

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

Before Commissioners: Mark Sievers, Chairman
Ward Loyd
Thomas E. Wright

In the Matter of the Request of WestLink)
Communications, LLC, for Kansas) Docket No. 11-WLCT-650-KSF
Universal Service Fund Support.)

ORDER APPROVING APPLICATION
FOR
KANSAS UNIVERSAL SERVICE FUND SUPPORT

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 records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On March 15, 2011, Westlink Communications, L.L.C. (WestLink), a wholly-owned subsidiary of Pioneer Communications, filed a Request for Kansas Universal Service Fund Support (Application). Subsequently, on December 7, 2011, WestLink filed an Amended Request for Kansas Universal Service Fund Support (Amended Application). WestLink's Amended Application requested \$59,440 of monthly, or \$713,283 in annual, Kansas Universal Service Fund (KUSF) support, based on the company's KUSF support eligible lines in service as of December 31, 2010.

2. On April 23, 2012, the Commission Staff (Staff) submitted its Report and Recommendation providing a comprehensive analysis of WestLink's Application, as amended. Staff provided a summary of WestLink's Eligible Telecommunications Carrier (ETC) filings with the Commission,¹ supporting documentation comprising Attachments I through III,²

¹ *Staff Report and Recommendation*, p. 2.

² *Id.*, p. 2.

eligibility requirements and procedural steps regarding requests for supplemental funding from the KUSF,³ as well as Staff's analysis of supportable lines claimed by WestLink.⁴ Staff's Report and Recommendation reflects a very thorough review and comprehensive analysis regarding Supportable Lines, including corresponding adjustments, and High-Cost Areas qualifying for KUSF support.⁵ With respect to the rural Local Exchange Carrier (LEC) Study Areas, including the Elkhart Telephone Company, Inc. (Elkhart), Pioneer Communications (Pioneer), and United Telephone Association, Inc. (UTA) Areas, Staff determines that WestLink used the per line KUSF support calculations that were applicable as of November 2011. However, Staff points out that effective March 1, 2012, the per line KUSF support available in Elkhart, Pioneer, and UTA's Study Areas increased. Consequently, WestLink qualifies for more KUSF support than it requested.⁶ Staff's analysis of WestLink's Amended Application reveals that the company qualifies for receipt of \$114,088.00 KUSF support per month, equating to \$1,369,056.00 annually.⁷ Concluding its analysis, Staff provides its Proposed Adjustments to WestLink's Amended Application, removing, moving, and adding lines, as the case may be, involving the Southwestern Bell Telephone d/b/a AT&T (AT&T), Pioneer, and UTA Study Areas.⁸

3. According to Staff, a competitive ETC must experience a net increase in lines of 5% or greater during the rolling 12-month period. Inasmuch as WestLink does not currently

³ *Id.*, pp. 2-3.

⁴ *Id.*, pp. 3-6.

⁵ *Id.*, pp.4-5.

⁶ *Id.*, p. 5.

⁷ *Id.*, p. 1.

⁸ *Id.*, pp. 6-7.

receive KUSF support, Staff concludes that the lines reported by WestLink reflect a 100% increase in the number of lines for which the company is eligible to receive KUSF support. Consequently, Staff finds that WestLink's Amended Application complies with the foregoing percentage increase requirement. Staff further indicates that companies filing requests for supplemental KUSF support must do so within 45 days of the end of a calendar quarter. WestLink filed its Application in this matter on March 15, 2011, based on its lines in service as of December 30, 2010. Thereafter, WestLink filed its Amended Application in this matter on December 7, 2011. Because this is WestLink's *initial* filing requesting KUSF support, Staff determines that the request was timely filed.

4. Based on its review and analysis of WestLink's request, Staff recommends the Commission grant WestLink's Amended Application, as adjusted by Staff, qualifying WestLink to receive monthly KUSF support in the amount of \$114,088.00, equating to \$1,369,056.00 annually. Staff determines that payment of the KUSF support should be effective the first day of the month following the date of the Commission's Order issued in this matter. Staff further recommends that WestLink's monthly KUSF support payment be netted against WestLink's KUSF assessment liability, and that the approved level of support granted herein should remain in effect until March 1, 2013, unless prior to said date the Commission approves a different amount of KUSF support.

5. The Commission adopts Staff's recommendation of April 10, 2012, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that WestLink's Amended Application should be granted. The Commission further finds that WestLink is qualified to receive monthly KUSF support in the amount of \$114,088.00,

equating to \$1,369,056.00 annually, with such KUSF support payments to commence the first of the month following issuance of this Order. There are no interveners in this matter.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Amended Application of Westlink Communications, L.L.C. filed December 7, 2011, as adjusted by Staff, is hereby granted. WestLink is hereby qualified to receive monthly KUSF support payments in the amount of \$114,088.00, equating to \$1,369,056.00 annually, with such monthly payments to commence the first day of the month following the date of this Order. The level of KUSF support granted herein shall remain in effect until March 1, 2013, unless prior to said date the Commission approves a different amount of KUSF support. The KUSF support payments authorized and approved herein shall be netted against WestLink's KUSF assessment liability, consistent with the process used for all KUSF recipients.


B. The parties have fifteen days, plus three 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. K.S.A. 66-118b; K.S.A. 2011 Supp. 77-529.

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chmn.; Loyd, Comm; Wright, Comm.

Dated: MAY 01 2012


ORDER MAILED MAY 01 2012
Patrice Petersen-Klein
Executive Director

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Mark Sievers, Chairman
Ward Loyd, Commissioner
Thomas E. Wright, Commissioner

Sam Brownback, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

STATE CORPORATION
COMMISSION

APR 16 2012

PATRICE PETERSEN-KLEIN
EXECUTIVE DIRECTOR

TO: Chairman Mark Sievers
Commissioner Ward Loyd
Commissioner Thomas E. Wright

FROM: Sandy Reams

DATE: April 10, 2012

DATE SUBMITTED TO EXECUTIVE DIRECTOR: 4/16/12

DATE SUBMITTED TO LEGAL: 4/17/12

DATE SUBMITTED TO COMMISSIONERS: 4/24/12

SUBJECT: Docket No. 11-WLCT-650-KSF, *In the Matter of the Request of WestLink Communications, LLC for Kansas Universal Service Fund Support.*

EXECUTIVE SUMMARY:

On March 15, 2011, Westlink Communications, LLC (WestLink) filed an Application to request Kansas Universal Service Fund (KUSF) support.¹ On December 7, 2011, WestLink filed an Amended Application, requesting \$59,440 of monthly, or \$713,283 in annual, KUSF support,² based on its KUSF support eligible lines in service as of December 31, 2010.

Staff's analysis of WestLink's Amended Application shows that WestLink qualifies to receive \$114,088 of KUSF support per month, or \$1,369,056 annually. This is the Company's initial request for KUSF support and therefore, it is not subject to the 120-day deadline contained in K.S.A. 66-2008(d).³ Payment of initial KUSF support is effective the first of the month following a Commission Order.⁴ Staff recommends that the Commission approve WestLink's

¹ Request of WestLink Communications, LLC for Kansas Universal Service Fund Support (Application).

² Amended Request of WestLink Communications, LLC for Kansas Universal Service Fund Support (Amended Application), ¶ 5.

³ *In the Matter of a General Investigation into Procedures for Supplemental Funding Requests Pursuant to K.S.A. 1999 Supp. 66-2008(e)*, Docket No. 00-GIMT-842-GIT (Docket 00-842), May 25, 2000, Order Approving Procedures for Supplemental KUSF Funding (May 2000, Order).

⁴ *In the Matter of a Generic Proceeding to Address Kansas Universal Service Fund Support and Supplemental Funding Procedures, as Adopted by the Commission in Docket No. 00-GIMT-842-GIT*, Docket No. 10-GIMT-667-KSF (Docket 10-667), September 10, 2010, Order Redefining Eligible Lines for KUSF Support, Limiting Frequency of Requests for Supplemental KUSF Support, Requiring Net 12-Month Line Increase of Five Percent or Greater,

Amended Application, as adjusted by Staff, and that the KUSF support payment should be netted against any assessment owed by the Company to the KUSF. Staff further recommends this level of support remain in effect until March 1, 2013, or the Commission approves a different support amount.

BACKGROUND:

Westlink, headquartered in Ulysses, Kansas, is a wholly-owned subsidiary of Pioneer Communications (Pioneer).⁵ On June 28, 2007, WestLink filed an Application requesting designation as an Eligible Telecommunications Carrier (ETC) in part of its Kansas service area for Federal Universal Service Fund (FUSF) support purposes.⁶ The Commission granted WestLink's Application on November 21, 2007.

On March 3, 2010, WestLink filed an Application seeking ETC designation for KUSF support purposes.⁷ On November 23, 2010, the Commission approved WestLink's Application and granted WestLink ETC designation in the study areas of Elkhart Telephone Company, Inc. (Elkhart), United Telephone Association, Inc. (UTA) and Pioneer, as well as the following Southwestern Bell Telephone d/b/a AT&T Kansas (AT&T) wire centers: Bucklin, Dodge City, Fowler, Garden City, Meade, Minneola, Scott City, and Sublette.

A. Supporting Documentation

Staff has enclosed the following documentation with this Report to support its recommendations:

- Attachment I includes KUSF support calculation worksheet Issue No. 1, effective the first of the month following the Commission's Order;
- Confidential Attachment II contains Staff's work papers to support its proposed adjustments for specified wire centers, exchanges, and study areas; and
- Confidential Attachment III contains WestLink's responses to Staff's confidential Data Requests (DRs) 1 through 6.

B. Filing Procedures:

K.S.A. 2011 Supp. 66-2008(d), provides, in part,

Any qualified telecommunications carrier, telecommunications public utility or wireless telecommunications service provider may request supplemental funding from the KUSF based upon a percentage increase in access lines over the 12-month period prior to the request. The supplemental funding shall be incurred for

Requiring Inclusion of Previous Commission Adjustments, Setting Appropriate Date for Payment of Supplemental KUSF Support, Declining to Rule Upon Issues Not Noticed Up in this Docket, and Directing Staff to Open Docket (September 2010 Order).

⁵ <http://www.westlinkcom.com/whyWL.aspx>, last viewed March 29, 2012.

⁶ *In the Matter of the Application of WestLink Communications, L.L.C. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Docket No. 07-WLCT-1439-ETC.

⁷ *In the Matter of WestLink Communications, L.L.C.'s Petition for Designation as an Eligible Telecommunications Carrier for the Purposes of Kansas Universal Service Fund Support*, Docket No. 10-WLCT-565-ETC.

the purpose of providing services to and within the service area of the qualified telecommunications carrier, telecommunications public utility or wireless telecommunications service provider. Supplemental funding from the KUSF shall be used for infrastructure expenditures necessary to serve additional customers within the service area of such qualifying utility, provider or carrier. All affected parties shall be allowed to review and verify a request of such a qualified utility, carrier or provider for supplemental funding from the KUSF and to intervene in any commission proceeding regarding such request. The commission shall issue an order on the request within 120 days of filing.

In May 2000, the Commission adopted procedures for carriers to follow when requesting supplemental KUSF support and to use as guidelines when requesting initial KUSF support.⁸ For example, K.S.A. 66-2008(d) requires the Commission to issue an Order on a supplemental funding request within 120-days; however, the Commission has recognized this requirement does not apply to a request for initial KUSF support. Based on modification adopted by the Commission in September 2010,⁹ the KUSF support request procedures are:

1. A KUSF support-eligible access line is “any revenue-producing line, or functional equivalent, over which universal service is provided and meets the Commission’s definition of a KUSF supported line” located in a high-cost area;
2. The company must have a five percent (5%) or more net increase in KUSF support-eligible lines, based on the rolling 12-month period prior to the company’s request;
3. Supplemental KUSF support may be requested based on lines in service at the end of each calendar-year quarter; not between quarters or in two consecutive quarters. Requests must be submitted to the Commission within 45 days of the end of a quarter and incorporate prior Commission-approved adjustments;
4. A company serving in supported areas must file its total KUSF supported line information for the month ended September 30 in the annual KUSF docket. This data will serve as the basis for the company’s KUSF support in the following year;
5. Any company contributing to, or receiving support from, the KUSF may intervene in the proceeding; and
6. Payment of supplemental KUSF support is effective the first day of the month following a Commission Order.

The September 2010 Order also reaffirmed that the following line categories do not qualify for KUSF support:

- lines that do not provide two-way, voice-grade quality, universal service, including lines used specifically for non-regulated purposes (e.g. Internet access);
- non-Kansas jurisdictional lines;
- lines that are not owned by the company, including payphone lines;

⁸ Docket 00-842, May 2000 Order.

⁹ Docket 10-667, September 2010 Order.

- non-revenue producing lines, including company-official and test lines;
- hunt lines, including all lines that terminate in a PBX, Centrex, key, or other hunt setting. To help ensure wireless and wireline providers are treated in a competitively-neutral manner, the Commission has adopted the policy that when four or more wireless business lines have the same billing address, all of the lines are treated as a hunt arrangement and do not qualify for KUSF support; and
- Primary Rate Interface (PRI) arrangements.

For KUSF support purposes, a wireless customer's billing address determines the line's location. KUSF support for concession lines is proportionate to the monthly local service rate paid for the line. Thus, if a concession line is provided free of charge, no KUSF support is available; however, if a concession line is provided for one-half (1/2) of the monthly local service rate, it qualifies for 50% of the available KUSF support.

ANALYSIS:

A. Supportable Lines

WestLink provided active customer lists, by exchange, wire center, and zone, for lines in service as of December 31, 2010. WestLink's Amended Application requested pro-rated KUSF support for concession lines. The Amended Application stated that the Company had excluded all wireless business lines when four or more lines had the same billing address and excluded residential lines if three or more lines had the same billing address.¹⁰

1. Summary of Proposed Adjustments

With regard to the reported concession lines, WestLink, in its confidential response to DR 2, stated that it should not have reported concession lines. As discussed later in this Report, the Company's Amended Application inadvertently included nine business lines. Therefore, Staff proposes to remove the concession lines and business lines from the Company's Amended Application. Furthermore, the Commission has not adopted a policy to limit the number of residential lines with the same billing address that are eligible for KUSF support. Staff is not proposing any adjustments for this issue as WestLink's Amended Application included residential lines with more than three lines at the same billing address. In a March 30, 2012, email, WestLink acknowledged that the statement regarding residential lines was made in error.¹¹

WestLink's Amended Application reflected the KUSF support available for an eligible line as of November 1, 2011. Staff's calculations reflect the KUSF support available for each eligible line, effective March 1, 2012.¹² The per line KUSF support available to an eligible line in each of the rural LEC study areas increased March 1, 2012; therefore resulting in the Company qualifying

¹⁰ Amended Application, ¶ 6.

¹¹ March 30, 2012, email from Becky Zerr, WestLink, to Sandy Reams, Staff.

¹² *In the Matter of a General Investigation to Determine the Assessment Rate for the Sixteenth Year of the Kansas Universal Service*, Docket No. 12-GIMT-168-GIT, March 22, 2012, Order Setting the Kansas Universal Service Fund Per Line Support Amounts for Year Sixteen, Attachment I.

for more KUSF support than it requested.

B. High-Cost Areas

Westlink provided lists of active customers for which it requests KUSF support. Staff selected a sample of 1,013 of the billing addresses and the Commission's Geographic Information Systems (GIS) division remapped the locations to verify that each billing address was reported in the correct high-cost area. Street mapping databases do not include post office boxes or rural route addresses; thus, they were excluded. This analysis determined that WestLink reported each billing address in the correct high-cost area, with certain exceptions discussed later in this Report.

1. AT&T Study Area

KUSF support available for eligible lines in AT&T's study area is determined by a high-cost model.¹³ Seventy-one of AT&T wire centers are considered to be high-cost areas and qualify for KUSF support. Each wire center is disaggregated into two zones: zone 1 includes the Base Rate Area (BRA), an area generally within and up to 3 miles outside the city limits; and zone 2 includes all areas outside of the BRA.¹⁴ Seven wire centers qualify for KUSF support in zone 1 with monthly KUSF support ranging from \$1.33 to \$13.08 per line. All seventy-one wire centers qualify for zone 2 KUSF support ranging from \$2.85 to \$226.45 per line.

2. Rural LEC Study Areas

The per line KUSF support available in a rural LEC's study area is determined by dividing the company's annual KUSF support by its September 30 eligible lines and dividing by twelve.¹⁵ The per line KUSF support is then multiplied by the applicable number of eligible lines WestLink has in each rural LEC study area or exchange.

The KUSF support calculations contained in WestLink's Amended Application were based on the per line KUSF support available in each rural LEC's study as of November 2011. Effective March 1, 2012, the per line KUSF support available in Elkhart's, Pioneer's, and UTA's study areas increased;¹⁶ thus, the Company qualifies to receive more KUSF support than it requested.

C. Proposed Adjustments

Staff proposes the following adjustments to WestLink's Amended Application:

¹³ *In the Matter of an Investigation Into the Kansas Universal Service Fund (KUSF) Mechanism for the Purpose of Modifying the KUSF and a Cost-Based Fund*, Docket No. 99-GIMT-326-GIT, September 30, 1999, Order No. 10: Order Adopting a Forward-Looking Cost Methodology for Purposes of Determining KUSF Support and Selecting the FCC's Proxy Cost Model.

¹⁴ *Id.*, December 29, 1999, Order 16 Determining the Kansas-Specific Inputs to the FCC Cost Proxy Model to Establish a Cost-Based Kansas Universal Service Fund, ¶ 131.

¹⁵ *In the Matter of a General Investigation into the Effect of K.S.A. 66-2008(e) on Competitively Neutral Distribution of KUSF Support as Remanded to the Commission by the Decision of the Court of Appeals in Bluestem Telephone Co., et al v. Kansas Corporation Commission*, Docket No. 06-GIMT-1289-GIT, March 7, 2007, Order.

¹⁶ *In the Matter of a General Investigation to Determine the Assessment Rate for the Sixteenth Year of the Kansas Universal Service*, Docket No. 12-GIMT-168-GIT, March 22, 2012, Order Setting the Kansas Universal Service Fund Per Line Support Amounts for Year Sixteen, Attachment I.

1. AT&T's study area:

- Scott City: remove one line located in the Garden City exchange;¹⁷ and
- Sublette: move five lines to Pioneer's Satanta exchange.¹⁸

2. Pioneer Study Area

- Coolidge: move seven lines to the Syracuse exchange;¹⁹
- Hugoton: remove a net total of three lines from the exchange, comprised of removing four business lines,²⁰ moving two lines to the Moscow exchange,²¹ and adding three lines from the Moscow exchange;
- Johnson: remove, in total, six lines, consisting of one line that was counted twice,²² moving four lines to the Rolla exchange, and moving one line to the Syracuse exchange;
- Lakin: remove six lines that are located in Sunflower's Leoti exchange;²³
- Moscow: add a net total of three lines, comprised of adding two lines from the Hugoton exchange, adding four lines from the Satanta exchange, and moving three lines to the Hugoton exchange;²⁴
- Rolla: add four lines from the Johnson exchange;²⁵
- Ryus: move two lines to the Ulysses exchange;²⁶
- Satanta: remove, in total, two lines as a result of removing four lines located in AT&T's Garden City exchange,²⁷ moving four lines to the Moscow exchange, adding five lines from AT&T's Sublette exchange, and adding one line from the Syracuse exchange;
- Syracuse: added a net total of two lines to the exchange as a result of removing five business lines,²⁸ moving one line to the Satanta exchange,²⁹ and adding six lines from the Coolidge exchange, one line from the Johnson exchange, and one line from the Syracuse exchange;
- Ulysses: added two lines from the Ryus exchange;³⁰ and

¹⁷ Confidential Attachment III, DR 3. The Garden City exchange does not qualify for KUSF support.

¹⁸ Ibid., DR 4.

¹⁹ Ibid.

²⁰ Ibid., DR 1.

²¹ Ibid., DR 4.

²² Ibid.

²³ Ibid., Sunflower does not qualify for KUSF support at this time.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid., DR 3.

²⁷ Ibid., DR 4.

²⁸ Ibid., DR 1.

²⁹ Ibid., DR 4.

³⁰ Ibid., DR 3.

- removed all reported concession lines from the study area.³¹

3. UTA Study Area

- Ingalls-Pierceville: removed two lines located in AT&T's Garden City exchange.³²

D. Net Increase in Lines

A competitive ETC must experience a net increase of 5% or greater during the rolling 12-month period. WestLink does not currently receive KUSF support, therefore, the lines reported by the Company reflect a 100% increase in the number of lines for which it is eligible to receive KUSF support. Staff suggests that the Company's Amended Application complies with this requirement.

E. Timely Filing of Request

A company must file a request for supplemental KUSF support within 45 days of the end of a calendar quarter. WestLink filed its initial Application on March 15, 2011, based on its lines in service as of December 30, 2010. The Company filed its Amended Request on December 7, 2011. This is the Company's initial filing for KUSF support, thus, Staff suggests that WestLink timely filed its request for initial KUSF support.

RECOMMENDATION:

Staff recommends that the Commission grant WestLink's Amended Application, as adjusted by Staff. Staff recommends that WestLink qualifies to receive monthly KUSF support in the amount of \$114,088, or \$1,369,056 annually. Payment of the KUSF support should be effective the first of the month following the Commission's Order. Staff further suggests that the Company's monthly KUSF support payment be netted against any assessment owed by the Company and that this level of support remain in effect until March 1, 2013, or the Commission approves a different amount of KUSF support.

cc: Patrice Petersen-Klein, Executive Director
Jeff McClanahan, Director of Utilities
Christine Aarnes, Chief of Telecommunications

³¹ Ibid., DR 2.

³² Ibid., DR 3.

ATTACHMENT I

**Westlink
KUSF Support Calculation Worksheet
Effective As Of 5/1/2012 (Est)
Fiscal Year 2012/2013**

Issue No. 1

Description	Annual	Monthly	
SWBT	\$ 3,337		
Elkhart	370		(1)
Pioneer	1,356,033		(1)
United Telephone Assoc.	9,312		(1)
KUSF Support Payable to Company	\$ 1,369,056	\$ 114,088	(2)
Lifeline Credits:	\$ 7.77		

Notes:

- 1) Based on all eligible lines in service as of 12/31/2010.
- 2) A minor difference exists between adding the Annual Amounts and the monthly amount Payable to the Company due to rounding. Total Monthly KUSF Support payable to company is reported on Carrier Remittance Worksheet, line 17.

In the Matter of the Request of Westlink)
Communications, LLC, for Kansas Universal)
Service Fund Support.)

Docket No. 11-WLCT-650-KSF

CONFIDENTIAL

Attachment II

REDACTED

In the Matter of the Request of Westlink)
Communications, LLC, for Kansas Universal) Docket No. 11-WLCT-650-KSF
Service Fund Support.)

CONFIDENTIAL

Attachment III

REDACTED

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
CATHERINE MOYER, DIRECTOR, LEGAL & REGULATORY AFFAIRS WESTLINK COMMUNICATIONS, L.L.C. 120 WEST KANSAS AVENUE ULYSSES, KS 67880		

ORDER MAIL FD MAY 01 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.