

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

APR 07 2011

In the Matter of a Review of the Kansas )  
Lifeline Service Program (KLSP) to )  
Determine the Impact of the Increase in the )  
Statewide Affordable Rate to Lifeline )  
Subscribers and Whether the \$7.77 Credit )  
Should be Modified. )

  
Docket No. 11-GIMT-635-GIT

**NOTICE OF FILING OF STAFF REPORT AND RECOMMENDATION**

COMES NOW the Staff of the State Corporation Commission of the State of Kansas  
(Staff and Commission, respectively) and files its report on recommended revisions to the KLSP,  
in accordance with the Commission's March 30, 2011, Order Opening Docket.

WHEREFORE Staff requests the Commission consider its report and recommendation  
and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,



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## REPORT AND RECOMMENDATIONS

To: Chairman Thomas E. Wright  
Commissioner Ward Loyd

From: Sandy Reams

Date: April 5, 2011

Date Submitted to Legal: \_\_\_\_\_

Date Submitted to Commissioners: \_\_\_\_\_

SUBJECT: *In the Matter of a Review of the Kansas Lifeline Service Program (KLSP) to Determine the Impact of the Increase in the Statewide Affordable Rate to Lifeline Subscribers and Whether the \$7.77 Credit Should be Modified, Docket No. 11-GIMT-635-GIT.*

### BACKGROUND

1. In December 1996, pursuant to K.S.A. 66-2002(f), this Commission established the Kansas Lifeline Service Program (KLSP or Lifeline).<sup>1</sup> The Commission required all incumbent and competitive local exchange carriers (ILEC and CLEC, respectively) to offer Lifeline service.<sup>2</sup> The KLSP became operational March 1, 1997, and is funded through the Kansas Universal Service Fund (KUSF). The KLSP provides a monthly credit to a telecommunications provider for each eligible Lifeline subscriber, with the subscriber's monthly service rate then reduced by an amount equal to the KLSP credit.

<sup>1</sup> *In the Matter of a General Investigation Into Competition within the Telecommunications Industry in the State of Kansas*, Docket No. 94-GIMT-478-GIT (190,492-U), Order, dated December 27, 1996.

<sup>2</sup> *Id.*, ¶ 131.

2. In addition to the KLSP credit, Lifeline subscribers may receive discounts from the federal Lifeline program. The federal program was created to further assist low-income consumers to connect to the Public Switched Telephone Network (PSTN). The federal Lifeline program provides Lifeline subscribers with a maximum \$10.00 per month discount on their monthly service bill. The federal program prohibits service providers from charging Lifeline subscribers the monthly End-User Common Line Charge (EUCL). The EUCL is recovered, up to \$6.50 maximum, by the providers directly from the federal Lifeline program.<sup>3</sup> The federal program provides \$1.75 credit to an Eligible Telecommunications Carrier (ETC) who certifies to the federal program Administrator that it has all necessary non-federal regulatory approvals and will pass through the entire Tier 2 Lifeline support. For states that offer their own Lifeline credits, the federal programs provides a credit of one-half (1/2) of the state's monthly Lifeline support; \$1.75 maximum. Thus, Kansas ETCs and KLSP subscribers can receive total state and federal Lifeline discounts of up to \$17.77 to their monthly local service phone bill. Additional discounts are available to eligible subscribers living on Tribal Lands. Staff notes that the local service rates discussed in this Report do not include the EUCL, since Lifeline subscribers are not charged and do not pay the fee.

3. The initial KLSP credit was \$2.00 a month, regardless of the Lifeline subscriber's telecommunications service provider. The monthly service rate paid by a Lifeline subscriber was based on the local service provider's monthly service rate. Staff refers to this approach as the "equal credit" method.

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<sup>3</sup> The federal Lifeline program consists of four Tiers. Tier 1 is equal to the incumbent LEC's primary residential EUCL. Tier 2 is a \$1.75 credit to an Eligible Telecommunications Carrier that certifies to the federal program Administrator that it has all necessary non-federal regulatory approvals and will pass through the entire Tier 2 Lifeline support. Tier 3 is one-half (1/2) of the state monthly Lifeline support; \$1.75 maximum. Federal Lifeline support, excluding the EUCL, shall not exceed \$3.50 for non-Tribal land subscribers. Tier 4 support is for Tribal Lands and provides an extra \$25.00 maximum discount, provided the monthly service rate cannot be less than \$1.00. Total federal Lifeline support cannot exceed \$28.50 for subscribers on Tribal Lands. (47 C.F.R. §54.403).

4. Effective March 1, 2003, the Commission modified the KLSP credit to offset the impact of local rate increases implemented by the ILECs.<sup>4</sup> The Commission determined it would no longer provide an equal credit to all Lifeline subscribers; instead, the Commission implemented the hold-harmless approach to minimize the impact of local rate increases to Lifeline subscribers. Under this approach, the KLSP credit was increased by an amount equal to each ILEC's monthly service rate increase. This resulted in Lifeline subscribers receiving different KLSP credits, based on their ILEC's residential service rates, with the KLSP credits ranging from \$5.50 to \$8.56. The monthly service rate paid by the ILECs' Lifeline subscribers ranged from free up to \$10.89 per month.<sup>5</sup>

5. Docket No. 07-GIMT-1353-GIT (Docket 07-1353) was opened June 1, 2007, to review the hold-harmless approach and determine if it should be continued or if a different methodology should be used to determine KLSP credits.<sup>6</sup> The Commission determined that effective March 1, 2009, all Lifeline subscribers would receive an equal KLSP credit of \$7.77.<sup>7</sup> The Commission recognized that future rate increases could impact subscribers and requested parties to the docket to file comments on an annual method that the Commission could implement to address the impact of any rate increases on KLSP participants. No party filed comments.

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<sup>4</sup> *In the Matter of the Investigation of the Reformation of Intrastate Access Charges*, Docket No. 01-GIMT-082-GIT, September 25, 2001 Order Approving Stipulation and Agreement, and *In the Matter of an Investigation into the Kansas Universal Service Fund (KUSF) Mechanism for the Purpose of Establishing Cost-Based KUSF Support for Rural Local Exchange Companies*, Docket No. 02-GIMT-068-GIT, March 11, 2002, Order Adopting Stipulation and Agreement, respectively.

<sup>5</sup> *In the Matter of a Commission Review of the Kansas Lifeline Service Program (KLSP) and Determining Whether to Increase the Commission's "Hold-Harmless" Approach to Offsetting Local Rate Increases for KLSP Subscribers*, Docket No. 07-GIMT-1353-GIT (Docket 07-1353), July 27, 2007, Comments of Commission Staff.

<sup>6</sup> *In the Matter of a Commission Review of the Kansas Lifeline Service Program (KLSP) and Determining Whether to Increase the Commission's "Hold-Harmless" Approach to Offsetting Local Rate Increases for KLSP Subscribers*, Docket No. 07-GIMT-1353-GIT (Docket 07-1353).

<sup>7</sup> *Id.*, August 12, 2008, Order Returning KLSP to Equal Credits at the \$7.77 Credit Level.

6. In January 2009, in Docket 07-1353, Staff filed a report containing the following recommendations:

- the KLSP program should be reviewed every two years, in odd-numbered years, in tandem with the local rate increases for rate-of-return regulated LECs, pursuant to K.S.A. 66-2005;
- the new docket should be opened after February 1<sup>st</sup> in odd-numbered years;
- Staff should file a report and its recommendations with the following information by April 1<sup>st</sup>: (1) the prior year's residential rate and new residential rate; (2) the KLSP credit in effect for each rate and resulting Lifeline rate; (3) the increase/decrease in the per line KUSF assessment; (4) the net monthly increase or decrease in the rates paid by Lifeline subscribers; and (5) the estimated number of Lifeline subscribers experiencing a net rate reduction, a net rate increase, or no change;
- the new docket should be an avenue to address other Lifeline policy issues;
- parties to the docket submit comments and reply comments on Staff's report; and
- the Commission should issue an order on the KLSP credit by October 1 to allow any modification to the KLSP credit to be recognized in the next year's KLSP and KUSF calculations.

7. On March 30, 2011, the Commission issued an Order to open this docket to address the \$7.77 KLSP credit and to determine whether the credit should be modified (Opening Order). The Commission directed Staff to submit this report as soon as possible after the Commission issued the Order to open the docket. (¶4).

#### **LOCAL RATE IMPACT**

8. K.S.A. 66-2005(e) requires the Commission to recalculate the target affordable residential rate for the rate-of-return regulated LECs, effective March 1, 2007, and every two years thereafter. The statute limits the maximum rate increase to reach the target affordable rate to \$2.00 per year. The affordable residential rate was \$15.75 on March 1, 2009, and increased

\$.50 per month, to \$16.25 on March 1, 2011.<sup>8</sup> The \$.50 per month increase in the affordable rate is below the \$2.00 per year amount allowed by statute; thus, the rate increase was able to be fully implemented by the rural LECs this year.

9. A summary of Staff's analysis is included in Attachment 1. All thirty-seven of the rural LECs operate under rate-of-return regulation. Thirty-one of the companies increased their residential service rates on March 1, 2011. Twenty-nine increased their residential rates from \$15.75 to \$16.25. Blue Valley Telecommunications, Inc. (Blue Valley); Gorham Telephone Co., Inc. (Gorham); Rural Telephone Service Company, Inc. (Rural); and Twin Valley Telephone, Inc. (Twin Valley) have multiple rate groups. Each of these companies raised its residential rate in at least one rate group; however, they each have at least one rate group that was not subject to a residential rate increase because the rate currently exceeds \$16.25 per month. Two companies, Golden Belt Telephone Association (Golden Belt) and Totah Telephone Company, Inc. (Totah), increased rates more than \$.50 per month. On March 1, 2009, Golden Belt did not receive KUSF support and its residential rate was \$11.50 a month. In April 2009, the Company raised its monthly residential rate to \$13.00.<sup>9</sup> Effective November 1, 2010, Golden Belt became eligible for KUSF support and increased its residential rate to \$16.00.<sup>10</sup> Then, on March 1, 2011, Golden Belt increased its residential rate to \$17.50.<sup>11</sup> Thus, Golden Belt's

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<sup>8</sup> *In the Matter of a General Investigation to Determine the Assessment Rate for the Fifteenth Year of the Kansas Universal Service Fund and the Affordable Local Service Rates for Rate-of-Return Regulated Carriers, Effective March 1, 2011*, Docket No. 11-GIMT-201-GIT (Docket 11-201), January 12, 2011, Order Setting the Kansas Universal Service Fund Assessment Rate for the Year Fifteen, Setting Target Rates for Rural Local Exchange Companies, and Canceling Hearing (Year 15 Order).

<sup>9</sup> *In the Matter of an Application of Golden Belt Telephone Association to Increase its Local Rates*, Docket No. 09-GNBT-578-TAR. The Company raised its rates \$1.50 per month pursuant to K.S.A. 66-2007(b).

<sup>10</sup> *In the Matter of Golden Belt Telephone Association for Additional Kansas Universal Service Fund Support Pursuant to K.S.A. 66-2008*, Docket No. 10-GNBT-526-KSF, October 27, 2010, Order Approving Stipulated Settlement Agreement.

<sup>11</sup> K.S.A. 66-2005(e)(5) requires, "A rural telephone company which raises one or more local service rates on application made after February 20, 2002, and pursuant to subsection (b) of K.S.A. 66-2007, and amendments thereto, shall have the level of its affordable rate increased by an amount equal to the amount of the increase in such rate."

customers have experienced a total residential rate increase of \$6.00 since March 2009. Total has the same rate for both residential and single-line business customers, referred to as a uniform rate. Pursuant to K.S.A. 66-2005, the uniform rate must recover a comparable level of revenue that the Company would receive if it implemented the affordable rates. To achieve this, Total increased its monthly rate from \$16.00 to \$16.65.

10. United Telephone Association, Inc. (UTA) has a \$16.75 monthly unified rate. UTA filed a request for additional KUSF support in Docket No. 10-UTAT-525-KSF (Docket 10-525).<sup>12</sup> On March 30, 2011, the Commission issued an Order Approving Stipulated Settlement Agreement (SSA) pursuant to which UTA will receive KUSF support, effective the first of the month following a Commission Order.<sup>13</sup> Therefore, effective April 1, 2011, UTA will receive KUSF support. In compliance with K.S.A. 66-2005(e), UTA needs to increase its unified rate in order to receive the same revenue it would receive if it applied the affordable rates. To achieve this, UTA's unified rate will increase from \$16.75 to \$17.00, an increase of \$.25 a month.<sup>14</sup> UTA will need to provide notice to customers and file a tariff to recognize the increase, which Staff estimates could be implemented May 2, 2011. Five rural LECs: Bluestem Telephone Company, FairPoint Communications Missouri, Inc.; Haviland Telephone Co., Inc.; MoKan Dial, Inc.; and Sunflower Telephone Company, do not receive KUSF support and did not increase residential rates.<sup>15</sup>

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<sup>12</sup> *In the Matter of the Application of United Telephone Association, Inc. for Additional Kansas Universal Service Fund Support Pursuant to K.S.A. 66-2008*, Docket No. 10-UTAT-525-KSF.

<sup>13</sup> *Id.*, March 30, 2011, Order Approving Stipulated Settlement Agreement.

<sup>14</sup> Docket 11-201, December 22, 2010, Direct Testimony of Sandra K. Reams, p. 8.

<sup>15</sup> Bluestem and Sunflower both experienced intrastate access rate revenue reductions which would have qualified the Companies for KUSF support. Both companies have local rates below the statewide affordable rates and would have first needed to increase rates towards the affordable rate prior to receiving KUSF support. Both companies elected not to raise their rates. Pursuant to K.S.A. 66-2005, each Company's KUSF support was reduced to reflect the revenue it could have received had it increased rates, resulting in the elimination of KUSF support for each Company.

## KLSP CREDIT AND RESULTING LIFELINE RATES

11. The current KLSP credit is \$7.77. ILECs reported to the KUSF a total of 22,640 KLSP subscribers as of February 28, 2011. Table 1 shows that, of the total subscribers, 2,409, or 10.6%, were subject to rate increases since March 2009:

Table 1

	No Increase	\$.25 Increase	\$.50 Increase	\$.65 Increase	\$6.00 Increase	Total Lines
Subscribers	20,231	62	2,198	20	129	22,640
% of Total	89.36%	.27%	9.71%	.09%	.57%	100.00%

12. After applying the \$3.50 federal Lifeline credit and the \$7.77 KLSP credit, thirty-nine Lifeline subscribers receive free monthly service. Approximately 100 Lifeline subscribers pay \$12.93 a month, while most subscribers pay \$4.43 a month. On average, Lifeline subscribers pay \$4.92 a month for residential service.

## KUSF ASSESSMENT IMPACT

13. K.S.A. 66-2008(a) authorizes companies to collect an amount equal to or less than their KUSF assessment from end-users. All of the LECs recover their KUSF assessment for local service through a per line monthly surcharge recovered from local service customers. The monthly per line KUSF assessment rates, effective March 1, 2011, are: AT&T - \$2.04, CenturyLink - \$1.91, and the rural LECs - \$1.45. This represents a monthly increase of \$.30 up to \$.52 a line above the March 1, 2009, rates of \$1.52, \$1.49, and \$1.15, respectively.

## NET MONTHLY IMPACT TO KLSP SUBSCRIBERS

14. As a result of the increase in the affordable residential rate and the local service KUSF surcharge, all of the ILECs' Lifeline subscribers experienced an overall rate increase ranging from \$.30 up to \$6.30 per month. Of the 22,640 Lifeline subscribers, 129 experienced a



net rate increase greater than \$1.00; 20,775 experienced a net increase of \$.50 to \$.99; and 1,734 had a net rate increase of less than \$.50 per month.

## **OTHER ISSUES**

15. Sunflower, FairPoint, and MoKan have monthly local service rates below the statewide affordable rate, and as a result, their Lifeline subscribers pay less than \$1.00 per month for residential local service. The federal Lifeline program requires that Tribal Land Lifeline subscribers pay at least \$1.00 per month,<sup>16</sup> even though Tribal Lands generally have the lowest universal service penetration rates in the nation. Staff suggests the Commission request comment on whether all KLSP customers should pay a \$1.00 per month minimum for local service to provide for more equitable treatment between Lifeline subscribers. Staff notes; however, that this would reduce the KLSP credit, and the KUSF funding, for affected Lifeline subscribers.

## **RECOMMENDATIONS**

16. Staff does not recommend any increase in the KLSP credit at this time, given that the majority of Lifeline subscribers did not experience a local service rate increase. The Commission's Opening Order requests that parties file comments by June 3, 2011, and reply comments by July 1, 2011, on whether the \$7.77 KLSP credit should be increased and, if so, what the new credit should be. Staff recommends that the comments also address whether all Lifeline subscribers should pay a minimum of \$1.00 for monthly local service. Further, Staff recommends that the Commission issue a Final Order on these issues no later than September 30, 2011, in order for Staff to incorporate any adopted changes into its calculations for KUSF Year 16.

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<sup>16</sup> 47 C.F.R. §54.403

## CERTIFICATE OF SERVICE

11-GIMT-635-GIT

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing docket was placed in the United States mail, postage prepaid, or hand-delivered this 8th day of April, 2011, to the following:

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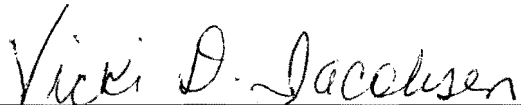
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