

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Mark Sievers, Chairman  
Thomas E. Wright

In the Matter of Staff's Motion Requesting )  
The Commission Order Zenda Telephone )  
Company, Inc. to Submit to an Audit for ) Docket No. 13-ZENT-065-KSF  
Purposes of Determining its Cost-Based )  
Kansas Universal Service Fund Support, )  
Pursuant to K.S.A. 66-2008. )

**ORDER REQUIRING ZENDA  
TELEPHONE COMPANY, INC. TO SUBMIT TO AN AUDIT FOR  
PURPOSES OF DETERMINING ITS COST-BASED KUSF  
SUPPORT PURSUANT TO K.S.A. 66-2008**

The above captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission") upon the Motion of the Staff of the Commission ("Staff"). Having examined its files and being fully advised in the premises, the Commission finds as follows:

1. The Kansas Universal Service Fund (KUSF) was established pursuant to K.S.A. 66-2008. Pursuant to K.S.A 66-2008(c) the Commission is required to periodically review the KUSF to determine if the costs carriers incur to provide local service justify modification of KUSF support. Pursuant to K.S.A. 66-2008(e), for telecommunications carriers opting to operate under traditional rate of return regulation, all KUSF support shall be based on the carrier's embedded costs, revenue requirements, investments and expenses.

2. In order to consider a carrier's embedded costs, revenue requirements, investments and expenses, the Commission conducts a rate of return audit pursuant to K.S.A. 66-117, in which the carrier's receipt of federal universal service fund support is considered in

determination of the carrier's overall revenue requirement and ultimate determination and receipt of cost-based KUSF support.

3. The Commission is given full power, authority and jurisdiction to supervise and control telecommunications public utilities doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction. See K.S.A. 66-1,187, and K.S.A. 66-1,188. The Commission, upon its own initiative, may investigate all rates, joint rates, tolls, charges and exactions, classifications or schedules of rates or joint rates and rules and regulations of telecommunications public utilities. K.S.A. 66-1,191. All grants of power, authority and jurisdiction to the Commission are to be liberally construed. K.S.A. 66-1,194. The Commission has specific statutory authority to examine and audit any and all books, accounts, papers, records, property and memoranda kept by a public utility. K.S.A. 66-129. As noted above, K.S.A. 66-2008(c) specifically mandates the Commission to periodically review the KUSF and the costs of providing local service and to make any necessary modifications to the KUSF, and K.S.A. 66-2008(e) requires KUSF support to be based on a carrier's embedded costs, revenue requirements, investments and expenses. The review of Zenda's KUSF support is properly within the scope of the Commission's jurisdiction.

4. On July 26, 2012, Commission Staff ("Staff") filed a Motion to Order Zenda to Submit to an Audit stating that because Zenda Telephone Company, Inc. has not been audited, ordering a KUSF audit of Zenda is a reasonable and prudent measure for the Commission to take at this time to ensure that the KUSF support is cost-based. On August 3, 2012, Zenda files its Response to Staff's Motion seeking a later date of at least December 1, 2012, on which to file its information. Zenda cited designed plant upgrades with an anticipated completion date of March 2013.

5. Zenda is a class B telephone utility. K.A.R. 82-1-204a. Under K.A.R. 82-1-231b(d), the Commission may require a Class B utility to be subject to K.A.R. 82-1-231. Review of Zenda's costs and revenues will be expedited if all of the information required by K.A.R. 82-1-231 is provided as part of an initial filing. Including this data in the initial filing should enable the audit to be conducted in a more efficient and timely manner.

6. When the Legislature enacted the Kansas Telecommunications Act of 1996, it established a revenue-neutral, three-year transitional period for the KUSF. During this initial phase, the KUSF, in accordance with K.S.A. 2000 supp. 66-2008(a), ensured revenue neutrality to incumbent telecommunications carriers that lost revenues due to legislatively mandated reductions in intrastate access charges. Following the initial three-year transitional phase, the KUSF is to become a cost-based fund that is available in a competitively neutral manner. Thirty-four of the state's rural incumbent telecommunications carriers have been subject to audits to ensure their KUSF support is cost-based. Zenda has yet to be audited; thus, its KUSF support is not cost based, but is based on revenue-neutral intrastate access charge reductions that began in 1997. The Commission believes this is more reason to ensure this proceeding is not delayed.

7. In order to fairly and fully review the issues in this case, a clear understanding of Zenda's activities is necessary. Both non-regulated activities and affiliate transactions present the possibility of improper cross-subsidization or misallocation of costs. To assist with developing a sufficient record, the Commission directs that Zenda provide a company witness who is able to speak on behalf of Zenda, and who can discuss Zenda's corporate structure, cost allocation procedures, affiliate practices and transactions, and facts specific to Zenda's operations and policies. The official representative of Zenda is to file direct testimony in this docket and to be available as a witness at the evidentiary hearing.

8. The test year utilized will be the twelve months ending September 30, 2012. Zenda is to make a filing in compliance with K.A.R. 82-1-231 no later than December 28, 2012, based upon 2011 audited financial information.

13. The filing is to include the following:

- Direct testimony from an officer or employee of Zenda.
- The NECA (National Exchange Carrier Association) cost study that is the basis for the separations factors used in the filing.
- A structural organizational chart for the company, including all affiliates, parents and subsidiaries.
- All allocation information required by K.A.R. 82-1-231(c)(4)(L). This includes the cost allocation manual and a detailed written description of the procedures, rationales and calculations underlying all allocation formulas and ratios, together with references to the source documents and copies of supporting documents.
- For a company that is a subsidiary, the consolidated capital structure and cost of debt for the parent [K.A.R. 82-1-231(c)(4)(G)(iv)] and the most recent annual report for the parent [K.A.R. 82-1-231(c)(M)(i)].

14. In order to help limit the time expended in discovery, the Commission finds that certain standard audit items should be provided at the time the initial filing is made.

When its filing is made, Zenda is to provide the following documents and records to Staff:

- A complete, fully indexed and cross-referenced set of the work papers, source documents and calculations (including any electronic medium with links and formulas intact) that support the testimony, exhibits, schedules and adjustments filed by Zenda.
- An organizational chart of the utility company, identifying various departments, job titles and positions for all employee levels.
- A complete set of the company's accounting manuals, policies and procedures, with a detailed description of the company's accounts and sub-accounts.
- The general ledger, both in hard copy and electronic format.

- Documents to explain and support all allocations, including contracts, leases, work papers and calculations.
- A detailed description, with supporting documentation, of the procedures and criteria used to allocate company personnel time (a) between regulated and non-regulated activities provided by the company; and (b) between Kansas related operations and activities for parents, affiliates or subsidiaries.
- A detailed explanation with supporting documentation, of the methodology used for allocating joint costs and expenses: (a) between regulated and non-regulated activities; and, (b) between Kansas regulated operations and activities for parents, affiliates or subsidiaries.
- For each parent, subsidiary or affiliate of Zenda, state its relationship to the utility and provide the following:
  - a. copies of any leases, contracts, joint service agreements, management or other agreements between the utility and its parent, affiliates or subsidiaries;
  - b. the location and number of employees of each subsidiary or affiliate, with a list of the services offered by the parent, subsidiary or affiliate;
  - c. a complete list of any services provided by an affiliate to the utility, with a description of how the pricing of the service or product is calculated, the amounts charged to the utility during the test year, and all supporting documentation; and,
  - d. a complete list of any services provided by the utility company to an affiliate, with a description of how the pricing of the service is calculated, the amounts received by the utility during the test year, and all supporting documentation.

All of this information should have been used by Zenda in preparing its filing and should be readily available. If making copies in a timely manner is unduly difficult for Zenda, the company may bring the original documents to the Commission's offices and copies will be made by the Commission.

15. Staff will be utilizing consultants to conduct part of this audit. The consultants are Roxie McCullar, William Dunkel & Associates, 8625 Farmington Cemetery Road, Pleasant Plains, IL. 62677, telephone number (217) 626-1476, fax number (217) 626-1934, and Ann Diggs Herman, Ann Diggs CPA, 321 S. 3rd Street, Wilmington, NC. 28401, telephone number (910) 772-8057, fax number (910) 763-4354. Zenda must serve the consultants with copies of its initial filing and any further testimony that may be filed by Zenda in this docket.

16. Some of the information reviewed in this proceeding may be considered to be confidential under K.S.A. 66-1220a. The Commission will issue a separate Protective Order to protect the confidential nature of information that would fall within K.S.A. 66-1220a.

17. Staff may provide initial data requests to Zenda before the company makes its filing. Responses to these data requests are due within 7 days of the date the filing is made, not counting Saturdays, Sundays or legal holidays, unless otherwise specified. Responses to other Staff discovery requests are due within 7 days, not counting Saturdays, Sundays, or legal holidays. K.A.R. 82-1-234a(b). Responses to data requests from other parties are due within 10 days, not counting Saturdays, Sundays, or legal holidays. In computing the period of time for responding, the day on which the data request is issued is not counted. Discovery conducted after the filing of rebuttal testimony will be subject to greater time constraints due to the closeness of the hearing date. Staff may specify a shorter time period for responding to data requests after rebuttal or for responding to follow-up data requests when the initial responses were incomplete. The Commission finds that the following discovery procedures should also be ordered at this time:

- (a) All data requests shall be served electronically upon counsel, consultants and designated contacts for each party.

(b) Responses to data requests shall contain the name of the person providing the information needed to answer the request and the name of the person who can answer any follow-up questions.

(c) If a party wishes to object to a data request, the party shall serve the opposing party with a written objection to the data request within 5 business days of service of the data request. Failure to make a timely objection will result in the party being deemed to have waived its objection, except for good cause shown.

(d) An officer or employee of Zenda who is knowledgeable about Zenda's operations is to verify any company-specific data or information relied upon by Zenda's consultant or provided in discovery. Discovery responses are to include the name and title of the Zenda representative who performs this verification.

(e) Information deemed to be confidential must be so deemed consistent with K.S.A. 66-1220a.

18. Communication between Parties. For an audit to proceed smoothly, the parties must have regular communications. However, consistent with Kansas Rule of Professional Conduct 4.2, Staff counsel will communicate only with counsel for the company, and counsel for the company is to communicate with Staff counsel and not directly with Staff witnesses

unless Staff counsel consents to direct communications. Company personnel, technical staff, including witnesses, and consultants may at all times communicate directly with each other.

19. Burden of Proof. In Docket No. 01-SKNT-544-AUD, a prior rural audit, the Order was served on all rural telephone companies operating in Kansas to assure that they were aware of decisions made that would affect all rural audits. [September 10, 2001 Order, page 52, paragraph (D).] On the issue of the burden of proof and persuasion, the Commission found that regardless of how a proceeding is initiated, it is the company that has the burden of producing the evidence necessary to conduct the investigation and must provide the information needed to establish that its KUSF support is appropriate. (Order, page 11, ¶ 26.) The company also has the obligation to show that its KUSF support is justified and reasonable. (Order, page 12, ¶ 28.)

20. Allocations. The Order in Docket No. 01-SNKT-544-AUD also addressed the need for utilities to include evidence in the record regarding allocations. The Commission found that utilities had the burden of affirmatively proving that expenditures were reasonable and necessary for regulated operations, and that if common costs are shared by regulated and unregulated operations, the company must propose a fair and reasonable allocation method for dividing the costs. (Order, page 17, 41-42.)

21. Pre-Hearing Conference. After Zenda's filing is made, the Commission may schedule a pre-hearing conference in order to establish a procedural schedule and hearing date, and to consider any other matters that may promote the orderly and prompt conduct of the hearing. K.A.R. 82-1-222 and K.S.A. 77-517.

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

(A) Staff's Motion to open an audit of Zenda Telephone Company, Inc. to determine the cost-based amount of KUSF support for Zenda is granted, and the Response of Zenda seeking an extended filing date is granted.

(B) Zenda shall file the information required by K.A.R. 82-1-231 by December 28, 2012, based on a test year ending September 30, 2012. The filing shall include the information specified in paragraph 13 above. When the filing is made, Zenda shall provide Staff with the documents and information listed in paragraph 14 above. Copies of the initial filing and of other testimony and pleadings in this docket shall also be served on Staff's consultant.

(C) A party may petition for reconsideration of this Order within 15 days of the date of the Order. If service is by mail, service is complete upon mailing, and 3 additional days may be added to the 15-day time limit to petition for reconsideration. K.S.A. 66-118b and K.S.A. 77-529(a)(1).

(D) The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order as it may deem necessary.

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

Sievers, Chmn.; Wright, Com.

Dated:     AUG 14 2012    

  
ORDER MAILED AUG 14 2012

Patrice Petersen-Klein  
Executive Director

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PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
THOMAS E. GLEASON, JR., ATTORNEY GLEASON & DOTY CHTD PO BOX 6 LAWRENCE, KS 66044-0006		
ROBERT A. FOX, SENIOR LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
EDWARD BRIDGES, PRESIDENT ZENDA TELEPHONE COMPANY, INC. 208 NORTH MAIN PO BOX 128 ZENDA, KS 67159		
KATHY PRICE, GENERAL MANAGER ZENDA TELEPHONE COMPANY, INC. 208 NORTH MAIN PO BOX 128 ZENDA, KS 67159		

ORDER MAILED AUG 14 2012

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.