

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

Before the Commissioners: Susan K. Duffy, Chair
Dwight D. Keen
Andrew J. French

In the Matter of a General Investigation for)
UniTel Voice, LLC to Show Cause Why this)
Commission Should Not Initiate Sanctions and) Docket No. 20-UNTV-525-SHO
Fines for Non-Compliance with Commission)
Orders and Kansas Statutes.)

ORDER

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its pleadings and records, and being fully advised in the premises, the Commission finds and concludes as follows:

1. On June 1, 2020, GVNW Consulting, Inc. (GVNW) provided Kansas Universal Service Fund (KUSF) reporting information for UniTel Voice, LLC (UniTel) to Commission Staff (Staff).¹

Background

2. On June 17, 2020, Staff issued a Report and Recommendation (R&R), explaining that UniTel is delinquent with respect to the following:

- (1) UniTel has not reported its revenues and failed to pay its KUSF contributions for March 2018 – February 2019 Fiscal Year (FY 22);
- (2) UniTel failed to register, has not reported its revenue, and failed to pay its KUSF contributions for March 2019 – February 2020 (FY 23);
- (3) UniTel failed to register, has not reported its revenue, and failed to pay its KUSF contributions for March 2020 – February 2021 (FY 24); and

¹ See Attachment 1, GVNW Consulting KUSF Memo (attached to Report and Recommendation (Jun. 17, 2020), included with Order to Show Cause (Jun. 30, 2020)).

(4) UniTel has not paid \$5,464.21 in penalties owed to the KUSF as of June 1, 2020.²

3. On June 30, 2020, the Commission ordered UniTel to show cause within 30 days of receipt of the Order, why UniTel should not be subject to fines, or penalties for failing to maintain compliance with its Kansas statutory and regulatory obligations.³ The Commission also ordered UniTel to: “(1) register with the KUSF for FY 23 and FY 24; (2) report all revenue and pay the related KUSF contributions for March 2018 through June 2020; and (3) pay all penalties owed to the KUSF within 30 days of issuance of this Order.”⁴

4. On July 15, 2020, UniTel President, Doug McCabe, sent the Commission a letter requesting additional time to file the delinquent reports. Mr. McCabe provided that additional time was necessary because UniTel’s “business processes have been drastically interrupted, due to the COVID-19 Pandemic, and we have been struggling to maintain normal business procedures.” UniTel indicated it would “have these missing reports to you no later than August 30, 2020.” Mr. McCabe further described the penalties as “excessive” and requested the Commission waive or reduce the penalties.⁵

5. On August 7, 2020, Staff responded to Mr. McCabe’s letter.⁶ Staff asked the Commission to deny the request for additional time to file the missing reports. Staff argued that UniTel was first notified of its delinquencies in 2017, before the COVID-19 pandemic. Staff also stated the penalties currently assessed against UniTel were appropriate. Staff provided seven items

² R&R (attached to Order to Show Cause).

³ Order to Show Cause, ¶ A.

⁴ *Id.* at ¶ B.

⁵ See UniTel’s letter dated July 15, 2020, mislabeled as UniTel Voice Response Regarding Penalties (Jul. 15, 2020).

⁶ See Staff’s Reply to the Response of UniTel Voice, LLC to the Commission’s Order to Show Cause (Aug. 7, 2020).

included in the evaluation to determine penalties.⁷ Staff, however, recommended the Commission “temporarily hold in abeyance any determination of whether to modify the KUSF penalties.” Staff stated UniTel’s response to the compliance issues may result in a mitigation or increase in penalty assessments. Staff stated it will advise the Commission of the total KUSF administrative penalties recommended to be assessed once UniTel complies with its KUSF obligations.⁸

6. On September 3, 2020, Staff filed its second R&R. Staff states that UniTel sent an email to Staff and GVNW on August 27, 2020, advising Staff and GVNW that UniTel mailed the following items to the KUSF bank: (1) registrations for FY 22, FY 23, and FY 24; Carrier Remittance Worksheets (CRW) reporting UniTel’s revenues for FY 22 and FY 23; and (3) payment of its FY 22 and FY 23 contributions.⁹

7. Staff further explains that GVNW provided a second memorandum addressing UniTel’s KUSF compliance as of August 31, 2020. According to the memo, UniTel registered with the KUSF for FY 22 in December 2019, thus the FY 22 registration was a duplicate. GVNW confirmed it received UniTel’s FY 23 and FY 24 registrations and its FY 22 and FY 23 CRWs to report its revenues. GVNW has not received UniTel’s contribution payments for FY 22 or FY 23, the FY 24 CRW, or the FY 24 contribution payment.¹⁰ GVNW assessed additional KUSF penalties, bringing the total penalties as of August 31, 2020, to \$7,831.61.¹¹

8. Staff recommends the Commission direct UniTel to come into full compliance with its KUSF obligations, with the exception of the payment of penalties, within 21 days of issuance of this Order. Staff maintains its previous recommendation that the Commission hold in abeyance

⁷ *Id.* at ¶ 8.

⁸ *See id.*

⁹ Notice of Filing of Staff’s Report and Recommendation, p. 2 (second R&R) (Sept. 3, 2020).

¹⁰ *Id.*

¹¹ *See id.* at 3; GVNW KUSF Memo

the penalty issue. Staff will advise the Commission of the total KUSF administrative penalties to be assessed once UniTel complies with its KUSF obligations.¹²

9. UniTel did not respond to Staff's second R&R.

Analysis

I. Legal Standards

10. K.S.A. 66-1,195 gives the Commission authority to supervise and control all telecommunications public utilities in Kansas and requires the Commission to inquire into any violation of Kansas law by a telecommunications public utility or by its officers, agents, and employees.

11. K.S.A. 66-138 gives the Commission authority to impose a fine for each violation of a lawful requirement or Commission order.

12. K.S.A. 66-2008(a) provides:

The commission shall require every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services and, to the extent not prohibited by federal law, every provider of interconnected VoIP service, as defined by 47 C.F.R. 9.3, to contribute to the KUSF based upon the provider's intrastate telecommunications services net retail revenues on an equitable and nondiscriminatory basis.

II. UniTel's KUSF Noncompliance

13. The Commission ordered UniTel to show cause why it should not be subject to sanctions, fines, or penalties for failing to maintain compliance with its KUSF obligations. UniTel did not respond to the Show Cause Order.

14. The Commission also directed UniTel to register with the KUSF for FY 23 and FY 24; and to report all revenue and pay the related KUSF contributions for March 2018 through June

¹² *Id.* at 3.

2020. UniTel requested additional time to August 30, 2020, to file its delinquent reports. UniTel provided GVNW its FY 23 and FY 24 registrations and its FY 22 and FY 23 CRWs to report its revenues. UniTel did not provide its contribution payments for FY 22 or FY 23, the FY 24 CRW, or FY 24 contribution payment.¹³

15. UniTel remains noncompliant with its KUSF obligations. Further, UniTel ignored its own deadline of August 30, 2020, to file its delinquent reports.¹⁴ Finally, UniTel failed to show cause why it should not be subject to the penalties. UniTel's only response to the Show Cause Order was, "We respectfully request that the excessive penalties that have been applied are waived, or be significantly reduced to a more reasonable amount." UniTel did not deny that it should be subject to penalties and it provided no support for its request.

16. The Commission concludes that GVNW's administrative penalty assessment of \$7,831.61 as of September 1, 2020, is appropriate and directs UniTel to pay \$7,831.61 in administrative penalties to the KUSF for its KUSF noncompliance. The Commission further states that additional penalties may be assessed as UniTel comes into compliance with its KUSF obligations. Failure to comply with this Order may also result in statutory penalties provided in K.S.A. 66-138.

THEREFORE, THE COMMISSION ORDERS:

A. UniTel Voice, LLC is directed to pay administrative penalties in the amount of \$7,831.61 within 21 days of this Order to the KUSF.

B. UniTel Voice, LLC is also directed, within 21 days of this Order, to: (1) make its contribution payments for FY 22 (March 2018 – February 2019), FY 23 (March 2019 – February

¹³ *Id.*

¹⁴ The requested extension of time to August 30, 2020, to come into compliance has lapsed. UniTel remains noncompliant with its KUSF obligations.

2020), and FY 24 (March 2020 – February 2021); and (2) to report all revenue to the KUSF for FY 24.

C. The Commission may impose further sanctions, including additional monetary penalties and other remedies available to the Commission by law, without further notice.

D. 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).¹⁵

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 09/24/2020



Lynn M. Retz
Executive Director

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¹⁵ K.S.A. 66-118B; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

20-UNTV-525-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 09/24/2020.

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