

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Mark Sievers, Chairman
 Ward Loyd
 Thomas E. Wright

In the Matter of the Audit of Broadband)
Dynamics, LLC by the Kansas Universal)
Service Fund Administrator Pursuant to K.S.A.)
2010 Supp. 66-2010(b) to Verify Contributions) Docket No. 12-BBDC-030-KSF
to the Kansas Universal Service Fund Year 14,)
March 1, 2010 through February 28, 2011.)

**ORDER TO KANSAS UNIVERSAL SERVICE FUND ADMINISTRATOR TO
COMMENCE AUDIT OF BROADBAND DYNAMICS, LLC and
ORDER SETTING PROCEDURAL SCHEDULE**

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 records and being fully advised in the premises, the Commission finds and concludes as follows:

1. As required by K.S.A. 66-2002(h), the Commission established the Kansas Universal Service Fund (KUSF) by order dated December 27, 1996, in Docket No. 94-GIMT-478-GIT (94-478 Docket). Through the competitive bidding process required by K.S.A. 2010 Supp. 66-2010, the Commission selected a third party to administer the KUSF. The current third party administrator is GVNW Consulting, Inc. (GVNW).

2. K.S.A. 2010 Supp. 66-2010(b) provides that GVNW shall be responsible for:

(1) Collecting and auditing all relevant information from all qualifying telecommunications public utilities, telecommunications carriers or wireless telecommunications providers receiving funds from or providing funds to the KUSF;

(2) verifying, based on the calculations of each qualifying telecommunications carrier, telecommunications public utility or wireless telecommunications service provider, the obligation of each such qualifying carrier, utility or provider to generate the funds required by the KUSF;

(3) collecting all moneys due to the KUSF from all telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers in the state ; and

(4) distributing amounts on a monthly basis due to qualifying telecommunications public utilities, wireless telecommunications service providers and telecommunications carriers receiving KUSF funding.

3. In the 94-478 Docket the Commission clarified that to fulfill its K.S.A. 66-2010(b) obligations the KUSF administrator should conduct audits of selected carriers' relevant revenue information to verify such carriers are reporting revenue information in a consistent manner.

4. The Commission opened Docket No. 10-GIMT-188-GIT in order to determine the assessment percentage for the KUSF Year 14, beginning March 1, 2010. On June 30, 2011 in that docket, GVNW filed a letter in which it listed sixteen companies selected for KUSF Year 14 carrier audits pursuant to the current selection criteria.²⁵ Carriers were selected for audit depending upon whether the carrier qualifies as a Group One, Two, Three, or Four Company.

5. Group One is comprised of companies which each contribute an amount greater than five percent of the yearly KUSF receipts. Each Group One carrier will be audited every three years. Group Two, from which the KUSF administrator will audit three companies each year, is comprised of companies with contributions to the KUSF representing the next 50% of yearly KUSF receipts. Group Three, with ten companies to be audited each year, is comprised of the remaining companies contributing to the KUSF. Group Four is comprised of companies claiming no Kansas retail revenue, one of which will be randomly selected each KUSF audit year. The Commission intends to audit all companies at some point in time and it may adjust or supplement its selection criteria over time to ensure this result. Additional audits, supplementary to those identified above, may be performed if GVNW or Commission staff observes reporting

²⁵ February 23, 2011 Order, Docket No. 09-GIMT-272-GIT.

abnormalities, significant discrepancies between KUSF-reported revenues and Commission or public reports or other inconsistencies.

6. If material deficiencies are found in a carrier's KUSF reporting procedures, it will be scheduled for audit in KUSF Year 15 to ensure that corrections have been implemented to cure deficiencies.

7. Broadband Dynamics, LLC falls into Group 3. GVNW shall audit Broadband Dynamics, LLC, which shall assemble the information requested by GVNW so that GVNW may complete the audit by **Friday, June 29, 2012**. The information provided to GVNW is not subject to the provisions of the Kansas Open Records Act and shall be considered confidential and proprietary.² GVNW will use generally accepted accounting practices in the performance of the audit.

8. After GVNW has completed the audit, it shall file a report in this docket containing the results of the audit and any recommendation it deems appropriate and serve a copy of the report on Broadband Dynamics, LLC. The report shall be provided in two versions if necessary. One version shall contain any confidential information and one version shall have any confidential information redacted for public disclosure. Broadband Dynamics, LLC may file with the Commission a response to GVNW's audit report by **Friday, July 13, 2012**. If a response is not filed by July 13, 2012, Broadband Dynamics, LLC is deemed to have fully concurred with GVNW's report. If Broadband Dynamics, LLC disputes the recommendations and results contained in GVNW's report and has filed its response in a timely manner, it may request a hearing.

9. The Commission finds and concludes that GVNW shall begin an audit of Broadband Dynamics, LLC, as directed above.

² K.S.A. 2010 Supp. 66-2010(c).

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. GVNW Consulting, Inc. shall begin an audit of Broadband Dynamics, LLC to verify that its revenues are accurate and are reported in a consistent manner. GVNW shall file its audit report and recommendations no later than **Friday, June 29, 2012**, and Broadband Dynamics, LLC, shall file its response to the report no later than **Friday, July 13, 2012**.

B. The parties have fifteen days, plus three days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2010 Supp. 77-529(a)(1).

C. 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.

Sievers, Chmn.; Loyd, Com.; Wright, Com.

Dated: **JUL 21 2011**



Patrice Petersen-Klein
Executive Director

Crh/vj

ORDER MAILED JUL 22 2011

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROBERT S. RIFE, MANAGING MEMBER BROADBAND DYNAMICS, L.L.C. 8757 EAST VIA DE COMMERCIO 1ST FLOOR SCOTTSDALE, AZ 85258		
DAVID G. WINTER, SENIOR CONSULTANT GVNW CONSULTING, INC. 2270 LA MONTANA WAY PO BOX 25969 COLORADO SPRINGS, CO 80936		
COLLEEN HARRELL, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED JUL 22 2011

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.