

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

Before Commissioners: Shari Feist Albrecht
Jay Scott Emler
Dwight D. Keen

In the Matter of Bluestem Telephone)
Company Filing Tariff Revisions to) Docket No. 18-BSTT-474-TAR
Introduce New Term for EPAK II Bundle.)

ORDER APPROVING TARIFF REVISIONS

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On April 27, 2018, Bluestem Telephone Company (Bluestem) filed an Application requesting Commission approval of tariff revisions to the company's General Exchange Tariff. Supplementing its Application, Bluestem included as attachments copies of revised Tariff Sheets 7, 8, 9, 10, and 11 of Section 6. Bluestem requests an effective date for the tariff revisions of May 29, 2018.¹

2. K.S.A. 66-1,190 requires 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...[t]he 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...as the commission determines reasonable and appropriate.

The Commission derives its authority to review General Exchange and Local Exchange Carrier tariffs from K.S.A. 66-117(d), which states in part:

¹ Application, page 1.

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.

Pursuant to K.S.A. 66-1,189, the Commission must review rates and terms for jurisdictional telecommunications services to ensure they are “just and reasonable” and 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 Commission 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.²

3. On May 14, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated May 7, 2018 in response to Bluestem’s Application. Staff confirms that this filing replaces tariff sheets 7 through 11 of Section 6 of the tariff which refer to the rates for the EPAK Bundles, adding verbiage referring to the three-year term, and providing rates for the option. Bluestem also removed the limitation for the number of lines in the bundle with unlimited calling, and the total number of lines a customer could have in the bundle. Inasmuch as bundles with non-regulated services are not under Commission jurisdiction, Bluestem did not provide an anticipated revenue impact. Staff notes that Bluestem does not receive Kansas Universal Service Fund support. Bluestem’s last tariff filing was approved March 20, 2018, modifying the company name referenced in the tariff. Concluding its analysis, Staff recommends the Commission grant Bluestem’s Application and approve the tariff revision sheets submitted by the company. Staff

² Report and Recommendation, pages 1 and 2.

determines that providing different term options reducing customer monthly rates, allows the company to be competitive which is in the public interest.³

4. The Commission adopts Staff's analysis and recommendation of May 7, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that Bluestem's Application should be granted and that the company's tariff revision sheets are in the public interest and should be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Bluestem Telephone Company's Application filed April 27, 2018, is hereby granted and the company's proposed tariff revision sheets referenced in paragraph 1 above are hereby approved and shall become effective May 29, 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. 2017 Supp. 77-529.

C. The Commission retains jurisdiction over Bluestem Telephone Company 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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 05/17/2018



Lynn M. Retz
Secretary to the Commission

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³ Id., page 2.

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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: May 7, 2018

SUBJECT: Docket No. 18-BSTT-474-TAR
In the Matter of Bluestem Telephone Company Filing Tariff Revisions to Introduce
New Term for EPAK II Bundle

EXECUTIVE SUMMARY:

On April 27, 2018, Bluestem Telephone Company (Bluestem) filed a request to make tariff revisions to the Bluestem General Exchange tariff. The revised pages reflect the changes to add a third year term option to the EPAK II Bundles and to remove some limitations previously specified in the tariff.

The Commission action date is Tuesday, May 29, 2018.

ANALYSIS:

The Kansas Corporation Commission (KCC or Commission) derives its authority to review General Exchange and 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.¹

This filing replaces several sheets in Section 6 of the tariff that refer to the rates for the EPAK Bundles, adding verbiage to refer to the three year term and providing rates for that option. The Company also removed the limitation for the number of lines in the bundle with unlimited calling and the total number of lines a customer could have in the bundle. Staff has reviewed the filing. Because the bundle contains non-regulated services, the Company did not provide an anticipated revenue impact. Bluestem does not receive KUSF support. The Company’s last tariff filing was approved March 20, 2018, to modify the company name referenced in the tariff. The Company requests the tariff to be effective May 29, 2018.

RECOMMENDATION:

Staff recommends the Commission approve the tariff revision sheets provided by Bluestem. Providing different term options to reduce customer’s monthly rates allows the Company to be competitive and is in the public interest. The Company requests the tariff become effective May 29, 2018.

¹ 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 company 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.”

CERTIFICATE OF SERVICE

18-BSTT-474-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 05/18/2018.

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