

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

**In the Matter of the Application and Request)
of Cunningham Telephone Company, Inc.) Docket No. 25-CNHT-185-KSF
for an Increase in its Cost-Based Kansas)
Universal Service Fund Support.)**

**TESTIMONY IN SUPPORT OF
SETTLEMENT AGREEMENT
PREPARED BY
KATIE L. FIGGS
UTILITIES DIVISION
KANSAS CORPORATION COMMISSION
March 20, 2025**

1 **Q. Would you please state your name and business address?**

2 A. My name is Katie L. Figgs. My business address is 1500 Southwest Arrowhead Road,
3 Topeka, Kansas, 66604.

4 **Q. By whom are you employed and in what capacity?**

5 A. I am employed by the Kansas Corporation Commission (KCC or Commission) as a
6 Managing Auditor.

7 **Q. Are you the same Katie L. Figgs who previously filed direct testimony in this Docket
8 on February 13, 2025?**

9 A. Yes.

10 **Q. What is the purpose of your testimony?**

11 A. I am testifying on behalf of the Commission Staff in support of the settlement of the issues
12 outlined in the Settlement Agreement (Settlement) between Cunningham Telephone
13 Company, Inc. (Cunningham) and Commission Staff.¹

14 My testimony in support of the Settlement will answer the fundamental question as
15 to why the Commission should approve the Settlement as a reasonable resolution of the
16 issues in this docket. Specifically, I will:

- 17
 - Provide background information about this Docket;
- 18
 - Provide an overview and discussion of the Settlement;

¹ *Joint Motion to Approve Settlement Agreement; Cancel Remaining Procedural Schedule; Render a Decision on Paper Record*, Docket No. 25-CNHT-185-KSF (March 11, 2025).

- 1 ▪ The parties agree that Cunningham’s KUSF support will increase by \$714,504
2 annually beginning the first month after a Commission Order in this proceeding.
3 ▪ The parties agree that five years after such increase is instituted, Cunningham’s
4 KUSF support shall be reduced by \$13,580, reflecting one-fifth of the total trued-
5 up rate case expense of \$67,899 incurred in this proceeding.
6

7 **Commission Standards for Approving Settlement Agreements**

8 **Q. Has the Commission previously used factors or standards to review Settlement**
9 **Agreements?**

10 A. Yes. The Commission’s Order in Docket No. 08-ATMG-280-RTS (08-280 Docket)
11 discusses five factors, or standards, and multiple agreements have been reviewed by the
12 Commission using the five factors since that Order.³ However, more recent Commission
13 Orders have noted that, for unanimous settlement agreements, parties need not apply the
14 historical five-factor test set forth in the 08-280 Docket.⁴

15 **Q. What standards does the Commission generally examine when considering a**
16 **unanimous settlement agreement?**

17 A. The Commission may accept a unanimous settlement agreement so long as approval of the
18 settlement is: (1) supported by substantial competent evidence in the record as a whole; (2)

³ *Order Approving Contested Settlement Agreement*, 08-280 Docket, p. 5 (May 5, 2008).

⁴ *Order on KCP&L’s Application for Rate Change*, Docket No. 15-KCPE-116-RTS, ¶ 16, p. 6 (Sept. 10, 2015).

1 results in just and reasonable rates; and (3) is in the public interest.^{5,6} Each of these three
2 factors is discussed individually below.

3
4 **Support for the Settlement Agreement**

5 **Q. Please address whether the Settlement is supported by substantial competent**
6 **evidence in the record as a whole.**

7 A. The Settlement is supported by substantial competent evidence in the record as a whole.
8 The Settlement is supported by Cunningham’s Application, and direct and rebuttal
9 testimony. Staff analyzed the Application and formed its own conclusions which were filed
10 in direct testimony. The audit information, direct testimony, and rebuttal testimony filed
11 by the parties in this case fully address: (1) revenue requirement analysis that includes
12 numerous pro forma adjustments, (2) cost of capital analysis, and (3) non-regulated and
13 affiliate transactions. As a whole, these filed positions constitute the body of evidence the
14 Commission would rely on to make a determination of the issues presented by this case, if
15 the case were to be fully litigated. The parties also relied on this evidence in negotiations
16 and eventually arrived at an agreed-upon resolution of the issues. It is Staff’s position that
17 the terms of the Settlement are commensurate with what we would expect if the case were
18 to be fully litigated.

19
⁵ *Ibid*, ¶ 15.

⁶ *Citizens’ Util. Ratepayer Bd. v. State Corp. Comm’n of State of Kansas*, 28 Kan. App. 2d 313,316 16 P.3d 319, 323 (2000).

1 **Q. How was the increase of \$714,504 in Cunningham’s current KUSF draw determined?**

2 A. The amount of KUSF draw agreed to by the parties necessarily requires the acceptance of
3 Staff’s revised revenue requirement recommendation, or some combination of other
4 adjustments that produce that exact result.

5 There are three main issues that explain the difference between Staff’s filed position
6 of a KUSF increase of \$599,781 and the \$714,504 revenue requirement change contained
7 in the Settlement. As discussed in Cunningham’s rebuttal testimony, the following Staff
8 adjustments contained inaccuracies that needed to be corrected:

- 9 • Staff’s adjustment to payroll expense (IS-3) included a component disallowing
10 excessive levels of salaries, based on the survey results for similar positions in
11 comparable telephone companies. In the compensation comparison analysis,
12 Staff incorrectly identified Cunningham’s Central Office Manager (Survey
13 Code 517) as an Office Manager (Survey Code 104). This results in an increase
14 to Staff’s filed Revenue Requirement in the amount of \$3,556;
- 15 • Staff’s adjustment to employee benefit and payroll tax expense (IS-4) contained
16 a component that removes the test year balance of Account No. 8701.200
17 labeled Profit Sharing. According to rebuttal testimony, these costs are related
18 employee retirement benefits. This results in an increase to Staff’s filed
19 Revenue Requirement in the amount of \$99,052; and
- 20 • Staff’s adjustment to Board of Directors expense (IS-12) removed half of the
21 Board of Directors salaries identified in response to Staff Data Request No. 37,
22 to share the expense with Cunningham’s non-regulated affiliate. According to

1 rebuttal testimony, Cunningham’s non-regulated affiliate also compensates the
2 Board of Directors in the same amount annually. This results in an increase to
3 Staff’s filed Revenue Requirement in the amount of \$6,758.

4 Furthermore, as reflected in the Settlement, Staff agreed to update audit expense
5 through February 2025, and amortize the expense over a five-year period. As a result of
6 Cunningham’s review of Staff’s position, and Staff’s subsequent review, several revisions
7 were needed to Staff’s original adjustments. After Staff revised its litigation position to
8 account for these changes to its revenue requirement analysis, Staff’s revised litigation
9 position was an increase in KUSF support of \$714,504.

10 **Q. Does Staff believe the Settlement will result in just and reasonable rates?**

11 A. A KUSF audit does not directly affect the tariff rates charged to Cunningham’s customers.
12 Rather, the audit determines the amount of KUSF support a rate of return regulated carrier
13 receives. As provided in K.S.A. 66-2008(e)(1), any adjustment to a rate of return regulated
14 carrier’s KUSF support “shall ensure the reasonable opportunity for recovery of such
15 carrier’s intrastate embedded costs, revenue requirements, investments and expenses,
16 subject to the annual cap established pursuant to subsection (e)(3).” Staff conducted its
17 review using a full audit proceeding pursuant to K.A.R. 82-1-231. Based on this review,
18 it is Staff’s opinion that the Settlement results in a KUSF support level that allows
19 Cunningham the opportunity to recover its embedded costs, revenue requirements,
20 investments and expenses. Any implications on Cunningham’s KUSF support levels as a
21 result of the cap of KUSF payments exceeding \$30 million per year will be
22 addressed/discussed in Docket No. 25-GIMT-141-GIT.

1 Staff is confident that the agreed-upon increase of KUSF support amount of
2 \$714,504 properly accounts for our litigation risk and, as a result, is an approximation of
3 what Staff would expect the Commission to decide if this case were to be fully litigated.
4 Therefore, the KUSF support increase agreed to by the parties should be found to be just
5 and reasonable.

6 **Q. Does Staff believe the results of the Settlement are in the public interest?**

7 A. Yes. Staff contends the Settlement is in the public interest. Generally speaking, the public
8 interest is served when customers are protected from unnecessarily high prices,
9 discriminatory prices, and/or unreliable service. A thorough investigation by the parties in
10 this case has set a KUSF support amount less than that requested by Cunningham in its
11 Application. The investigation conducted by Staff has determined that Cunningham did
12 not require as much additional support as requested. Cunningham has agreed to accept a
13 lower amount of KUSF support; and, therefore, KUSF contributors have been protected
14 from paying unnecessarily higher assessment rates. By settling the issues discussed in
15 rebuttal testimony, the parties have agreed to limit additional administrative expense,
16 which ultimately is paid by the KUSF. It is in the public interest to avoid incurring these
17 costs if possible.

18 **Q. Should the Commission accept the Settlement as a reasonable resolution of the issues**
19 **in this Docket?**

20 A. Yes, the Settlement represents a reasonable resolution that results in a KUSF support level
21 that is just and reasonable, is in the public interest, and is supported by substantial

1 competent evidence in the record. The Settlement resolves a complex case through an
2 uncontested settlement and results in a reasonable resolution of the issues in this docket.

3 **Q. Does this conclude your testimony?**

4 A. Yes.

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

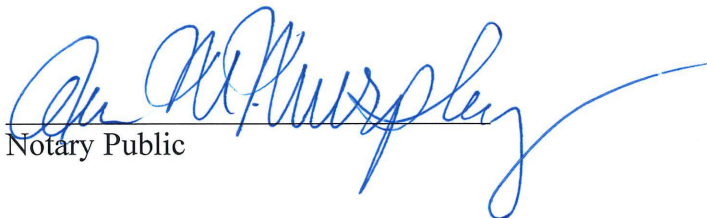
VERIFICATION

Katie Figgs, being duly sworn upon her oath deposes and states that she is a Managing Auditor for the Utilities Division of the Kansas Corporation Commission of the State of Kansas, that she has read and is familiar with the foregoing *Testimony in Support of Settlement*, and attests that the statements contained therein are true and correct to the best of her knowledge, information and belief.



Katie Figgs
Managing Auditor
State Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 20 day of March, 2025.



Notary Public

My Appointment Expires: 4/28/25

 NOTARY PUBLIC - State of Kansas
ANN M. MURPHY
My Appt. Expires 4/28/25

CERTIFICATE OF SERVICE

25-CNHT-185-KSF

I, the undersigned, certify that a true and correct copy of the above and foregoing Testimony in Support of Settlement Agreement was served via electronic service this 20th day of March, 2025, to the following:

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