

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

Before Commissioners:                    Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Application of Wheat State    )  
Telephone Company d/b/a Wheat State            )        Docket No. 19-WHST-095-TAR  
Technologies Filing Tariff Revisions to        )  
Replace the Present Tariff in its Entirety.        )

**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 August 29, 2018, Wheat State Telephone Company d/b/a Wheat State Technologies (Wheat State) filed an Application to replace its entire tariff and add the d/b/a name.

2.        On September 21, 2018, the Commission Staff (Staff) submitted its Report and Recommendation, attached hereto and made a part hereof, recommending the Commission grant Wheat State's Application and approve the company's proposed tariff, effective September 30, 2018. 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 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 Commission 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>

3. According to Staff, Wheat State’s filing replaces the current tariff and adds the d/b/a Wheat State Technologies on each page.

4. Staff noted that in its review of the replacement tariff that Custom Calling and Advanced Calling Service Installations or Change charges increased from \$5.00 per line to \$12.00 in the replacement tariff. After discussions with the Company consultant it was determined that the change to \$12.00 should have been made in Docket No. 12-WHST-377-TAR, which was filed on November 17, 2011. However, the increase for those services was not included in the application and was therefore not approved in the subsequent order. Staff determined that customers had been charged at the \$12.00 rate for such services from the period of December 2011 through December 2017, resulting in billed total of \$360.00. Staff confirmed

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<sup>1</sup> Report and Recommendation, pages 1-2.

with the company that those customers who had been charged rates beyond those stated in the approved tariff would be identified and refunds would be issued.

5. In addition, Wheat State's replacement tariff removes several services from the tariff as the Company no longer provides such services or there are no customers subscribing to the services. As the services deleted from the tariff have no customers or demand, Staff does not have any issues with the deletion of these services.

6. Staff recommends the Company be required to issue refunds to customers that were overcharged for Custom Calling and Advanced Calling Service Installation or Change charges during the period of December 14, 2011 through the date of the Order in this Docket by issuing one-time equal billing credits within sixty (60) days from the date of the Commission's Order. The Staff also recommends the Company should also submit an affidavit in this Docket, executed by an officer of the Company, attesting to the completion of the customer refunds and the total amount of the refund. Additionally Staff recommends that the Company should also be directed to provide Staff with copies of five customer bills to substantiate that it issued the refunds subsequent to issuing the bill credits. If the Company is unable to complete the ordered bill credits within the sixty (60) day period, the Company should file an explanation with the Commission in this Docket to explain why it is unable to comply and the timeframe within which the Company expects the refund to be completed. Concluding, Staff recommends that the Commission approve this application.

7. The Commission adopts Staff's analysis and recommendation of September 21, 2018, as stated in its Report and Recommendation and finds that Wheat State's Application should be granted and the requested tariff revisions approved.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Wheat State Telephone Company d/b/a Wheat State Technologies' Application is hereby granted and its tariff is hereby approved and shall become effective September 30, 2018.

B. Wheat State Telephone Company d/b/a Wheat State Technologies shall issue refunds to customers that were overcharged for Custom Calling and Advanced Calling Service Installation or Change charges during the period of December 14, 2011 through the issuance of this Order issuing one-time equal billing credits within sixty (60) days from the date of this Order. Wheat State shall submit an affidavit in this Docket, executed by an officer of the Company, attesting to the completion of the customer refunds and the total amount of the refund. Wheat State is further directed to provide Staff with copies of five customer bills to substantiate that it issued the refunds subsequent to issuing the bill credits. If the Company is unable to complete the ordered bill credits within the sixty (60) day period, the Company shall file an explanation with the Commission in this Docket to explain why it is unable to comply and the timeframe within which the Company expects the refunds to be completed.

C. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.<sup>2</sup>

D. The Commission retains jurisdiction over Wheat State Telephone Company, Inc. and the subject matter of this docket for the purpose of entering such further order, or orders, as it deems necessary.

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<sup>2</sup>K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

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

Albrecht, Chairman; Emler, Commissioner; Keen, Commissioner

Dated: 09/27/2018



Lynn M. Retz  
Lynn M. Retz  
Secretary to the Commission

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STATE OF KANSAS



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**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Dwight D. Keen

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

**DATE:** September 21, 2018

**RE:** Docket No. 19-WHST-095-TAR  
In the Matter of the Application of Wheat State Telephone Company d/b/a Wheat State Technologies Filing Tariff Revisions to Replace the Present Tariff in its Entirety.

**EXECUTIVE SUMMARY:**

On August 29, 2018, Wheat State Telephone Company d/b/a Wheat State Technologies (Wheat State) filed a request to replace its entire tariff and add the d/b/a name. Staff recommends Commission approval of this Application.

The Commission action date is **Friday, September 28, 2018.**

**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:**

This filing replaces the current tariff and adds the d/b/a Wheat State Technologies on each page. In its review, Staff requested clarification on September 4, 2018, from the Company’s consultant regarding the items that were removed from the tariff. A response was filed in the Docket on September 7, 2018. As the tariff was totally rewritten and the sections were rearranged, Staff requested further clarification from the Company’s consultant on September 12, 2018. A response was sent via email to Staff on September 19, 2018.

Staff noted that the Custom Calling and Advanced Calling Service Installation or Change charges increased from \$5.00 per line in the old tariff Part 3, 6<sup>th</sup> Revised Sheet 14, to \$12.00 in the new replacement tariff, Section 4, Original Sheet 8, 4. The Company’s consultant responded that the charges should have been changed to \$12.00 in 2011 in Docket No. 12-WHST-377-TAR (12-377 Docket), which was filed on November 17, 2011. However, the increase for those services was not included in the Application in the 12-377 Docket, nor was it approved by the Commission in that Docket.

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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.”

Staff inquired whether the Company had been charging the new rate between December 14, 2011, when the Commission approved the 12-377 Docket and the present, and if so, how much revenue the Company had received due to the incorrect rate being charged for those services. The response was that for the period from December 2011 through 2017, the Company has billed a total of \$360. Staff then inquired whether the Company could identify the customers who had, in effect, been overcharged during that period. The Company responded that customers can be identified and refunds would be issued.

In addition, the following services have been removed from the tariff as the Company no longer provides the service or there are no customers subscribing to the service.

- Joint User Service – when an individual, firm, or corporation whose telephone needs are not such as to justify the provision of separate service uses the service of another customer.
- The rates for Joint Users – Business Individual Access Line Service at 50% of the individual business access line rate and Residence Individual Access Line Service at 50% of the individual residence access line rate.
- Public Telephone Service – an exchange station installed and equipped with a coin collecting device.
- Semi-public Telephone Service – a customer station equipped with a coin collection device designed for a combination of customer and public usage.
- Special Equipment and Assemblies – Modifications of standard equipment, special equipment, or service arrangements for which provision is not otherwise made.
- Optional Community Calling Service Plans between Potwin & Udall and the Wichita Metro Area.

### **RECOMMENDATION:**

As the services deleted from the tariff have no customers or demand, Staff does not have any issues with the deletion of these services.

Staff recommends the Company be required to issue refunds to customers that were overcharged for Custom Calling and Advanced Calling Service Installation or Change charges during the period of December 14, 2011 through the date of the Order in this Docket by issuing one-time equal billing credits within sixty (60) days from the date of the Commission's Order. The Company should also submit an affidavit in this Docket, executed by an officer of the Company, attesting to the completion of the customer refunds and the total amount of the refund. The Company should also be directed to provide Staff with copies of five customer bills to substantiate that it issued the refunds subsequent to issuing the bill credits. If the Company is unable to complete the ordered bill credits within the sixty (60) day period, the Company should file an explanation with the Commission in this Docket to explain why it is unable to comply and the timeframe within which the Company expects the refund to be completed.

Staff recommends the Commission approve this Application with an effective date of September 30, 2018, as requested by the Company.

**CERTIFICATE OF SERVICE**

19-WHST-095-TAR

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 09/28/2018.

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