

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

In the Matter of An Investigation to Determine )  
the Assessment Rate for the Twenty-Fourth Year ) Docket No. 20-GIMT-086-GIT  
of the Kansas Universal Service Fund, Effective )  
March 1, 2020 )

**MOTION TO SEVER OR DEFER CERTAIN ISSUES**

COME NOW the following rural local exchange carriers (“RLECs”), to wit:

**Independent Telecommunications Group (“ITG”):**

Cunningham Telephone Co., Inc.  
Gorham Telephone Co. Inc.  
H & B Communications, Inc.  
Home Telephone Co., Inc.  
Totah Communications, Inc.  
Twin Valley Telephone, Inc.  
Wamego Telecommunications Co., Inc.  
Wilson Telephone Co., Inc.  
Zenda Telephone Co., Inc.

**State Independent Alliance (“SIA”):**

Blue Valley Tele-Communications, Inc.  
Craw-Kan Telephone Cooperative, Inc.  
Golden Belt Telephone Association, Inc.  
Haviland Telephone Company, Inc.  
J.B.N. Telephone Company, Inc.  
KanOkla Telephone Association  
Madison Telephone, LLC  
MoKan Dial, Inc.  
Peoples Telecommunications, LLC  
The Pioneer Telephone Association, Inc.  
Rainbow Telecommunications Association, Inc.  
S&A Telephone Company, Inc.  
The S&T Telephone Cooperative Association, Inc.  
South Central Telephone Association  
The Tri-County Telephone Association, Inc.  
United Telephone Association, Inc.

Southern Kansas Telephone Co., Inc.  
Rural Telephone Service Co., Inc. d/b/a Nex-Tech  
Mutual Telephone Company  
Wheat State Telephone Company

and move that the Commission's consideration of certain issues affecting the payment of Kansas Universal Service Fund ("KUSF") support to RLECs be severed from the instant proceeding and considered separately in a new docket. Alternatively, these RLECs request an Order establishing a general deferral or separate procedural schedule for consideration in this Docket of all issues and actions related to the KUSF cap created by K.S.A. 66- 2008(e)(3). In support thereof the RLECs state as follows:

1. Each of the RLECs is a Kansas local exchange carrier providing local exchange and exchange access services subject to one or more Certificates of Convenience and Authority issued by this Commission.
2. Each of the RLECs is a rural telephone company as defined by K.S.A. 66-1,187(1); each serves as a carrier of last resort and is entitled to recover the costs of serving as carrier of last resort, pursuant to K.S.A. 66-2009.
3. In her direct testimony filed December 13, 2019 in this Docket, at pp. 8–10 Commission Staff ("Staff") witness Sandra (Sandy) Reams recommends that the Commission take certain actions affecting individual RLECs' receipt of KUSF support at such time as the total of high cost support otherwise payable to RLECs reaches or exceeds the \$30 million cap established by K.S.A. 66-2008(e)(3).
4. It appears the total high cost support cap may be reached or exceeded during the 24th year of the KUSF; such actions recommended by Staff would therefore be taken in the instant Docket.
5. The RLECs respectfully submit it is reasonable and in the public interest to consider the various KUSF cap-related recommendations of Staff, and the possible

actions taken by the Commission, in a greater depth and to a greater extent, than can be accomplished under the procedural schedule established by the Commission in the scheduling portion of its Order of August 29, 2019 in this Docket.

6. The period between the filing of Staff's direct testimony and the deadline for filing intervenor rebuttal testimony under the Commission's Order is a mere eleven days, of which only seven are working days, and one of these working days is Christmas Eve. This provides insufficient time fully and fairly to address the significant issues of fact, law and public interest arising from implementation of the statutory cap.

7. The Commission's Order initiating this Docket (Order Opening Docket; Protective Order Applicable to Curb; Requiring Entries of Appearance to Actively Participate And Establishing Procedural Schedule, August 29, 2019; hereinafter "Order") includes the following provision, at p. 2: "Each rural local exchange carrier (RLEC)'s KUSF support will be based on its current annual KUSF support, adjusted for any increase or decrease in its annual KUSF support as determined in a company-specific audit. Therefore, the RLECs will not need to file any information in the annual KUSF Docket this year." Taken as a whole, this Order reasonably caused RLECs to understand they would have no need to prepare testimony, and that no action regarding the KUSF cap would arise in this Docket. Only on December 13, 2019 did Staff testimony appear that gave rise to any need to consider or prepare testimony under a December 24 deadline.

8. The RLECs are mindful of the necessity of the Commission issuing an Order to become effective March 1, 2020, setting the percentage assessment applicable to Kansas intrastate end-user regulated telecommunications services, for the purpose of defining contributions to the KUSF, as reflected in the Order, ¶ 5, p. 2. Neither Staff's

August 14, 2019 Report and Recommendation nor the Reams testimony provides support for a need to take KUSF cap-based action in the instant docket.

9. Severance of KUSF cap-related issues and actions from this proceeding, and deferral of such matters to a separate proceeding promotes sound regulatory practice by meeting a stated objective of the August 29, 2019 Order: assurance of “sufficient time to review and analyze all filed data, review revenue and other data provided by the KUSF Administrator, perform all necessary calculations, and submit testimony to the Commission” on the matter of the March 1, 2020 assessment rate.

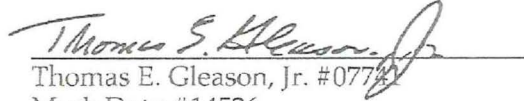
10. Establishment of a separate docket for KUSF cap-related issues and possible actions will promote regulatory efficiency by allowing interested parties sufficient opportunity to be heard while avoiding any procedural burden on non-interested parties.

11. Witness Reams’s testimony establishes (at p. 8 l. 4 – p. 10 l. 3) that determinations of any specific effect or action related to the KUSF cap will arise, if at all, only at some future date and/or in one or more separate future proceedings. Requiring affected parties to address such issues under the existing procedural schedule imposes an unnecessary burden on Staff, the Commission and the affected parties.

WHEREFORE the RLECs request issuance of an Order directing that all issues relating to implementation of the cap created by K.S.A. 66-2008(e)(3) and/or by prior Orders of the Commission related to such cap, and relating to the effect of such cap on individual RLECs’ high cost support, be severed from this Docket and made subject to a separate Docket; alternately, that such issues be ordered deferred to a later time in this Docket and that the procedural order issued herein by Order of August 29, 2019, be amended accordingly to permit reasonable time for discovery, testimony, hearing and any other appropriate proceedings on such issues.

Respectfully submitted,

GLEASON & DOTY, CHARTERED



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**VERIFICATION**

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF DOUGLAS    )

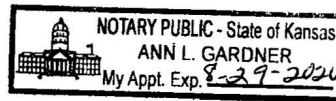
Thomas E. Gleason, Jr., of lawful age, being first duly sworn upon oath, states:  
I am an attorney for the Independent Telecommunications Group, that I have read the above and foregoing Motion, and upon information and belief, state that the matters therein appearing are true and correct.

  
Thomas E. Gleason, Jr.

SUBSCRIBED AND SWORN to before me this 18<sup>th</sup> day of December, 2019.

  
Ann L. Gardner  
Notary Public

My Commission Expires:  
8-29-2020



**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 18<sup>th</sup> day of December, 2019, a true and correct copy of the above and foregoing Motion was sent by electronic mail to the following reflected on the Commission's "Service List" for the subject Docket as of this date:

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