

66-2008. Kansas universal service fund; funding; authorized expenditures; distributions; limitations and cap; supplemental funding.

On or before January 1, 1997, the commission shall establish the Kansas universal service fund, hereinafter referred to as the KUSF.

(a) The commission shall require every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services and, to the extent not prohibited by federal law, every provider of interconnected VoIP service, as defined by 47 C.F.R. 9.3, to contribute to the KUSF based upon the provider's intrastate telecommunications services net retail revenues on an equitable and nondiscriminatory basis. The commission shall not require any provider to contribute to the KUSF under a different contribution methodology than such provider uses for purposes of the federal universal service fund, including for bundled offerings. Any telecommunications carrier, telecommunications public utility, wireless telecommunications service provider or provider of interconnected VoIP service which contributes to the KUSF may collect from customers an amount equal to such carrier's, utility's or provider's contribution, but such carrier, provider or utility may collect a lesser amount from its customer.

Any contributions in excess of distributions collected in any reporting year shall be applied to reduce the estimated contribution that would otherwise be necessary for the following year.

(b) Pursuant to the federal act, distributions from the KUSF shall be made in a competitively neutral manner to qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications providers, that are deemed eligible both under subsection (e)(1) of section 214 of the federal act and by the commission.

(c) Beginning January 1, 2014:

(1) Annual distributions from the KUSF for a local exchange carrier subject to price cap regulation pursuant to K.S.A. 66-2005, and amendments thereto, shall be capped at the lesser of:

(A) 90% of KUSF support the carrier received for the 12-month period ending February 28, 2013; or

(B) \$11,400,000.

The amounts prescribed in subparagraph (A) or (B) shall not include KUSF support for Kansas lifeline service program purposes, pursuant to K.S.A. 66-2006, and amendments thereto.

(2) Local exchange carriers subject to price cap regulation pursuant to K.S.A. 66-2005, and amendments thereto, shall not receive KUSF support for any residential or business lines within an exchange that the commission has granted price deregulation pursuant to K.S.A. 66-2005(q)(1)(B), (C) or (D), and amendments thereto, except for areas within any census block in such an exchange in which there is no wireline carrier providing local exchange access lines that does not receive KUSF support, not including KUSF support for Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, for such access lines.

(3) Local exchange carriers subject to price cap regulation pursuant to K.S.A. 66-2005, and amendments thereto, shall receive the same per line, per month KUSF support as established in the April 13, 2000 notice in commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT subject to the cap percentage in subsection (c)(1), not including KUSF support for Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, except that the amount shall be reduced by any funding received by such carrier from the federal communication commission's connect America fund II for the same household, if feasible, or for the same census block.

(4) The commission shall discontinue the use of the "identical support" rule and shall cap all competitive eligible telecommunications carriers' KUSF high cost support as of March 1, 2013, and beginning March 1, 2014, over a period of four years in annual equal increments, reduce to zero, beginning March 1, 2018, the amount of KUSF high cost support received by competitive eligible telecommunications carriers. Nothing in this section shall be construed to affect competitive eligible telecommunications carriers' eligibility for Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto. For the purposes of this subsection, "competitive eligible telecommunications carrier" means a telecommunications carrier designated by the commission as an eligible telecommunications carrier after January 1, 1998. "Competitive eligible telecommunications carrier" shall not mean any local exchange carrier or any electing carrier designated by the commission as an eligible telecommunications carrier by order dated December 5, 1997, in docket No. 98-GIMT-241-GIT, or any such local exchange carrier's or electing carrier's successors or assigns.

(5) An electing carrier shall no longer be eligible to receive high cost support from the KUSF.

(d) (1) Subject to paragraph (2), the commission may periodically review the KUSF to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modification of the KUSF. If the commission determines that any changes are needed, the commission shall modify the KUSF accordingly and annually report such changes to the senate standing committee on utilities and the house standing committee on utilities and telecommunications.

(2) The commission shall undertake a review of the capped amount of KUSF support available for each local exchange carrier operating under price cap regulation that receives such support, not including Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, and determine if a lesser amount is appropriate for KUSF distributions after March 1, 2019. Reviews of such carriers shall be based on the forward-looking costs of providing basic voice service, using inputs that reflect the actual geography being served and that reflect the scale and scope of the local exchange carrier providing basic local voice service within each exchange.

(e) (1) For each local exchange carrier electing pursuant to K.S.A. 66-2005(b), and amendments thereto, to operate under traditional rate of return regulation, all KUSF support, including any adjustment thereto pursuant to this section, shall ensure the reasonable opportunity for recovery of such carrier's intrastate embedded costs, revenue requirements, investments and expenses, subject to the annual cap established pursuant to subsection (e)(3). Any modification of such support shall be made only as a direct result of changes in those factors enumerated in this subsection. Nothing in this subsection shall prohibit the commission from conducting a general investigation regarding effects of federal universal service reform on KUSF support and the telecommunications public policy of the state of Kansas as expressed in K.S.A. 66-2001, and amendments thereto. The commission may present any findings and recommendations to the telecommunications study committee established in K.S.A. 2016 Supp. 66-2018, and amendments thereto.

(2) Notwithstanding any other provision of law, no KUSF support received by a local exchange carrier electing pursuant to K.S.A. 66-2005(b), and amendments thereto, to operate under traditional rate of return regulation shall be used to offset any reduction of federal universal service fund support for recovery of such carrier's interstate costs and investments.

(3) Notwithstanding any other provision of law, the total KUSF distributions, not to include KUSF support for Kansas lifeline service program purposes, pursuant to K.S.A. 66-2006, and amendments thereto, made to all local exchange carriers operating under traditional rate of return regulation pursuant to K.S.A. 66-2005(b), and amendments thereto, shall not exceed an annual \$30,000,000 cap. In any year that the total KUSF support for such carriers would exceed the annual cap, each carrier's KUSF support shall be proportionately based on the amount of support each such carrier would have received absent the cap. A waiver of the cap shall be granted based on a demonstration by a carrier that such carrier would experience significant hardship due to force majeure or natural disaster as determined by the commission.

(f) Additional supplemental funding from the KUSF, other than as provided in subsection (e), may be authorized at the discretion of the commission. However, the commission may require approval of such funding to be based upon a general rate case filing. With respect to any request for additional supplemental funding from the KUSF and to any audit of a rural telephone company's KUSF support, the commission shall act expeditiously, and shall be subject to the 240-day deadline for rate case applications pursuant to K.S.A. 66-117, and amendments thereto.

History: L. 1996, ch. 268, § 9; L. 1998, ch. 138, § 2; L. 2002, ch. 173, § 2; L. 2006, ch. 2, § 1; L. 2008, ch. 56, § 1; L. 2013, ch. 110, § 11; L. 2016, ch. 40, § 6; July 1.