

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

Before Commissioners:                      Dwight D. Keen, Chair  
   Shari Feist Albrecht  
   Susan K. Duffy

In the Matter of a General Investigation for Ionex                      )  
Communications, LLC to Show Cause Why                      )  
This Commission Should Not Initiate Sanctions                      )  
and Fines and/or All Certificates of Convenience                      ) Docket No. 19-ICIT-179-SHO  
and Authority the Company Holds be Suspended,                      )  
Canceled, or Revoked for Non-Compliance                      )  
With Kansas Statutes and Commission Orders.                      )

**STATUS REPORT ORDER AND PENALTY**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1.        On March 14, 2019, the Commission issued an Order Assessing Penalty (Penalty Order) and determined Ionex Communications, LLC (Ionex) had failed to timely comply with its Kansas Universal Service Fund (KUSF) reporting requirements by not filing Carrier Remittance Worksheets (CRW) when due and making recurring delinquent KUSF assessment payments. As part of the Penalty Order, the Commission adopted the Staff recommendation to monitor Ionex for a period of a year and to have Staff submit quarterly updates to assess whether or not additional sanctions are warranted. This determination was based on a finding that Ionex had committed 29 violations related to delinquent filings and late payments through November 2018 and resulted in a penalty assessment of \$2,900.00 under K.S.A. 66-138(a)(2), which was established by implementing a \$100.00 penalty for each monthly filing delinquency occurring through that period.

2. Effective March 5, 2019, Ionex changed its name to Lingo Communications Midwest, LLC (Lingo).<sup>1</sup> It operates as a competitive local exchange carrier (CLEC) and interexchange carrier (IXC) in Kansas.

3. On August 1, 2019, the Staff filed a Report and Recommendation dated July 31, 2019, which was based on its investigation in conjunction with responsibilities to submit a quarterly status report under the Penalty Order. The Staff determined that Lingo had come into compliance with its monthly KUSF obligations for March through June 2019. However, Staff found Lingo had not paid penalties it owed in the amount of \$121.44 to the KUSF nor had it paid Commission assessments in the amount of \$934.92.

4. Based on the Staff review, it was determined that Lingo did not pay its April and May KUSF assessments by the due date. This gave rise to two monthly KUSF penalties equal to \$241.15, of which Lingo paid \$119.71, leaving a balance of \$121.44. As part of the Staff recommendation, it advised the Commission to also implement a statutory penalty of \$150 under K.S.A. 66-138(a)(2) for the two late payments, giving rise to a total penalty of \$300.00. These penalty recommendations are consistent with prior Commission orders determining that Lingo's continued delinquency in making timely payments to the KUSF warranted the exercise of its statutory penalty authority.

5. Staff also noted Lingo had been delinquent in paying its monthly assessments to the Commission as part of the Commission's regulatory process. The Staff indicated Lingo had failed to pay \$76.11 in response to an April 15, 2019 invoice and \$858.81 for a May 15, 2019 invoice, creating a balance of \$934.92 for the Commission's assessments. Also, consistent with

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<sup>1</sup> Order Approving Name Change, Docket No. 19-ICIT-226-CCN, (CLEC); and Order Approving Name Change, Docket No. 19-ICIC-227-CCN (IXC), March 5, 2019.

measures implemented for Lingo's continued delinquency, the Staff recommended additional penalties of \$100.00 for each delinquent payment for a total of \$200.00.

6. The Commission has reviewed the Staff Report and Recommendation, which is attached to the Order and made part of it by reference, and adopts the Staff's recommendations.

7. K.S.A. 2018 Supp. 66-2008(a) authorizes the Commission to require carriers to contribute to the KUSF on an equitable and non-discriminatory basis. The Commission has issued orders under its statutory mandate to provide registration and timely reporting and assessment payments. Lingo failed to make timely KUSF payments for the months of April and May 2019. It, therefore, violated K.S.A. 2018 Supp. 66-2008 (a).

8. K.S.A. 2018 Supp. 66-138(a)(2) provides the Commission with authority to levy fines and penalties against a telecommunications carrier for violating statutes under which the Commission has a duty to act, refusing to comply or obey any lawful Commission requirement and failing to abide by any Commission order. A sum not less than \$100 and no more than \$5,000 may be assessed against a violator for each offense. The statutory penalties for violating Commission statutes, orders and rules and regulation are applicable to Lingo and it is determined that Lingo pay a penalties of \$150.00 for each of the two violations identified by Staff in its Report and Recommendation for a total penalty of \$300.00.<sup>2</sup> The violations pertain to not meeting its KUSF obligations by failing to timely pay its KUSF assessments when due. The Commission also determines that Lingo pay penalties of \$100 for each of two violations in not paying the Commission's monthly regulatory assessments for an additional penalty of \$200.00.

9. Based on the Staff Report and Recommendation, Lingo is directed to pay \$121.94 to the KUSF. Additionally, Lingo is directed to pay the Commission \$500.00 in statutory

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<sup>2</sup> Attachment 1 to the Staff Report and Recommendation dated April 22, 2019.

penalties, along with \$934.92 it owes the Commission for its regulatory assessments for April and May 2019. The payments are to be made within twenty-one days of the issuance of the Order.

10. This Order is issued as part of the Staff's directive to conduct a quarterly review of Lingo and the requirement to submit quarterly updates regarding Lingo's compliance with KUSF reporting and payment obligations. The review process has been placed into effect in light of the numerous reporting and payment violations that have occurred since Lingo was granted authority in 2000. The review process was established to determine if additional sanctions are warranted as a result of Lingo not complying with KUSF reporting and payment requirements. Staff has noted partial compliance by Lingo as a result of the review process, but also has highlighted the violations giving rise to additional penalties. The review process was also implemented to permit an assessment regarding Lingo's continued operation as a CLEC and IXC.

**IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Lingo Communications Midwest, LLC is directed to pay \$121.44 to the KUSF as the outstanding penalty balance for not timely paying its KUSF assessments for April and May 2019. It also is delinquent in paying Commission regulatory assessments for April and May 2019, in the amount of \$934.92. Based on the continuing failure to pay KUSF assessments and Commission regulatory assessments, the Commission has determined that Lingo Communications Midwest, LLC is to pay \$300.00 in penalties to the Commission as a result of not remitting its KUSF assessments for April and May 2019 when due and \$200.00 in penalties for not paying its monthly regulatory assessments in a timely manner.

B. Payment of the \$121.44 for KUSF regulatory penalties is to be made to the KUSF within twenty-one (21) days of the mailing of this Order. Payment of the \$300.00 statutory penalties for not remitting the KUSF assessments when due, the \$200 statutory penalties for not

remitting the monthly Commission regulatory assessments and the Commission monthly regulatory assessment of \$934.92 are to be made to the Commission within twenty-one (21) days of the mailing of this Order and shall reference the Docket, be made to the Commission, and addressed to the Commission fiscal office, 1500 SW Arrowhead, Topeka, Kansas 66604-4027. If the penalties and assessments are not timely paid, the Commission may consider canceling, suspending or revoking Lingo's CLEC and IXC authority.

C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>3</sup>

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 08/15/2019



Lynn M. Retz  
Executive Director

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<sup>3</sup> K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

## REPORT AND RECOMMENDATION UTILITIES DIVISION

**TO:** Chair Dwight D. Keen  
Commissioner Shari Feist Albrecht  
Commissioner Susan K. Duffy

**FROM:** Sandy Reams, Assistant Chief of Telecommunications  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** July 30, 2019

**SUBJECT:** Docket No. 19-ICIT-179-SHO  
*In the Matter of a General Investigation for Ionex Communications, LLC to Show Cause Why this Commission Should Not Initiate Sanctions and Fines and/or all Certificates of Convenience and Authority the Company Holds be Suspended, Canceled, or Revoked for Non-Compliance with Kansas Statutes and Commission Orders.*

### EXECUTIVE SUMMARY

In its March 14, 2019 *Order Assessing Penalty and Commencing Commission Monitoring* (Penalty Order), the Commission directed Staff to file quarterly updates regarding Lingo Communications Midwest, LLC's (Lingo) compliance with its Kansas obligations.<sup>1</sup> On May 21, 2019, the Commission issued a *Status Report Order and Penalty* (Status Order) and directed Lingo to pay: 1) \$127.86 of Kansas Universal Service Fund (KUSF) penalties; 2) \$445.92 of delinquent Commission assessments; and 3) a \$300 penalty. All payments were due 21 days after the Order's mailing, or June 11, 2019.

Lingo paid all KUSF and Commission penalties and assessments as directed in the Status Order. For March through June 2019, Lingo has complied with its KUSF obligations; however, it owes penalties of \$121.44 to the KUSF. Lingo also owes \$934.92 of Commission assessments.<sup>2</sup> Staff recommends the Commission issue an Order to find Lingo is in compliance with its KUSF

<sup>1</sup> Lingo previously operated as Ionex Communications. See Order Approving Name Change, Docket No. 19-ICIT-226-CCN, (CLEC), March 5, 2019; and Order Approving Name Change, Docket No. 19-ICIC-227-CCN (IXC), March 5, 2019. On March 26, 2019, the Commission clarified the due date of the penalty in its Order on Payment of Penalty Assessment.

<sup>2</sup> Invoice No. 2019002117 (\$76.11), dated April 15, 2019; and Invoice No. 2019010209 (\$858.81), dated May 15, 2019.

obligations for March through June 2019 and direct Lingo to pay \$121.44 to the KUSF and \$934.92 to the Commission. Staff recommends the Commission assess Lingo a \$150 penalty per KUSF violation, a total KUSF penalty of \$300, and a separate \$100 penalty per violation, or \$200, for failure to pay its Commission assessments. Staff recommends all payments be due within 21 days of the Order's mailing.

## **BACKGROUND**

On November 6, 2018, the Commission issued an Order to address Lingo's KUSF delinquencies. The Commission's March 14, 2019 Penalty Order directed Staff to file quarterly updates regarding Lingo's compliance with its Kansas obligations. The Commission's May 21, 2019 Status Order directed Lingo to pay: 1) \$127.86 of KUSF penalties; 2) \$445.92 of delinquent Commission assessments; and 3) a \$300 penalty. All payments were due within 21 days of the issuance of the Status Order, or June 11, 2019.

Lingo paid the \$445.92 of assessments and the \$300 penalty to the Commission on May 29, 2019. On June 10, 2019, Lingo paid the \$127.86 KUSF penalty.

As shown in Attachment 1 to this Report, for the March 2019 through February 2020 KUSF Fiscal Year (FY 23) to date, Lingo timely filed its Company Identification and Operations registration. Lingo also timely filed its Carrier Remittance Worksheets (CRW) for March through June 2019 and timely paid its March and June 2019 assessments. Lingo did not pay its April and May 2019 assessments until after the due date, therefore, GVNW Consulting, Inc. (GVNW) assessed Lingo \$241.15 of KUSF penalties. Lingo paid the \$119.71 April penalty, but has not paid the May penalty of \$121.44.

Lingo owes \$934.92 of Commission assessments, comprised of \$76.11, invoiced April 15, 2019, and \$858.81, invoiced May 15, 2019.

## **ANALYSIS:**

Lingo is in compliance with its KUSF FY 23 obligations, however, it incurred two new KUSF violations for failing to pay its April and May assessments by the due date. GVNW assessed Lingo \$241.15 in KUSF penalties. Lingo paid \$119.71, resulting in a \$121.44 balance on its account. A penalty of \$150 per KUSF violation would result in a total penalty of \$300.

Lingo owes \$934.92 of assessments to the Commission. Staff believes it is appropriate for the Commission to assess a separate \$100 penalty per violation, or a total penalty of \$200, to Lingo for failure to pay its Commission assessments.

## **RECOMMENDATION**

Staff recommends the Commission issue an Order finding Lingo is in compliance with its KUSF obligations for March through June 2019 and directing Lingo to pay \$121.44 to the KUSF, and \$934.92 to the Commission. Staff also recommends the Commission assess Lingo a \$300 penalty for its continued KUSF violations and a \$200 penalty for failure to pay its Commission assessments. Staff recommends all payments be due within 21 days of the Order's mailing.

**KUSF Delinquent Chart**  
**Fiscal Year 23**  
**Lingo Communications Midwest, LLC (f/k/a Ionex)**  
**KS002250**

Attachment 1

Required Item	Due Date	Delinquent Notification Date	Notification Recipient(s)	Date Remitted/Paid
<b>FY 23 (March 2019 - February 2020)</b>				
FY 23 Company Identification & Operations Form (Attachment B)	April 15, 2019	N/A - received timely	N/A	April 10, 2019
March 2019 CRW & Payment	April 15, 2019		N/A	April 11, 2019 (CRW); April 15, 2019 (Payment)
April 2019 CRW & Payment	May 15, 2019		N/A	May 15, 2019 (CRW); <b>May 20, 2019 (Payment) \$119.71 total penalties assessed: Late Payment Penalty \$118.42, Delinquent Balance Penalty \$1.29.</b>
May 2019 CRW & Payment	June 17, 2019		N/A	June 13, 2019 (CRW); <b>June 18, 2019 (Payment) \$121.44 total penalties assessed: Late Payment Penalty \$121.44. Not paid as of 7/30/19. Will send 30 day delinquent letter next week (early August 2019).</b>
June 2019 CRW & Payment	July 15, 2019		N/A	July 5, 2019 (CRW); July 9, 2019 (Payment)
<b>Late worksheet/Late payment/Delinquent Balance Penalties</b>				
December 2018 Penalties		April 4, 2019	Mr. Ardyeyev (Ionex); Compliance Solutions	June 10, 2019
April 2019 Penalty		May 8, 2019	Mr. Ardyeyev (Ionex); Compliance Solutions	June 10, 2019
May 2019 Penalties		June 7, 2019	Mr. Ardyeyev (Ionex); Compliance Solutions	June 10, 2019
June 2019 Penalties		Aug. 2019		

**Denotes KUSF violation**



## CERTIFICATE OF SERVICE

19-ICIT-179-SHO

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 08/15/2019.

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/S/ DeeAnn Shupe  
DeeAnn Shupe

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