

2. The Order's direction that Home pay a penalty is factually unsupported, arbitrary, capricious, unlawful and unreasonable. In its Separate Response dated October 11, 2019 herein Home stated facts, adopted here by reference and unchallenged in the record, establishing that its actions did not constitute a failure, neglect or refusal to obey any lawful requirement or order made by the Commission (see K.S.A. 66-138). The Commission therefore lacks statutory authority to impose a penalty on Home.

3. In the fifteen weeks between Home's Separate Response and the Commission's Order of January 28, 2020 Commission Staff submitted no response challenging the factual assertions of Home's Separate Response. Similarly, the Commission's Order makes no effort to consider or address the factual circumstances regarding Home's initial filing of June 28, 2019 in this Docket. The failure or refusal to consider Home's factual explanation of its compliance with Commission Orders, absent any factual assertion refuting such explanation, renders the imposition of a penalty without factual support and therefore arbitrary and capricious.

4. Home's recitation of relevant dates in its Separate Response is likewise undisputed. The proposed penalty is based on an interval of some 23 days between Home's original ETC filing and the first contact from Staff construing Home's filing as incomplete. Home has explained that its original response to a question regarding service outages was complete and accurate.

5. Staff's subjective construction of that response as incomplete was not communicated to Home for over three weeks after Staff was in possession of the filing. Virtually immediately after receiving Staff's statement of interpretation Home provided a response modifying its information to comply with Staff's preference. The substance of the information provided in the original ETC certification filing remained unchanged; only Staff's subjective satisfaction with the form of the response is claimed to set the date on which Home's filing was deemed complete.

6. Home could have satisfied Staff's uncertainty about the form of the June 28, 2019 filing with an email or a brief telephone call on that date, and on each day thereafter. Staff's failure earlier to advise Home of its subjective interpretation is the sole cause that three weeks passed before Staff became satisfied. The assertion that Home

should be penalized an increased amount based solely on that interval is arbitrary and unreasonable, as it is based on Staff's delay and not on any failure by Home.

WHEREFORE Home requests that the Commission reconsider its Order of January 28, 2020 herein and upon reconsideration rescind the penalty ordered as to Home. Alternatively, the amount of fine should be reduced to reflect the time, less than one day, between Staff's contact with Home regarding a claim of incompleteness and Home's confirmation of the substantive information at issue.

Respectfully Submitted,

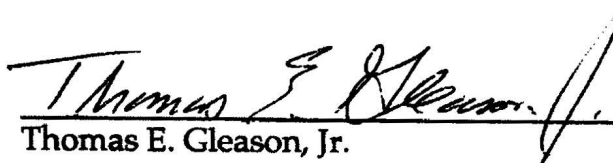


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VERIFICATION

STATE OF KANSAS, DOUGLAS COUNTY, ss:

Thomas E. Gleason, Jr., of lawful age, being first duly sworn, on his oath states: He is the attorney for Home Telephone Company; that he has read the above and foregoing Petition for Reconsideration; that the statements, allegations and matters contained therein are true and correct.



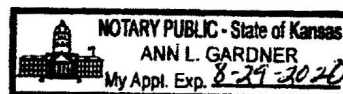
Thomas E. Gleason, Jr.

Subscribed and sworn to before me this 12th day of February, 2020.



Notary Public

My Appointment Expires: 8-29-2020



CERTIFICATE OF SERVICE

Thomas E. Gleason, Jr., hereby certifies that a true and correct copy of the above and foregoing Petition for Reconsideration was served electronically on the following on this 12th day of February, 2020:

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