

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

In the Matter of the Audit of TAG Mobile, LLC)
by the Kansas Universal Service Fund (KUSF))
Administrator Pursuant to K.S.A. 2015 Supp.) Docket No. 17-TAGC- 029-KSF
66-2010(b) for KUSF Operating Year 19, Fiscal)
Year March 2015-February 2016.)

**STAFF NOTICE OF TAG MOBILE, LLC's FAILURE TO COMPLY
WITH COMMISSION ORDER AND REQUEST THAT PENALTIES BE ASSESSED**

COMES NOW the Staff of the State Corporation Commission of the State of Kansas ("Staff" and "Commission", respectively) and provides Notice of TAG Mobile, LLC's failure to comply with the Commission's June 29, 2017 Order issued in the above-captioned docket. In support of its Notice, Staff states the following:

1. On August 2, 2016, the Commission directed GVNW Consulting, Inc. (GVNW), the Kansas Universal Service Fund (KUSF) Administrator, to perform an audit of TAG Mobile, LLC (TAG or TAG Mobile) for Kansas Universal Service Fund (KUSF) purposes for KUSF Operating Year 19, Fiscal Year March 2015 – February 2016.

2. On June 1, 2017, GVNW submitted its Audit Report, dated June 1, 2017, including Attachments A through N, wherein GVNW identified four (4) KUSF reporting issues regarding TAG Mobile, with a net impact of an additional \$149,898.84 due to the KUSF. Each of the reporting issues were identified in GVNW's Audit Report as Audit Finding Nos. 1 through 4, and accompanied by the applicable reporting standard for each, as well as GVNW's recommended actions for curing the respective reporting deficiencies. GVNW's Audit Report also included TAG Mobile's response to each of GVNW's Audit Findings.

3. A summary of GVNW's Audit Findings and its recommendations regarding Commission action with regard to each Audit Finding include the following:

- Audit Finding No. 1: TAG overstated the number of lines eligible for the Kansas Lifeline Service Program (KLSP) for January 2016; thereby over-accruing \$3,721.83 in KLSP credits;
- Audit Finding No. 2: TAG did not report its KLSP lines in service as of the last day of the month; instead, it reported partial month lines, including pro-rated connects, disconnects, and reconnects that occurred during the month, resulting in the Company over-collecting \$22,652.50 of KLSP credits. TAG repaid these credits to the KUSF;
- Audit Finding No. 3: TAG requested \$146,177.01 in KLSP credits for lines to which it did not directly provide service using either its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier). Of this amount, TAG received \$97,925.31 in KLSP credits, with the remaining \$48,251.70 of KLSP credits being accrued by the KUSF Administrator; and
- Audit Finding No. 4: TAG has not retained or adequately maintained its accounting and billing records for three (3) years from the end of the KUSF fiscal year, in paper and/or digital format, to support the information reported to the KUSF, the Lifeline plans offered to Kansas subscribers, or the billing and account information available to Kansas subscribers.

GVNW recommended that the Commission issue an Order:

- (1) Adopting the audit findings of GVNW's Audit Report;
- (2) Directing TAG to submit Audit True-ups for the period of March 2015 through January 2016 to reflect the audit findings in the Audit Report and pay \$97,925.31 to the KUSF within 60 days of an Order;
- (3) Directing GVNW administrative personnel to reduce the accrued KLSP credits by \$51,973.53 for the months of December 2015 and January 2016;
- (4) Directing that TAG be subject to an Operating Year 21 KUSF audit;
- (5) Requiring TAG to submit a copy of its written internal processes and procedures, accompanied by an affidavit executed by an officer of the Company, within a specified period of time; and
- (6) Directing GVNW to submit a Compliance Report to the Commission upon completion of the ordered actions.¹

¹ GVNW Audit Report, pp. 1 and 2.

4. In response to GVNW's June 1, 2017 Audit Report, the Commission, on June 29, 2017, issued its Order Accepting and Adopting GVNW Consulting, Inc.'s Audit Report and Recommendations (June 29, 2017 Order). Ordering paragraphs B, D, and E of the Commission's June 29, 2017 Order directed that TAG Mobile comply with the following requirements:

- With respect to Audit Finding No. 1, ordering paragraph B directed TAG to submit, within ten (10) days from the date of the Order, Audit True-ups for January 2016 to reflect the 3,302 lines. Upon GVNW's receipt, review, and acceptance of the Audit True-ups, the accrued KLSP credits for TAG shall be reduced \$3,721.83.
- With respect to Audit Finding No. 3, ordering paragraph D directed TAG to submit True-ups for the period of March 2015 through January 2016 to correct this Audit deficiency and repay \$97,925.31 of KLSP credits to the KUSF within thirty (30) days from the date of the Order. After the Audit True-ups are processed, the accrued KLSP credits for TAG shall be reduced \$48,251.70 by GVNW administrative personnel to reflect the correction for December 2015 and January 2016.
- With respect to Audit Finding No. 4, ordering paragraph E directed TAG to submit an affidavit, executed by an officer of the Company, verifying when the company began offering the 600 minutes and global messaging to Kansas subscribers. TAG was further directed to reduce to writing and provide to the Commission a copy of its internal processes and procedures regarding updating its accounting and billing systems in order to ensure that they are accurate, maintained, and retained for a minimum of three (3) years after the close of a KUSF year. Such processes and procedures shall address ensuring Kansas subscribers' billing account data is correct at all times. TAG is also directed to submit a copy of the subject internal processes and procedures, accompanied by the affidavit of an officer of the company confirming implementation of same. All submissions required under this ordering paragraph E shall be made within thirty (30) days from the date of this Order and directed to GVNW for review and forwarding to the Commission.

5. On July 14, 2017, TAG Mobile filed a Petition for Reconsideration of the Commission's June 29, 2017 Order. TAG sought reconsideration of the Commission's adoption of GVNW's Audit Finding Nos. 3 and 4.

6. On July 18, 2017, GVNW filed a Non-Compliance Report notifying the Commission that TAG had failed to submit Audit True-ups for January 2016 to reflect 3,302 lines as directed under ordering paragraph B of the Commission's June 29, 2017 Order. The True-ups were due to be filed within ten (10) days from the date of the June 29, 2017 Order. GVNW stated that as of the close of business on July 17, 2017, TAG had not filed the ordered True-ups as directed by the Commission's Order.

7. On August 3, 2017, the Commission issued its Order Denying TAG Mobile, LLC's Petition for Reconsideration.

8. On August 9, 2017, GVNW filed a second Non-Compliance Report dated August 9, 2017, stating that as of the close of business August 8, 2017, TAG Mobile had failed to submit any of the information or documentation to GVNW as required under ordering paragraphs B, D, and E of the Commission's June 29, 2017 Order.

9. Inasmuch as TAG Mobile has wholly failed, neglected and refused to comply with the Commission's June 29, 2017 Order by not submitting the information, documentation, and payment the Company was directed to provide, within the time periods prescribed, under ordering paragraphs B, D, and E of said Order, Staff recommends the Commission assess penalties to TAG pursuant to K.S.A. 2016 Supp. 66-138(a)(2). Under K.S.A. 2016 Supp. 66-138(a)(2), a public utility may be assessed a sum of not less than \$100 and not more than \$5,000 per violation and each day that a public utility fails to comply constitutes a separate and distinct violation. TAG's violations under the foregoing statute began on the day following the expiration date for submission of the required information, documentation, and payment under ordering paragraphs B, D, and E of the Commission's June 29, 2017 Order. Thus, the penalty

assessed against TAG should be based on the number of days TAG has failed to comply with each separate directive.

10. TAG agrees with Audit Finding No. 1² and committed to remitting a revised Carrier Remittance Worksheet (CRW) for the month of January 2016 to report 3,302 lines by January 27, 2017. TAG failed to remit the revised CRW by the ordered July 10, 2017 deadline and, therefore, failed to comply with the Commission's June 29, 2017 Order, with separate and distinct violations commencing and accruing daily from July 11, 2017, and which will continue until the requirements of Audit Finding No. 1 are met. Pursuant to K.S.A. 2016 Supp. 66-138(a)(2), the Commission may assess TAG a monetary penalty ranging from a minimum of \$100 up to a maximum of \$5,000 per day for each violation.

11. TAG also agrees with Audit Finding No. 3,³ but failed to remit the March 2015 through January 2016 True-ups or repay the \$97,925.31 of KLSP credits to the KUSF by July 31, 2017, as required by the Commission's June 29, 2017 Order. Therefore, TAG's failure to remit the required True-ups and repay the \$97,925.31 of credits to the KUSF as required by the Commission's June 29, 2017 Order has resulted in separate and distinct violations commencing and accruing daily from August 1, 2017, and which will continue until the requirements of Audit Finding No. 3 are met. Pursuant to K.S.A. 2016 Supp. 66-138(a)(2), the Commission may assess TAG a monetary penalty ranging from a minimum of \$100 up to a maximum of \$5,000 per day for each violation.

12. With regard to Audit Finding No. 4, TAG agreed to submit an affidavit from an officer of the Company to verify when it began offering the 600 minutes and global messaging plan to Kansas Lifeline subscribers. TAG also agreed to submit a copy of its internal processes

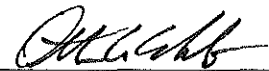
² GVNW Audit Report, p. 4.

³ GVNW Audit Report, p. 7.

and procedures accompanied by an affidavit of an officer of the Company confirming implementation of same.⁴ TAG did not submit the required affidavits and copy of its internal accounting and billing systems processes or procedures by the July 31, 2017 deadline. Consequently, TAG's failure to submit the required affidavits or copy of its internal accounting and billing processes as required by the Commission's June 29, 2017 Order has resulted in separate and distinct violations commencing and accruing daily from August 1, 2017, and which will continue until the requirements of Audit Finding No. 4 are met. Pursuant to K.S.A. 2016 Supp. 66-138(a)(2), the Commission may assess TAG a monetary penalty ranging from a minimum of \$100 up to a maximum of \$5,000 per day for each violation.

WHEREFORE, Staff respectfully requests the Commission issue an Order finding that TAG Mobile, LLC has failed, neglected and refused to comply with the Commission's Order of June 29, 2017, and assess TAG Mobile monetary penalties for its violations within the range set forth in K.S.A. 2016 Supp. 66-138(a)(2).

Respectfully submitted,



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⁴ GVNW Audit Report, p. 10.

VERIFICATION

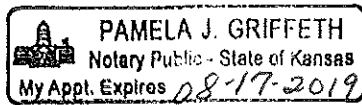
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

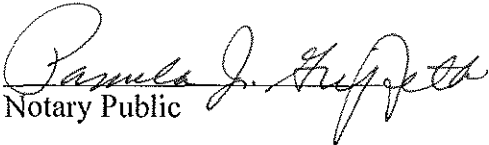
Otto A. Newton, being duly sworn upon his oath, deposes and states that he is Litigation Counsel for the Kansas Corporation Commission; that he prepared the foregoing *Staff Notice of TAG Mobile, LLC's Failure to Comply with Commission Order and Request that Penalties be Assessed* and that the statements therein are true to the best of his knowledge and belief.



Otto A. Newton

SUBSCRIBED AND SWORN to before me this 28th day of August, 2017.





Notary Public

My Appointment Expires: August 17, 2019

CERTIFICATE OF SERVICE

17-TAGC-029-KSF

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff Notice of TAG Mobile, LLC's Failure to Comply with Commission Order and Request that Penalties be Assessed was served by electronic service on this 28th day of August, 2017, to the following:

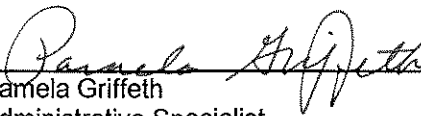
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