

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

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

Received  
on  
**JUN 03 2011**

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

by  
State Corporation Commission  
of Kansas

**COMMENTS OF THE  
CITIZENS' UTILITY RATEPAYER BOARD**

COMES NOW the Citizens' Utility Ratepayer Board (CURB) and files the following comments in this docket in response to the Kansas Corporation Commission's (KCC or Commission) March 30, 2011, Order Opening Docket to Review the Kansas Lifeline Service Program to Determine the Impact of the Increases in the Statewide Affordable Residential Rate to Lifeline Subscribers and to Consider Whether the \$7.77 Monthly Credit Should be Modified (Order Opening Docket) and the subsequent April 7, 2007, Notice of Filing Staff Report and Recommendation (Staff's Report). The Commission's Order Opening Docket seeks comments on Staff's Report and indicates such report should address whether the Kansas Lifeline Service Program (KLSP) credit should be modified. In support of its position, CURB states and alleges as follows:

## I. Introduction

1. In the Order Opening Docket, the Commission seeks comments on Staff's Report and indicates such report should address whether the current \$7.77 KLSP credit should be modified taking into account the following:

- a) the current residential rate;
- b) the new residential rate;
- c) the current KLSP credit;
- d) the residential rate paid by Lifeline subscribers;
- e) the net monthly increase or decrease in the Lifeline rate;
- f) the increase/decrease in the per line KUSF assessment;
- g) the net impact to Lifeline subscribers;
- h) the estimated number of Lifeline subscribers that will experience a net rate reduction, a net rate increase, or no rate change; and
- i) any other KLSP issue of which Staff is aware.

2. Staff's Report indicates that this matter is being reviewed because in January 2009, in Docket No. 07-GIMT-1353-GIT (Docket 1353), Staff filed a report recommending the KLSP program be reviewed every two years (in odd numbered years), in tandem with the local rate increases for rate-of-return regulated local exchange carriers (LECs), pursuant to K.S.A. 66-2005. As part of the review, Staff would file a report and a recommendation by April 1<sup>st</sup> regarding various KLSP policy issues, with changes implemented by the following October 1<sup>st</sup> to allow any KLSP changes to be recognized in the next year's KLSP and KUSF calculations.<sup>1</sup> Staff's Report includes various information regarding the history and treatment of the KLSP credit and current information regarding KLSP customers. Staff's Report includes the following primary recommendations or proposals subject to comment by other parties:<sup>2</sup>

- a) no proposed increase in the KLSP credit at this time; and

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<sup>1</sup> Staff's Report, ¶ 6.

<sup>2</sup> Staff's Report, ¶ 16.

- b) whether all Lifeline subscribers should pay a minimum of \$1.00 for monthly basic local service.

## **II. CURB's Position on Staff's Recommendations**

3. CURB does not oppose Staff's recommendation of no increase in the KLSP credit at this time, but opposes the option suggested by Staff to consider requiring KLSP customers to pay a \$1.00 minimum monthly payment. No evidence demonstrating a problem with the Lifeline program has been presented that justifies the proposed \$1.00 minimum payment; without such evidence, changes to the KLSP credit or local rates for Lifeline customers should not be implemented.<sup>3</sup>

4. Staff's Report has not presented sufficient documentation to justify an increase in basic local service rates for a few isolated KLSP customers - - all of whom are poverty level and low income customers that can least afford a rate increase at this time. CURB is not aware that any telephone company, Lifeline customer, or any other intervenor has asserted there is either an equity problem in regards to the amount of the KLSP credit or the amount of local rates paid by KLSP customers; the \$1.00 minimum payment is therefore a proposed solution without a problem. KLSP customers, Kansans impacted the most by the current depressed and stagnant economy, should not be saddled with an unjustified increase in basic local rates or be denied the full credit (\$7.77) provided to other KLSP customers without a compelling reason for the proposed policy change.

5. Furthermore, increasing KLSP customer rates to a minimum of \$1.00 per month will not have any significant impact on reducing either the Kansas Universal Service Fund (KUSF) or related assessments to other Kansas customers, and the time and cost of such administrative

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<sup>3</sup> CURB remains opposed to the equal credit approach adopted by the Commission in Docket 1353.

change likely exceeds any benefit. The negative impact of a rate increase for poverty level and low income KLSP customers far exceeds any perceived benefit, especially when no benefit has been identified, properly documented, or raised in a complaint by any party.

6. Finally, implementing a \$1.00 minimum monthly rate for KLSP customers is contrary to the reasoning supporting the Staff-proposed and Commission-adopted “equal Lifeline credit” (or “equal credit”) in Docket 1353, because it represents either a decrease in the “equal” Lifeline credit of \$7.77 or an arbitrary increase in basic local rates for KLSP customers. CURB believes this would be about the worst time from an economic and public relations perspective to implement a policy requiring rate increases for Kansas poverty level and low income customers, many whom are elderly and on fixed limited incomes.

7. Staff’s proposal or option to increase monthly local service rates to a minimum amount of \$1.00 per month for KLSP customers is not adequately documented or supported. Staff appears to rely solely upon the fact that the federal Lifeline program requires Tribal Land Lifeline customers to pay at least \$1.00 per month (and these customers have the lowest penetration rates in the nation) in presenting the option that would require all Kansas Lifeline customers to be subject to this same policy.<sup>4</sup> Staff suggests that parties comment on whether a \$1.00 per month minimum payment for local service will provide more equitable treatment between all Lifeline customers. There are numerous flaws and inconsistencies with the equity argument as briefly set forth in Staff’s Report.

8. Staff indicates that Tribal Land Lifeline customers have the lowest subscription rates for telephone service in the nation, yet the FCC has decided that these Lifeline customers should pay a minimum amount of \$1.00 per month for local service. Staff appears to take this information and suggest that if a \$1.00 monthly minimum payment is reasonable for this group

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<sup>4</sup> Staff’s Report, ¶ 15.

of Tribal Land Lifeline customers with the lowest level of telephone penetration in the nation, then such a policy may be equitable for all other non-Tribal Kansas Lifeline customers. However, even though Tribal Land Lifeline customers pay at least \$1.00 per month for local service, it is important to note that Tribal Land Lifeline customers receive substantially greater benefits than non-Tribal KLSP customers because they receive an extra \$25.00 maximum discount for local service (up to a maximum amount of \$28.50).<sup>5</sup> In comparison, non-Tribal KLSP customers currently receive a maximum credit of \$17.77 (\$10 maximum federal Lifeline credit, plus the Kansas maximum credit of \$7.77). Therefore, although all Tribal Land Lifeline customers pay a minimum amount of \$1.00 per month for local service, they receive additional monthly Lifeline credits (i.e., additional support) up to \$10.73 over the credits for non-Tribal KLSP customers (Federal Tribal Lifeline credit of \$28.50 less Kansas non-Tribal KLSP credit of \$17.77). As a result, equity is not achieved using Staff's "Tribal Land Lifeline customer" argument, unless the \$1.00 minimum monthly payment for non-Tribal KLSP customers is also offset by additional Lifeline support benefits received (up to \$10.73) - - the same additional amounts received by Tribal Land Lifeline customers. Only a true apples-to-apples comparison between Tribal and non-Tribal "equity" of Lifeline support can be achieved by considering all the facts, rather than focusing on the \$1.00 monthly minimum payment for basic local service in isolation.

9. A requirement that all KLSP customers pay at least \$1.00 per month for local service can be viewed as having the following potential unjustified impacts: 1) it can be considered to indirectly reduce the net impact of the KLSP "equal credit" of \$7.77 per customer to an amount ranging up to \$6.77 for some KLSP customers (the \$7.77 "equal credit" Lifeline amount less the \$1.00 minimum monthly charge for KLSP customers not currently paying any monthly local

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<sup>5</sup> Staff's Report, ¶ 2, footnote 3.

service rates); 2) it can be considered as an arbitrary increase in basic local services rates that discriminates against KLSP customers; and 3) it clearly does not allow certain ILECs the discretion to maintain monthly local service rates below the statewide affordable rate level and penalizes these ILECs and their KLSP customers by requiring offsetting rate increases. This type of arbitrary policy change is contrary to Staff's argument and rationale for the Commission decision adopting the equal credit approach in Docket 1353. CURB opposes a mandatory rate increase of up to \$1.00 per month for KLSP customers because it would circumvent the intent and rationale for the equal credit policy adopted by the Commission in Docket 1353. CURB does not believe it is reasonable to implement exceptions to the equal credit policy as a way to justify rate increases for KLSP customers.

10. Staff's Report states that Sunflower, FairPoint, and MoKan have monthly local service rates below the statewide affordable rate and that the customers for these companies pay less than \$1.00 per month for residential local service.<sup>6</sup> Furthermore, Staff's Attachment 1, page 2 of 2, shows that these three ILECs have 155 total Lifeline customers,<sup>7</sup> with 39 of the Lifeline customers receiving free monthly service after netting with the KLSP credit.<sup>8</sup> Therefore, the proposal to require KLSP customers to pay at least \$1.00 per month for local service would impact the 155 customers of only these three ILECs, and it affects these ILECs primarily because they have decided to maintain local rates below the statewide affordable/targeted rate level.

11. The \$1.00 minimum payment option suggested by Staff would isolate, penalize, and discriminate against the KLSP customers of these three ILECs simply because these companies have made a decision to maintain low basic local rates (below the statewide affordable rate level)

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<sup>6</sup> Staff's Report, ¶ 15.

<sup>7</sup> Staff's Report, Attachment 1, page 2 of 2 - FairPoint has 2 Lifeline customers, MoKan has 114 Lifeline customers, and Sunflower has 39 Lifeline customers, for total Lifeline customers of 155.

<sup>8</sup> Staff's Report, ¶ 12.

in order to preserve and enhance universal service. The \$1.00 minimum payment option is contrary to the rationale for the equal credit approach adopted by the Commission and contrary to the public interest.

12. ILECs and their KLSP customers should not be penalized or discriminated against for preserving and enhancing existing state and federal statutory goals of universal service at affordable prices. The \$1.00 minimum payment option suggested by Staff sends an inconsistent and disturbing signal to the industry and customers. If implemented, this policy sends a message to companies maintaining local rates below the Kansas affordable rate level that their Lifeline customers will be penalized with a rate increase. Another way the message could be viewed is that these Lifeline customers will be denied the same equal credit Lifeline amount the Commission previously declared is available for all Lifeline customers in Kansas simply because their local carrier maintained rates below the Kansas affordable rate level. Kansas ILECs should maintain the decision-making ability to maintain basic local rates below the statewide affordable rate level, especially for KLSP customers that are already at risk for dropping off the telephone network.

13. A mandatory \$1.00 per month rate for KLSP customers is also contrary to the Commission and Staff's argument for adopting the "equal credit" approach over the "hold harmless" approach in Docket 1353. The Commission's order adopting the equal credit approach refers to Staff's argument supporting the equal credit approach in Staff's Comments, "Staff believed that, because ILEC rates for basic local phone service no longer varied significantly, equal credit support would lead to very similar rates for ILEC Lifeline customers."<sup>9</sup> Furthermore, the Commission's same order referred to its prior December 18, 2007, order where it stated that Staff's equal credit proposal appeared promising in reducing or eliminating rate

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<sup>9</sup> Commission order (Nunc Pro Tunc) in Docket 1353, dated August 25, 2008, ¶ 13.

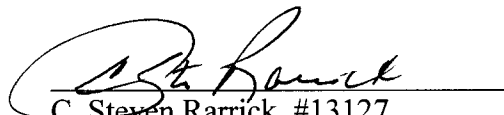
increases for customers that can ill afford such increases.<sup>10</sup> It appears the Commission adopted the equal credit approach in part because it relied on a Staff assertion that ILEC rates for basic local phone service no longer varied significantly and an equal credit approach would lead to similar rates for ILEC Lifeline customers. If a mandatory \$1.00 per month local rate is implemented for KLSP customers, it would appear that the Commission's original decision to adopt an equal credit approach was based in part on erroneous information regarding: a) similar telephone rates for ILECs; and b) that the equal credit approach would reduce or eliminate rate increases for KLSP customers.

14. There was no reason to require a minimum \$1.00 monthly local rate for KLSP customers in 2008 when the Commission adopted the equal credit approach and there is no reason to require a \$1.00 minimum payment for Lifeline customers at this point in time.

### **III. Conclusion**

15. CURB appreciates the opportunity provided in this docket to submit these comments on behalf of Kansas small business and residential ratepayers, and urges the Commission to reject the \$1.00 minimum payment option suggested by Staff for KLSP customers.

Respectfully submitted,

  
C. Steven Rarrick, #13127  
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<sup>10</sup> *Id.*, ¶ 13.



**VERIFICATION**

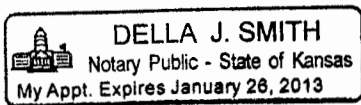
STATE OF KANSAS                     )  
   )       ss:  
COUNTY OF SHAWNEE                )

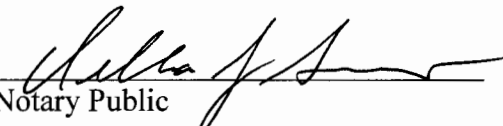
C. Steven Rarrick, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the Citizens' Utility Ratepayer Board; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

  
C. Steven Rarrick

SUBSCRIBED AND SWORN to before me this 3rd day of June, 2011.



  
Notary Public

My Commission expires: 01-26-2013

**CERTIFICATE OF SERVICE**

11-GIMT-635-GIT

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, or hand-delivered this 3<sup>rd</sup> day of June, 2011, to the following:

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