

Received
on

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

JUN 14 2013

by
State Corporation Commission
of Kansas

In the Matter of the General Investigation)
to Review the Kansas Lifeline Service)
Program (KLSP) to Determine the Impact)
Of the Increase in Statewide Affordable)
Residential Rate for Rural Local Exchange)
Carriers to Their Lifeline Subscribers and)
Whether the \$7.77 Monthly Credit Should)
be Modified)

Docket No. 13-GIMT-597-GIT

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

COMES NOW the Citizens' Utility Ratepayer Board (CURB) and files the following comments in response to the issues raised by the Kansas Corporation Commission's (KCC or Commission) April 17, 2013, Order Opening General Investigation (April 17th Order)¹ and the subsequent April 25, 2013, Notice of Filing of Supplemental Report and Recommendation (April 25th Staff Supplemental Report) by Commission Staff in this proceeding.

I. Introduction

1. The Commission's April 17th Order seeks written comments on Staff's Report and Recommendation and other Lifeline policy issues that parties believe may impact Kansas lifeline subscribers and the appropriate amount of the KLSP monthly credit.² In addition, the April 25th Staff Supplemental Report provides additional information to consider in this proceeding, including: a) a comparison of the KLSP discount to the low-income discount provided in other

¹ This Order also includes the March 28, 2013 dated, Report and Recommendation Utilities Division (March 28th Staff Report).

² April 17th Order, ¶ 11.

states; b) history of how the KLSP evolved to \$7.77; and c) an analysis of the recent growth in the KLSP.

II. Supporting Comments for Specific Issues Raised in the KCC Order

2. CURB's Comments at this time will primarily focus on the appropriate amount of KLSP monthly credit. While reserving the right to submit additional recommendations in CURB's Reply Comments, CURB supports preserving the existing \$7.77 KLSP monthly credit in addition to an annual increase equal to the Consumer Price Index for Urban Consumers (CPI-U). CURB believes this proposal is reasonable because the annual increase in the KLSP monthly credit will be tied to the *approximate* annual "national" increase in rates for residential landline telephone service via the CPI-U.

3. It could be argued that the KLSP monthly credit and related annual increase should be greater because many Kansans have experienced increases in telephone rates greater than the national average. The best example is AT&T's significant \$3.00 (17% increase from \$18.00 to \$21.00/month) increase in monthly rates for basic residential local service on July 3, 2012.³ This one-time rate increase of \$3.00 a month is arguably the single largest one-time increase in residential basic local rates by any Kansas telephone company since at least the 1970's, and this singular increase is a good barometer that competition is not effective and is not working in AT&T exchanges in Kansas.⁴ This significant price increase is consistent with the Commission's 2011 Report to the Kansas Legislature on Price Deregulation, which cast serious doubt on the effectiveness of competition in Kansas:

³ Kansas Corporation Commission Annual Price Deregulation Report, dated February 1, 2013, provided to Governor Sam Brownback and the 2013 Legislature, p. 8.

⁴ There may be a few instances of larger rate increases for smaller rural telephone companies, but these smaller rural companies started with a lower telephone rate than AT&T's monthly rate of \$18/line.

- For the third consecutive year in a row, the weighted average rate in several of the price deregulated exchanges was higher than the inflation adjusted statewide, weighted average rate for the study period (statutory measure of effectiveness of competition).⁵
 - For residential service, the statutory measure of competition failed in thirty-seven of the fifty-eight price deregulated exchanges. (64%).
 - For business service, the statutory measure of competition failed in twenty-six of the forty-nine price deregulated exchanges (53%).⁶
- Most of the price deregulated exchanges resembled a dominant-firm oligopoly market, where one firm dominates the market and many other small firms compete for the remaining fraction of the market. Market share information demonstrated that AT&T was the dominant firm in 79.3 percent of the residential markets and 64.6 percent of the business markets in the price deregulated exchanges. AT&T had greater than 50 percent share of the market and there was no other firm that was a close rival in terms of market share.⁷
- A current Herfindahl-Hirschman Index (HHI) analysis for each of the price deregulated exchanges for both residential and business services exceeded the level considered to be highly concentrated by the Department of Justice.⁸ Economic theory links higher market concentration to a greater likelihood of market power. The KCC's study found market concentration well above the Department of Justice's standard indicator for highly concentrated markets.⁹
- "Even with an adjustment to account for competition from wireless carriers, it would be difficult to conclude that there is effective competition in any of the deregulated exchanges."¹⁰

4. Although some customers may have more choices regarding their telephone service, there is substantial uncertainty and questions regarding effective competition in Kansas. Clearly it is not the proper time to consider any reductions in the KLSP monthly credit.

5. CURB has reviewed the Staff Reports dated March 28th and April 24th and considered other information. There is much more justification for increasing the KLSP monthly credit of \$7.77, rather than reducing the monthly credit at this time. While the \$7.77 monthly credit is technically treated as a reduction in basic residential local rates, this amount does not

⁵ 2011 Report on Price Deregulation, p. 49.

⁶ *Id.*, pp. 9-10.

⁷ *Id.*, p. 22.

⁸ *Id.*, pp. 23-24.

⁹ *Id.*, p. 23-26.

¹⁰ *Id.*, p. 46 (emphasis added).

even cover the monthly recurring miscellaneous taxes and telephone charges on a typical lifeline customer's bill - - and most of these charges are increasing over time. For example, some of these miscellaneous charges include:

- a) the monthly KUSF line charge ranging from about \$1.53 for a rural local exchange carrier (RLEC) to \$2.38 for an AT&T customer;¹¹
- b) the increasing KUSF assessment rate on "usage" based and other telecom services provided by various types of carriers, which can easily add another \$.50 to \$1.00 to a customer's bill (with a current assessment rate of 6.42% and is the second highest rate since year 2000 of the KUSF);¹²
- c) the local franchise tax, which can add another \$1.00 to \$2.00 or more to the customer bill;
- d) the Kansas 911 fee, which can add another \$.50 to the customer bill; and
- e) the city, county, and state sales taxes, which can add at least \$2 to \$4 or more to the customer bill.

These miscellaneous charges do not include the federal miscellaneous charges which would be offset to a large degree by the Federal lifeline credit.

6. Some of the reasons that justify maintaining or gradually increasing the KLSP monthly credit include the following:

- a) the KLSP credit of \$7.77 has not increased since it was approved and effective March 1, 2009;¹³
- b) the number of Kansas lifeline and low-income qualifying customers has increased significantly since the most recent KLSP credit of \$7.77 was approved, increasing from 29,062 customers (March 2009 to February 2010) to 43,658 (February 2013), an increase of 14,596 customers, or 50% growth in just a period of 2 to 3 years;¹⁴
- c) steady increases in the national average prices of telephone services as shown by the Consumer Price Index for land-line telephone services since the available data tracked from 2010 to 2012.¹⁵ The increases in Kansas telephone prices are likely to be greater than the national average;
- d) no significant improvements in the Kansas economy that positively impact Kansas low income customers;

¹¹ Kansas Corporation Commission website, "KUSF Assessment and History" at <http://www.kcc.state.ks.us/telecom/kusfhistory.pdf> - - which shows the annual KUSF assessment rate from year 1 to year 17 (effective March 1, 2013) of the KUSF.

¹² *Id.*

¹³ April 17th Order, ¶ 5.

¹⁴ April 25th Staff Supplemental Report, p. 4.

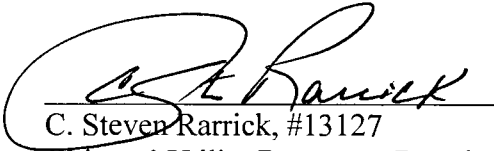
¹⁵ Federal Communications Commission (FCC) Universal Service Monitoring Report, CC Docket No. 98-202, 2012 Report (data received through October 2012), prepared for the Federal-State Joint Board on Universal Service in CC Docket No. 96-45, Table 4.3 Monthly Consumer Price Indices – Land-line Telephone Services.

- e) poverty levels for children are growing significantly in Kansas - - the Kansas Health Institute (February 3, 2012 published article) reports that three more times as many Kansas children live in high-poverty areas today (46,000 poverty children today) compared to ten years ago (14,000 poverty children in 2010), which puts Kansas as the 4th fastest growth rate for high-poverty in the country;¹⁶
- f) it is not uncommon for telecom providers to be subject to price cap plans which allow annual price increases tied to consumer price index factors, thus it is reasonable to tie annual increases in the KLSB monthly credit to the same type of indexes, such as the CPI-U; and
- g) Kansas telephone providers are not reducing their prices, so there is no reason to reduce lifeline support.

III. Conclusion

7. 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 adopt CURB's recommendations.

Respectfully submitted,



C. Steven Rarrick, #13127

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¹⁶ <http://www.khi.org/news/2012/feb/23/number-children-high-poverty-areas-triples-2000/>

VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

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

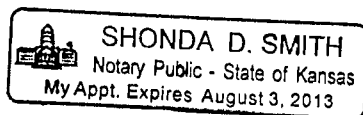
That he is an attorney for the Citizens' Utility Ratepayer Board; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.


C. Steven Rarrick

SUBSCRIBED AND SWORN to before me this 14th day of June, 2013.


Notary of Public

My Commission expires:



CERTIFICATE OF SERVICE

13-GIMT-597-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, electronic service, or hand-delivered this 14th day of June, 2013, to the following:

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A handwritten signature in cursive script that reads "Shonda Smith". The signature is written in black ink and is positioned above a horizontal line.

Shonda Smith
Manager