

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

STATE CORPORATION COMMISSION

AUG 30 2010

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.)



SUMMARY OF COMMENTS

The staff of the Corporation Commission of the State of Kansas (Staff and Commission or KCC, respectively) respectfully submits this summary of the comments filed in this docket in accordance with the Commission's June 16, 2010 Order Opening Docket and Setting Procedural Schedule (June Order):

I. BACKGROUND

1. On April 14, 2010, Staff submitted a memorandum to the Commission, recommending that the Commission open a generic proceeding to address whether the procedures for requesting supplemental Kansas Universal Service Fund (KUSF) support, adopted in Docket 842,¹ should be modified. On June 16, 2010, the Commission opened this docket and requested comments on the following issues:

- a. is the definition of a line eligible for supplemental KUSF support adequate;
- b. is the current filing frequency, allowing companies 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 should adjustments adopted by the Commission for one supplemental KUSF support request be incorporated in a subsequent request for supplemental KUSF support; and

¹ *In the Matter of a General Investigation Into Procedures for Supplemental Funding Requests Pursuant to K.S.A. 1999 Supp. 66-2008(e)*, Docket No. 00-GIMT-842-GIT (Docket 842), May 25, 2000 Order Approving Procedures for Supplemental KUSF Funding.

d. what is the appropriate effective date for payment of supplemental KUSF support?

2. The June Order directed parties to file comments by July 14, 2010 and reply comments by August 11, 2010. The June Order also directed Staff to file a summary of the comments for the Commission's consideration within 28 calendar days of the receipt of reply comments.

3. Initial comments were filed by the Citizens' Utility Ratepayer Board (CURB); the United Telephone Company of Kansas, United Telephone Company of Eastern Kansas, United Telephone Company of Southcentral Kansas, and Embarq Missouri, Inc. d/b/a Embarq d/b/a CenturyLink (collectively CenturyLink); and Staff. Reply Comments were filed by Staff and CURB.

4. The supplemental KUSF support procedures apply to Southwestern Bell Telephone Company (SWBT), CenturyLink, and competitors designated as an Eligible Telecommunications Carrier (ETC) for KUSF support purposes; they do not apply to the rural local exchange carriers (LEC).²

5. CenturyLink did not address the issues raised in the June Order; instead it proposed that the Commission expand this docket to examine the policy of allowing a competitive ETC to receive the same level of KUSF support as the incumbent LEC receives, referred to as the "equal-payment" policy.³ CenturyLink explained that the Federal Communications Commission (FCC) clarified its policy for competitive neutrality and no longer requires the equal-payment approach to be applied to competitive ETCs. CenturyLink urged this Commission to undertake a similar review.⁴ CURB shares CenturyLink's concerns about the

² Staff Comments, ¶ 9.

³ CenturyLink Comments, ¶ 3.

⁴ Id., ¶¶ 5, 6.

growth of the KUSF and the increase of the KUSF assessment, but prefers to analyze this issue in a separate proceeding.⁵ Staff agrees that the Commission should consider whether limiting the KUSF support available to competitive ETCs is appropriate, but also supports such consideration occur in a separate docket.⁶

II. SUPPLEMENTAL KUSF SUPPORT PROCEDURES

a. Is the definition of a line eligible for supplemental KUSF support adequate?

6. Staff and CURB recommend that the Commission modify the definition of an access line eligible for KUSF support to recognize that universal service may be provisioned through other technologically equivalent means. Staff recommended that the definition be modified to state “any revenue producing access line or technological equivalent, over which universal service is provided and meets the KCC’s definition of a supported line.”⁷ CURB proposed modification of the definition to state, “any revenue producing access line, and any other technological-neutral means, over which universal service is provided and meets the KCC’s further definition of a supported line.”⁸

7. Staff’s comments recommended that the Commission reiterate that the following access lines are not eligible for KUSF support:⁹

- 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 (e.g. one-way alarm, fire, etc.) or that are used specifically for non-regulated purposes (e.g. Internet access);

⁵ CURB Reply, ¶ 13.

⁶ Staff Reply, ¶ 5.

⁷ Staff Comments, ¶ 10.

⁸ CURB Comments, ¶ 3.

⁹ Staff Comments, ¶ 10.

- key and hunt lines, including all lines that terminate in a PBX, Centrex, or other hunt group setting. To ensure that 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 treated as a hunt line and all lines for that business are ineligible for KUSF support; and
- Primary Rate Interface (PRI) arrangements.

Staff noted that a wireless customer's billing address determines the line's location for KUSF support purposes, and that concession lines qualify for KUSF support on the same basis as the monthly service rate for the line.¹⁰ Staff recommended that the Commission also remind the parties of these requirements. CURB does not oppose these recommendations by Staff.¹¹

b. Is the current filing frequency - allowing companies 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?

8. Staff proposed that this process be modified to include a minimum threshold access line increase for quarterly filings and to eliminate the option allowing between-quarter filings.¹² Staff suggested a 5% or greater threshold for the quarterly filings and noted that the between-quarter option has not been used since adoption.¹³ Staff stated that these modifications will allow for greater predictability of the frequency of supplemental KUSF support filings; compared to the current procedures under which they can be filed essentially anytime. Staff explained that the current approach is problematic because the KUSF assessment rate is determined annually; the number and dollar amount of supplemental KUSF support requests cannot be foreseen or estimated in the KUSF assessment rate calculations; and the amount of supplemental KUSF support requested impacts the KUSF monies available during the year.

¹⁰ Staff Comments, ¶ 11.

¹¹ CURB Reply, ¶ 3.

¹² Staff Comments, ¶ 12.

¹³ Id., ¶ 13.

9. CURB also supports eliminating the between-quarters filing option and a minimum 5% net increase in lines for quarterly filings.¹⁴ CURB also recommends that this procedure be modified to eliminate the ability for a company to file a request for supplemental KUSF support in two consecutive quarters. CURB stated its proposals will resolve the issues related to adjustments adopted for one supplemental KUSF support request that are not recognized by a company in a subsequent request and will ease administrative burdens and promote efficiency.

c. How should prior adjustments adopted by the Commission be incorporated in the carrier's subsequent requests for supplemental KUSF support?

10. Staff recommended that this procedure be modified to require a company to file an amended request for supplemental KUSF support, with the amendment recognizing the prior period's adjustments adopted by the Commission.¹⁵ Staff stated that an amendment restarts the 120-day period in which the Commission has to issue an order. Staff stated that most adjustments to a company's filing relate to customer location identification,¹⁶ and explained that under the current procedures, Staff is placed in the position of being responsible for incorporating the adopted adjustments into a subsequent request; not the company.¹⁷ Staff noted that GoogleEarth, Batchgeocode.com, and Mapquest offer free geocoding and/or mapping programs¹⁸ and that the Commission's Information Technology Geological Information Systems (ITGIS) division provides electronic copies of the incumbent LEC exchange boundary and Base Rate Areas (BRAs) maps to companies upon request. Staff explained that the ITGIS division is working to compile a complete set of map files to make available for download from the

¹⁴ CURB Comments, ¶ 7.

¹⁵ Staff Comments, ¶ 14.

¹⁶ Id., ¶ 15.

¹⁷ Id., ¶ 16.

¹⁸ Id., ¶¶ 17-18.

Commission's website. Staff further explained that the ITGIS division is working with the Kansas Geological Society, the Data Access Support Center (DASC), other state agencies, and each county, to develop an address matching service for Kansas to develop an electronic, statewide address database.¹⁹ Staff then provided an alternative recommendation - a company could elect to forego consecutive quarterly filings.

11. CURB recommended that this procedure be modified to prevent a company from filing consecutive quarterly supplemental KUSF support requests.²⁰ CURB stated that this modification would resolve the issue of incorporating adjustments adopted for a prior quarterly request into a subsequent, consecutive quarter's request and adds certainty, eliminates confusion, and promotes administrative efficiency.²¹ Alternatively, CURB proposed that the Commission require a company to file an amended request to recognize the adopted adjustments. CURB explained that filing an amendment would restart the 120-day clock.

d. What is the appropriate effective date for payment of supplemental KUSF support?

12. CURB and Staff support modifying this procedure so that supplemental KUSF support is payable to a company the month following a Commission order. CURB states modifying this policy will encourage consistency and transparency between the KUSF support payments for the rural LECs and other companies, as well as avoid retroactive KUSF support payments.²² Staff recommends that the effective date, for either initial or supplemental KUSF support, should be the first of the month.²³ Staff stated that the effective date of the KUSF support procedures adopted in 1997 and clarified in 1998, was the first of the month following an

¹⁹ Staff Comments, ¶ 20.

²⁰ CURB Comments, ¶ 10.

²¹ CURB Reply, ¶ 7.

²² CURB Comments, ¶ 11.

²³ Id., ¶ 21.

order.²⁴ This was changed due to pending legal and policy issues; issues that are now resolved. Staff noted that the current procedure allows for retroactive, one-time KUSF support payments, which increase the financial pressure on the KUSF. Staff and administrative resources are also increased due to the need to calculate, record, and process a one-time, retroactive payment. Staff believes modifying the effective date to the first of the month following an order is consistent with K.S.A. 2009 Supp. 66-2008(b).

III. OTHER ISSUES

13. The supplemental KUSF support procedures state that the Commission will provide notification of supplemental KUSF support requests by opening one docket, in which all requests for that quarter will be addressed.²⁵ Notification occurs via posting to the Commission's website. Staff noted that the Commission did not seek comment on this issue. Staff continues to support that notification occur through a posting on the Commission's website; however, Staff recommended that a separate company-specific docket be opened to address each request instead of opening one docket to address all supplemental KUSF funding requests for a quarter. Staff believes this approach allows a request to be identified by company, eliminates potential confidentiality concerns, and allows Commission employee time to be directly assigned to the company benefiting from the request. CURB agrees with Staff's recommendations.²⁶

14. CURB proposed that the Commission revisit the issue of whether KUSF support should be limited only to the primary line.²⁷ CURB explained that the Commission ultimately decided not to limit KUSF support to the primary line due to the administrative difficulties and costs; not because the Commission changed its opinion that KUSF support should be limited

²⁴ Staff Comments, ¶ 22.

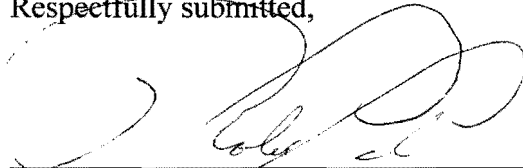
²⁵ Id., ¶ 23.

²⁶ CURB Reply, ¶ 16.

²⁷ CURB Comments, ¶ 4.

only to the primary line.²⁸ CURB recommended that the Commission revisit this issue in this docket or a separate proceeding.²⁹ Staff recommends that if the Commission revisits the primary line issue, the Commission do so in a separate proceeding.³⁰

Respectfully submitted,



Robert L. Lehr, S. CT. #9997
Litigation Counsel
Kansas Corporation Commission
1500 S.W. Arrowhead Dr.
Topeka, KS 66604
(785) 271-3240 (Telephone)
(785) 271-3167 (Facsimile)
r.lehr@kcc.ks.gov

For Commission Staff

²⁸ Id., ¶ 5.

²⁹ Id., ¶ 6.

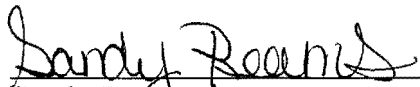
³⁰ Staff Reply, ¶ 4.

VERIFICATION

STATE OF KANSAS)
)
COUNTY OF SHAWNEE) SS:


Sandy Reams, of lawful age being first duly sworn upon oath states:

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



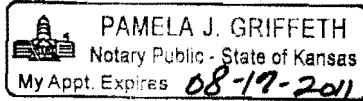
Sandy Reams

Subscribed and sworn to before me this 30th day of August 2010.



Notary Public

My appointment expires:



CERTIFICATE OF SERVICE

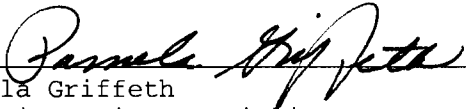
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I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Summary of Comments was placed in the United States mail, postage prepaid, or hand-delivered this 31st day of August, 2010, to the following:

DAVID SPRINGE, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3116
d.springe@curb.kansas.gov
**** Hand Deliver ****

BRUCE A. NEY, ATTORNEY, ROOM 515
SOUTHWESTERN BELL TELEPHONE CO.
D/B/A AT&T
220 EAST SIXTH STREET
TOPEKA, KS 66603
Fax: 785-276-1948
bruce.ney@att.com

LINDA GARDNER, ATTORNEY, KSOPKJ0701
UNITED TELEPHONE CO. OF KANSAS
D/B/A CENTURYLINK
5454 W 110TH STREET
OVERLAND PARK, KS 66211-1204
Fax: 913-345-6756
linda.gardner@embarq.com



Pamela Griffeth
Administrative Specialist