

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

Before Commissioners: Susan K. Duffy, Chair
Shari Feist Albrecht
Dwight D. Keen

In the Matter of the Audit of Southwestern)
Bell Telephone Company by the Kansas)
Universal Service Fund (KUSF)) Docket No. 19-SWBT-021-KSF
Administrator pursuant to K.S.A. 2017)
Supp. 66-2010(b) for KUSF Operating Year)
21, Fiscal Year March 2017-February 2018.)

**ORDER APPROVING SOUTHWESTERN BELL TELEPHONE COMPANY'S
REFUND PLAN**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On August 16, 2018, the Commission issued an Order to KUSF Administrator to Commence Audit of Southwestern Bell Telephone Company and Order Setting Procedural Schedule.

2. On June 7, 2019, GVNW Consulting, Inc. (GVNW), the auditor of the Kansas Universal Service Fund (KUSF), filed its Audit Report with the Commission, finding Southwestern Bell Telephone Company (SWBT) inadvertently over-collected KUSF assessments from customers for the period of March 2017 through present.¹ GVNW recommended the Commission direct SWBT to: (1) ensure it no longer over-collects its KUSF assessment from customers;² (2) submit Audit True-ups to the KUSF Administrator for the months of March 2017 through February 2019;³ (3) submit True-ups to the KUSF Administrator for the months of March

¹ GVNW Consulting, Inc. Audit Report for Southwestern Bell Telephone Company, June 4, 2019, p. 1.

² *Id.*

³ *Id.*

2019 through the period the billing system corrections occurred; (4) report the corrected amount of assessments it should have collected from subscribers within 30 days of the Commission's Order;⁴ (5) file an affidavit from an Officer of the Company identifying the date its billing system was corrected and the total amount of assessments to be refunded to customers;⁵ and (6) file its proposed refund plan, including the total amount of refunds, the amount issued via a one-time equal bill credit to each current subscriber, and the time period to issue the refunds.⁶

3. On June 20, 2019, SWBT filed its Response to the Audit Report, accepting the auditor's recommendation concerning the refund methodology, once the surcharge/recovery issue is fixed and the affected number of customers identified,⁷ but disputing: (1) any impression that it may have consistently or purposefully retained any KUSF assessments for the KUSF Operating Years in question;⁸ and (2) the suggestion that penalties are appropriate.⁹

4. On July 9, 2019, the Commission issued its Order Adopting Audit Report, noting SWBT did not dispute the Audit Report finding or procedures for determining the appropriate KUSF assessments over-collected and refunds to customers.¹⁰ The Commission found that since the amount of the over-collection and refunds to customers and issues related to SWBT's billing system issues were unresolved when GVNW filed its Audit Report, a second Audit Report was necessary.¹¹ Therefore, the Commission held GVNW's recommendation for statutory penalties in

⁴ *Id.*

⁵ *Id.*, pp. 1-2.

⁶ *Id.*, p. 2.

⁷ Response of Southwestern Bell Telephone Company D/B/A AT&T Kansas to Kansas Universal Service Fund Audit Report, June 20, 2019, ¶ 7.

⁸ *Id.*, ¶ 11.

⁹ *Id.*, ¶ 12.

¹⁰ Order Adopting Audit Report, Jul. 9, 2019, ¶ 6.

¹¹ *Id.*

abeyance until the full magnitude of the problem is determined and a second Audit Report is issued and adopted the remainder of the Audit Report's recommendations.¹²

5. On September 10, 2019, SWBT filed a Compliance Status Report, explaining that: (1) it provided revised Carrier Remittance Worksheets (CRWs) reflecting true-ups and revisions to the Billed KUSF Revenues (Block C) for the period of March 2016 through February 2019 to GVNW;¹³ and (2) once it resolves the billing issues that resulted in the over-collection of KUSF surcharges and assessments, it will file the required affidavit and any further, necessary CRW true-ups/revisions, as well as a plan for refunding any over-collection of KUSF customer surcharges.¹⁴

6. On October 8, 2019, the Commission issued a Compliance Order expressing concerns that SWBT was not complying with the Order Adopting Audit Report by failing to file an affidavit from a corporate officer or a refund plan. Furthermore, the Compliance Status Report acknowledged SWBT's efforts to resolve its billing system issues and over-collections from customers remain unresolved.¹⁵ The Commission directed SWBT to provide monthly status reports explaining: (1) the deficiencies in its billing system; (2) the measures taken to address those deficiencies; (3) the timeframe required to correct the issues; (4) the amount of over-collection that occurred during the previous 30-day period; and (5) a refund plan for over-collections dating back to 2017.¹⁶

7. On October 10, 2019, SWBT filed a second Compliance Status Report, informing the Commission that subject to final review, SWBT expects to refund approximately \$900,000 among approximately 26,225 customer billing accounts for the period March 2016 thru June 2019,

¹² *Id.*

¹³ Compliance Status Report of Southwestern Bell Telephone Company D/B/A AT&T Kansas, Sept. 10, 2019, ¶ 1.

¹⁴ *Id.*, ¶ 2.

¹⁵ Compliance Order, Oct. 8, 2019, ¶ 5-6.

¹⁶ *Id.*, ¶ 8.

when the billing correction was implemented, and does not believe any additional over collection occurred after it corrected the relevant billing process issue.¹⁷ SWBT advised that it is developing its refund plan by determining the status and available billing information for the affected accounts.¹⁸ Contrary to its original statement that it under-collected its assessments between March 2016 and February 2017, SWBT stated it now owes an estimated \$155,000 of refunds to customers for this period.¹⁹

8. SWBT stated that subsequent to the June 2019 billing system project being completed, it identified multiple billing and reporting issues to be corrected. The first correction results in additional refunds of approximately \$870,000 to 32 customer accounts; two other discrepancies require reporting corrections that will result in SWBT reporting additional revenue to the KUSF and paying over \$530,000 to the KUSF; and a third reporting correction requires revising and refileing Carrier Remittance Worksheets (CRWs).²⁰ The newly identified billing system corrections resulting in additional refunds to customers arise out of a discrepancy between two Uniform Service Order Code (USOC) accounts, the first involving non-assessable 911-related non-telecommunication service revenues and the second for assessed/billed KUSF surcharges for those same 911-related non-telecommunications services.²¹ This billing system error, dating back to September 2015, was scheduled to be corrected October 11, 2019,²² and results in approximately \$870,000 of customer refunds for 32 billing accounts.²³

¹⁷ Compliance Status Report of Southwestern Bell Telephone Company D/B/A AT&T Kansas, Oct. 10, 2019, ¶ 2.

¹⁸ *Id.*

¹⁹ *Id.*, ¶ 3.

²⁰ *Id.*, ¶ 5.

²¹ *Id.*, ¶ 5a.

²² *Id.*

²³ *Id.*

9. The two corrections resulting in additional payment to the KUSF will result in additional payments of \$515,147 and \$16,388, respectively.²⁴ SWBT pledged to continue to work diligently to comply with the Audit Order and to file a complete and comprehensive refund and payment plan, in addition to required True-up Reports, once all corrections are verified and implemented.²⁵

10. On November 15, 2019, SWBT filed a third Compliance Status Report updating the Commission on the two refund issues. First, the ECBR billing issue corrected on June 11, 2019,²⁶ will result in an estimated \$902,000 of refunds to approximately 26,225 customers for the period of March 2016 through June 2019.²⁷ SWBT advised the Company and Staff have agreed that approximately \$791,000 in refunds will be distributed through a direct credit to active customer accounts, and SWBT is working on gathering additional information for refunding \$110,000 collected from inactive accounts.²⁸ Second, the billing system error between two USOC accounts involving non-assessable revenue and assessed KUSF surcharges for certain 911-related, non-telecommunications services was corrected October 11, 2019, and results in a refund of approximately \$905,000.²⁹ Again, SWBT asserts it continues to work diligently to comply with the Commission's Orders and it intends to file a single, comprehensive refund and payment plan.³⁰ SWBT also states it will report back to Staff regarding customer refund information.

11. On November 21, 2019, the Commission directed SWBT to provide: (1) GVNW and Staff with copies and/or screen shots of 15% of the invoices and work orders,³¹ whether stored

²⁴ *Id.*, ¶¶ 5b, 5c.

²⁵ *Id.*, ¶ 6.

²⁶ Compliance Status Report of Southwestern Bell Telephone Company D/B/A AT&T Kansas, Nov. 15, 2019, ¶ 1a.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*, ¶ 1b.

³⁰ *Id.*, ¶ 3.

³¹ If 15% of the invoices and work order proves to be either overly burdensome or does not produce an adequate sample size, SWBT and GVNW and Staff should work together to develop a more workable number of invoices and

electronically or maintained in hard copy, regarding the detection, investigation, assessment, and correction of the billing system and software issues giving rise to the over-collections and payment issues outlined in the SWBT's October Status Report; (2) a matrix, schedule and/or diagram of the USOC accounts affected by the over-collection and underpayment issues and enable GVNW, together with Staff, to review (on-site, if needed) the account ledgers, contents and balances, as well as the reconciliation analysis SWBT conducted in determining its corrected KUSF amounts and refunds; and (3) confirmation by December 31, 2019, that it resolved all issues stemming from the Audit Order.³² The Commission also ordered SWBT to file its refund plan by January 20, 2020, to permit a timely second Audit Report to be filed.³³

12. On December 23, 2019, SWBT filed Compliance Status Report, Notice of Corrective Action and Refund Plan of Southwestern Bell Telephone Company D/B/A AT&T Kansas, stating that the billing system issues identified in the Audit Order have been resolved³⁴ and submitting a Refund Plan for Commission approval.³⁵

13. SWBT's proposed Refund Plan addresses both ECBR-related KUSF Refunds and 911-related KUSF Refunds. For the ECBR-related KUSF refunds, SWBT proposes a one-time, exact dollar refund totaling \$791,817.18 in customer bill credits to its 16,387 current customers.³⁶ The \$110,615.09 collected from inactive accounts will be distributed to the 16,387 current customers resulting in an additional refund of \$6.75 per customer account.³⁷ For the 911-related KUSF refunds, SWBT proposes a one-time, exact dollar refund totaling \$917,240.29 in customer

work orders to be produced. If they cannot reach an agreement, any party seeking relief should file a request with the Commission.

³² Order Denying Petition for Reconsideration, Nov. 21, 2019, ¶ 16.

³³ *Id.*

³⁴ Compliance Status Report, Notice of Corrective Action and Refund Plan of Southwestern Bell Telephone Company D/B/A AT&T Kansas, Dec. 23, 2019, ¶ 4.

³⁵ *Id.*, ¶ 5.

³⁶ *Id.*

³⁷ *Id.*

bill credits to the 22 current customers.³⁸ The four 911-related accounts totaling \$259.04 that are now inactive, either have other active accounts with SWBT to which a one-time, exact dollar bill credit refund can be assigned or a refund check will be issued.³⁹

14. In January 2020, SWBT will submit revised CRWs and additional KUSF payments where necessary, to Staff and the KUSF administrator for the ECBR and 911-related overcollection issues.⁴⁰ The revised CRWs will include an additional payment to the KUSF of \$18,311.30 for the incorrect journalization of revenue to a non-assessable account,⁴¹ and an additional payment to the KUSF of \$497,885.87 for failing to include revenue from Special Access Revenue accounts in the reported KUSF assessable base.⁴²

15. SWBT also requests a Commission order accepting the affidavit of Shelly K. Lazzaro, Vice President – Technology Development, that the billing system which recognizes ECBR promotional benefits was corrected on June 11, 2019, and updated on October 11, 2019, to correct 911-related KUSF assessment issues.⁴³

16. On December 27, 2019, Staff filed its Response to SWBT's Compliance Status Report, Notice of Corrective Action and Refund Plan, supporting the conceptual framework for the Refund Plan and stating it has no objections to its adoption.⁴⁴ But Staff contends any order approving the Refund Plan should be conditioned on the outcome of the second Audit Report.

17. The Commission finds that the affidavit of Shelly K. Lazzaro complies with its July 9, 2019 Order Adopting Audit Report. Therefore, the Commission accepts Lazzaro's affidavit.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*, ¶ 7.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *See id.*, ¶ 3.

⁴⁴ Staff's Response to Compliance Status Report, Notice of Corrective Action and Refund Plan of Southwestern Bell Telephone Company D/B/A AT&T Kansas, Dec. 27, 2019, ¶ 2.

18. After reviewing SWBT's Compliance Status Report, Notice of Corrective Action and Refund Plan and Staff's Response, the Commission concludes SWBT's Refund Plan should be adopted subject to the second Audit Report and verification of the amounts to be refunded to customers and paid to the KUSF. GVNW's recommendation for statutory penalties remains in abeyance until the second Audit Report is issued and adopted.

THEREFORE, THE COMMISSION ORDERS:

A. SWBT's Refund Plan is accepted subject to the second Audit Report and the verification of the amounts to be refunded to customers paid to the KUSF.

B. 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).⁴⁵

C. The Commission retains jurisdiction over the subject matter and parties to enter further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner.

Dated: 01/23/2020



Lynn M. Retz
Executive Director

BGF

⁴⁵ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

19-SWBT-021-KSF

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 01/23/2020.

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