2010.10.25 11:14:29
Kansas Corporation Commission
/S/ Susan K. Duffy

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

OCT 25 2010

T Susan Talbott

In the Matter of the Proceeding to Conduct a Financial and Operational Audit of Kansas Relay Service, Inc.'s (KRSI) Administration of the Dual Party Relay Service and Telecommunications Access Program (TAP) to Determine that Costs Recovered Through the Kansas Universal Service Fund (KUSF) for These Programs are Reasonable and Accurate..	)	Docket No. 07-KRSI-143-KSF

NOTICE OF FILING OF STAFF REPORT AND RECOMMENDATION

COMES NOW the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and files its report and recommendation following its audit of the Kansas Relay Service, Inc's administration of telecommunications relay service, and the Telecommunications Access Program.

WHEREFORE Staff requests the Commission consider its report and recommendation and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,

Colleen R. Harrell

Colleen R. Harrell, #16121
Litigation Counsel, Telecommunications
1500 S.W. Arrowhead Road
Topeka, KS 66604
(785) 271-3138 phone
(785) 271-3167 fax
c.harrell@kcc.ks.gov
Attorney for Commission Staff

REPORT AND RECOMMENDATION

To: Thomas E. Wright, Chairman
Joseph F. Harkins, Commissioner
Ward Loyd, Commissioner

From: Jeff McClanahan
Christine Aarnes
Karen Hull

Date: October 25, 2010

Date Submitted to Legal: 10/25/10

Date Submitted to Commissioners: 10/25/10

Re: **Docket 07-KRST-143-KSF**: In the Matter of the Proceeding to Conduct a Financial and Operational Audit of Kansas Relay Service, Inc.'s (KRSI) Administration of the Dual Party Relay Service and Telecommunications Access Program (TAP) to Determine that Costs Recovered through the Kansas Universal Service Fund (KUSF) for these Programs are Reasonable and Appropriate.

Executive Summary

The Commission opened this docket on August 10, 2006 to conduct an audit of the Kansas Relay Service, Inc.'s ("KRSI") administration of telecommunications relay service ("TRS") and the telephone equipment distribution program for persons with hearing, speech, vision, cognitive or mobility disability/impairment or a combination of these disabilities/impairments which make unassisted use of traditional telephone service difficult or impossible (Telecommunications Access Program ("TAP")). These programs are funded through the Kansas Universal Service Fund ("KUSF"). K.S.A. 2008(c) directs the Commission to periodically review the costs of qualified telecommunications public utilities to determine if such costs justify modification of the KUSF. For some time now, the Commission has been in the process of transitioning the KUSF to a cost-based fund. In doing so, the Commission established forward-looking cost models on which KUSF support for some carriers is based and conducted audits to determine KUSF support based on embedded costs of other service providers. The Commission determined that it should also conduct a review of KRSI in conjunction with its efforts to maintain a cost-based KUSF. In its order opening this docket, the Commission concluded that a financial and operational audit of the programs administered by KRSI should be conducted. The Commission requested a review of KRSI's financial records as well as the financial data of the Kansas Telecommunications Industry Association ("KTIA"), the entity which performs the day-to-day managerial functions for KRSI. KTIA is an industry trade association that is supported by its members who include companies providing local telephone service, long distance service, wireless service, as well as companies who provide service and products related to the telephone industry in Kansas.

Management agreements have been executed between KRSI and KTIA that effectively set a fixed price for the day-to-day administrative functions for KRSI. The agreements allow for the payment of common/joint costs between KTIA and KRSI and the payment of a fixed monthly fee that escalates on an annual basis. The agreements are structured to identify the common/joint costs allocated from KTIA to KRSI, which are added to a "plug" number representing a base administrative fee such that the total equals the monthly fee stated in the agreements. Very little supporting documentation is available to justify the contract amounts and, in fact, no supporting documentation is available to support the monthly fee. The agreements have also contained automatic annual cost increases to the monthly fees, which are not supported with documentation.

Staff's major findings from its audit of KRSI are: (1) as the management agreements are structured, it is impossible to tell if KRSI is paying KTIA cost-based fees, and (2) there is an absence of written procedures outlining the methodology for the allocation of common/joint costs between KRSI and KTIA. The current methodologies of allocating common costs to the organizations are based on outdated information and the methodologies should be changed to provide a higher degree of accuracy in allocating costs. Without a proper allocation of the joint costs, an accurate cost of providing services cannot be determined.

Given the lack of documentation to support the monthly fees and cost allocations, Staff cannot reliably find that the payments to KTIA are cost based as required by K.S.A. 2008(c). Therefore, Staff recommends the KRSI administrative responsibilities be performed by an organization who has been awarded the opportunity as a result of a competitively bid request for proposals ("RFP") process.

Staff notes that KRSI was provided the opportunity to review this report prior to filing, but the advanced preview does not eliminate the opportunity to formally respond to Staff's recommendations.

Background

The Commission opened this docket on August 10, 2006 to conduct an audit of KRSI's administration of TRS and TAP. These programs are funded through the KUSF. In its order opening this docket, the Commission concluded that a financial and operational audit of the programs administered by KRSI should be conducted. The Commission requested a review of KRSI's financial records as well as the financial data of the KTIA the entity which shares personnel, equipment and office space for the day-to-day managerial functions for KRSI.

In an order issued November 1, 1989 ("November 1989 Order"), the Commission determined, among other things, that a "free-standing, non-profit corporation be formed to perform the day-to day administrative functions" of the TRS.[1] This entity would be incorporated as Kansas Relay Service, Inc.[2] KRSI was to be governed by a Board comprised of telecommunications companies that would be contributing financially for the provisioning of TRS.[3] The Commission determined that KRSI should contract with the Kansas Telecommunications Association (now referred to as the KTIA) for the day-to-day managerial functions required for the provision of TRS.[4] The Commission required KRSI to enter into a contract with KTIA establishing a monthly fee for the use of office space, equipment, personnel and provide for unusual expenses upon occurrence.[5] The initial contract was to be for one year from the date the TRS center would begin operating. At the end of that year, KRSI could either enter into another contract with the KTIA or negotiate with another entity for the provision of day-to-day managerial functions.[6] KRSI has continued to utilize KTIA for day-to-day managerial functions of KRSI. Currently, KTIA and KRSI have the following staff:

David Rosenthal, KTIA President and KRSI Chairman
Joyce Hightower, Business Manager and KRSI/TAP Director
Sherry Rentfro, Assistant Business Manager
Tim Anderson, TAP Coordinator

The KRSI Board is comprised as follows:
David Rosenthal, KRSI Chairman
Mike Foster, Twin Valley Telephone, Inc.
John Idoux, CentryLink
Sandy Reams, KCC
Martha Gabehart, Kansas Commission on Disability Concerns (KCDC)
Ivan Kuhn, Cox Communications
Cindy Swoboda, AT&T
Austin (Gene) Norris, KRSI Advisory Council Member
Sandra Pakkebier, Nex-Tech
Pam Spohn, KRSI Advisory Council Member
Dennis Selznick, Kansas Commission for the Deaf and Hard of Hearing

KRSI Advisory Council Members are:
Kathy Nix, Chairwoman
Mark Dester
Dick Hosty
Chris Jamison
Richard Kerby
Glenda Lickteig
Dennis Nix

[1] In the Matter of a General Investigation Into Dual Party Relay Service in Kansas, Docket No. 168,334-U, *Order*, November 1, 1989, Paragraph 13. (*November 1989 Order*) A more complete history of KRSI is provided in Attachment A.
[2] Id.
[3] Id. Paragraph 14.
[4] Id. Paragraph 15.
[5] Id.
[6] Id.

Austin (Gene) Norris
Pam Spohn
Daniel Weber

The current Board of Directors for KTIA is:
Dale Jones, Chairman (Tri-County Telephone Association, Inc.)
Tonya Murphy, Vice-Chairwoman (Gorham Telephone Company)
Mike Rice, Immediate Past Chair (Wamego Telecommunications Company, Inc.)
John Gisselbeck, Treasurer (Twin Valley Telephone, Inc.)
Gena Barry-Mathis (Associated Network Partners, Inc. (ANPI))
Brian Boisvert (Wilson Telephone Company, Inc.)
Nathan DeWitt (Madison Telephone, LLC)
Mark Gailey (Totah Communications, Inc.)
Monty Gilliam (Kansas Independent Telecommunications (K.I.T.))
Sue Justesen (Zone Telecom)
Archie Macias, (Wheat State Telephone, LLC)
Tom Maurer, (Telecom Support Services)
Zack Odell (South Central Telephone Association, Inc)
Sheldon Smith (Mutual Telephone Company)

Staff has conducted a financial review of KRSI as well as a review of its processes and procedures. This review was accomplished in cooperation with KRSI/KTIA staff. The review was informal with Staff interviewing KRSI/KTIA staff and requesting documentation where necessary. No formal requests for information were issued.

Audit Findings
Financial

A. Costs Charged by KTIA to KRSI

From the outset of the audit in this case, one of Staff's primary concerns was to ensure that the fees paid by KRSI to KTIA are cost based and that the charges do not cross-subsidize the activities of KTIA. Therefore, Staff's audit was designed to evaluate the contractual charges and any related common/joint charges paid by KRSI to KTIA.

In conducting this audit, Staff requested a copy of all contracts between KRSI and KTIA. Staff received a copy of the initial management agreement dated May 1991. According to this agreement, KRSI would pay KTIA a fee for the provision of "certain employees, office facilities and space, supplies and equipment". The initial fee was $2,000 per month with annual escalations of $250 per month each May 1st[7]. The contract provided in Attachment B states the monthly payments are for:

> reimbursement of salary for [KTIA] employees providing service to KRSI, rent for office space, local telephone expenses, the cost of miscellaneous supplies, insurance policies and premiums on office

[7] The contract dated May 1991 is provided in Attachment B.

> space, use of equipment and facilities, as well as depreciation and amortization applicable to such properties. Notwithstanding the aforesaid, KRSI shall be responsible for and shall reimburse [KTIA] for all necessary and proper expenses directly incurred by [KTIA] for the sole benefit of KRSI, including but not limited to, long distance telephone charges, copying charges, KRSI stationary and envelopes, and postage.

Management agreements have been developed and specify the costs attributable to KRSI and TAP without any proper documentation of the methodology to specify the allocation of joint (common costs). The original term of the agreement was through October 30, 1995. However, no successor agreement was executed until September 2006. Staff understands that the monthly payment has been modified over time but not documented. KRSI and KTIA executed a new agreement in September 2006 and asked for Staff to review for approval, but given the pending audit, Staff did not provide feedback on the fairness of the fees. Given the issues discussed above regarding cost allocation and documentation of costs, it would be difficult to make a recommendation regarding the reasonableness of such a contract.

A copy of the current expense reimbursement agreement is attached to this report as Attachment C. The agreement is for a primary term of five (5) years and according to paragraph 3 of the agreement,

> KTIA agrees to provide the personnel, services, related office space and, supplies necessary for KRSI to perform the day-to-day administrative functions of the Dual Party Relay Service (DPRS), for a director and clerical assistant for the TAP program, and KRSI management of the TAP program, in return for the reimbursement specified herein. KRSI agrees to pay to KTIA a reimbursement of $20,000 per month and every January 1 said monthly reimbursement will increase by 5%. The monthly reimbursement amount may be modified by the parties from time to time by a mutual writing.
>
> KTIA shall provide such services through its employees, and shall schedule, direct and control their work to conform with the reasonable request of KRSI. KTIA's performance under this Agreement shall be in material compliance with all applicable laws, regulations, and ordinances which are in effect from time to time during the term of this Agreement.
>
> KTIA will establish and pay all compensation (including employee benefits) for the persons who provide the services discussed above, and provide liability insurance coverage, office equipment, supplies and other necessary items in connection with the provision of such services. KRSI shall not require any conduct by

a KTIA employee that is inconsistent with KTIA's employment policies and practices.

The base administrative fees included in the monthly payments to KTIA are not documented. The company states the base administrative fees 'includes items such as risk management related to oversight of two programs and management of TAP demonstration site equipment". The base administrative fee is simply the difference between the costs allocated based upon the 2005 time study and the monthly fee adjusted for the annual 5% increase.

The annual 5% increase in costs is not documented. KTIA states the increase is due to the increase in the cost of business but offers no documentation to support the level of the increase. Based on 2009 costs, the base administrative fee is $6,902.57 per month ($3,671.25 for KRSI and $3,231.32 for TAP) or $82,830.84 annually. This amount is significant and greater documentation of the underlying costs or cost allocations is necessary to determine the reasonableness of this amount.

The amount of change in the base monthly fee, without any consideration for the annual cost escalations, represents an annual increase of 16.6% for the period 1991-2006. The 2009 monthly contractual amount of $8,820 for KRSI and $13,230 for TAP cannot be supported either through documentation or allocation methodologies. Therefore, Staff cannot provide any assurance that the charges paid by KRSI to KTIA are cost based and that KRSI is not cross-subsidizing KTIA.

B. Cost Allocation Manual –

In order to have sound cost allocation methodologies that can be tested and verified, it is important to first understand the need for internal controls. Internal controls can be defined as policies and procedures designed to address risks and meet objectives. Internal controls provide reasonable assurance that the following general objectives will be achieved:

Safeguarding assets;

Ensuring validity of financial records and reports;

Promoting adherence to policies, procedures, regulations and laws; and,

Promoting effectiveness and efficiency of operations

For internal controls to be effective, the organization must have defined objectives and effectively communicate those objectives within the organization. Risks to meeting these objectives must be identified and policies and procedures should be developed to manage the identified risks. For effective communication of these policies and procedures, written documentation of the methodologies implemented by the organization to minimize the identified risks is necessary. The validity of the financial reports and the costs allocated to KRSI cannot be determined without the proper documentation outlining the methodology of assigning costs to the various organizations. If KTIA continues to be involved in the managerial functions of KRSI after a competitive bidding process, as recommended below, Staff recommends the development of a cost allocation manual to outline the methodology of allocating costs, a current time study to be implemented in the allocation of costs and supporting documentation or calculations for costs paid by KRSI with funds provided by the KUSF subsidy.

Currently, there is no written documentation that specifies the process of allocating joint (common) costs to the various associations (KTIA, KRSI (TRS or TAP)). Without written documentation of a methodology of assigning these common costs, costs of providing services cannot be readily determined. KTIA, in September 2007, created a common Cost Allocation Spreadsheet which shows the allocation of various costs. Each year the staff reviews its time allocations listed on the Cost Allocation Spreadsheet to assure it correctly reflects the amount of time spent by staff members for all associations. In addition, the spreadsheet is updated to reflect the annual 5% increase in the administrative fee.[8]

An outdated time study, a four month period from March through June 2005, was utilized to determine the allocation of joint payroll costs. This time study is incorporated in the Cost Allocation Spreadsheet previously described. Though a new time study has not been conducted since 2005, the Company performs an annual review of the time allocations to ensure the allocations properly reflect the amount of time spent on all duties.[9]

For proper allocation of employee time, the employees must record their time daily to the organization receiving the employees' services. Because KTIA allocates other common costs, such as rent, based on the allocation of employee time, it is imperative the allocation of employee time be accurate and current. Staff reviewed the current time sheets completed by each employee for the first half of 2010 and calculated time allocation percentages quite different from the time allocations shown on the Cost Allocation Spreadsheet. Using 2009 costs, Staff compared the salaries, payroll benefits, and rent allocated to KRSI and TAP based upon the Cost Allocation Spreadsheet and the 2010 payroll distribution and calculated approximately $65,000 of additional costs being allocated to KRSI when using the Cost Allocation Spreadsheet percentages. Staff cannot determine how the allocation percentage derived from the 2005 time study can still be relevant when this major discrepancy has been calculated.

The 2005 time study calculated annual allocation percentages. For a more accurate costing, monthly allocation percentages should be calculated and monthly costs should be allocated accordingly. Joint costs and employee time spent on the various organizations can be expected to vary monthly and may be significant in some months, depending on the activities required of the various organizations, for example the annual Mid-American Telecom Showcase & Seminar (MATSS) showcase.

Budgets for the different organizations were developed by trial and error; allocating joint costs in a method that provides the desired results. Without documented cost allocation methodology, it is not possible to determine a cost of providing KRSI or TAP services. It is Staff's recommendation that a cost allocation manual be developed. The Cost Allocation Manual (CAM) should provide the written methodology and procedures to guard against the subsidy of other organizations' costs by KRSI or TAP.

---

[8] KTIA response to Staff draft memo presented on December 16, 2009.
[9] Ibid.

Operational

a. TRS/KRC

Since May 1, 2007, the Kansas Relay Center ("KRC") has been operated by Hamilton Relay ("Hamilton") of Aurora, Nebraska. The Commission approved the contract for Hamilton to provide TRS on March 27, 2007. Hamilton has been providing relay services since 1991. In addition to relay service, the company provides local telephone service, interexchange service, cable television service, and internet services in Nebraska. Hamilton currently provides TRS in the following areas (the date that Hamilton began provisioning relay service is in parenthesis after the location): Nebraska (1991), Idaho (1992), Louisiana (1998), Kentucky (1998), Wisconsin (1999), Rhode Island (2001), Maine (2004), the District of Columbia (2004), Wyoming (2004), Island of Saipan (2004), Iowa (2005), Virgin Islands (2005), Montana (2006) and Georgia (2006). Hamilton's relay centers are located in Nebraska, Louisiana, Georgia and Wisconsin. The Wisconsin relay center specializes in handling Spanish calls and Speech-to-Speech calls.

The KRC can be accessed 24 hours a day, seven days a week by dialing toll free, 711 or 1-800-766-3777. No significant problems have been reported concerning the services provided by Hamilton.

KRSI develops the request for proposal ("RFP"), in compliance with the Commission's orders, for awarding a contract to provide TRS service in Kansas. The KRSI Board assembles a committee to review and rank the bids received and propose a TRS provider for Board approval. The KRSI Board then sends the contract to the Commission for approval. KRSI's involvement in the administration of TRS is minimal. A portion of one employee's time is spent reviewing billing information each month. KRSI receives billing information from Hamilton each month and passes that information on to the administrator of the KUSF. The KUSF administrator issues a wire transfer to KRSI's bank. When the transfer is received, KRSI personnel review the payment details to ensure accuracy of the payment. KRSI then makes payment to Hamilton. KRSI also assists with public awareness of TRS in Kansas although Hamilton is primarily responsible for these efforts. Additionally, KRSI receives complaints and comments regarding TRS service and works with Hamilton to address the concerns raised by its users.

b. TAP

One employee, the TAP Coordinator, is dedicated to working primarily on TAP services while others devote a portion of their time each month associated primarily with billing issues. TAP now has a new coordinator, Tim Anderson, who has worked with the deaf and hard of hearing community as an interpreter since 1992. He brings his experiences working with persons with diverse backgrounds to TAP.

KRSI has developed a link on the KTIA web site that directs individuals to information regarding TAP. On the web site, individuals can find information about qualifying for TAP equipment, applying for equipment, examples of equipment available through the program and locations of demonstration sites throughout Kansas.

TAP applications are available online and through various businesses and service agencies throughout the state. While TAP previously received applications by fax and through the U.S. Postal system, TAP has discontinued the practice of receiving information by fax. The TAP Coordinator reviews the application. First the application is date stamped. Then it is reviewed for completeness. If the application is not complete, a letter is sent to the applicant indicating that additional information is required.

Currently when a TAP application is received there is no documentation included with the TAP application to support the income or residency requirements. The TAP personnel do not independently verify the applicant's residency and income criteria to ascertain whether the applicant meets the specific residency and income requirements. The TAP applicant should be required to submit documentation to verify the satisfaction of the residency and income requirements. Rather, the TAP Coordinator believes that applicants apply in good faith.

Once the review for completeness is done, the TAP records are searched to determine whether the applicant has received equipment within the last four years. If the applicant has received equipment within the last four years, a letter is sent explaining that new equipment can only be received once every four years unless a change in disability makes different equipment necessary. If the applicant has not received equipment in the last four years, the application information is entered into the AS400 system. At least two pieces of equipment can be obtained through one application.

Vouchers are printed for each piece of equipment ordered. A voucher is printed whether the TAP Coordinator orders the equipment or the applicant orders the equipment. The amount on the voucher is derived by taking an average of prices for the piece of equipment charged by several vendors. The voucher amounts are reviewed periodically. If a piece of equipment is priced at an amount lower than the voucher amount, it is redeemed only for the price of the equipment. That is, the voucher serves as the maximum reimbursement amount. If an individual is ordering equipment, the voucher is sent to the vendor as verification of the secured payment amount and the vendor then presents the voucher for payment to TAP after the equipment has been received by the individual. If TAP orders the equipment, the voucher stays with TAP and the vendor bills TAP for the amount of the equipment.

If a voucher is not redeemed within 90 days, the TAP Coordinator will monitor for any activity for an additional 60 days and then void the voucher if there has been no attempt to redeem. The TAP Coordinator can reissue a voucher with new expiration dates so that the applicant does not have to complete a new application. Vouchers are redeemed once a week. The Assistant Business Manager issues checks for vendor payment. On a monthly basis, the Assistant Business Manager sends a request for reimbursement to the KUSF Administrator equal to the total amount paid on each voucher (rather than the voucher amount). Below are the number and total dollar amount for vouchers from 2003 through 2006:

Year	Number of Applicants	Number of Vouchers	Voucher Amount
2003	2256	3646	$666,070
2004	2248	3533	$574,170
2005	2153	3717	$581,260
2006	2295	3852	$603,945

TAP worked with 43 vendors in calendar year 2005 and 36 in calendar year 2006. It appears that there are an even greater number of vendors for applicants to choose from; however, from the data provided by TAP, several are utilized more frequently. Those vendors, in order of total dollars redeemed from TAP, are:

2005	2006
LS&S Group	LS&S Group
Envision Technologies	TELTEX
Northwest Kansas Hearing Service	Envision Technologies
Sears Hearing Aid Center	Sears Hearing Aid Center
TELTEX	HITEC
Harris Communications, Inc.	Northwest Kansas Hearing Service
Associated Audiologists	Harris Communications, Inc.

If TAP orders equipment, the TAP Coordinator stated that orders are primarily placed with four of the vendors. The TAP Coordinator at the time of the review was not related to any of the vendors utilized. It should be noted that some vendors are also qualified as certifying agents. That is, the entity both certifies the disability or change in disability and provides the TAP equipment. While this appears to be a conflict of interest, KRSI has no evidence of abuses. However, KRSI has not researched the issue.

From a review of TAP activity reports for 2003 through 2006, it is apparent that equipment was provided to applicants in all or nearly all 105 Kansas counties each year. The following is a breakdown of TAP applications by disability and year:

Disability Indicated on Application	2003	2004	2005	2006
Deaf/Hearing Loss	1624	1666	1565	1635
Blind/Vision Loss	335	255	292	330
Hearing/Vision Loss	249	239	236	305
Speech Impairment	35	28	49	50
Mobility/Motor Impairment	142	93	129	154
Cognitive Impairment	35	13	38	43

Additionally, the TAP Coordinator conducts outreach efforts related to TAP services. A list of outreach efforts for 2006 was provided. The TAP Coordinator indicated that the focus of outreach is on hearing and/or vision loss because most persons will eventually experience a loss in these areas and benefit from the equipment.

Other Research

TAP

Staff conducted a review of administration of equipment distribution programs in other states. Of the 40 states for which information could be located, the vast majority of those states house the equipment distribution program within a Commission for the Deaf and Hard of Hearing or within a state social service agency. Four states house the program within an assistive technology program. Three states utilize a non-profit, Communication Services for the Deaf, to administer the equipment distribution program. However, no data regarding the success of the programs is readily available for comparison with the efforts of TAP.

In 1982, the Kansas Commission for the Deaf and Hard of Hearing (KCDHH) was established as a part of the Rehabilitation program within the Department of Social and Rehabilitation Services. KCDHH provides information, referral, advocacy and referral services. KCDHH also provides a few direct services such as interpreter referral and coordination services, safety communication visors to aid emergency workers in identifying individuals with whom special communication techniques may need to be used, and a lending library. The KCDHH web page indicates that the entity cannot administer programs or implement new programs noting that it does not have funding to do so.

The Kansas Services for the Blind and Visually Impaired (KSBVI) is also part of the Rehabilitation program within the Department of Social and Rehabilitation Services. KSBVI provides training to aid blind and visually impaired individuals in obtaining employment, living skills, and assist persons who are legally blind by providing an opportunity to manage food service and vending operations in public/government facilities.

Recommendations
Staff's findings are that the costs charged by KTIA to KRSI cannot be considered cost based due to a lack of supporting documentation. Staff also finds that the financial records maintained by KTIA are not sufficient to unequivocally state that KRSI bears no more than a reasonable allocation of cost. As noted above, there is neither cost allocation manual nor a sufficient time study to support the allocation of costs between KRSI and KTIA. Staff recommends that the Commission submit the management of KRSI to a competitive bidding process. At the time KRSI was established, the KUSF had not been established. Therefore, it was logical to request that KTIA function as the day-to-day management of KRSI since KTIA had contacts with telecommunications carriers that would be required to provide funding for TRS service. The KUSF now collects payments from all telecommunications carriers; thus, it is no longer essential that KRSI have a connection to the telecommunications industry.

Thus, Staff suggests issuing a request for proposals (RFP) to provide the day-to-day management of KRSI is reasonable as soon as practical and issue RFPs every 3 to 5 years in the future. In the alternative, the Commission could explore whether there is an existing state agency capable of administering the programs more efficiently. As indicated above, the administration of TRS and TAP functions is carried out by various entities in other states and it is possible that an existing governmental entity is capable of providing administration of the programs.

In order to implement the recommendation to issue an RFP, the Commission will likely need to take several actions:

- Revisit the KRSI Board's By-laws -- At this time, the by-laws indicate that the KTIA President will serve as the Chairman of the KRSI Board. The voting powers of the Chairman of the KRSI Board need to be verified to ascertain that the Chairman does not have voting powers, except to break a tie. To avoid any conflict of interest for the Chairman of the KRSI Board, the Chairman will need to abstain from participating in evaluating the responses to an RFP. Staff suggests the Commission ascertain the KRSI Board by-laws allow for the Chairman to be recused to avoid a potential conflict of interest in changing the provider of program administration.

- Develop a RFP -- The Commission should either open a proceeding to develop an RFP or instruct the KRSI Board to develop an RFP to be approved by the Commission and issued to receive bids. The RFP should clearly state that currently accepted accounting practices should be followed and indicate that bidders include an outline of the cost allocation procedures to be implemented by the organization.

- Select Administrator -- The Commission will need to either select an administrator to carry out the daily management of KRSI or direct the reorganized KRSI Board to select an administrator to be approved by the Commission.

If, the Commission determines that it is more appropriate for a government entity to provide daily management it will need to:

- Abolish the KRSI Board -- It is unlikely that a Board will be necessary to oversee the management of TRS and TAP functions if a government entity is found to be the appropriate manager of daily tasks.
- Maintain the Advisory Council -- While it may not be necessary for a Board to monitor the activities of the management, it is likely that feedback from those utilizing services will be helpful in managing and adjusting the programs to the needs of the customers.
- Coordinate with Government Entity – Staff will conduct additional research to locate government entities which may be able to administer the programs. It is unclear whether KCDHH would be prohibited from administering the programs or simply does not currently have funding to administer additional programs. Additionally, the constituents of TAP include persons other than the deaf or hard of hearing and the program administrator would need to be able to conduct outreach to all constituents. Similarly, KSBVI has a limited constituency and would need to be able to reach a broader audience.

Staff recommends that no changes are necessary for the actual administration of TRS service. As indicated above, the KRSI Board selected and the Commission approved Hamilton to provide TRS service. It appears that Hamilton is providing sufficient service. The KRSI administrator would continue to provide payments to the TRS provider, monitor service issues, assist with promotion of the service, and issue a RFP and evaluate responses to provide TRS in Kansas.

Regarding the actual administration of TAP, Staff recommends the following:

- Applicants should be required to submit verification of income and residence. This will prevent potential for fraud and misuse of KUSF support.

- The TAP Coordinator should order all equipment for all applicants. It is possible that volume discounts could reduce the program budget and this benefit would be passed on to contributors to the KUSF. Additionally, this would avoid the conflict created by certifying agents providing equipment.

- Staff recommends keeping TAP under the KRSI umbrella with administration of TRS payments and the TAP program provided by either a third-party or state agency. From the research conducted by Staff, there is no clear evidence that the agency delivering TAP-like services should be housed with either a government or private entity.

Attachment A

KRSI Background Information

Telecommunications Relay Service – Pre 1996
On September 25, 1989, the Commission issued an order in Docket No. 168-334-U establishing Dual Party Relay service (now referred to as Telecommunications Relay Service ("TRS")). At that time, TRS was the primary means of providing access to telecommunications service to the speech and hearing impaired.

In an order issued November 1, 1989 ("November 1989 Order"), the Commission determined, among other things, that a "free-standing, non-profit corporation be formed to perform the day-to day administrative functions" of the TRS.[1] This entity would be incorporated as Kansas Relay Service, Inc. ("KRSI").[2] KRSI was to be governed by a Board comprised of telecommunications companies that would be contributing financially for the provisioning of TRS.[3] The Commission determined that KRSI should contract with the Kansas Telecommunications Association (now referred to as the Kansas Telecommunications Industry Association ("KTIA")) for the day-to-day managerial functions required for the provision of TRS.[4] The Commission required KRSI to enter into a contract with KTIA establishing a monthly fee for the use of office space, equipment, personnel and provide for unusual expenses upon occurrence.[5] The initial contract was to be for one year from the date the TRS center would begin operating. At the end of that year, KRSI could either enter into another contract with the KTIA or negotiate with another entity for the provision of day-to-day managerial functions.[6]

In this same order, the Commission determined that the KRSI Board would select the vendor to actually provision relay services. KRSI was to issue a Commission approved request for proposal (RFP) to entities interested in providing TRS.[7] The performance of both the vendor and KRSI was to be audited each year. KRSI was to be audited by an outside firm to "assure proper management of the revenues it receives and disburses."[8] The Commission also determined that, upon request, KRSI's books and records would be open to the Commission for review.[9]

In the November 1989 Order, the Commission also established the initial funding mechanism for provision of TRS. All jurisdictional telecommunications companies were

[1] In the Matter of a General Investigation Into Dual Party Relay Service in Kansas, Docket No. 168,334-U, *Order*, November 1, 1989, Paragraph 13. (*November 1989 Order*)
[2] Id.
[3] Id. Paragraph 14.
[4] Id. Paragraph 15.
[5] Id.
[6] Id.
[7] Id. Paragraph 18.
[8] Id. Paragraph 17.
[9] Id.

required to fund TRS and recover the cost through the ratemaking process.[10] The Commission indicated that half of the funding would be provided by local exchange carriers through fee based on the number of access lines and half of the funding should be provided by interexchange carriers and local exchange carriers that provided intrastate long distance service through a minute-of-use charge.

In an order issued March 21, 1990, the Commission determined that KRSI and the TRS vendor should develop a bill insert explaining TRS. At that time, the Commission acknowledged that the KRSI Board had selected Southwestern Bell Telephone Company ("SWBT") to be awarded a five year contract to act as the TRS vendor. The bill insert was then to be provided to all local exchange carriers and sent by the local exchange carriers to customers one month prior to the initiation of TRS and once a year thereafter.[11] Additionally, the Commission ordered all local exchange carriers to include information in their telephone directories regarding TRS and the information required of a caller placing a call through the relay center.[12] The Commission also required local exchange carriers to publish the TRS 800 number in their business white pages.[13]

On July 26, 1990, Congress enacted the Americans with Disabilities Act of 1990 ("ADA"). Title IV of the ADA mandated the FCC to ensure that interstate and intrastate TRS were available, in the most efficient manner, to individuals with hearing or speech disabilities. On July 26, 1991, the FCC released its Report and Order and Request for Comments amending its rules to require each common carrier providing voice service to provide TRS throughout its service area by July 26, 2003. The FCC also established minimum standards for operational, technical, and functional procedures to be met by in carrying out the requirement that carriers provide telecommunications services to persons with hearing or speech disabilities in a functionally equivalent manner to the services received by individuals without a speech or hearing disability.

In an order dated October 15, 1992 ("October 1992 Order"), the Commission determined that the TRS funding mechanism should be modified. The Commission found that the cost of providing TRS should be allocated according to usage associated with local calls, intrastate long distance calls and interstate long distance calls.[14] The cost associated with local usage would then again be allocated among local exchange carriers based on the number of access lines and to long distance providers based on minutes of use. The Commission also found that since TRS is mandated by the ADA and in the public interest, carriers could petition the Commission to pass the costs through to their consumers.[15] The Commission ordered KRSI to recalculate the TRS assessment on an annual basis.[16]

---

[10] Id. Paragraph 21.
[11] In the Matter of a General Investigation Into Dual Party Relay Service in Kansas, Docket No. 168,334-U, *Order*, March 21, 1990, Paragraph 6.
[12] Id. Paragraph 9.
[13] Id.
[14] In the Matter of a General Investigation Into Dual Party Relay Service in Kansas, Docket No. 168,334-U, *Order*, October 15, 1992, Paragraph 17. (*October 1992 Order*)
[15] Id.
[16] Id.

In the October 1992 Order, the Commission also found that TRS should be provided to cellular carriers when technically and economically feasible. The Commission granted KRSI the authority to recover costs from cellular carriers and directed KRSI to monitor the number of calls relayed from cellular devices.[17] The Commission stated that TRS should also relay calls involving pagers when the call is originated from a teletypewriter.

In this order, the Commission provided clarification for the vendor selection process. The Commission concluded that all subsequent vendors of TRS should be selected through a formal bidding process with full disclosure of the content of the winning bid and the contract which results from the winning bid.[18] The choice of vendor was to be determined by KRSI, subject to Commission approval.[19] The Commission indicated that the new RFP and bid process should be initiated by May 7, 1994.[20]

On January 19, 1995, the Commission issued an order in Docket No. 168,334-U approving the selection of SWBT to again be the vendor of TRS in Kansas. The new contract with SWBT indicated that SWBT would be the vendor through May 6, 2000.[21]

Telecommunications Relay Service – Post 1996

Subsequent to the Commission's actions, the Kansas legislature enacted the State Telecommunications Act of 1996 ("State Act"). Within the State Act, the provisioning of TRS is addressed. K.S. A. 66-2002 (g) requires the Commission to:

> initiate and complete a proceeding by January 1, 1997, to establish a competitively neutral funding mechanism or mechanisms to fund: dual party relay services for Kansans who are speech or hearing impaired; telecommunications equipment for persons with other special needs. This funding mechanism or mechanisms shall be implemented by March 1. . .

Thus the Commission was required to revisit its funding mechanism for TRS. In Docket No. 190,492-U, the Commission addressed the implementation of the State Act. Regarding TRS, the Commission determined that:

> [t]o ensure the competitive neutrality of future funding of [Kansas Relay Center ("KRC")] operations under the State Act, the Commission changes the assessment base for relay services to become an assessment on the retail revenues of all present and future intrastate telecommunications

[17] Id.
[18] Id.
[19] Id.
[20] Id.
[21] In the Matter of a General Investigation Into Dual Party Relay Service in Kansas, Docket No. 168,334-U, *Order*, January 19, 1995, Paragraphs 4-6.

> services providers in Kansas. SWBT and Sprint/United propose that KRSI be included in the [Kansas Universal Service Fund ("KUSF")]. (Harper, Tr. at 2633-45). The economies of administration on a common or centralized basis seem apparent. The Commission finds that these funds shall be collected by the KUSF administrator as part of the KUSF assessment and paid out to KRSI for the ongoing operational support of both KRSI and the KRC.[22]

In an order issued August 1, 2005, the Commission approved changes to KRSI's bylaws. KRSI petitioned the Commission for approval of amendments to address changes that had occurred within the telecommunications industry since the bylaws were last amended in 1993. The amended bylaws simplify and clarify the rules by which the Board of Directors and the Advisory council operate. The bylaws recognize changes in the industry to provide for a wireless carrier and competitive telecommunications carrier presence on the Board. The Board was also broadened to permit greater representation from the disability community to aid in responsiveness of TRS (and the equipment distribution program). The process for approval of a TRS contract was also clarified.

Telecommunications Access Program

On March 6, 1996, the Commission issued an order opening Docket No. 194,283-U to investigate a request by the Kansas Commission for the Deaf and Hard of Hearing ("KCDHH") to fund a program to distribute telecommunications devices to persons with disabilities to aid in achieving functional equivalency to telecommunications services. During the course of this proceeding, the Kansas legislature enacted the State Telecommunications Act of 1996 (HB 2728). K.S. A. 66-2002 (g) requires the Commission to:

> initiate and complete a proceeding by January 1, 1997, to establish a competitively neutral funding mechanism or mechanisms to fund: dual party relay services for Kansans who are speech or hearing impaired; telecommunications equipment for persons with other special needs. This funding mechanism or mechanisms shall be implemented by March 1;

In a separate proceeding the Commission also determined that telecommunications equipment for persons with disabilities should be funded through the KUSF.[23]

In an order issued on January 24, 1997, in Docket No. 194,283-U ("January 1997 Order"), the Commission established the Telecommunications Access Program ("TAP"). The Commission determined that KRSI had the appropriate expertise to manage the

---

[22] In the Matter of a General Investigation Into Competition within the Telecommunications Industry in the State of Kansas, Docket No. 190,492-U, *Order*, December 27, 1996, Paragraph 135.
[23] Id. Paragraph 137.

program funding and distribution of equipment.[24] The Commission required KRSI to increase the size of its advisory council to fifteen members, with the additional members representing disability groups not previously served by KRSI.[25] Additionally, the Commission determined that KRSI should hire a director for TAP and support staff.[26] The Commission indicated that these employees could be hired pursuant to an adjustment to the then current contract arrangement KRSI had with KTIA for the provision of TRS.[27] The initial TAP budget was set at $450,000.[28] However, KRSI was to inform the KUSF administrator of its monthly financial needs rather than simply drawing one-twelfth of its yearly budget.[29] The Commission also determined that TAP should be audited annually in conjunction with the annual audit of KRSI.[30] The Commission indicated that the TAP budget could then be adjusted as needed.[31]

In the January 1997 Order, the Commission also established parameters for determining eligibility for equipment from TAP. A voucher for equipment would be available to persons that are a resident of Kansas; are subscribed to telephone service at his or her residence; have certification from a trained and licensed professional indicating a disability or impairment that limits or affects the applicant's ability to access and/or communicate over the telephone without assistance; and, have signed an affidavit indicating the person's income is less than the income eligibility requirement specified in K.S.A. 79-32,176 for receipt of full or partial tax credits.[32] The Commission indicated that the professional completing the certification form could also recommend a type of equipment for meeting the applicant's needs; however, KRSI could consider additional information in determining the type of equipment voucher to provide.[33] The voucher could be used by the recipient to purchase the equipment specified on the voucher from an authorized vendor.[34] Finally, the Commission indicated that KRSI should file an application with the Commission if changing policies approved by the Commission or initiating new policies.[35]

KRSI began accepting applications for TAP vouchers in October 1997. Based on initial experience in operation, KRSI requested the Commission revise several aspects of TAP. First, KRSI suggested that each household be limited to two vouchers for the same type of equipment, unless there was evidence of differing disabilities within the household

---

[24] In the Matter of a General Investigation into a Request by the Kansas Commission for the Deaf and Hard of Hearing to Fund a Telecommunications Devices for the Disabled Distribution Program, Docket No. 194,283-U, *Order*, January 24, 1997, Paragraph 70. (*January 1997 Order*)
[25] Id.
[26] Id.
[27] Id.
[28] Id. Paragraph 71.
[29] Id. Paragraph 72.
[30] Id. Paragraph 73.
[31] Id.
[32] Id. Paragraph 74.
[33] Id. Paragraph 76.
[34] Id. Paragraph 78.
[35] Id. Paragraph 82.

which would necessitate distinct equipment.[36] Next, KRSI requested that the definition of Kansas residency be broadened to permit equipment to be distributed to a student attending an out-of-state university or other educational institution. KRSI also requested that the limitation to two pieces of equipment be waived in this instance to provide equipment to the student for use out-of –state.[37] KRSI noted that the Commission did not approve funding for training in its initial order creating TAP. However, during its initial operations, KRSI's TAP staff found there was significant need for training and assistance in selecting the appropriate piece of equipment. KRSI requested $25,000 be added to its budget to permit TAP to contract with individuals and agencies across the state to provide needs assessments and training assistance.[38] Finally, KRSI provided an estimate of the budget for TAP for its second year of operation. KRSI estimated administrative expense of $87,000, training expense of $25,000, and equipment expense of $991,432 for a total budget of $1,103,432.[39] In an order issued July 20, 1998, the Commission adopted all of the recommendations of KRSI. The Commission determined that evaluation of the TAP budget might best be accomplished with ongoing quarterly or semi-annual joint reviews by Staff and KRSI's TAP staff.

On April 6, 1999, KRSI requested that the income eligibility requirement be removed from the TAP eligibility criteria and that the list of certifying authorities be expanded to include optometrists. In an order issued August 2, 1999, the Commission found that it was reasonable for the TAP staff to gather information regarding the number of applicants whose income exceeds the income eligibility criterion over a six month period. The Commission reasoned that this data would permit it to make an informed decision on removal of the income eligibility criterion.[40] The Commission granted the request to expand the list of certifying authorities to include optometrists.[41] Envison and KRSI requested reconsideration of the Commission's order regarding the income eligibility criterion. In its order on reconsideration dated September 20, 1999, the Commission noted that no party had requested reconsideration of its initial order establishing TAP with an income criterion.[42] Further, the Commission stated that the income criterion ". . . had its basis in the belief that individuals who can afford to purchase their own telecommunications equipment should do so."[43] The Commission determined that it was not equitable to provide assistance to those who could afford to purchase telecommunications equipment when TAP is funded through the KUSF – a fund to which

---

[36] Order Soliciting Comments on Proposed Telecommunications Access Program Budget. In the Matter of the General Investigation into a Request by the Kansas commission for the Deaf and Hard of Hearing to Fund a Telecommunications Devices for the Disabled Distribution Program. Docket No. 96-GIMT-435-MIS. May 14, 1998. Paragraph 4.
[37] Id.
[38] Id.
[39] Id.
[40] In the Matter of a General Investigation into a Request by the Kansas Commission for the Deaf and Hard of Hearing to Fund a Telecommunication Devices for the Disabled Distribution Program, Docket No. 96-GIMT-435-MIS, *Order on Motion for Modification*, August 2, 1999, Paragraph 15.
[41] Id. Paragraph 16.
[42] In the Matter of a General Investigation into a Request by the Kansas Commission for the Deaf and Hard of Hearing to Fund a Telecommunication Devices for the Disabled Distribution Program, Docket No. 96-GIMT-435-MIS, *Order on Reconsideration*, September 20, 1999, Paragraph 9.
[43] Id. Paragraph 10.

all Kansans subscribing to telecommunications services, including those Kansans with incomes below the poverty level, contribute.[44] The Commission acknowledged that the then current TAP application process would not permit TAP staff to gather the data requested by the Commission in its order dated August 2, 1999 and withdrew its request for the data.[45]

In an order issued January 11, 2006, in Docket No. 06-KRST-250-DPR, the Commission approved a request from KRSI to expand the list of equipment that could be distributed through TAP. KRSI had formed a TAP Equipment Committee to review the equipment eligible for distribution from TAP, review the needs of the communities served, and make recommendations to KRSI for equipment that should be added to the distribution list. KRSI took the committee's recommendations and requested the Commission approve the additions to the equipment list. KRSI requested that CapTel equipment be added to the distribution list. CapTel equipment consists of a telephone handset that is amplified and also contains a built-in screen that contains captioning text. The text is supplied by an operator who listens but does not actively participate in the conversation. The text appears almost simultaneously with the spoken word. KRSI also requested that text messaging equipment, in the form of personal digital assistants (PDAs), be added to the distribution list. A PDA provides functionality similar to that provided through a portable TTY. KRSI also requested that the Commission add equipment to accommodate video relay service. The Commission approved all requests. The Commission ordered Staff and KRSI to work together to determine which PDAs to include on the equipment list and adopt and application process that ensures consumers who elect to utilize a PDA have access to 911 service. Additionally, the Commission ordered Staff and KRSI to work together to identify web cameras and software to provide video relay service for addition to the list and to develop an application that ensures consumers take advantage of equipment that is provided by vendors at no cost.

[44] Id. Paragraph 14.
[45] Id. Paragraph 17.

Attachment "B"

AGREEMENT

THIS AGREEMENT is made and entered into the ___ day of May, 1991, by and between the Kansas Telecommunications Association ("KTA") and Kansas Relay Service, Inc. ("KRSI").

WHEREAS, each of the parties to this Agreement have been organized for specific, unique and limited corporate purposes, as set out in the charters of the respective corporation; and

WHEREAS, it has been determined by the Board of Directors of KRSI that the corporate purposes and operational objectives of KRSI can be best accomplished through the utilization of certain KTA employees, office facilities and space, supplies, and equipment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, as well as other good and valuable consideration, the receipt of which is hereby mutually acknowledged, the parties agree as follows:

1. Beginning the date of this Agreement and continuing through April 30, 1992, KRSI shall pay to KTA on the first day of each calendar month the sum of $2,000 in exchange for KTA providing to KRSI the use of certain employees, office facilities and space, supplies, and equipment. Thereafter, such monthly charges shall increase each May 1st during the term of this Agreement a sum equal to $250.00 per month.

2. All revenues of each party shall be and remain the sole and separate property of each, and all expenses incurred by each party in conduct of its operation shall be entirely attributable to and paid by such party.

3. Any expenses incurred by either party separately for any equipment or other expenditure which may be deemed as an expense of the party shall be directly and separately paid by such party and shall not be deemed subject to this Agreement.

4. The aforesaid monthly payments by KRSI to KTA are for reimbursement of salary for KTA employees providing services to KRSI, rent for office space, local telephone expenses, the cost of miscellaneous supplies, insurance policies and premiums on office space, use of equipment and facilities, as well as depreciation and amortization applicable to such properties. Notwithstanding the aforesaid, KRSI shall be responsible for and shall reimburse KTA for all necessary and proper expenses directly incurred by KTA for the sole benefit of KRSI, including, but not limited to, long distance telephone charges, copying charges, KRSI stationary and envelopes, and postage.

5. Nothing in this Agreement shall create, or shall be deemed to create or imply, and neither party shall hold itself out as being, a partner, parent, or subsidiary corporation of the other party hereto. Neither party shall be liable to any person by reason of any act of the other party in the conduct of the

operations or business of such party during the term of this Agreement.

6. The term of this Agreement shall run from May ___, 1991, through October 30, 1995; provided, however, this Agreement may be terminated, with or without cause, by either party upon thirty (30) days prior written notice to the other party.

7. All provisions of this Agreement shall be deemed to be binding upon the parties hereto, their successors and assigns, provided, however, neither party shall have the right to assign any of the rights or obligations occurring to such party by reason of this Agreement without the prior written consent of the other party.

8. This Agreement shall be governed by, interpreted, and construed in accordance with the laws of the State of Kansas.

9. This Agreement may be amended at any time by an agreement in writing executed with the same formality as this Agreement.

10. This Agreement supersedes all prior negotiations and agreements between the parties relevant to the transaction contemplated by this Agreement, which contains the entire understanding of the parties.

11. All notices which are required or may be given pursuant to the terms of this Agreement shall be sufficient in all respects if given in writing and delivered personally or by registered or certified mail, postage prepaid, as follows:

If to KTA: Kansas Telecommunications Association
700 S.W. Jackson, Suite 704
Topeka, KS 66603

If to KRSI: Kansas Relay Service, Inc.
700 S.W. Jackson, Suite 704
Topeka, KS 66603

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

KANSAS TELECOMMUNICATIONS ASSOCIATION

By: David Cunningham
David Cunningham
Chairman of the Board

ATTEST:

Roger Ward

KANSAS RELAY SERVICE, INC.

By: Robert R. Hodges
Robert R. Hodges
President

ATTEST:

Patricia C. Burton

Attachment "C"

EXPENSE REIMBURSEMENT AGREEMENT

This Expense Reimbursement Agreement ("Agreement") is made and entered into on this ___ day of September, 2006 by and between the Kansas Telecommunications Industry Association ("KTIA") and the Kansas Relay Service, Inc. ("KRSI");

WITNESSETH THAT:

WHEREAS, KTIA is a non-profit Association composed of telecommunications service providers and supporting industries members. The purpose and objective of the Association is to further the highest and best interests of telecommunications companies engaged in the telecommunications industry and the public they serve, and of promoting in all reasonable and lawful ways the spirit of cooperation and harmony within the telecommunications industry; and

WHEREAS, in 1989, in Docket No. 168,334-U, The State Corporation Commission of the State of Kansas ("KCC") created, via Order, a free standing, non-profit corporation to perform the day-to-day administrative functions of the Dual Party Relay Service ("DPRS"). The corporation is Kansas Relay Service, Inc. In the same Order the KCC ordered KRSI to contract with KTIA to perform the day-to-day managerial functions necessary for the administration of KRSI. The order recited that KTIA will provide office space, equipment, and personnel to carry out the KRSI functions and that the contract will establish a monthly administrative fee for normal duties and for additional, unusual expenses to be recovered as they occur; and

WHEREAS, in 1997, in Docket No. 194,283-U, the KCC issued an Order creating the Telecommunications Access Program ("TAP") and reciting that TAP will be managed by KRSI. The order further recited that KRSI or KTIA should hire both a director, manager or administrator or the TAP program as well as a clerical assistant, or outside clerical assistant; and

WHEREAS, KTIA has the staff and facilities to meet the needs of KRSI and TAP as outlined in the KCC Orders.

NOW THEREFORE, in consideration of the premises and the performance of the covenants contained herein, the parties agree as follows:

1. **Relationship of the parties.** KTIA is providing certain administrative services to KRSI and TAP, but the entities and operations thereof shall remain separate and distinct from those of the other party. The parties are not in partnership, joint venture, or any other type of a business sharing arrangement.

2. **Term.** The term of this Agreement shall begin on the date hereof and shall continue for a primary term of five (5) years. At the end of the primary term, the Agreement shall remain in effect until terminated by either party, with or without cause, upon 60 days written notice to the other party.

3. **Services provided and Amount of Reimbursement.** KTIA agrees to provide the personnel, services, related office space and, supplies necessary for KRSI to perform the day-to-day administrative functions of the DPRS, for a director and clerical assistant for the TAP program, and KRSI management of the TAP program, in return for the reimbursement specified herein. KRSI agrees to pay to KTIA a reimbursement of $20,000 per month and every January 1st said monthly reimbursement will increase by 5%. The monthly reimbursement amount may be modified by the parties from time to time by a mutual writing.

KTIA shall provide such services through its employees, and shall schedule, direct and control their work to conform with the reasonable requests of KRSI. KTIA's performance under this Agreement shall be in material compliance with all applicable laws, regulations, and ordinances which are in effect from time to time during the term of this Agreement.

KTIA will establish and pay all compensation (including employee benefits) for the persons who provide the services discussed above, and provide liability insurance coverage, office equipment, supplies and other necessary items in connection with the provision of such services. KRSI shall not require any conduct by a KTIA employee that is inconsistent with KTIA's employment policies and practices.

4. **Indemnification.** Each of the parties agrees to indemnify and hold the other harmless from any liability, loss, costs, claims, damages or other expenses, including reasonable attorney's fees, resulting from the acts or omissions of the other party.

5. **Notices.** Notices required or permitted to be given under this Agreement shall be sufficient if in writing, and sent by registered or certified mail to the partie's last known address.

6. **Waiver of Breach.** The waiver of breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

7. **Application of Law.** Each party agrees that this Agreement shall be governed by the applicable laws of the State of Kansas.

8. **Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes all prior negotiations and agreements between the parties relevant to the transaction contemplated by this Agreement. It may only be changed by an agreement in writing which is executed by both parties.

All provisions of this Agreement shall be deemed to be binding upon the parties hereto, their successors and assigns, provided, however, neither party shall have the right to assign any of the rights or obligations of a party created herein without the prior written approval of the other party and an order of the KCC.

9. **Captions.** The paragraph headings are for convenience only, and shall be disregarded in interpreting this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day, month, and year first above written.

Kansas Telecommunications Industry Association	Kansas Relay Service, Inc.
By:________________________	By: ____________________
Title:	Title:

KTIA Monthly Billings to KRSI and TAP

Recurring Monthly Expenses	KRSI	TAP
Copies/Copier Maintanence	$19.81	$29.98
Disability Insurance	$72.82	$154.38
Health Insurance	$601.25	$1,979.50
Internet	n/a	$71.50
Life Insurance	$15.21	$24.26
Postage	$25.00	$75.00
Rent	$571.40	$1,306.07
Retirement	$217.06	$343.82
Salaries	$3,100.80	$4,911.75
Telephone	$51.11	$153.33
SUBTOTALS	$4,674.46	$9,049.59
Base Adminstrative Fee**	$3,325.54	$2,950.41
TOTALS TO BE BILLED	$8,000.00	$12,000.00

**Base administrative fee includes items such as risk management related to oversight of two programs and management of TAP demonstration site equipment

CERTIFICATE OF SERVICE

07-KRST-143-KSF

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Notice of Filing of Staff Report and Recommendation was placed in the United States mail, postage prepaid, or hand-delivered this 25th day of October, 2010, to the following:

JEFF GOUGH
GVNW CONSULTING, INC.
3220 PLEASANT RUN
SPRINGFIELD, IL 62711

DAVE WINTER
GVNW CONSULTING, INC.
PO BOX 25969
COLORADO SPRINGS, CO 80936
Fax: 719-594-5803
www.gvnw.com

JOYCE HIGHTOWER, KRSI/TAP DIRECTOR
KANSAS RELAY SERVICE, INC. (KRSI)
4848 SW 21ST STREET, SUITE 201
TOPEKA, KS 66604-4415
Fax: 785-234-2304

ROBERT A. FOX, ATTORNEY
THE STEGALL LAW FIRM
504 PLAZA DRIVE
PERRY, KS 66073
Fax: 785-597-5766
bfox@steglaw.com

Pamela Griffeth

Pamela Griffeth
Administrative Specialist