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Kansas Corporation Commission

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 An Investigation to Determine the Assessment Rate for the Twenty-Second Year of the Kansas Universal Service Fund, Effective March 1, 2018.	))))	Docket No. 18-GIMT-084-GIT

ORDER APPROVING TRAFFIC FACTORS FOR NETFORTRIS ACQUISITION CO. INC.

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. Pursuant to K.S.A. 66-2008(a), the Commission requires "every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services and, to the extent not prohibited by federal law, every provider of interconnected VoIP service, as defined by 47 C.F.R. 9.3 to contribute to the [Kansas Universal Service Fund ("KUSF")] based upon the provider's intrastate telecommunications services net retail revenues on an equitable and nondiscriminatory basis." On December 27, 1996, in Docket No. 94-GIMT-478-GIT, the Commission declared that the contribution would be a yearly assessment on each provider's intrastate retail revenues.

2. Pursuant to the Commission's Order of January 24, 2012, and Amended Order of February 1, 2012, in Docket No. 12-GIMT-168-GIT, wireless carriers and interconnected voice over internet protocol (VoIP) providers have three options for identifying their Kansas intrastate

retail revenues. First, a provider may utilize the Federal Communications Commission's (FCC) Safe Harbor percentages to allocate intrastate and interstate Kansas revenues.[1] If a wireless carrier or VoIP provider utilizes the Safe Harbor percentages, no filings regarding the methodology are necessary. Second, a wireless carrier or VoIP provider may utilize a traffic study to determine revenue allocations between jurisdictions. If the wireless carrier or VoIP provider uses the traffic study methodology, it must file to request to use the methodology for KUSF purposes and provide the jurisdictional percentages (also known as "traffic factors") to the Commission, at least annually in the annual KUSF docket, and identify the specific timeframes for which the traffic factors apply. This filing requirement applies even if the traffic factors did not change from the prior year. Third, a wireless carrier or VoIP provider may directly assign revenue between jurisdictions.[2] If the wireless carrier or VoIP provider uses the direct assignment methodology, it does not need to provide the jurisdictional percentages, but it must request approval to use the methodology and inform the Commission at least annually, in the annual KUSF docket, whether it continues to use such methodology. Additionally, if the wireless carrier or VoIP provider uses either the traffic study or direct assignment methodologies, it must provide an affidavit from an officer of the company attesting that it uses the inverse of the intrastate KUSF revenue percentages for interstate, Federal Universal Service Fund (FUSF) remittance purposes. Such affidavit should accompany the filings referenced above.

3. On October 18, 2018, NetFortris Acquisition Co. Inc. (NetFortris) filed a request with the Commission to approve its use of the traffic study methodology for KUSF purposes.

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[1] *See* Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd. 7518 ¶65 (June 27, 2006); *See also* Petition of Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues, WC Docket No. 06-122 (November 5, 2010).

[2] *See* Implementation Order Adopting Staff Report and Recommendation and requiring VOIP Providers Operating in Kansas to Report and Remit the Kansas Universal Service Fund by Jan. 15, 2009. ¶14, Docket No. 07-GIMT-432-GIT (Sep. 22, 2008).

Netfortis provided its traffic study factors for the quarter ending November 30, 2018. The filing was accompanied by an affidavit signed by Gene Carr, Co-Chief Executive Officer, stating that the Company uses the same traffic study methodology previously disclosed to the Commission and verifying that is the same methodology used in filings with the FCC.

4. The Commission finds Netfortis' filing is appropriate and approves the traffic study factors submitted for KUSF remittance purposes.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. NetFortris Acquisition Co. Inc.'s traffic study factors filed on October 18, 2018, for the quarter ending November 30, 2018 are approved.

B. 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.[3]

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chairman; Emler, Commissioner; Keen, Commissioner

Dated: 11/27/2018

Lynn M. Retz
Secretary to the Commission

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[3]K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

CERTIFICATE OF SERVICE

18-GIMT-084-GIT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 11/27/2018.

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CERTIFICATE OF SERVICE

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