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May 31, 2017

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

RE: Docket No. 17-TFWZ-022-KSF  
*In the Matter of the Audit of TracFone Wireless, Inc. by the Kanas Universal Service Fund (KUSF) Administrator Pursuant to K.S.A 2015 Supp. 66-2010(b) for KUSF Operating Year 19, Fiscal Year March 2015-February 2016*

Dear Ms. Green:

In its August 2, 2016 order the Kansas Corporation Commission (KCC) directed GVNW to perform a KUSF carrier audit of TracFone Wireless, Inc. (TracFone 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 TracFone'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. TracFone's audit does not require a separate confidential report; therefore, only the enclosed public audit report for TracFone 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 "DW", is written over a large, stylized, light-colored circular mark.

David Winter  
Senior Consultant

cc w/encl: Sandy Reams

DW/dc – Encl.

## KANSAS UNIVERSAL SERVICE FUND AUDIT REPORT

**Docket No:** 17-TFWZ-022-KSF  
TracFone Wireless, Inc.

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

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

**Audit Period:** March 1, 2015 through February 28, 2016  
Kansas Operating Year 19 (Operating Year 19)

**Company Representatives:** Chesley Dillion  
Scott Myott

**Date of On-Site Visit:** March 1 and 2, 2017

**Date Submitted to Company:** May 9, 2017

### **Audit Summary**

Based on the Kansas Universal Service Fund (KUSF) Carrier Review Procedures for Operating Year 19,<sup>1</sup> GVNW Consulting, Inc. (GVNW) identified one (1) KUSF finding regarding TracFone Wireless, Inc. (TracFone or Company), with an estimated net impact of an additional \$374,000 due to the KUSF:

- Finding No. 1: TracFone did not report gross monthly Lifeline subscriber revenues to the KUSF. Instead, the Company reduced its Federal USF Lifeline voice support by the Kansas Lifeline Support Program (KLSP) credits for which TracFone did not qualify or receive and a non-voice adjustment factor to recognize that TracFone's Lifeline plans included data. The net result was then allocated to the intrastate jurisdiction via the Company's direct assignment factor. For the period of January 2013 through November 2016, TracFone should have recognized the intrastate portion of the \$9.25 lifeline credit for KUSF purposes. Effective December 2016, the Federal Communications Commission (FCC) reformed its Lifeline program to allow support of voice and data services. Thus, effective December 2016, TracFone appropriately recognized a non-voice factor and the intrastate allocation. TracFone under-reported KUSF revenues and owes an estimated \$374,000 to the KUSF. TracFone discontinued the use of this Lifeline methodology effective with the March 2017 data reported in April 2017.

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<sup>1</sup> Docket No. 15-GIMT-073-GIT (Docket 15-073), July 14, 2016, Order Accepting GVNW's KUSF Year 19 Audit Selections, Proposed Revisions to Selection Criteria and Audit Review Procedures (July 2016 Order).

GVNW recommends that the Kansas Corporations Commission (KCC or Commission) issue an Order to: (1) adopt the audit finding in this Audit Report; (2) direct TracFone to submit Audit True-ups for the period of January 2013 through February 2017 to reflect the audit finding and pay the related assessments owed to the KUSF within 60 days of an Order; and (3) direct GVNW to submit a Compliance Report to the Commission upon completion of the ordered actions.

### **Current KUSF Obligations**

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

### **Background**

TracFone, headquartered in Miami, Florida is a reseller of prepaid commercial mobile radio services (CMRS) in Kansas. The Company is required to report its revenues and pay the related assessments to the KUSF on a monthly basis.<sup>3</sup> The Company is authorized to collect its assessment from subscribers, but has elected not to do so. TracFone is an eligible telecommunications carrier (ETC) for Federal Lifeline purposes; however, it is not an ETC for KLSP purposes.<sup>4</sup> As an ETC, TracFone is required to offer and advertise Lifeline services to its customers,<sup>5</sup> which it does. The Company uses approved traffic factors to identify intrastate revenues.<sup>6</sup> GVNW advises the Commission that TracFone bundles internet access, voice and texting services and reports revenues to the KUSF based on usage and the fair market value of the component parts of the bundled monthly airtime service plans.<sup>7</sup> TracFone does offer cash discounts and promotions to its subscribers, but reports gross revenues to the KUSF.<sup>8</sup>

On August 2, 2016, the KCC or Commission issued Order No. 1 in Docket No. 17-TFWZ-022-KSF directing GVNW to conduct an audit of TracFone for KUSF purposes.

TracFone, on December 5, 2016, filed an Application to expand its ETC designation to include the KLSP.<sup>9</sup>

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<sup>2</sup> Confirmed on May 9, 2017 with the KUSF Administrator.

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

<sup>4</sup> Docket No. 09-TFWZ-945-ETC (09-945), December 14, 2010 Order Granting in Part and Denying in Part Amended Application of TracFone for Designation as ETC for the Limited Purpose of Offering Lifeline Service to Qualified Households (Dec. 2010 Order).

<sup>5</sup> Docket No. 94-GIMT-478-GIT (Docket 94-478), December 27, 1996 Order.

<sup>6</sup> Docket No. 15-GIMT-073-GIT (Docket 15-073), April 14, 2016, Order Approving Continued Use of Direct Assignment Methodology by TracFone Wireless, Inc.

<sup>7</sup> TracFone Response to DR No. 17.

<sup>8</sup> TracFone Response to DR No. 10.

<sup>9</sup> Docket No. 17-TFWZ-237-ETC (Docket 17-237), December 5, 2016, Application of TracFone Wireless, Inc. to Expand Designation as an Eligible Telecommunications Carrier to Receive Kansas Universal Service Fund Support for Lifeline Service.

This audit also requires a review of the Company's compliance with the recommendations adopted by the KCC in Docket 13-TFWZ-093-KSF (13-093).<sup>10</sup>

### **Audit Findings**

GVNW conducted the audit of TracFone in accordance with the KUSF Carrier Review Procedures adopted by the KCC.<sup>11</sup> Based on these procedures, GVNW identified the following audit finding and recommendation.

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

**Standard:** For Lifeline customers, the total gross intrastate customer charge prior to any Federal or State Lifeline credit or discount reimbursements are to be reported to the KUSF.<sup>12</sup>

**Finding:** TracFone did not report the gross monthly recurring charge prior to recognizing federal or state Lifeline credits. The Company, instead, netted the \$9.25 Federal Lifeline voice support with the \$7.77 KLSP credit<sup>13</sup> and multiplied the resulting \$1.48 by a non-voice factor<sup>14</sup> to account for the data portion of the Company's bundled Lifeline offerings. The net result was then allocated to the intrastate jurisdiction by the Company's intrastate direct assignment factor,<sup>15</sup> with the amount reported to the KUSF for the period January 2013 through November 2016. A Company, even one that is an ETC for KLSP purposes, should not reduce its revenue for the \$7.77 KLSP credit. Furthermore, prior to the FCC Lifeline Modernization Order effective December 2, 2016,<sup>16</sup> the \$9.25 Federal Lifeline subsidy solely supported voice service<sup>17</sup> and; therefore, the Federal Lifeline credit should not be reduced by a factor to allocate a portion for data. For December 2016 and January 2017, TracFone should not have reduced its revenues for the \$7.77 KLSP credit; however, it was authorized to allocate a portion for data as the \$9.25 Federal Lifeline credit supports voice *and* data.<sup>18</sup> As a result, TracFone under-reported revenues and

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<sup>10</sup> Docket No. 13-TFWZ-093-KSF (Docket 13-093), July 12, 2013, Order Adopting Audit Report and Closing Docket.

<sup>11</sup> Docket 15-073, July 2016 Order.

<sup>12</sup> Kansas Universal Service Fund (KUSF) Carrier Remittance Worksheet Instructions dated February 3, 2015, effective March 2015 – February 2016 (FY 19).

<sup>13</sup> TracFone Response to DR No. 18 (Attachment A).

<sup>14</sup> *Ibid.*

<sup>15</sup> Docket No. 16-GIMT-067-GIT (Docket 16-067), March 14, 2017, Order.

<sup>16</sup> See FCC 16-38, Lifeline Modernization Order, adopted March 31, 2016, effective December 2, 2016, Third Report and Order, and Order on Reconsideration, available for viewing at: [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-38A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf).

<sup>17</sup> See FCC 12-11, Lifeline Reform Order, rel. January 31, 2012, available for viewing at: [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-12-11A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf). See also, 47 C.F.R. § 54.101, prior to Dec. 2, 2016 revision.

<sup>18</sup> Lifeline Modernization Order.

owes an estimated \$374,000<sup>19</sup> in additional assessments to the KUSF.<sup>20</sup> TracFone discontinued this Lifeline reporting practice effective with the March 2017<sup>21</sup> data reported in April 2017.

**Recommendation:** The Commission should direct TracFone to submit Audit True-ups for January 2013 through February 2017 to correct this audit deficiency and pay the related assessments owed to the KUSF within 60 days of the issuance of an Order. After GVNW reviews the submission and TracFone pays the additional assessment to the KUSF, GVNW will submit a Compliance Report.

**Follow-Up Docket 13-093 Audit Compliance:**

The following findings were adopted by the Commission in Docket 13-093.

**Finding No. 1:** The Company did not file quarterly True-ups to reflect changes to monthly voice revenues as the result of the use of a quarterly voice/non-voice services factor.

**Audit Finding Compliance:** The Company has changed its KUSF reporting procedures and does make the required quarterly True-up submittal to reflect the use of quarterly voice/non-voice services factors.

**Finding No. 2:** TracFone does not have an internal process to separately identify Kansas intrastate voice mail revenues.

**Audit Finding Compliance:** Net intrastate retail revenues reported to the KUSF does not exclude voice mail revenue.<sup>22</sup> Voice mail is included in the wireless service free of charge.<sup>23</sup>

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<sup>19</sup> TracFone Responses to DR No. 22. TracFone has advised GVNW that this is an estimate and the exact amount will not be determined until the actual Audit True-ups are completed.

<sup>20</sup> GVNW provided guidance on reporting Lifeline revenues to the KUSF in the audit in Docket 13-093.

<sup>21</sup> Attachment A.

<sup>22</sup> TracFone response to DR No. 7.

<sup>23</sup> *Ibid.* Other features include caller identification and call waiting.

## KUSF Carrier Audit Information Request

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Attachment A  
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**Request No. 18**

**Submitted By:** David Winter  
**Submitted To:** Scott Myott  
**Company Name:** TracFone Wireless, Inc.  
**Docket Number:** 17-TFWZ-022-KSF  
**Request Date:** March 6, 2017

**Date Information Needed:** March 16, 2017

**RE:** TracFone KUSF Reporting Lifeline Methodology

Please provide the following information:

- a. Explain why TracFone reported Lifeline revenues to the KUSF based on the difference between the Federal and Kansas Lifeline reimbursement credits.

**TracFone's response:** TracFone reports revenue from the sale of prepaid calling cards and Lifeline on Line 9 of the CRW per the instructions provided by GVNW. Since the \$9.25 USAC monthly reimbursement per Lifeline participant reported on Line 9 is adjusted by the non-voice and intrastate factors, TracFone netted the \$7.77 against the \$9.25 rather than subtracting the entire \$7.77 on Line 18.

- b. When was TracFone designated as an ETC for Kansas Lifeline Service Program purposes? If TracFone has not been designated an ETC for Kansas Lifeline Service Program purposes, please explain the rationale for using the Kansas Lifeline Service credit as part of the calculation per (a) above.

**TracFone's response:** January 2013. TracFone has not been designated an ETC for Kansas Lifeline Service Program purposes. TracFone's reporting methodology is based on the instructions provided by GVNW.

- c. What month and year did TracFone start to report Lifeline revenues to the KUSF based on the \$9.25-\$7.77 reporting methodology?

**TracFone's response:** January 2013.

- d. Based on the Company's response to (c) above, provide the monthly FCC Form 497 data (response to DR No. 13.c.) for each reporting month and

## KUSF Carrier Audit Information Request

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Attachment A

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### Request No. 18

year through February 2015 that TracFone used the \$9.25-\$7.77 Lifeline reporting methodology to the KUSF. Also, include the non-voice and intrastate rates for each reporting month and year in which TracFone used the \$9.25-\$7.77 Lifeline revenue reporting methodology.

**TracFone's response: See attached schedule.**

- e. What KUSF reporting month did TracFone stop using the \$9.25-\$7.77 Lifeline revenue reporting methodology to the KUSF.

**TracFone's response: February 2017. Please inform us the best way to handle this adjustment for the prior periods, either as part of this audit or via true-ups.**

**NOTE:** If for some reason, the above information cannot be provided by the date requested, please provide a written explanation of those reasons.

### Verification of Response

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

  
3-16-17

## CERTIFICATE OF SERVICE

I hereby certify that on this 31<sup>st</sup> day of May 2017, 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