

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of Certification of Compliance)
with Section 254(e) of the Federal)
Telecommunications Act of 1996 and)
Certification of Appropriate Use of Kansas)
Universal Service Fund Support) Docket No. 19-GIMT-399-GIT

**PETITION OF TOTAH COMMUNICATIONS, INC FOR RECONSIDERATION
OF ORDER IMPOSING PENALTY**

Comes now Totah Communications, Inc. (“Totah”) and requests reconsideration of that portion of the Commission’s Order Adopting Staff's Report and Recommendation and Imposing Penalties, dated January 28, 2020 herein, which imposes a penalty on Totah. In support of its petition for reconsideration Totah states as follows:

1. Regarding the propriety of assessing penalties generally against small rate of return rural telephone companies, and regarding the determination of the amounts of such penalties, Totah adopts by reference the petition for reconsideration of the Independent Telecommunications Group, Columbus *et al.*, (“Columbus”) filed herein February 12, 2020. This individual petition additionally addresses the circumstances specific to the imposition of a penalty against Totah.

2. The Order’s direction that Totah pay a penalty is factually unsupported, arbitrary, capricious, unlawful and unreasonable. In its Separate Response dated October 11, 2019 herein Totah stated facts, adopted here by reference and unchallenged in any response, establishing that its actions did not constitute a failure, neglect or refusal to obey any lawful requirement or order made by the Commission (see K.S.A.

66-138). The Commission therefore lacks statutory authority to impose a penalty on Totah.

3. In the fifteen weeks between Totah's Separate Response and the Commission's Order of January 28, 2020 Commission Staff submitted no response challenging the factual assertions of Totah's Separate Response. Similarly, the Commission's Order makes no effort to consider or address the factual circumstances regarding Totah's initial filing of June 28, 2019 in this Docket. The failure or refusal to consider Totah's factual explanation of its compliance with Commission Orders, absent any factual assertion refuting such explanation, renders the imposition of a penalty without factual support and therefore arbitrary and capricious.

3. At the time Staff contacted Totah to discuss Staff's subjective view of two Totah responses as "errors," Staff additionally requested certain additional information on an unrelated issue related to federal A-CAM support to a rural telephone company. Totah's delay in response generally, in order to respond to all Staff inquiries at once, was reasonable. Staff failed to inform Totah that a delay in response for the purpose of completeness would result in recommendation for an enhanced penalty due solely to that reasonable delay. It is noteworthy that Staff has not categorized the delayed response relative to A-CAM information as an issue in considering the sufficiency or accuracy of Totah's filing.

4. Totah was not involved, nor in any way at fault, in Staff's delay in reviewing the Totah ETC filing of June 28. Totah was ready and able, from the date of its original filing, to respond to Staff's subjective characterization of two intentionally blank responses as "errors," but Staff did not inform Totah of that characterization for some 43 days after the filing.

5. Other rural local exchange carriers' ETC filings were selected by Staff for review far earlier than Totah's review. This choice by Staff, together with the unavoidable delay to provide additional information requested by Staff, is the cause of the greater period of time on which Totah's penalty was based. The resulting penalty is therefore arbitrary and capricious even if the provided information had been erroneous.

6. The Report and Recommendation cites only the intentionally blank and wholly accurate answers to questions 2 and 3 as "issues," indicating Staff takes no exception to the A-CAM information provided in response to Staff's inquiry. It was Staff's request for that information that is the cause of Totah's delay in response, while Totah secured the responsive A-CAM information from its outside cost consultants.

7. It is unreasonable, arbitrary and capricious to impose a penalty for a period during which neither Totah nor Staff was aware of concern over the blank response to questions for which the accurate response was zero. That claimed "error," readily clarified, posed no material impediment to staff's performance of its responsibilities in this Docket.

WHEREFORE Totah requests that the Commission reconsider its Order of January 28, 2020 herein and upon reconsideration rescind the penalty ordered as to Totah.

Respectfully Submitted,

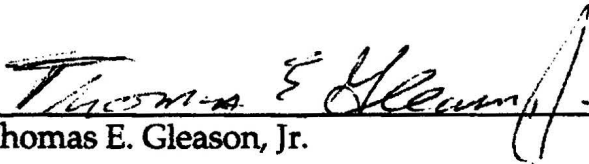


Thomas E. Gleason, Jr. #07741
GLEASON & DOTY, CHARTERED
PO Box 6
Lawrence, KS 66044
(785) 842-6800 Fax: (785) 842-6800
gleason@sunflower.com
Attorney for Totah Communications, Inc.

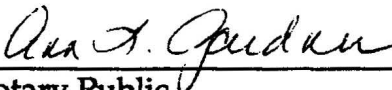
VERIFICATION

STATE OF KANSAS, DOUGLAS COUNTY, ss:

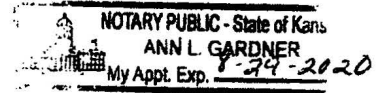
Thomas E. Gleason, Jr., of lawful age, being first duly sworn, on his oath states: He is the attorney for Totah Communications, Inc.; that he has read the above and foregoing Petition for Reconsideration; that the statements, allegations and matters contained therein are true and correct.


Thomas E. Gleason, Jr.

Subscribed and sworn to before me this 12th day of February, 2020.


Notary Public

My Appointment Expires: 8-29-2020



CERTIFICATE OF SERVICE

Thomas E. Gleason, Jr., hereby certifies that a true and correct copy of the above and foregoing Petition for Reconsideration was served electronically on the following on this 12th day of February, 2020:

STEVE BURKS, CHIEF OPERATING OFFICER
AMG Technology Investment Group, LLC D/B/A NextLink Internet
95 Parker Oaks Lane
Hudson Oaks, TX 76087
SBURKS@TEAM.NXLINK.COM

GERARD J. HOWE, CEO
BIG RIVER TELEPHONE COMPANY, LLC
24 S MINNESOTA AVE 270
CAPE GIRARDEAU, MO 63703
JHOWE@BIGRIVERTELEPHONE.COM

Candace Wright, CFO
BLUE VALLEY TELE-COMMUNICATIONS, INC.
1559 PONY EXPRESS HWY
HOME, KS 66438
cwright@bluevalleyinc.net

KEVIN J KASTOR, DIRECTOR-GOVERNMENT AFFAIRS
BLUESTEM TELEPHONE COMPANY, INC.
350 SOUTH LOOP 336 WEST
CONROE, TX 77304
kevin.kastor@consolidated.com

JULIA REDMAN- CARTER, REGULATORY AND COMPLIANCE OFFICER
BOOMERANG WIRELESS, LLC
955 KACENA RD STE A
HIAWATHA, IA 52233
jrcarter@readywireless.com

MICHAEL A. PIERCE, WIRELESS MANAGER
CELLULAR NETWORK PARTNERSHIP D/B/A PIONEER CELLULAR
108 E ROBERTS AVE
PO BOX 539
KINGFISHER, OK 73750
NEKRETMAR@PTCI.COM

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

DAVID W. NICKEL, CONSUMER COUNSEL
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
D.NICKEL@CURB.KANSAS.GOV

SHONDA RABB
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
s.rabb@curb.kansas.gov

DELLA SMITH
CITIZENS' UTILITY RATEPAYER BOARD
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
d.smith@curb.kansas.gov

LARRY GATES, UTILITIES DIRECTOR
CITY OF CHANUTE
101 SOUTH LINCOLN
MEMORIAL BLDG, PO BOX 907
CHANUTE, KS 66720
lgates@chanute.org

TODD VAN EPPS, GENERAL MANAGER
COLUMBUS COMMUNICATIONS SERVICES, LLC
224 SOUTH KANSAS AVENUE
COLUMBUS, KS 66725
tvanepps@columbus-telephone.com

LANCE CASEY, REGULATORY COMPLIANCE
CONSOLIDATED COMMUNICATIONS OF KANSAS COMPANY
350 SOUTH LOOP 336 WEST
CONROE, TX 77304
LANCE.CASEY@CONSOLIDATED.COM

KEVIN J KASTOR, DIRECTOR-GOVERNMENT AFFAIRS
CONSOLIDATED COMMUNICATIONS OF MISSOURI COMPANY
350 SOUTH LOOP 336 WEST
CONROE, TX 77304
kevin.kastor@consolidated.com

ROB LOGSDON, DIRECTOR REGULATORY AFFAIRS**
COX KANSAS TELCOM, L.L.C. D/B/A COX COMMUNICATIONS, INC
11505 WEST DODGE RD
OMAHA, NE 68154
ROB.LOGSDON@COX.COM

CRAIG WILBERT, GENERAL MANAGER
CRAW-KAN TELEPHONE COOPERATIVE, INC.
200 N OZARK
PO BOX 100
GIRARD, KS 66743
crwilbert@ckt.net

BRENT CUNNINGHAM, VICE PRESIDENT & GENERAL MANAGER
CUNNINGHAM TELEPHONE COMPANY, INC.
220 W MAIN
PO BOX 108
GLEN ELDER, KS 67446
brent@ctctelephony.tv

BECKY SCOTT
ELKHART TELEPHONE COMPANY, INC.
610 S COSMOS
PO BOX 817
ELKHART, KS 67950
bscott@epictouch.com

JOHN IDOUX, REGULATORY AFFAIRS MANAGER
EMBARQ COMMUNICATIONS, INC. D/B/A CENTURYLINK
COMMUNICATIONS
KSOPKJ04-4015
600 NEW CENTURY PKWY
NEW CENTURY, KS 66031
john.idoux@centurylink.com

JENNIFER CARTER, CHIEF COMPLIANCE OFFICER
GLOBAL CONNECTION INC. OF AMERICA
5555 OAKBROOK PKWY STE 620
NORCROSS, GA 30093
jcarter@standupwireless.com

BEAU REBEL, GENERAL MANAGER
GOLDEN BELT TELEPHONE ASSOCIATION.
103 LINCOLN ST
PO BOX 229
RUSH CENTER, KS 67575
brebel@gbtlive.com

LANCE MURPHY
GORHAM TELEPHONE COMPANY
100 MARKET
PO BOX 235
GORHAM, KS 67640
lmurphy@gorhamtel.com

MICHAEL J. MURPHY, PRESIDENT & MANAGER
GORHAM TELEPHONE COMPANY
100 MARKET
PO BOX 235
GORHAM, KS 67640
mmurphy@gorhamtel.com

TONYA M MURPHY, SEC/TREA.
GORHAM TELEPHONE COMPANY
100 MARKET
PO BOX 235
GORHAM, KS 67640
tmurphy@gorhamtel.com

BRANDON KOCH, PRESIDENT & GM
H&B CABLE SERVICE, INC.
108 N MAIN
PO BOX 108
HOLYROOD, KS 67450
BRKCOCH@HBCOMM.NET

BRANDON KOCH, PRESIDENT & GM
H&B COMMUNICATIONS, INC.
108 N MAIN
PO BOX 108
HOLYROOD, KS 67450
BRKCOCH@HBCOMM.NET

SUE A LEPPERT, ASSISTANT ACCOUNTANT
HAVILAND TELEPHONE COMPANY, INC.
104 N MAIN
PO BOX 308
HAVILAND, KS 67059
sue@havilandtelco.com

RICHARD BALDWIN, PRESIDENT
HOME TELEPHONE COMPANY, INC.
211 S MAIN ST
BOX 8
GALVA, KS 67443
rbaldwin@hci-ks.com

DANIEL P. FRIESEN, PRESIDENT
IDEATEK TELCOM, LLC
111 OLD LMILL LN
BUHLER, KS 67522
daniel@ideatek.com

JOHN WILLIS
I-WIRELESS, LLC
ONE LEVEE WAY STE 3104
NEWPORT, KY 41071-1661
John.willis@iwirelesshome.com

MARK WADE, VP OF OPERATIONS
J.B.N. TELEPHONE COMPANY, INC.
PO BOX 111
HOLTON, KS 66436
mark@havilandtelco.com

JILL KUEHNY, CEO/GENERAL AMANGER
KANOKLA TELEPHONE ASSN., INC.
100 KANOKLA AVE
PO BOX 111
CALDWELL, KS 67022
jkuehny@kanoklanetworks.com

MICHAEL NEELEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
m.neeley@kcc.ks.gov

HARRY J. LEE, PRESIDENT/GENERAL MANAGER
LAHARPE TELEPHONE COMPANY, INC. D/B/A LAHARPE LONG
DISTANCE
109 W 6TH ST
PO BOX 123
LA HARPE, KS 66751
harry.lee@laharpetel.com

JOHN TIETJENS, PRESIDENT AND GENERAL MANAGER
LR COMMUNICATIONS, INC. D/B/A MUTUAL TELECOMMUNICATIONS
365 MAIN ST
PO BOX 338
LITTLE RIVER, KS 67457
jtietjens@mtc4me.com

SHANA RAINS, Accountant
MADISON TELEPHONE COMPANY, INC.
117 NORTH THIRD
P O BOX 337
MADISON, KS 66860
srains@madtel.net

MATTHEW SAMS, MANAGER
MERCURY WIRELESS KANSAS, LLC
3301 S KANSAS AVENUE
TOPEKA, KS 66611
MATTHEW.SAMS@MERCURYWIRELESS.COM

PAT MASTEL, GENERAL COUNSEL
MIDCONTINENT COMMUNICATIONS D/B/A MIDCO
3901 N LOUISE AVE
SIOUX FALLS, SD 57107-0112
pat.mastel@midco.com

CHASE CUSTER
MOKAN DIAL, INC.
1525 SURFSIDE BLVD
MERRITT ISLAND, FL 32952
ccuster@townes.net

HARRY M. WEELBORG, PRESIDENT
MOUNDRIDGE TELEPHONE COMPANY
109 N CHRISTIAN AVE
PO BOX 960
MOUNDRIDGE, KS 67107
weel@mtelco.net

JOHN TIETJENS, PRESIDENT AND GENERAL MANAGER
MUTUAL TELEPHONE COMPANY
365 MAIN ST
PO BOX 338
LITTLE RIVER, KS 67457
jtietjens@mtc4me.com

MONICA K AKIN, GENERAL COUNSEL
NE COLORADO CELLULAR, INC. D/B/A VIAERO WIRELESS
1224 W PLATTE AVE
FORT MORGAN, CO 80701
MONICA.AKIN@VIAERO.COM

SHANNON DREILING
NEX-TECH WIRELESS, L.L.C
3001 NEW WAY
HAYS, KS 67601
sdreiling@ntwls.com

JIMMY TODD, CEO/GENERAL MANAGER
NEX-TECH, LLC
145 N. MAIN
PO BOX 158
LENORA, KS 67645
jtodd@nex-tech.com

DANIEL WELCH
PEOPLES TELECOMMUNICATIONS, LLC
208 N BROADWAY
PO BOX 450
LA CYGNE, KS 66040
DWELCH@PEOPLESTELECOM.NET

CATHERINE MOYER, GENERAL MANAGER & CEO
PIONEER TELEPHONE ASSN., INC. D/B/A PIONEER COMMUNICATIONS
120 W KANSAS AVE
PO BOX 707
ULYSSES, KS 67880-0707
catherine.moyer@pioncomm.net

ISSA ASAD
Q LINK WIRELESS LLC
499 E SHERIDAN ST STE 400
DANIA BEACH, FL 33004
Legal@qlinkwireless.com

KATHY RUOFF
RAINBOW COMMUNICATIONS, L.L.C.
608 MAIN ST
PO BOX 147
EVEREST, KS 66424
kathy@rainbowtel.com

RHONDA S GODDARD, CFO*
RURAL TELEPHONE SERVICE COMPANY, INC. D/B/A Nex-Tech
145 N MAIN
PO BOX 158
LENORA, KS 67645
RGODDARD@NEX-TECH.COM

JANET BATHURST, GENERAL MANAGER
S&A TELEPHONE COMPANY, INC.
413 MAIN ST
PO BOX 68
ALLEN, KS 66833
jbathurst@satelephone.com

CHRISTINA HICKERT, CFO
S&T COMMUNICATIONS LLC
320 KANSAS AVE
PO BOX 99
BREWSTER, KS 67732
christina.hickert@sttelcom.com

CHRISTINA HICKERT, CFO
S&T TELEPHONE COOPERATIVE ASSOCIATION, INC.
PO BOX 99
320 KANSAS AVE
BREWSTER, KS 67732
christina.hickert@sttelcom.com

MYLOC DINN, ASST. GENERAL COUNSEL & SR DIR. OF GOV. AFFAIRS
SAGE TELECOM COMMUNICATIONS, LLC
1149 S HILL ST STE 400
LOS ANGELES, CA 90015-2894
regulatoryaffairs@truconnect.com

JEFF PICKERING
SKYBEAM, LLC
61 INVERNESS DR EAST
STE 250
ENGLEWOOD, CO 80115147
jpickering@risebroadband.com

CARLA SHEARER, GENERAL MANAGER
SOUTH CENTRAL COMMUNICATIONS, INC.
PO DRAWER B, 101 W KANSAS
MEDICINE LODGE, KS 67104-0802
cshearer@sctelcom.com

CARLA SHEARER, CEO/GENERAL MANAGER
SOUTH CENTRAL TELEPHONE ASSN. INC.
215 S ILIFF
PO BOX B
MEDICINE LODGE, KS 67104
cshearer@sctelcom.com

KENDALL S. MIKESELL, PRESIDENT
SOUTHERN KANSAS TELEPHONE COMPANY, INC.
112 S LEE ST
PO BOX 800
CLEARWATER, KS 67026-0800
kendall.mikesell@sktcompanies.com

JAVIER RODRIGUEZ, AREA MANAGER - REGULATORY RELATIONS
SOUTHWESTERN BELL TELEPHONE CO. D/B/A AT&T KANSAS
816 CONGRESS AVE
SUITE 1100
AUSTIN, TX 78701-2471
JR1515@ATT.COM

JIM CARPENTER, PRESIDENT
TELRITE CORPORATION
4113 Monticello street
COVINGTON, GA 30014
JIM.CARPENTER@TELRITE.COM

SHARYL FOWLER, REGULATORY & LIFELINE COMPLIANCE MANAGER
TEMPO TELECOM, LLC
320 INTERSTATE NORTH PKWY SE
ATLANTA, GA 30339
SHARYL.FOWLER@LINGO.COM

RICHARD B. SALZMAN, EXECUTIVE VICE PRESIDENT
TRACFONE WIRELESS, INC. D/B/A Safe Link
9700 NW 112TH AVE
MIAMI, FL 33178
RSALZMAN@TRACFONE.COM

DALE JONES, GENERAL MANAGER
TRI-COUNTY TELEPHONE ASSOCIATION, INC.
1568 S 1000 RD
PO BOX 299
COUNCIL GROVE, KS 66846
djones@tctainc.net

DARCIE NGUYEN, CONTROLLER
TWIN VALLEY TELEPHONE, INC.
22 SPRUCE
PO BOX 395
MILTONVALE, KS 67466
DARCIE.NGUYEN@TVTINC.NET

TODD HOUSEMAN, ASST. GENERAL MANAGER
UNITED TELEPHONE ASSN., INC.
1107 MCARTOR RD
PO BOX 117
DODGE CITY, KS 67801
toddh@unitedtelcom.net

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL AFFAIRS
UNITED TELEPHONE CO. OF KANSAS D/B/A CENTURYLINK
100 CENTURYLINK DR
MONROE, LA 71203
john.idoux@centurylink.com

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL AFFAIRS
UNITED TELEPHONE COMPANY OF EASTERN
KANSAS D/B/A CENTURYLINK
100 CENTURYLINK DR
MONROE, LA 71203
john.idoux@centurylink.com

JOHN R. IDOUX, DIRECTOR KANSAS GOVERNMENTAL AFFAIRS
UNITED TELEPHONE COMPANY OF SOUTHCENTRAL
KANSAS D/B/A CENTURYLINK
100 CENTURYLINK DR
MONROE, LA 71203
john.idoux@centurylink.com

STEPHANIE CASSIOPPI, DIRECTOR - STATE LEGISLATIVE AND
REGULATORY AFFAIRS*
USCOC OF NEBRASKA/KANSAS LLC
8410 BRYN MAWR
CHICAGO, IL 60631
stephanie.cassioppi@uscellular.com

DIANE C BROWNING, COUNSEL STATE REGULATORY AFFAIRS
VIRGIN MOBILE USA, L.P.
KSOPHN0314-3A459
6450 SPRINT PKWY
OVERLAND PARK, KS 66251
diane.c.browning@sprint.com


JEFF WICK, PRESIDENT/GENERAL MANAGER
WAMEGO TELECOMMUNICATIONS COMPANY, INC.
1009 LINCOLN
PO BOX 25
WAMEGO, KS 66547-0025
jwick@wtcks.com

RANDY HOFFMAN, GENERAL MANAGER
WHEAT STATE TELEPHONE COMPANY, INC. D/B/A WHEAT STATE
TECHNOLOGIES, WST
PO BOX 320
UDALL, KS 67146
rhoffman@wheatstate.com

BRIAN BOISVERT, GENERAL MANAGER
WILSON TELEPHONE COMPANY, INC.
2504 AVE D
PO BOX 190
WILSON, KS 67490-0190
BRIAN@wilsoncommunications.co

DAVID TATUM, CFO
YOURTEL AMERICA, INC. D/B/A TERRACOM
745 E. Main Street
Chattanooga, TN 37408-1427
DAVID@TERRACOMINC.COM

KATHY PRICE, GENERAL MANAGER*
ZENDA TELEPHONE COMPANY, INC.
208 N MAIN
PO BOX 128
ZENDA, KS 67159
kprice@zendatelephone.com


Thomas E. Gleason, Jr.