

**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 Twin Valley Telephone Filing)
Tariff Revisions to Change off-Premise) Docket No. 20-TWVT-230-TAR
Extensions.)

ORDER APPROVING REVISED TARIFF

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On November 22, 2019, Twin Valley Telephone (Twin Valley) filed an Application requesting to make tariff revisions to its provisioning of off-premise extensions (OPX) in its General Exchange Tariff.

2. The Commission derives its authority to review Local Exchange Carrier tariffs from K.S.A. 66-117(d), which reads 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.

K.S.A. 66-1,190 provides in part that telecommunications public utilities doing business in Kansas shall:

... 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...and...the commission shall have 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...

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. Further, K.S.A. 66-1,189 requires the Commission to ensure that all classifications, rules, and regulations regarding the services are not unduly discriminatory or preferential.

3. On December 2, 2019, Commission Staff (Staff) submitted its Report and Recommendation, attached hereto and made a part hereof, recommending the Commission grant Twin Valley’s Application and approve the company’s proposed tariff, effective December 23, 2019.

4. Staff explained that carriers must adapt to customer needs and the new service provides consumers with increased choices. Staff noted that the tariff revisions did not increase the revenue of Twin Valley in a manner that is materially greater than that necessitated by cost of recovery and rate of return. Staff recommended approval.

5. The Commission finds Staff’s findings and recommendation to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Twin Valley Telephone’s Application is hereby granted and its revised General Exchange Tariff is hereby approved and shall become effective December 23, 2019.

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).¹

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

¹ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 12/10/2019



Lynn M. Retz
Executive Director

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**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: December 2, 2019

RE: Docket No. 20-TWVT-230-TAR
In the Matter of Twin Valley Telephone Filing Tariffs Revisions to Change off-Premise Extensions.

EXECUTIVE SUMMARY:

On November 22, 2019, Twin Valley Telephone (Twin Valley) filed a request to make tariff revisions to its provisioning of off-premise extensions (OPX) in its General Exchange Tariff. Staff recommends Commission approval of this Application.

The Commission action date is **Sunday, December 22, 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.¹

ANALYSIS:

With this filing, Twin Valley is revising the provisioning of OPX. The new provisions allow the customer to install appropriately sized buried conduit for provision of the OPX facility. The price for Company technicians to lay the line in the customer buried conduit, will be \$60 for the initial hour, and \$12.50 per quarter hour thereafter. This is in addition to the \$2.50 per foot charge currently in the tariff.

If the customer wants the company to install the conduit, it will be subject to the availability of Company employees and equipment. The price for a construction crew to install the conduit and the line includes a trip charge of \$150, \$100 for the initial hour, and \$50 per half hour thereafter. This is also in addition to the \$2.50 per foot charge currently in the tariff.

The company estimates additional annual revenue of \$1,500 from these services.

¹ 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 company 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.”

RECOMMENDATION:

Telecommunications carriers must adapt to customer needs and the new service provides consumers with increased choices. Staff does not believe the increased revenue Twin Valley may receive as a result of this filing is materially greater than its authorized cost recovery and rate of return would necessitate. Staff recommends the Commission approve this Application with an effective date of December 23, 2019, as requested by the Company.

CERTIFICATE OF SERVICE

20-TWVT-230-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 12/10/2019.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

TOM MAURER, DIRECTOR
TELCOM SUPPORT SERVICES
2708 ST CHRISTOPHER CIRCLE
MANHATTAN, KS 66502-2216
Fax: 785-473-7337
tmaurer@tssks.com

SCOTT LEITZEL, VICE PRESIDENT - OPERATIONS
TWIN VALLEY COMMUNICATIONS, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
Fax: 785-427-2216
scott.leitzel@tvtnet.net

BENJAMIN FOSTER, PRESIDENT & CEO
TWIN VALLEY TELEPHONE, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
Fax: 785-427-2216
ben.foster@tvtnet.net

/S/ DeeAnn Shupe

DeeAnn Shupe