

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

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

In the Matter of a General Investigation for)
Tempo Telecom, LLC, to Show Cause Why)
This Commission Should Not Initiate)
Sanctions and Fines and/or Revoke its) Docket No. 19-TEMT-082-SHO
Eligible Telecommunications Carrier)
Designation the Carrier Currently Holds.)

STATUS REPORT ORDER AND PENALTY

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 record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On March 12, 2019, the Commission issued an Order Assessing Penalty (Penalty Order) and determined Tempo Telecom, LLC (Tempo) had failed to timely comply with KUSF reporting requirements by not filing Carrier Remittance Worksheets (CRW) when due and making recurring delinquent KUSF assessment payments. As part of the Penalty Order, the Commission adopted the Staff recommendation to monitor Tempo for a period of a year and to have Staff submit quarterly updates to assess whether or not additional sanctions would be warranted. This determination was based on a finding that Tempo had committed 49 violations related to delinquent filings and late payments through November 2018 and resulted in a penalty assessment of \$7,350.00 under K.S.A. 66-138(a)(2), which was established by implementing a \$150.00 penalty for each monthly filing delinquency occurring through that period.

2. Tempo has its corporate headquarters in Atlanta, Georgia, and offers wireless telecommunication services in Kansas.¹ It is an Eligible Telecommunications Carrier (ETC) under the federal Lifeline program.²

3. On August 1, 2019, the Staff submitted a Report and Recommendation dated July 29, 2019 that was based on its investigation in conjunction with responsibilities to submit a quarterly status report under the Penalty Order. The Staff determined that Tempo had paid its outstanding penalties and was in compliance with its KUSF obligations for the period from March through June 2019. However, Staff found Tempo had failed to timely submit CRWs for the month of April 2019 and did not pay its March, April and May 2019 assessments to the KUSF by the due date. Staff further noted Tempo was assessed penalties for the four delinquent filing violations in the amount of \$201.15 and had paid penalties with the exception of a \$.30 penalty administered for June 2019.

4. Based on the Staff review, it recommended penalties be assessed in the amount of \$150.00 for each of the four violations that were identified for a total penalty of \$600.00. It advised the Commission to issue an Order directing Tempo to remit payment of the \$600.00 in penalties within twenty-one days of the issuance of the Order.

5. The Commission has reviewed the Staff Report and Recommendation, which is attached to the Order and made part of it by reference, and adopts the Staff's recommendations.

6. K.S.A. 2018 Supp. 66-2008(a) authorizes the Commission to require carriers, including wireless telecommunications service providers, to contribute to the KUSF on an equitable and non-discriminatory basis. The Commission has issued orders under its statutory

¹ FCC Form 499 Filer Database (last reviewed July 12, 2018).

² Order Granting Eligible Telecommunications Carrier Status in Kansas, Docket No. 13-BTKT-403-ETC, June 5, 2013 (13-403 Order), and Order Granting Expanded Eligible Telecommunications Carrier Status in Kansas, Docket No. 14-BTKT-051-ETC, September 10, 2013 (14-051 Order).

mandate to provide registration and timely reporting and assessment payments. Tempo failed to make timely contributions to the KUSF and to meet its reporting and payment obligations for the month of April 2019. It therefore violated K.S.A. 2018 Supp. 66-2008 (a).

7. K.S.A. 2017 Supp. 66-138(a)(2) provides the Commission with authority to levy fines and penalties against a telecommunications carrier for violating statutes under which the Commission has a duty to act, refusing to comply or obey any lawful Commission requirement and failing to abide by any Commission order. A sum not less than \$100 and no more than \$5,000 may be assessed against a violator for each offense. The statutory penalties for violating Commission statutes, orders and rules and regulation are applicable to Tempo and it is determined that Tempo pay a penalty of \$150.00 for each of the four violations identified by Staff in its Report and Recommendation for a total penalty of \$600.00.³ The total payment is to be made within twenty-one (21) days of the mailing of this Order.

8. This Order is issued as part of the Staff's directive to conduct a quarterly review of Tempo and the requirement to submit quarterly updates regarding Tempo's compliance with KUSF reporting and payment obligations. The review process has been placed into effect in light of the numerous reporting and payment violations that have occurred since Tempo was granted authority to be an ETC in 2013. The review process was established to determine if additional sanctions are warranted as a result of Tempo not complying with KUSF reporting and payment requirements. Staff has noted partial compliance by Tempo as a result of the review process, but also has highlighted the four violations giving rise to additional penalties. The review process was also implemented to permit an assessment regarding Tempo's continued operation as an ETC.

³ Attachment 1 to the Staff Report and Recommendation dated April 22, 2019.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Tempo Telecom, LLC is assessed a civil penalty of \$600.00 for four violations related to failing to remit its April 2019 CRW and to timely pay its KUSF assessments for March, April and May 2019. It also is delinquent in paying \$0.30 for June 2019 penalty assessment.

B. Payment of the penalties and the outstanding assessment in the amount of \$0.30 is due within twenty-one (21) days of the mailing of this Order. Payment shall reference the Docket, and be made to the Commission, addressed to the Commission fiscal office, 1500 SW Arrowhead, Topeka, Kansas 66604-4027. If the penalty is not timely paid, the Commission may consider canceling, suspending or revoking Tempo's federal ETC designation in Kansas.

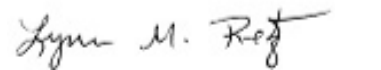
C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).⁴

D. 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.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 08/15/2019



Lynn M. Retz
Executive Director

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⁴ K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Dwight D. Keen
Commissioner Shari Feist Albrecht
Commissioner Susan K. Duffy

FROM: Sandy Reams, Assistant Chief of Telecommunications
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

Date: July 29, 2019

Re: Docket No. 19-TEMT-082-SHO
In the Matter of a General Investigation for Tempo Telecom, LLC to Show Cause Why this Commission Should Not Initiate Sanctions and Fines and/or Revoke Eligible Telecommunications Carrier Designation the Carrier Currently Holds.

EXECUTIVE SUMMARY

In its March 12, 2019 *Order Assessing Penalty* (Penalty Order), the Commission directed Staff to submit quarterly status reports regarding Tempo Telecom, LLC's (Tempo) compliance with its Commission and Kansas Universal Service Fund (KUSF) obligations to assist the Commission in its determination as to whether additional sanctions against Tempo are appropriate.¹ In its May 14, 2019 *Status Report Order and Penalty* (Status Order), the Commission directed Tempo to pay \$339.33 of delinquent assessments owed to the Commission, levied an additional \$600 penalty to Tempo, and ordered Tempo to pay the \$939.33 within 21 days of the Status Order's mailing.²

Staff recommends the Commission issue an Order to find Tempo: 1) paid all delinquent Commission assessments and penalties levied in this Docket; 2) is in compliance with its KUSF obligations for March through June 2019; and 3) incurred four KUSF violations during the four-month period. Staff also recommends the Commission levy a \$150 penalty per KUSF violation, for a total penalty of \$600, to Tempo.

BACKGROUND

The Commission opened this Docket on August 28, 2018, to address Tempo's failure to comply

¹ Order Assessing Penalty, Ordering ¶ B, March 12, 2019.

² Status Report Order and Penalty, Docket 19-082, May 14, 2019.

with its KUSF obligations.

The Commission, in its Penalty Order, assessed Tempo a \$7,350 penalty based on the number and duration of its KUSF violations. The Commission directed Tempo to pay the penalty within 21 days of the mailing of the Order, which Tempo did.³ The Commission also directed Staff to file quarterly updates regarding Tempo's compliance with its obligations.

Staff's first Status Report dated April 22, 2019, advised the Commission that Tempo incurred four KUSF violations for the months of December 2018 through February 2019 and recommended the Commission levy a \$600 KUSF penalty to Tempo. Staff also advised that Tempo owed \$339.33 in Commission assessments.

On May 14, 2019, the Commission issued the Status Order in which it levied a \$600 KUSF penalty to Tempo and directed Tempo to pay the \$339.33 in assessments, with both payments due within 21 days of mailing the Status Order, or June 4, 2019. Tempo paid the KUSF penalty and Commission assessments on May 30, 2019.

ANALYSIS:

Attachment 1 lists each required KUSF filing and payment, the due date for each, and the date GVNW received Tempo's filing and assessment payment. While Tempo is now in compliance with its KUSF obligations for March through June 2019, the Company incurred four KUSF violations for the months of March through June 2019. Specifically, Tempo filed its April 2019 Carrier Remittance Worksheet (CRW) and paid its March, April, and May 2019 assessments to the KUSF after the due date. GVNW assessed Tempo \$201.15 in KUSF penalties for the four violations. Tempo paid the KUSF penalties, with the exception of a \$.30 penalty assessed in June.

Tempo has paid all Commission assessments and penalties levied in this Docket.

RECOMMENDATION

Staff recommends that the Commission issue an Order finding Tempo: (1) paid its Commission assessments and all penalties levied by the Commission in this Docket; (2) is current with its March through June 2019 KUSF obligations; and (4) paid all KUSF penalties assessed by GVNW with the exception of the \$.30 penalty levied in June. Staff also recommends that the Commission assess an additional \$150 penalty per KUSF violation, or a total penalty of \$600, with payment due within 21 days of mailing the Order.

³ Penalty Order, Ordering ¶ C.

KUSF Delinquent Chart
For Fiscal Year (FY) 23
Tempo Telecom, LLC- KS004211

Attachment 1

Required Filing	Due Date	Delinquent Notification Date	Notification Recipient(s)	Date Remitted/Paid
FY 23 (March 2019 - February 2020)				
March 2019 CRW and Assessment Payment	April 15, 2019			April 11, 2019 (CRW); April 16, 2019 (Payment)
April 2019 CRW and Assessment Payment	May 15, 2019			May 22, 2019 (CRW) & May 28, 2019 (Payment)
May 2019 CRW and Assessment Payment	June 17, 2019			June 13, 2019 (CRW); June 18, 2019 (Payment)
June 2019 CRW and Assessment Payment	July 15, 2019			July 3, 2019 (CRW); July 9, 2019 (Payment)
*Violations denoted in Red				

CERTIFICATE OF SERVICE

19-TEMT-082-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 08/15/2019.

MICHELLE ANSLEY, CHIEF ADMINISTRATIVE OFFICER
TEMPO TELECOM, LLC
115 GATEWAY DR
MACON, GA 31210
michelle.ansley@lingo.com

BRIAN G. FEDOTIN, DEPUTY GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
b.fedotin@kcc.ks.gov

SHARYL FOWLER, REGULATORY & LIFELINE
COMPLIANCE MANAGER
TEMPO TELECOM, LLC
115 GATEWAY DR
MACON, GA 31210
sharyl.fowler@lingo.com

WALKER HENDRIX, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
w.hendrix@kcc.ks.gov

NICOLE STEPHENS, KUSF ADMINISTRATOR MANAGER
GVNW CONSULTING, INC.
2930 MONTVALE DRIVE, STE. B
SPRINGFIELD, IL 62704
Fax: 719-594-5803
nstephens@gvnw.com

JUDI USHIO, MIDWEST DIVISION MANAGER
GVNW CONSULTING, INC.
2270 LA MONTANA WAY, Ste 100
COLORADO SPRINGS, CO 80918
Fax: 719-594-5803
jushio@gvnw.com

/S/ DeeAnn Shupe
DeeAnn Shupe
