

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE)	CASE NO.
UNIVERSAL SERVICE FUND)	2016-00059

**ATTORNEY GENERAL’S COMMENTS IN SUPPORT
OF THE VARIOUS PETITIONS FOR REHEARING**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and tenders the following comments in support of the various petitions for rehearing in the above-styled matter. Considering new developments in Kentucky telecommunications law and the impact of the Commission’s March 10, 2017 Order, the Attorney General supports the various petitions for rehearing filed in this case.

The Public Service Commission (“Commission”), on its own motion, initiated an investigation into the Kentucky Universal Service Fund (“KUSF”) on February 1, 2016. The Commission’s Order initially joined as a party each local exchange carrier, commercial mobile radio service provider, every eligible telecommunications carrier (“ETC”) in Kentucky, and the Attorney General’s Office.¹ In addition to addressing the approaching insolvency of the KUSF, the issues to be reviewed were identified as: “the need for continuing the KUSF; future funding levels of KUSF; the possibility of reducing the amount of KUSF support on a permanent basis; past and projected distributions from the KUSF; and, determining the future practices for requesting and receiving support from the KUSF.”² After issuing and receiving answers to a number of data requests, the Commission issued a Final Order in the case on March 10, 2017. The

¹ Order, Case No. 2016-00059 (Ky. PSC Feb. 1, 2016).

² *Id.* at 1.

March 10, 2017 Order concluded that the KUSF “cannot continue in its current form,” in part because of the large demand by customers receiving KUSF support for wireless service over traditional landline.³ The Commission also considered the recent updates made to the federal Lifeline program and other FCC regulations that implement a slow phasing out of landline service in favor of wireless and broadband coverage.⁴ As a result, the Commission elected to end KUSF support for wireless customers and shift support solely to the approximately 17,000 customers receiving KUSF support for landline telephone services.⁵ The Commission’s primary concern in its Order seemed to be for rural and elderly customers, issues that had not been briefed in any significant way by the parties during discovery.

As a result of the Commission’s Order, three separate petitions for rehearing have been filed pursuant to KRS 278.400. CTIA has also filed Comments on the Commission’s Order expressing serious concern with the decision to end wireless KUSF support, specifically highlighting the growing adoption of wireless service in Kentucky and nationwide.⁶ The Joint Motion for Reconsideration filed on March 31, 2017 also references an important development in Kentucky telecommunications law that occurred after the Commission’s Order was issued on March 10, 2017.⁷ On March 20, 2017, Governor Bevin signed 2017 Senate Bill 10, changing the telecommunications landscape in ways that could not have been considered during the pendency of this case.⁸

Given the current shift of customers and telecommunications providers from landline to wireless service, the Attorney General is concerned that the Commission’s March 10, 2017 Order

³ Order, Case No. 2016-00059 (Ky. PSC March 10, 2017).

⁴ *Id.* at 8-9.

⁵ *Id.*

⁶ Case No. 2016-00059, Comments of CTIA in Response to the Commission’s March 10, 2017 Order at 1-2 (Ky. PSC April 3, 2017).

⁷ Case No. 2016-00059, Joint Motion for Reconsideration at 1-2 (Ky. PSC March 31, 2017).

⁸ *Id.*

will have a negative effect on the vulnerable populations the KUSF is designed to protect. If the Commission grants the several petitions for rehearing filed by other parties, the Attorney General welcomes the opportunity to provide new and relevant information regarding the Commission's stated concerns about service to rural and elderly customers, especially considering the changing landscape of available services and infrastructure.

Respectfully submitted,

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