

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

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

In the Matter of Rural Telephone Service )  
Company, Inc. dba Nex-Tech Filing Tariff )  
Revisions. ) Docket No. 18-RRLT-229-TAR  
)

**ORDER APPROVING TARIFF REVISIONS**

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 November 29, 2017, Rural Telephone Company, Inc. dba Nex-Tech (Rural) filed an Application requesting to make tariff revisions to its service connection charges.

2. On December 8, 2017, the Commission Staff (Staff) submitted its Report and Recommendation, attached hereto and made a part hereof, recommending the Commission grant Rural's Application and approve the company's proposed tariff, effective January 1, 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.

3. According to Staff, Rural’s filing makes several revisions to the tariff, including increasing the late payment percentage from 1.5% to 3.0%, replaces the Interstate Ethernet Transport Service (ETS) verbiage, increases the installation charge on Remote Call Forward from \$20 to \$40 to match other installation charges in the tariff, removes Digital Subscriber Line Access Line rates from the tariff, deletes verbiage referencing dial up usage, deletes the Hosted PBX verbiage and deletes a reference to 17.3.9.

4. Staff states that it does not believe the anticipated increased revenue of \$4,700 Rural may receive as a result of this filing is materially greater than its authorized rate of return would necessitate, and thus recommends that the Commission approve this application.

5. The Commission adopts Staff’s analysis and recommendation of December 8, 2017, as stated in its Report and Recommendation and finds that Rural’s Application should be granted and the requested tariff revisions approved.

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

A. Rural Telephone Company, Inc. dba Nex-Tech’s Application is hereby granted and its revisions to its service connection charges are hereby approved and shall become effective January 1, 2018.

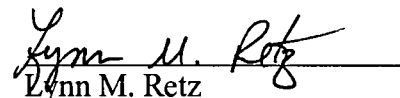
B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2016 Supp. 77-529.

C. The Commission retains jurisdiction over Rural Telephone Company, Inc. dba Nex-Tech and the subject matter of this docket for the purpose of entering such further order, or orders, as it deems necessary.

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

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: DEC 14 2017

  
Lynn M. Retz  
Secretary to the Commission

AAL

Order Mailed Date

DEC 15 2017

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Pat Apple, Chairman  
Shari Feist Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

## **REPORT AND RECOMMENDATION UTILITIES DIVISION**

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

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

**DATE:** December 8, 2017

**RE:** Docket No. 18-RRLT-229-TAR  
In the Matter of Rural Telephone Service Company, Inc. dba Nex-Tech Filing  
Tariff Revisions.

### **EXECUTIVE SUMMARY:**

On November 29, 2017, Rural Telephone Service Company, Inc. dba Nex-Tech (Rural) filed a request to make tariff revisions to its service connection charges. Staff recommends Commission approval of this Application.

The Commission action date is **Friday, December 29, 2017.**

### **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 makes several changes to the tariff as follows:

- Increases the late payment percentage from 1.5% to 3.0%. The Company anticipates this will generate approximately \$6,900 in additional revenue. The proposed late payment fee is in compliance with the Telecommunications Billing Standards.
- Replaces the Intrastate Ethernet Transport Service (ETS) verbiage in its entirety. The Company added and adjusted descriptions, added month-to-month ETS Port rates ranging from an increase of \$7 for 100 KB to an increase of \$342 for 1GB and term rates for 12, 24, 36, and 60 month terms with increases ranging from \$2 to \$80, added class of service rates ranging from \$.86 to \$2.78 per 1MB increment, and port protection rates of \$50.55. The Company expects less than \$500.00 in additional revenue from these changes.
- Increases the installation charge on Remote Call Forward from \$20 to \$40 to match other installation charges in the tariff. The Company expects no additional revenue from this change.
- Removes Digital Subscriber Line Access Line rates from the tariff. Those services will be billed on an individual contract basis. The Company expects this will not generate any additional revenue.
- Deletes verbiage referencing dial up usage as dial up is no longer offered.

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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.”

- Deletes the Hosted PBX verbiage in its entirety. These services are not offered in the Company's study area.
- Deletes a reference to 17.3.9, which is not in the tariff.

**RECOMMENDATION:**

Staff does not believe the anticipated increased revenue of \$7,400 Rural may receive as a result of this filing is materially greater than its authorized cost recovery and rate of return would necessitate. Staff recommends the Commission approve this Application with an effective date of January 1, 2018, as requested by the Company.

**CERTIFICATE OF SERVICE**

18-RRLT-229-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 DEC 14 2017.

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/s/ DeeAnn Shupe  
DeeAnn Shupe

Order Mailed Date  
DEC 15 2017