT (“16-575”).<sup>2</sup>

2.       On November 12, 2019, Mutual filed a replacement tariff in accordance with Staff directives which made the tariff language more generic. Mutual’s initial filing reduced the federal Lifeline credit for voice only service from \$9.25 to \$7.25; however, several entities have requested

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<sup>1</sup> Application of Mutual (“Application”) (Oct. 29, 2019).

<sup>2</sup> Order Opening Docket; Soliciting Comments; Procedural Matters and Schedule, p. 8, Docket No. 16-GIMT-575-GIT (Jul. 12, 2019) (16-575 Order).

that the FCC delay implementation of the proposed credit reduction.<sup>3</sup> The FCC has an open meeting scheduled for November 22, 2019, during which the FCC could delay or cease implementation of the scheduled reduction for voice only service.<sup>4</sup> Staff asked the Company to make a subsequent filing, in light of the issue in flux, which would make the tariff language more generic to allow for subsequent FCC adjustments without needing further tariff filings.<sup>5</sup>

3. On April 27, 2016, the FCC released the *2016 Lifeline Order*, in which it determined it must modernize the federal Lifeline program so that it can play an essential role in helping low-income Americans that most need access to broadband service.<sup>6</sup>

4. The *2016 Lifeline Order* provided a requirement that minimum service standards adjust every year in December on a phased-in basis to allow for increased emphasis on supporting broadband each year with a decreased emphasis on voice services. The minimum service standards to be effective December 1, 2019, are:

- mobile voice packages require a minimum of 1,000 minutes;
- mobile broadband packages must include data usage of at least 8.75 GB per month and the speed requirement remains 3G mobile technology<sup>7</sup>;
- fixed broadband speed must be at least 20 Mbps downstream and 3 Mbps upstream, unless the Lifeline provider does not offer any generally available residential fixed broadband packages that meet the minimum service standard at the subscriber's residence. In such situations, the Lifeline provider may receive Lifeline support for the highest performing generally available residential fixed broadband service offering of at least 4 Mbps downstream and 1 Mbps upstream. Fixed broadband usage must be at least 1024 GB per month<sup>8</sup>;
- the voice Lifeline support which was previously \$9.25 drops to \$7.25 for the period of December 1, 2019, to November 30, 2021; and
- a voice and broadband Lifeline bundle **must** include a broadband offering that meets the applicable minimum service standard to be eligible for the full \$9.25

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<sup>3</sup> Staff's Report and Recommendation, at 3 (Nov. 14, 2019) ("R&R").

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

<sup>5</sup> *Id.*

<sup>6</sup> *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, Rel. April 27, 2016 ("*2016 Lifeline Order*").

<sup>7</sup> FCC Public Notice, WC docket No. 11-42, DA 19-704, Rel. July 25, 2019. See: <https://docs.fcc.gov/public/attachments/DA-19-704A1.pdf>.

<sup>8</sup> *Id.*

Lifeline benefit.

5. On November 14, 2019, Staff issued a Report and Recommendation (“R&R”) in this docket, which is attached and incorporated by reference, recommending that Mutual’s tariff filing be approved.<sup>9</sup>

## II. Analysis

6. The Commission derives its authority to review Local Exchange Carrier tariffs from K.S.A. 66-117(d) and K.S.A. 66-1,190. K.S.A. 66-117(d) 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.

7. 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.

8. 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; this statute further requires the Commission to ensure all classifications, rules, and regulations regarding such services are not unduly discriminatory or preferential. Rate changes made by

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<sup>9</sup> See generally R&R.

telecommunications providers are not audited unless the change results in the provider receiving “materially greater revenue” than its rate-of-return necessitates.<sup>10</sup>

9. Mutual’s current filing makes changes to Part 2 of the tariff, page 3, as follows:

- Deletes the specific rates listed for the federal and state Lifeline credits. The tariff includes language that indicates the federal and state credits provided to qualifying customers will be the maximum authorized by the FCC and the KCC.<sup>11</sup>

10. The change to the Federal Lifeline credit will increase the revenue paid by the consumer but will not change the overall amount of revenue received by the Company; as a result, the annual regulated revenue impact will be zero.<sup>12</sup>

11. Staff has reviewed the filing and does not have any concerns.<sup>13</sup>

12. Staff recommends the Commission approve the replacement tariff sheets provided by Mutual.<sup>14</sup> The changes provided in the new tariff sheets do not affect revenue and are the result of changes to the federal Lifeline program by the FCC.<sup>15</sup> The changes made mirror the federal requirements are in the public interest.<sup>16</sup> Mutual has requested an effective date of December 1, 2019.<sup>17</sup>

**THEREFORE, THE COMMISSION ORDERS:**

A. Mutual’s tariff filing is approved and will go into effect December 1, 2019.

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<sup>10</sup> See Docket No. 04-GIMT-1080-GIT.

<sup>11</sup> R&R at 3.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> R&R at 3.

<sup>17</sup> *Id.*

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>18</sup>

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders, as it may deem necessary.

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

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 11/26/2019



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Lynn M. Retz  
Executive Director

CRM

<sup>18</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Dwight D. Keen  
Commissioner Shari Feist Albrecht  
Commissioner Susan K. Duffy

**FROM:** Kelly Mabon, Senior Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** November 14, 2019

**RE:** Docket No. 20-MTLT-200-TAR  
In the Matter of Mutual Telephone Company Filing Tariff Revisions to Federal Lifeline Support

**EXECUTIVE SUMMARY:**

On October 29, 2019, Mutual Telephone Company (Mutual) filed a request to make tariff revisions to a certain section of its General Exchange Tariff changing the verbiage for the Company's Lifeline offering. These changes are to reflect the modifications made by the Federal Communications Commission (FCC) in the Lifeline Modernization Order and the Kansas Corporation Commission's (the Commission or KCC) Order in 16-GIMT-575-GIT (16-575).

The Commission action date is **Thursday, November 28, 2019.**

**BACKGROUND:**

The Kansas Corporation 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 KCC 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 KCC 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 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>1</sup>

### **ANALYSIS:**

On April 27, 2016, the FCC released the *2016 Lifeline Order*<sup>2</sup> in which it determined it must modernize the federal Lifeline program so that it can play an essential role in helping low-income Americans that most need access to broadband services. The *2016 Lifeline Order* provided a requirement that minimum service standards adjust every year in December on a phased-in basis. The phase-in allows for increased emphasis on supporting broadband each year with a decreased emphasis on voice services. The minimum service standards to be effective December 1, 2019, are as follows:

- mobile voice packages require a minimum of 1,000 minutes;
- mobile broadband packages must include data usage of at least 8.75 GB per month and the speed requirement remains 3G mobile technology<sup>3</sup>;
- fixed broadband speed must be at least 20 Mbps downstream and 3 Mbps upstream, unless the Lifeline provider does not offer any generally available residential fixed broadband packages that meet the minimum service standard at the subscriber’s

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<sup>1</sup> Prior to 2004, if a rate of return carrier asked for an increase in revenue outside a rate case, the Commission policy was to adjust the amount received for an increased rate by a corresponding decrease in draw from the KUSF, pursuant to K.S.A. 66-2005(d). However, in *Rural Telephone Service Co. v. Kansas Corporation Commission*, 31 Kan. App. 2d 760, 72 P.3d 937 (2003), 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 (Docket No. 02-RRLT-875-TAR). The Court reversed the Order reducing Rural's KUSF support, but it remanded the matter to enable the Commission to determine the reasonableness of the proposed tariff changes in light of the Court's decision to disallow a contemporaneous reduction of KUSF support, 31 Kan. App. 2d at 770. On June 4, 2004, the Commission opened a generic docket to address Staff’s proposal to address tariff increases between KUSF audits. In an Order dated September 28, 2004, in that Docket (04-GIMT-1080-GIT), the Commission stated, “Staff will continue to conduct an individual evaluation of any proposed tariff revision made by a rate-of-return regulated Rural affecting its revenues to determine the reasonableness of the proposed rates . . . if Staff evaluates information indicating that a rate-of-return regulated carriers is receiving materially greater revenue than its authorized cost recovery and rate of return would necessitate, the Commission will consider whether to conduct an audit.”

<sup>2</sup> *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, Rel. April 27, 2016 (“*2016 Lifeline Order*”).

<sup>3</sup> FCC Public Notice, WC docket No. 11-42, DA 19-704, Rel. July 25, 2019. See: <https://docs.fcc.gov/public/attachments/DA-19-704A1.pdf>.

residence. In such situations, the Lifeline provider may receive Lifeline support for the highest performing generally available residential fixed broadband service offering of at least 4 Mbps downstream and 1 Mbps upstream. Fixed broadband usage must be at least 1024 GB per month<sup>4</sup>;

- the voice Lifeline support which was previously \$9.25 drops to \$7.25 for the period of December 1, 2019, to November 30, 2021; and
- a voice and broadband Lifeline bundle **must** include a broadband offering that meets the applicable minimum service standard to be eligible for the full \$9.25 Lifeline benefit.

The Company's initial filing reduced the federal Lifeline credit for voice only service from \$9.25 to \$7.25; however, several entities have requested that the FCC delay implementation of the proposed credit reduction. The FCC has an open meeting scheduled for November 22, 2019, during which the FCC could delay or cease implementation of the scheduled reduction for voice only service. As this issue is in flux, Staff asked the Company to make a subsequent filing that would make the tariff language more generic, thus allowing for subsequent FCC adjustments without the need for additional tariff filings. The filing makes changes to Part 2 of the tariff, page 3. The change is as follows:

- Deletes the specific rates listed for the federal and state Lifeline credits. The tariff includes language that indicates the federal and state credits provided to qualifying customers will be the maximum authorized by the Federal Communications Commission and the Kansas Corporation Commission.

The change to the Federal Lifeline credit will increase the revenue paid by the consumer, but will not change the overall amount of revenue received by the Company. Therefore, the annual regulated revenue impact will be zero.

Staff has reviewed the filing and does not have any concerns.

### **RECOMMENDATION:**

Staff recommends the Commission approve the replacement tariff sheets provided by Mutual. The changes that were provided in the new tariff sheets are not revenue affecting and are due to changes to the federal Lifeline program by the FCC. The changes made mirror the federal requirements and are, therefore, in the public interest. The Company requests an effective date of December 1, 2019.

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<sup>4</sup> FCC Public Notice, WC docket No. 11-42, DA 19-704, Rel. July 25, 2019. See: <https://docs.fcc.gov/public/attachments/DA-19-704A1.pdf>.



## CERTIFICATE OF SERVICE

20-MTLT-200-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 11/26/2019.

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