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Kansas Corporation Commission
/S/ Kim Christiansen



GVNW CONSULTING, INC.

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April 14, 2014

Received
on

APR 17 2014

Kim Christiansen, Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027

by
State Corporation Commission
of Kansas

RE: Docket No. 13-CRCZ-712-KSF, Cricket Communications, Inc.

Dear Ms. Christiansen:

In its May 31, 2014 order the Kansas Corporation Commission (KCC) directed GVNW to perform a KUSF carrier audit of Cricket Communications, Inc. (Cricket) to ensure that the data submitted to the KUSF via the KUSF Carrier Remittance Worksheets (CRW), the assessments paid, and the calculation and application of the flow-through surcharge billed to and collected from Cricket'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, if applicable. Only a public audit report is being filed; however, Attachment A to this report is confidential. Therefore, enclosed are an original and seven copies of the public audit report and confidential Attachment A.

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", is written over a large, loopy, circular flourish.

David Winter
Senior Consultant

cc w/encl: Sandy Reams

DW/dc – Encl.

KANSAS UNIVERSAL SERVICE FUND AUDIT

Docket No. 13-CRCZ-712-KSF
Cricket Communications, Inc.

Prepared for: Kansas Corporation Commission
Kansas Universal Service Fund

Prepared by: David Winter
GVNW Consulting, Inc.

Audit Period: March 2, 2012 through February 28, 2013
Kansas Operating Year 16 (Operating Year 16)

Company Representative: Ai Bane
Vicky Taylor

Date of On-Site Visit: March 17 and 18, 2014

Date Submitted to Company: March 28, 2014

Audit Summary:

Based on the Kansas Universal Service Fund (KUSF) Carrier Review Procedures for Operating Year 16,¹ GVNW Consulting, Inc. (GVNW) identified one (1) KUSF audit deficiency regarding Cricket Communications, Inc. (Cricket or Company):

- Finding No. 1: Cricket does not report gross revenues to the KUSF consequently; the Company is not in compliance with Kansas Corporation Commission (KCC or Commission) Orders.

As discussed herein, the KCC may wish to assess penalties, in accordance with K.S.A. 66-138, related to the Company's non-compliance with Commission orders regarding the reporting of revenues to the KUSF. GVNW recommends any such penalties be applied, effective March 2012 and forward, on a monthly basis.

GVNW also identified one issue related to the identification of the KUSF and Federal Universal Service Fund (FUSF) surcharge. Cricket's identification of the KUSF and FUSF surcharges on a customer's bill may not meet the requirements of the Federal Communications Commission's (FCC) Truth in Billing requirements (47 C.F.R. §64.2401(b)).

Current KUSF Obligations

Cricket is current with its KUSF obligations.²

¹ Docket No. 12-GIMT-168-GIT (Docket 12-168), July 16, 2013, Order Accepting and Approving GVNW Selection Criteria (July 16, 2013, Order), provided in GVNW Consulting, Inc.'s letter dated June 27, 2013, Attachment B (Carrier Audit Review Procedure).

Background

Cricket is a wireless service provider headquartered in San Diego, California. The Company offers pre-paid and traditional wireless services. Cricket's service plans do not include customer contracts. The Company is required to report its revenues and pay the related assessments to the KUSF on a monthly basis.³ Cricket is authorized to collect an amount equal to or less than its assessment from customers⁴ and does so. For the Company's prepaid "Pay In Advance All in Monthly" and "Pay As You Go" products, Cricket internally computes and pays the KUSF surcharge.⁵ The Company uses traffic studies for the identification of intrastate revenues and is current in reporting its intrastate factors to the KCC.

On August 6, 2013, the KCC issued Order No. 1 in Docket 13-712 directing GVNW to conduct an audit for KUSF purposes.

The FCC on March 13, 2014 approved AT&T's merger with Leap Wireless d/b/a Cricket Communications.

This audit also requires a review of the Company's compliance with the recommendations adopted by the KCC in Docket 10-078.⁶

Audit Findings

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

Audit Finding No. 1

Standard: Gross revenues, prior to any service discounts are to be reported to the KUSF.⁸ In its January 2013 Order, in Docket 14-105, the Commission stated: "Carriers contributing to the KUSF are reminded to report gross revenue, prior to any service discounts, for KUSF purposes. Failure to do so is a violation of Commission order and may warrant penalties or a show cause proceeding."

² Confirmed on March 27, 2014, with the KUSF Administrator.

³ 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.

⁴ K.S.A. 66-2008(a).

⁵ Notarized Affidavit of Stephen A. Susak, Tax Director.

⁶ Docket No. 10-CRCZ-078-KSF (Docket 10-078), December 15, 2010, Order Adopting GVNW Audit Report Recommendations, Directing KUSF Administrator to Make One-Time Refund to Cricket and Directing Cricket to Issue One-Time Billing Credits.

⁷ Docket 12-168, July 16, 2013, Order.

⁸ Docket No. 94-GIMT-478-GIT (Docket 94-478), August 13, 1999, Order, On Issue of Uncollectible Revenue and Additional KUSF Revenue Reporting Issues and Docket No. 14-GIMT-105-GIT (Docket 14-105), Order Adopting KUSF Assessment Rate For Year Eighteen of KUSF Operations.

On March 18, 2014, the KCC issued an Order in Docket 14-105⁹ to investigate a number of KUSF revenue reporting issues, to include the reporting of discounts to the KUSF.

Finding: Cricket does not report gross revenues to the KUSF in accordance with the aforementioned Commission orders.¹⁰

Recommendations: Cricket should report gross revenues to the KUSF. GVNW notes that given the Company's statements in its confidential response to Data Request No. 2 (Attachment A) and the Commission's pending investigation into how discounts should be reported for KUSF purposes, the Commission may wish to consider the outcome of the Docket 14-105 investigation and at this time, consider implementation of a penalty, consistent with K.S.A. 66-138, for non-compliance with Commission orders. GVNW recommends any such penalties be applied, effective March 2012 and forward, on a monthly basis.

Other KUSF-Related Issue

Standard: Any federal, state, local government and/or regulatory taxes, fees and/or surcharges, shall be itemized on a subscriber's bill and shall be clearly identified.¹¹ The FCC's True-In-Billing requirements, section 64.2401(b), states,

Descriptions of billed charges. Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to the understanding of the price charged.

Finding: Cricket identifies both the KUSF and FUSF surcharges on a customer's bill as "Universal Service Fund Surcharge," but does not clearly identify whether the charge is for Kansas or the Federal jurisdiction, as indicated in the Company's confidential response to Data Request 2 (Attachment A). This issue may be addressed through the Company's merger with AT&T.

⁹ Docket 14-105, March 18, 2014, Order Soliciting Comments Regarding Contribution Issues: Requiring Entry of Appearance to Actively Participate.

¹⁰ Cricket Confidential Response to Data Request (DR) No. 2,

¹¹ Billing Standards Order Section I.A.3.c. Docket No. 06-GIMT-187-GIT (06-187), July 16, 2010, Final Order (adopting new Billing Standards); however, the Commission "limited the application to wireline companies" of its billing standards and specifically excluded the inclusion of wireless companies such as Cricket. The KCC specifically observed that "all ETCs, including wireless ETCs, must be recertified each year by the Commission. This recertification process involves review by the Staff and Commission of a carrier's compliance with the FTC Truth-in-Billing provisions and the CTIA Consumer Code."

Recommendations: GVNW recommends that Cricket be directed to ensure that its identification of the KUSF surcharge is clear and meets the FCC's Truth in Billing requirements.

Follow-Up Docket 10-078 Audit Compliance

The following findings were adopted by the Commission in Docket 10-078.

Finding No. 1: Cricket reported calculated revenues for two (2) months due to a third-party vendor error.

Audit Finding Compliance: GVNW confirms that the Company reports actual revenues to the KUSF.

Finding No. 2: Cricket reported non-assessable revenues for text messaging, ring tones, and other data services to the KUSF.

Audit Finding Compliance: The Company has corrected this deficiency and does not report the aforementioned non-assessable revenues to the KUSF.

Finding No. 3: Cricket applied and collected the KSUF surcharge on non-Kansas jurisdictional calling plan Monthly Recurring Charges.

Audit Finding Compliance: GVNW confirms that the Company has discontinued this practice and no longer applies to the KUSF to non-Kansas jurisdictional calling plan Monthly Recurring Charges.

Finding No. 4: Cricket failed to provide updates to its traffic studies to the KCC.

Audit Finding Compliance: The Company is current with its traffic study filings with the KCC.

Docket No. 13-CRCZ-712-KSF

Confidential

Attachment A

To Kansas Universal Service Fund Audit Report

Dated April 14, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day April, 2014, the original and seven (7) copies of the above and foregoing were sent via U.S. Mail, first class postage prepaid to:

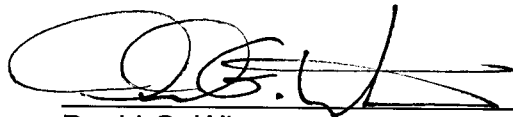
Kansas Corporation Commission
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Topeka, KS 66604

and an electronic copy to:

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David G. Winter