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June 16, 2016

Ms. Amy L. Gilbert  
Secretary to the Commission  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

RE: Docket No. 16-TWCZ-029-KSF  
*In the Matter of the Audit of TWC Digital Phone LLC by the Kansas Universal Service Fund (KUSF) Administrator Pursuant to K.S.A. 2014 Supp. 66-2010(b) for KUSF Operating Year 18, Fiscal Year March 2014-February 2015.*

Dear Ms. Gilbert:

In its July 30, 2015 order the Kansas Corporation Commission (KCC) directed GVNW to perform a KUSF carrier audit of TWC Digital Phone LLC (TWC Digital or Company) to ensure that the data submitted to the KUSF via the KUSF CRWs, the assessments paid, and the calculation and application of the flow-through surcharge billed to and collected from TWC Digital's customers, if applicable, are appropriate and accurate.

The KCC directed GVNW to file two versions of the audit report with the KCC; one version containing confidential information and one version with the confidential data redacted for public disclosure. TWC Digital's audit does not require a separate confidential report; therefore, only the enclosed public audit report for TWC Digital is being filed.

Copies of the supporting documentation, including GVNW's audit work papers and information provided by the company, are not included with the audit report, but are available from GVNW upon request.

Sincerely,

A handwritten signature in black ink, appearing to read "David Winter", with a long horizontal stroke extending to the right.

David Winter  
Senior Consultant

cc w/encl: Sandy Reams  
DW/dc – Encl.

## KANSAS UNIVERSAL SERVICE FUND AUDIT REPORT

**Docket No:** 16-TWCZ-029-KSF  
TWC Digital Phone LLC

**Prepared For:** Kansas Corporation Commission  
Kansas Universal Service Fund

**Prepared By:** David Winter  
GVNW Consulting, Inc.

**Audit Period:** March 1, 2014 through February 28, 2015  
Kansas Operating Year 18 (Operating Year 18)

**Company Representatives:** Jerri McCain  
Mark Swan

**Date of On-Site Visit:** April 6 – 7, 2016

**Date Submitted to Company:** June 14, 2016

### Audit Summary

Based on the Kansas Universal Service Fund (KUSF) Carrier Review Procedures for Operating Year 18,<sup>1</sup> GVNW Consulting, Inc. (GVNW) identified the following reporting deficiencies regarding TWC Digital Phone LLC (TWC Digital or Company) with an unknown impact to the KUSF.

- Finding No. 1: TWC Digital reports calculated revenues to the KUSF and has not filed quarterly or annual True-ups that reflect actual revenues per TWC Digital's general ledger since the True-ups resulted in an immaterial net refund of \$255.64. TWC Digital has committed to the submission of Quarterly True-ups that reflects revenues booked to its general ledger.
- Finding No. 2: TWC Digital does not report gross revenues to the KUSF; instead, the Company reports revenue net of end-user discounts effective March 2014 through current 2016. TWC Digital represents that it does not have the means to identify discounts reported to the KUSF per its general ledger.

GVNW recommends that the Kansas Corporation Commission (KCC or Commission) issue an Order to: (1) adopt the findings of this audit report; and (2) require TWC Digital to provide audit True-ups for the period of March 2014 through September 2015 to correct the noted audit deficiency within sixty (60) days of an Order and pay the related assessments to the KUSF. Based on the Company's assertions that it cannot identify discounted revenues, the Commission may wish to direct TWC Digital to file in this

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<sup>1</sup> Docket No. 14-GIMT-105-GIT (Docket 14-105), July 7, 2015, Order Accepting GVNW's KUSF Year 18 Audit Selections, Proposed Revisions to Selection Criteria and Audit Review Procedures.

Docket further information on this matter and/or an affidavit, executed by an officer of the Company, attesting to the aforementioned inability to identify revenue related to discounts. GVNW will submit a Compliance Report to the Commission, if applicable.

In the Company's prior KUSF audit in Docket No. 12-TWCZ-020-KSF (Docket 12-020), GVNW identified two (2) KUSF reporting deficiencies. GVNW affirms that TWC Digital has modified its practices and is in compliance with the Docket 12-020 audit finding regarding the filing of updated traffic studies with the KCC. The second audit finding, related to the lack of approved tariffs on file with the Commission, was nullified due to the passage of Kansas House Bill (HB) 2201.

### **Current KUSF Obligations**

TWC Digital is current with its KUSF obligations.<sup>2</sup>

### **Background**

TWC Digital is an interconnected Voice over Internet Protocol provider (VoIP) headquartered in New York, NY. The Company is required to report its revenue and pay the related assessments to the KUSF on a monthly basis.<sup>3</sup> TWC Digital is authorized to collect an amount equal to or less than its assessment from customers,<sup>4</sup> and does so. The Company has not been designated as an ETC; therefore, it does not participate in the Lifeline program.<sup>5</sup>

On May 26, 2015 Charter Communications, Inc. (Charter) and Time Warner Cable, Inc. (TWC) announced that the companies had entered into a merger agreement. The Federal Communications Commission and Department of Justice approved the proposed merger on April 25, 2016.

On July 30, 2015, the Kansas Corporation Commission (KCC or Commission) issued Order No. 1 in Docket No. 16-027 directing GVNW to conduct an audit for KUSF purposes.

GVNW advises the Commission that TWC Digital reports the stand alone price of the assessable service net of discounts, to the KUSF, as discussed in Audit Finding No. 2.<sup>6</sup>

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<sup>2</sup> Confirmed on June 14, 2016 with the KUSF Administrator.

<sup>3</sup> Docket No. 06-GIMT-332-GIT, January 23, 2006 Order Setting the Kansas Universal Service Fund Assessment Rate for Year Ten and Establishing Reporting Requirements.

<sup>4</sup> K.S.A. 66-2008.

<sup>5</sup> Source: TWC Digital response to DR No. 6.A.

<sup>6</sup> Source: TWC Digital response to DR No. 19.

## **Audit Findings**

GVNW conducted the audit of TWC Digital in accordance with the KUSF Carrier Review Procedures adopted by the KCC.<sup>7</sup> Based on these procedures, GVNW identified the following audit findings and recommendations:

### **Audit Finding No. 1**

**Standard:** Carriers are required to report actual revenues, and may report uncollectible revenue written off, to determine their KUSF assessment obligation.

**Finding:** TWC Digital did not report actual intrastate revenues, as recorded in the Company's internal financial records, to the KUSF. Instead, the Company reported calculated revenues by dividing the total KUSF surcharge billed to its customers by the approved KUSF assessment rate. TWC Digital states this internal practice is due to various reasons,<sup>8</sup> including that it is the standard practice and process used for all the Company's outsourced returns.<sup>9</sup> The Company did not file quarterly or annual True-ups to reflect actual revenues per TWC Digital's general ledger since the True-ups resulted in an immaterial net refund of \$255.64<sup>10</sup> mainly due to rounding differences between the billing and accounting systems.

### **TWC Digital Response**

TWC Digital will confirm the accuracy of the revenues reported on its monthly CRW submissions by submitting quarterly True-ups that are based on revenues booked to its general ledger.<sup>11</sup>

**Recommendation:** This practice is not consistent with the Commission directive that the Company is to file Quarterly True-ups to report actual revenues.<sup>12</sup> TWC Digital determined it would not file True-ups as it would have resulted in an immaterial refund to the Company. GVNW has confirmed an immaterial refund could have been claimed, likely due to rounding differences between the billing and accounting systems. GVNW recommends that the Commission remind the Company that it is to submit Quarterly True-ups within forty-five (45) days at the end of each KUSF quarter.

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<sup>7</sup> Docket 14-105, July 7, 2015, Order.

<sup>8</sup> Source: TWC Digital response to DR No. 13. TWC uses a third party vendor that process thousands of returns for TWC Digital.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> Email dated June 2, 2016 from Mark Swan, Senior Director of Transaction Tax, Time Warner Cable Business, LLC to David Winter, GVNW Consulting Inc.

<sup>12</sup> Docket No. 10-GIMT-188-GIT (Docket 10-188), January 13, 2010, Order Setting the Kansas Universal Service Fund Assessment Rate for Year 14 and Canceling January 20, 2010 Technical Hearing.

## **Audit Finding No. 2**

**Standard:** Carriers contributing to the KUSF are to report gross revenues prior to any service discounts for KUSF reporting purposes.<sup>13</sup>

**Finding:** TWC Digital does not report gross revenues to the KUSF in accordance with the aforementioned Commission order<sup>14</sup> and represents that the Company does not have the means to identify discounts reported to the KUSF per its general ledger.<sup>15</sup>

**Recommendations:** The Commission should direct TWC Digital to submit audit True-ups for March 2014 through September 2015 to correct this audit deficiency within sixty (60) days of the issuance of an Order. Due to pending litigation and the Court of Appeal's Stay regarding the Commission's October and December 2015 Orders regarding the reporting of net revenues, GVNW recommends that the KCC use its discretion regarding the adoption of GVNW's recommendations, effective October 2015.

In the alternative, if as asserted by TWC Digital, the Company does not have the means to identify discounts reported to the KUSF per its general ledger, the Commission could direct TWC Digital to file in this Docket further information on this matter or an affidavit, executed by an officer of the Company, attesting to the aforementioned inability to identify revenue related to discounts.

## **Follow-up Docket 12-020 Audit Compliance**

The following findings were adopted by the Commission in Docket 12-020:

**Finding No. 1:** TWC Digital has not provided updates to its traffic studies to the KCC.

**Audit Finding Compliance:** GVNW confirms that the Company is current with its traffic study filings.

**Finding No. 2:** TWC Digital does not have approved tariffs on file with the Commission.

**Audit Finding Compliance:** In 2013, Kansas HB 2201 was enacted and as a VoIP provider TWC Digital is no longer required to file tariffs with the KCC.

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<sup>13</sup> Docket No. 14-GIMT-105-GIT, January 23, 2014, Order Adopting KUSF Assessment Rate for Year Eighteen of KUSF Operations.

<sup>14</sup> Source: TWC Digital Phone response to DR No. 9.

<sup>15</sup> *Ibid.*

## CERTIFICATE OF SERVICE

I hereby certify that on this 16<sup>th</sup> day of June, 2016, the above Kansas Universal Service Fund Audit Report was e-filed with the Kansas Corporation Commission and a copy was sent via electronic mail and/or U.S. Mail to:

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David G. Winter