

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners:                      Dwight D. Keen, Chair  
    Shari Feist Albrecht  
    Susan K. Duffy

In the Matter of An Investigation to Determine    )  
the Assessment Rate and the Affordable Local    )  
Service Rates for Rate-of-Return Regulated    ) Docket No. 19-GIMT-056-GIT  
Carriers for the Twenty-Third Year of the        )  
Kansas Universal Service Fund, Effective        )  
March 1, 2019.    )

**ORDER APPROVING TRAFFIC FACTORS FOR**  
**MIDCONTINENT COMMUNICATIONS D/B/A MIDCO**

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.<sup>1</sup> 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.<sup>2</sup> 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 June 5, 2019, Midcontinent Communications (Midco) filed their traffic study factors for the period beginning July 1, 2019 and ending September 30, 2019. The filing was

---

<sup>1</sup>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 (Nov. 5, 2010).

<sup>2</sup>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 January 15, 2009. ¶14, Docket No. 07-GIMT-432-GIT (Sep. 22, 2008).

accompanied by an affidavit signed by Patrick J. Mastel, General Counsel for Midco, verifying the filing.

4. The Commission finds Midco's filing appropriate and approves the traffic study factors submitted for KUSF remittance purpose.

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

A. Midcontinent Communication's traffic study factors filed on June 5, 2019, for the period beginning July 1 2019 and ending September 30, 2019, are approved.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>3</sup>

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.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 07/16/2019 \_\_\_\_\_



\_\_\_\_\_  
Lynn M. Retz  
Executive Director

AAL

<sup>3</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

## **CERTIFICATE OF SERVICE**

19-GIMT-056-GIT

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 07/16/2019.

TODD E. LOVE, ATTORNEY  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
t.love@curb.kansas.gov

DAVID W. NICKEL, CONSUMER COUNSEL  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
d.nickel@curb.kansas.gov

SHONDA RABB  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
s.rabb@curb.kansas.gov

DELLA SMITH  
CITIZENS' UTILITY RATEPAYER BOARD  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3116  
d.smith@curb.kansas.gov

KEVIN J KASTOR, DIRECTOR-GOVERNMENT AFFAIRS  
CONSOLIDATED COMMUNICATIONS, INC.  
350 S LOOP 336 WEST  
CONROE, TX 77304-3308  
kevin.kastor@consolidated.com

MARK DOTY  
GLEASON & DOTY CHTD  
401 S MAIN ST STE 10  
PO BOX 490  
OTTAWA, KS 66067-0490  
Fax: 785-842-6800  
doty.mark@gmail.com

THOMAS E. GLEASON, JR., ATTORNEY  
GLEASON & DOTY CHTD  
PO BOX 6  
LAWRENCE, KS 66049-0006  
Fax: 785-856-6800  
gleason@sunflower.com

COLLEEN JAMISON  
JAMISON LAW, LLC  
P O BOX 128  
TECUMSEH, KS 66542  
colleen.jamison@jamisonlaw.legal

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

MARK E. CAPLINGER  
MARK E. CAPLINGER, P.A.  
7936 SW INDIAN WOODS PL  
TOPEKA, KS 66615-1421  
mark@caplingerlaw.net

## **CERTIFICATE OF SERVICE**

19-GIMT-056-GIT

RACHEL LIPMAN REIBER, ATTORNEY  
REIBER LAW OFFICE, LLC  
214 S CHESTNUT, SUITE 3  
OLATHE, KS 66061  
Fax: 913-782-4445  
rlreiberlaw@gmail.com

BRUCE H. ILLES, CHIEF LEGAL OFFICER  
STAR2STAR COMMUNICATIONS LLC  
600 TALLEVAST RD STE 202  
SARASOTA, FL 34243  
legal@star2star.com

TRACEY GILES, SR. ANALYST-REGULATORY  
COMPLIANCE  
WINDSTREAM COMMUNICATIONS, LLC  
4001 RODNEY PARHAM RD  
LITTLE ROCK, AR 72212  
Fax: 501-748-6583  
tracey.l.giles@windstream.com

BRUCE A. NEY, ATTORNEY  
SOUTHWESTERN BELL TELEPHONE CO.  
D/B/A AT&T KANSAS  
816 CONGRESS AVE  
SUITE 1100  
AUSTIN, TX 78701-2471  
Fax: 512-870-3420  
bn7429@att.com  
KEVIN K. ZARLING  
UNITED TELEPHONE CO. OF KANSAS  
D/B/A CENTURYLINK  
400 W 15TH ST STE 315  
AUSTIN, TX 78701-1647  
Fax: 913-345-6756  
kevin.k.zarling@centurylink.com

/S/ DeeAnn Shupe  
DeeAnn Shupe

---