

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

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the Matter of Wheat State Telephone Company )  
Filing Tariffs Revisions to Bundle Services ) Docket No. 17-WHST-332-TAR  
Prices. )

**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 examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On January 23, 2017, Wheat State Telephone Company (Wheat State) filed an Application requesting Commission approval of tariff revisions to its General Exchange Tariff. Supplementing its Application, Wheat State included as an attachment a copy of the proposed 5<sup>th</sup> Revised Sheet 18 to Section 3 of the company's MTS, Access & Vertical Tariff (Tariff). Wheat State requests that its proposed Tariff revisions be made effective March 1, 2017.

2. K.S.A. 66-1,190 requires 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...[t]he 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...as the commission determines reasonable and appropriate.

The Commission derives its authority to review General Exchange Carrier tariffs from K.S.A. 66-117(d), which states in part:

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.

Pursuant to K.S.A. 66-1,189, the Commission must review rates and terms for jurisdictional telecommunications services to ensure they are “just and reasonable” and 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. On February 6, 2017, the Commission Staff (Staff) filed its Report and Recommendation dated February 2, 2017, in response to Wheat State’s Application. Staff states that Wheat State’s requested tariff revisions make changes to Section 3 of the company’s Tariff, including the following:

- Changing the rates for the EB bundles with internet speeds up to 50mbps. The bundles also include an access line, long distance, voice mail and call and caller ID.
- Wheat State indicates these changes also reflect the recent access line rate increase approved by the Commission on February 2, 2017, in Docket No. 17-WHST-287-TAR.

Staff adds that Wheat State anticipates the annual revenue impact to be an additional \$1,780 annually. Internet, long distance and voice mail are not regulated products. Staff has reviewed the company’s filing and determines that the revenue Wheat State may gain as a result of this filing does not significantly impact the cost recovery and rate of return the Commission

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<sup>1</sup> Report and Recommendation, footnote 1.

considers. Wheat State does not receive Kansas Universal Service Fund (KUSF) support. Wheat State's last tariff filing was in January 2017, for an access line rate increase.<sup>2</sup>

4. Concluding, Staff recommends the Commission approve the replacement tariff sheet provided by Wheat State, noting that bundles provide options for customers allowing them to purchase products they desire and providing options for access to various service offerings. Inasmuch as these bundles provide options for access to various service offerings, Staff maintains the bundles are in the public interest.<sup>3</sup>

5. The Commission adopts Staff's analysis and recommendation of February 2, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, 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's Application filed January 23, 2017, is hereby granted and the proposed tariff revisions are hereby approved and shall become effective March 1, 2017, as requested by the company.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2015 Supp. 77-529.

C. 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> Id., page 2.

<sup>3</sup> Ibid., page 3.

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

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: FEB 09 2017

  
Amy L. Green  
Secretary to the Commission

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Order Mailed Date

FEB 10 2017

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chairman Pat Apple  
Commissioner Shari Feist Albrecht  
Commissioner Jay Scott Emler

**FROM:** Paula Artzer, Senior Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** February 2, 2017

**SUBJECT:** Docket No. 17-WHST-332-TAR  
In the Matter of Wheat State Telephone Company Filing Tariffs Revisions to  
Bundle Services Prices

**EXECUTIVE SUMMARY:**

On January 23, 2017, Wheat State Telephone Company (Wheat State) filed a request to make tariff revisions to a certain section of its General Exchange Tariff changing rates for bundles including the access line and various products, including internet.

The Commission action date is Wednesday, February 22, 2017.

**ANALYSIS:**

The Kansas Corporation Commission (KCC or Commission) derives its authority to review General 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>

This filing makes changes to Section 3 of the tariff, Sheet 18. The changes are as listed:

- Changing the rates for the EB bundles with internet speeds up to 50mbps. The bundles also include an access line, long distance, voice mail and caller ID.
- The Company indicates these changes also reflect the recent access line rate increase approved by the Commission on February 2, 2017, in Docket 17-WHST-287-TAR.

The Company indicated the anticipated annual revenue impact to be an additional \$1,780 annually. Internet, long distance and voice mail are not regulated products.

Staff has reviewed the filing. The revenue the Company may gain as a result of this filing does not significantly impact the cost recovery and rate of return the Commission considers. Wheat State does receive KUSF support. The Company’s last tariff filing was in January of 2017 for an access line rate increase.

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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 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:**

Staff recommends the Commission approve the replacement tariff sheet provided by Wheat State. Bundles provide options for customers to purchase the products they desire and these bundles provide options for access to various service offerings, therefore, the bundles are in the public interest. The Company requests the tariff become effective March 1, 2017.

**CERTIFICATE OF SERVICE**

17-WHST-332-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 **FEB 09 2017**.

OTTO NEWTON, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604  
Fax: 785-271-3167  
o.newton@kcc.ks.gov  
\*\*\*Hand Delivered\*\*\*

TOM MAURER, DIRECTOR  
TELECOM SUPPORT SERVICES (TSS)  
2800 SW WINDERMERE DRIVE  
TOPEKA, KS 66614-4895  
Fax: 785-862-2003  
tmaurer@tssks.com

ARCHIE MACIAS, GENERAL MANAGER  
WHEAT STATE TELEPHONE COMPANY, INC.  
PO BOX 320  
UDALL, KS 67146  
Fax: 620-782-3302  
agmacias@wheatstate.com

/S/ DeeAnn Shupe  
DeeAnn Shupe

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Order Mailed Date

FEB 10 2017