

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

JUN 02 2006

In the Matter of Sage Telecom, Inc. Filing)
Tariff Revisions Adding a Public Switched)
Network Recovery Charge, Adding More)
Plan Minutes to Specified Plans, and)
Making Rate Changes.)

 Docket
Room

Docket No. 06-SAGT-1031-TAR

STAFF'S RESPONSE TO THE PETITION FOR RECONSIDERATION

COMES NOW, the staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission" respectively) and offers its Response to Citizens' Utility Ratepayer Board's ("CURB") Petition for Reconsideration. In support of its Response, Staff alleges and states as follows:

1. On March 23, 2006, Sage Telecom Inc. (Sage) filed revised tariff pages adding a public switched network recovery charge, adding more minutes to certain calling plans and making rate changes. The tariff price changes were accepted as filed with an effective date of April 1, 2006, as requested by Sage.
2. On March 28, 2006, CURB filed its Complaint, Petition to Intervene, and Motion to Defer the Effective Date of Proposed Public Switched Network Recovery Charge and Suspend Proceeding (Complaint). CURB requested permission to intervene with respect to Sage's proposed public switched network recovery charge, arguing that the charge may adversely affect residential and small commercial ratepayers. Complaint, ¶ 4.
3. CURB argued that the recovery charge is a deceptive practice by concealing from ratepayers what amounts to a rate increase. CURB argued that the charge makes it difficult for ratepayers to make meaningful comparisons between the rates charged by Sage and its competitors. Complaint, ¶ 8.

4. CURB requested that the Commission suspend the switched network recovery charge for 240 days and hold hearings as authorized by K.S.A. 66-117(c). Complaint, ¶ 9.

5. On May 1, 2006, the Commission issued an order denying CURB's intervention and request for suspension. The Commission stated that the issue raised by CURB regarding the network recovery charge should be addressed on a generic basis in the Billing Practice Standards docket, Docket No. 06-GIMT-187-GIT (187 Docket). The Commission pointed out that CURB raised the same issue in Docket No. 06-CCIC-016-TAR (016 Docket), and that the Commission denied CURB's request, citing the generic investigation.

6. On May 16, 2006, CURB filed its Petition for Reconsideration of the May 1, 2006 Order. CURB argues that its original filing should have modified the expedited approval process for Sage's tariff filing so that CURB's complaint could be considered. Petition, ¶ 14. CURB. CURB argues that, while similar, the proposed rate in the 016 Docket offset actual increases resulting from Triennial Review Remand Order experienced by the applicant. CURB states that the switched network recovery charge at issue in this docket is in addition to increased costs related to the TRRO which Sage had already recovered by raising the FCC Subscriber Line Charge in 2005. Petition, ¶ 17 and Attachment A. CURB argues that what Sage's proposed network recovery charge "encompasses is anyone's guess" and is "misleading, deceptive, and duplicative." Petition, ¶ 18 and 19.

7. CURB argues the Commission's Order failed to consider the merits of CURB's complaint and that waiting to address the issue in the 187 Docket will cause irreparable harm to ratepayers. Petition, ¶ 20 and 23. Finally, CURB points out that Sage withdrew its proposed switched network recovery charge in Missouri after that Commission set the matter for hearing. CURB argues that Sage is unwilling to justify the charge in a public hearing. Petition, ¶ 25.

8. Sage did not respond to CURB's initial filing, but, on May 25, 2006, Sage did file a response to CURB's Petition for Reconsideration. Sage agrees with the Commission's decision to address this matter in the Billing Practice Standards docket, and points out that CURB has raised the issue in that docket in its comments. Response, ¶ 5. Sage states that in Missouri, it modified its billing format to clarify that the access recovery charge was not government mandated in order to comply with the Missouri billing standards. Response, fn 1. Finally, Sage responds to CURB's argument that the access recovery charge is deceptive, by explaining that the charge is clearly identified in Sage's tariff. Response, ¶ 6

9. Staff agrees with the Commission that this issue can be properly addressed in the generic Billing Practice Standards docket. Comments have already been submitted in that docket and CURB has raised its concerns with the type of charge at issue here. A rule that would affect the manner in which a carrier is able to bill customers for charges such as the access recovery charge proposed here by Sage is properly promulgated in a generic proceeding after input by industry and other interested parties.

10. While this issue should be generically addressed in the Billing Practice Standards docket, Staff would not oppose a Commission decision to further investigate the propriety of Sage's access recovery charge in this docket. This option should be considered by the Commission, particularly in light of CURB's allegation in its Petition for Reconsideration.

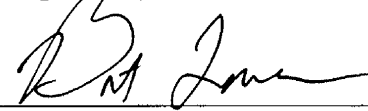
11. After reviewing the pleadings in this docket, Staff shares some concerns raised by CURB. Particularly, Staff believes Sage should provide some additional information about its agreement in Missouri to modify the manner in which it presents the access recovery charge to its customers. To the extent Sage modified its Missouri bill to eliminate any inference that the charge

was government mandated, Staff believes a review in this proceeding to see if modifications can be made to avoid deception is proper.

12. Staff is mindful that the Commission has approved similar charges by other carriers; however, Staff does not believe that those other approvals prevent the Commission from investigating Sage's access recovery charge to ensure it is reasonable and presented to customers as a rate increase. While this issue should remain a part of the Billing Practice Standards docket, Staff would support an order by the Commission to reconsider its order in this case by soliciting comments or establishing another procedure favored by the Commission. If the Commission does grant reconsideration, it should grant CURB's intervention.

WHEREFORE, Staff respectfully requests the Commission consider its Response to CURB's Petition for Reconsideration

Respectfully submitted,




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VERIFICATION

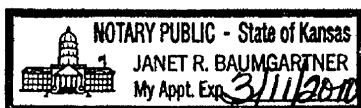
STATE OF KANSAS)
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COUNTY OF SHAWNEE) SS:

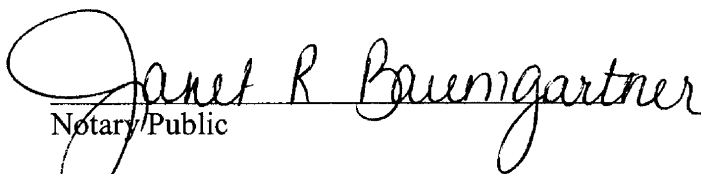
Bret Lawson, of lawful age, being first duly sworn upon oath states:

That he is the attorney for the Corporation Commission Staff in this matter; that he has read and is familiar with the foregoing *Staff's Response to the Petition for Reconsideration* that the statements made there in are true and correct to the best of his information, knowledge and belief.


Bret Lawson

SUBSCRIBED AND SWORN to before me this 2nd day of June, 2006.




Notary Public

My Appointment Expires:

March 11, 2010

CERTIFICATE OF SERVICE

06-SAGT-1031-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staff's Response was placed in the United States mail, postage prepaid, or hand-delivered this 2nd day of June, 2006, to the following:

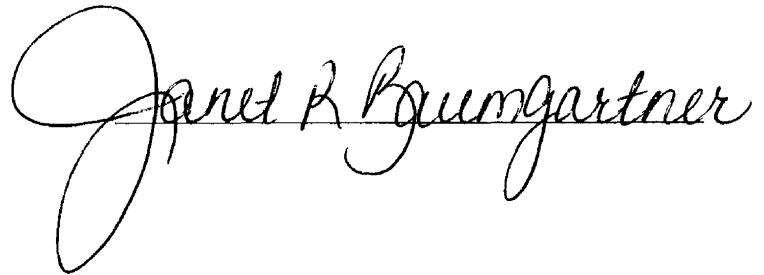
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A handwritten signature in black ink, reading "Janet R. Baumgartner". The signature is written in a cursive style with a large, looping initial "J".