

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Audit of Sprint )  
Communications Company LP by the )  
Kansas Universal Service Fund (KUSF) ) Docket No. 21-SCCC-065-KSF  
Administrator Pursuant to K.S.A. 66-2010(b) )  
for KUSF Operating Year 23, Fiscal Year )  
March 2019-February 2020. )

**STAFF'S MOTION TO COMPEL**

COMES NOW the Commission Staff ("Staff") and moves the Commission to issue an Order directing Sprint Communications Company LP (Sprint) to respond to Staff Data Requests.

In support of the Motion, Staff states:

**Background**

1. GVNW Consulting, Inc. (GVNW) is the current Administrator for the Kansas Universal Service Fund (KUSF). The KUSF Administrator has statutory responsibilities for collecting and auditing information regarding telecommunication service providers receiving funds from the KUSF.<sup>1</sup> It is also entrusted with the duty to verify funds generated for the KUSF.<sup>2</sup> The duties of the KUSF Administrator are embodied within the Commission's mandate to establish a KUSF and to require carriers to contribute to the KUSF based on intrastate telecommunications net retail revenue on an equitable and non-discriminatory basis.<sup>3</sup>

2. On July 21, 2020, the Commission issued an Order in Docket No. 19-GIMT-056-GIT (19-056 Docket) approving modifications to the Carrier Selection Criteria and Audit Procedures for Fiscal Year 23.<sup>4</sup> The Order directed GVNW to provide a list of the 16 carriers to

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<sup>1</sup> K.S.A. 66-2010(b)(1).

<sup>2</sup> K.S.A. 66-2010(b)(2)

<sup>3</sup> K.S.A. 66-2008(a).

<sup>4</sup> Order, Docket 19-GIMT-056-GIT, July 21, 2020.

be audited for Fiscal Year 23. On July 21, 2020, GVNW responded to the Commission Order by submitting a list of 16 carriers to be audited using the referenced accounting period of Fiscal Year 23, March 1, 2019 to February 29, 2020, as a framework for analysis.<sup>5</sup> The Selection Criteria attached to the Order sets forth a random selection process for choosing companies to be audited in order to create a level of certainty and accuracy that all carriers have reported revenue and made proper assessment payments to the KUSF.<sup>6</sup> The audits are then conducted to determine if reporting abnormalities or significant discrepancies have occurred between KUSF reported revenues and KCC or public reports to gage a particular company's compliance in assessing customers and making contributions to the KUSF.<sup>7</sup>

3. On August 18, 2020, the Commission opened the above-captioned Docket and, pursuant to the selection list provided by GVNW for Fiscal Year 23, issued an Order designating Sprint for a KUSF audit.<sup>8</sup> Sprint did not object to the August 18, 2019 Audit Order in this Docket nor to the selection criteria or the Audit Procedures in the 19-056 Docket. Because the basis for the KUSF audit is to determine compliance with reporting and funding obligations, the Audit Procedures permit GVNW to go beyond the Fiscal Year to identify significant variances.<sup>9</sup> The Audit Procedures direct GVNW to obtain copies of Carrier Remittance Worksheets (CRWs) for Fiscal Years 22 through 24, covering a period from March 2018 to February 28, 2021.<sup>10</sup> The Audit Procedures also direct GVNW to examine Fiscal Years 22 and 24 to determine significant variances in company's reporting and assessment payments.<sup>11</sup> The Audit Procedures require GVNW to verify continued compliance from the company's previous audit and review accounting

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<sup>5</sup> GVNW's Submission of Fiscal Year 23 Carrier Audit Selection, July 21, 2021.

<sup>6</sup> Order, Docket 19-GIMT-056-GIT, GVNW Letter, Attachment A.

<sup>7</sup> *Id.* at Attachment B.

<sup>8</sup> Order to KUSF Administrator to Commence Audit, Docket No. 21-SCCC-065-KSF, August 18, 2020.

<sup>9</sup> Order, 19-056, GVNW Letter, Attachment B, ¶ I.; III.F. & J.; and V.O.3.

<sup>10</sup> *Id.* at III.F.

<sup>11</sup> *Id.*

records and Annual Reports not necessarily coincident with the Fiscal Year used as the reference point for conducting the audit.<sup>12</sup> In order to conduct an audit, GVNW is authorized to issue data requests, giving rise to a Motion to Compel for information not provided.<sup>13</sup> GVNW is to conduct the audit in a manner that allows it to perform additional steps to verify whether or not the company has met its KUSF obligations.<sup>14</sup> GVNW is authorized to issue follow-up data requests for additional data to confirm KUSF compliance.<sup>15</sup>

4. GVNW conducted variance and annual report testing as part of the Sprint KUSF Audit. In the course of the review, GVNW discovered that Sprint had significant variances in the revenues reported for Fiscal Years 22, 23 and 24 and reported CRW revenue in its 2018 Annual Report that was inconsistent with the Sprint 2018 CRW and the 2018 Revised CRW.<sup>16</sup> Based on the discrepancies, GVNW submitted follow-up data requests to Sprint, requesting it to explain the variances.

#### **Data Request No. 17**

5. Data Request No. 17 is attached to this Motion and is identified as Confidential Attachment 1. It seeks an explanation for the variances in revenues reported from month-to-month during Fiscal Years 22, 23, and 24. Fiscal Year 22 includes the period from March 2018 to February 2019. Fiscal Year 24 covers the period between March 2020 and February 2021. Data Request No. 17 was sent on October 21, 2020, and was due by October 30, 2020. Sprint failed to fully respond to DR. No. 17, refusing to provide any information outside Fiscal Year 23. Sprint's

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<sup>12</sup> *Id.* at III.I.

<sup>13</sup> *Id.* at III.O.

<sup>14</sup> *Id.* at V.O.3.

<sup>15</sup> *Id.* at XIII.A.

<sup>16</sup> Data Request Nos. 17 and 18, attached.

contention as set forth in its response is based on the designated Audit Fiscal Year, indicating that no information needs to be provided outside Fiscal Year 23.

6. The Sprint narrow position of not responding to information requests outside Fiscal Year 23 is not correct and its refusal to answer DR. No. 17 is contrary to the Audit Procedures approved by the Commission in its Order of July 21, 2020, in Docket No. 19-GIMT-056-GIT.<sup>17</sup> As noted, the Audit Procedures adopted by the Commission direct GVNW to review and compare information from Fiscal Years 22 and 24 with information from Fiscal Year 23 to identify significant variances.<sup>18</sup> The objective of an audit is to provide an administrative control over carriers providing funds to the KUSF in accordance with K.S.A. 66-2010 and Commission orders.<sup>19</sup> The audit is designed to determine whether a company has met its obligation to report intrastate revenue and report and pay assessments to the KUSF.<sup>20</sup> It is also conducted to assure that a carrier collects from customers no more than the amount of its assessment owed to the fund as provided in K.S.A. 66-2008(b).<sup>21</sup> Moreover, the Order in this Docket establishing the Sprint audit permits GVNW to conduct further audit procedures if significant discrepancies are identified between KUSF reported revenue and other accounting reports.<sup>22</sup> GVNW has identified discrepancies and variances for Fiscal Years 22 and 24, as well as Fiscal Year 23, and accordingly, Sprint is required to respond to DR No. 17 with information requested by GVNW. As a result, the Commission is requested to compel Sprint to answer DR No. 17 for all months that information is sought.

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<sup>17</sup> Order, 19-056, GVNW Letter, Attachment A.

<sup>18</sup> *Id.* at III.F&J.

<sup>19</sup> *Id.* at I.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at V.O.3.

### **Data Request No. 18**

7. Data Request No. 18 is attached to this Motion and is identified as Confidential Attachment 2. It seeks an explanation regarding discrepancies between Sprint's reported intrastate retail revenue in its 2018 CRW and 2018 Revised CRW and the 2018 Annual Report Sprint filed with the Commission. Sprint refused to respond to the data request indicating that the information sought was outside the Fiscal Year 23 timeframe and, therefore, outside the audit period. As previously noted, this narrow position is at odds with the Audit Procedures approved by the Commission for this Docket. GVNW has been specifically authorized to review accounting periods beyond the referenced Fiscal Year and has been assigned with the responsibility to look at Fiscal Years 22 and 24, as well as to seek other information to permit an examination as to whether the company has met its KUSF obligations and to identify any variances that may be identified through a review of accounting records and other reports.<sup>23</sup> Accordingly, the Commission is requested to issue an Order to compel Sprint to respond to DR No. 18.

### **Attempts to Resolve the Dispute**

8. On April 9, 2021, the undersigned Staff Counsel sent an e-mail to Sprint's counsel requesting responses to DR No. 17 and 18. The request to seek resolution was prompted by inquiries from GVNW and Staff. There was no response to the e-mail and the failure to respond by Sprint has not been resolved. Because an Audit Report must be filed by June 30, 2021, in this Docket, time is of the essence, and a resolution of this discovery issue needs occur as soon as practicable.

**WHEREFORE**, Staff moves the Commission for an Order compelling Sprint Communications Company, LP to answer Data Request Nos. 17-18 by April 23, 2021, or a date

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<sup>23</sup> *Id.* at I; III.F; and V.O.3.

determined by the Commission, which coincides with a time interval that permits sufficient analysis, discovery and review to prepare a thorough and complete Audit Report.

Respectfully Submitted,

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STATE OF KANSAS            )  
  ) ss.  
COUNTY OF SHAWNEE    )

**VERIFICATION**

Walker Hendrix, being duly sworn upon his oath deposes and states that he is a Litigation Counsel for Litigation Counsel of the Kansas Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Motion to Compel* and attests that the statements contained therein are true and correct to the best of his knowledge, information and belief.

Walker Hendrix, 08835  
Litigation Counsel  
Kansas Corporation Commission

Subscribed and sworn to before me this 12 day of April 12, 2021.



# **DATA REQUEST 17**

**REDACTED**

# **DATA REQUEST 18**

**REDACTED**



**CERTIFICATE OF SERVICE**

21-SCCC-065-KSF

I, the undersigned, certify that a true and correct copy of the above and foregoing Staff's Motion To Compel was served via electronic service this 12th day of April, 2021, to the following:

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