

**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 Ionex)
Communications, LLC to Show Cause Why)
This Commission Should Not Initiate Sanctions)
and Fines and/or All Certificates of Convenience) Docket No. 19-ICIT-179-SHO
and Authority the Company Holds be Suspended,)
Canceled, or Revoked for Non-Compliance)
With Kansas Statutes and Commission Orders.)

ORDER NUNC PRO TUNC

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

1. On May 21, 2019, the Commission issued a *Status Report Order and Penalty* in this Docket as part of the monitoring process approved by the Commission in its *Order Assessing Penalty* dated March 14, 2019. The Order inadvertently did not include the Staff Report and Recommendation dated April 22, 2019, as set forth in the paragraph No. 5 of the *Status Report Order and Penalty* dated May 21, 2019. This *Order Nunc Pro Tunc* has the Staff Report and Recommendation attached and is incorporated as referenced in the *Status Report Order and Penalty*.

2. Accordingly, the Commission finds that the Order dated May 21, 2019, should be supplemented to include the Staff Report and Recommendation.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. To correct the inadvertent error in not attaching the Staff Report and Recommendation dated April 22, 2019 to the *Status Report Order and Penalty* dated May 21, 2019, the Staff Report and Recommendation is duly attached to this *Order Nunc Pro Tunc*.

B. The Commission retains jurisdiction over Lingo Communications Midwest, LLC, f/n/a Ionex Communications, LLC and the subject matter of this Docket for the purpose of issuing such additional orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 07/16/2019



Lynn M. Retz
Executive Director

wah

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Dwight D. Keen
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

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

Date: April 22, 2019

Re: Docket No. 19-ICIT-179-SHO
In the Matter of a General Investigation for Ionex Communications, LLC to Show Cause Why this Commission Should Not Initiate Sanctions and Fines and/or all Certificates of Convenience and Authority the Company Holds be Suspended, Canceled, or Revoked for Non-Compliance with Kansas Statutes and Commission Orders.

EXECUTIVE SUMMARY

On March 14, 2019, the Commission issued its *Order Assessing Penalty and Commencing Commission Monitoring* (Penalty Order) levying a \$2,900 penalty to Ionex Communications, LLC (Ionex). The Commission directed Staff to file quarterly status updates regarding the Company's compliance with its obligations. Effective March 5, 2019, Ionex changed its name to Lingo Communications Midwest, LLC (Lingo).¹ On March 26, 2019, the Commission issued an Order clarifying the penalty payment due date.²

Staff submits its first Status Report and Recommendation (R&R) to advise the Commission that Lingo timely paid the \$2,900 penalty and is in compliance with its monthly Kanas Universal Service Fund (KUSF) obligations for the March 2018 through February 2019 Fiscal Year (FY 22). Lingo, however, owes \$127.86 in KUSF penalties as a result of submitting its December 2018 Carrier Remittance Worksheet (CRW) and paying the related assessment after the due date and owes \$445.92 of assessments to the Commission.³ Staff, therefore, recommends that the

¹ Order Approving Name Change, Docket No. 19-ICIT-226-CCN, (CLEC), March 5, 2019; and Order Approving Name Change, Docket No. 19-ICIC-227-CCN (IXC), March 5, 2019.

² Order on Payment of Penalty Assessment, Docket No. 19-ICIT-179-SHO, March 26, 2019.

³ Invoice No. 2019001906, dated Feb. 15, 2019.

Commission issue an Order assessing Lingo a \$100.00 penalty per violation, for a total penalty of \$300 for its KUSF violations. Staff also recommends the Commission issue an Order directing Lingo to pay the \$127.86 of KUSF penalties and the \$445.92 of Commission assessments within 21 days of mailing of a Commission Order. Staff also recommends that the Commission consider whether additional penalties should be levied to Lingo for failure to pay Commission assessments in a timely manner.

BACKGROUND

K.S.A. 66-2008(a) requires every telecommunications carrier, telecommunications public utility, wireless telecommunications service provider, and interconnected Voice over Internet Protocol (VoIP) service to contribute to the KUSF based on its intrastate telecommunications services net retail revenues.

On November 6, 2018, the Commission issued its Show Cause Order and directed Lingo to show cause, within thirty-days of receipt of the Order, why it should not be subject to fines, sanctions, and/or its Certificates of Convenience and Authority (COC) to operate as a competitive local exchange carrier (CLEC)⁴ and interexchange carrier (IXC)⁵ revoked.

On December 6, 2018, Lingo filed its Response to the Show Cause Order, stating it had: (1) come into compliance with its obligations; (2) undertaken organizational and regulatory reporting changes; and (3) paid all penalties assessed by GVNW Consulting, Inc. (GVNW), the KUSF Administrator.⁶ Lingo stated that additional penalties were not warranted and its COCs should not be suspended, cancelled, or revoked.

On December 14, 2018, Staff filed its Reply to Lingo and explained that, on the day that its Response to the Show Cause Order was due, Lingo came into compliance with its KUSF obligations for the months of May through November 2018.⁷ Staff explained Lingo was delinquent 18 times with its KUSF obligations, with many of these including two separate KUSF obligation violations - the remittance of its CRW and payment of its KUSF assessment – bringing the total number of violations to 29. Staff, therefore, recommended that the Commission assess Lingo a penalty of no less than \$100 per violation, for a total penalty of \$1,800 up to \$2,900.

On March 14, 2019, the Commission issued its Penalty Order and assessed a \$100 penalty for each of the 29 violations, for a total penalty of \$2,900 assessed against Lingo. The Commission also found it will monitor Lingo's compliance with its obligations for a year and directed Staff to file quarterly updates regarding the Company's compliance with its Kansas obligations.

On March 26, 2019, the Commission issued the Payment Order to clarify Lingo was required to pay the penalty within 21 days of the mailing of the Payment Order.⁸ The Commission's Fiscal Division processed Lingo's payment of the \$2,900 penalty on March 19, 2019.

⁴ *Order and Certificate*; Docket No. 00-ICIT-758-COC; March 20, 2000 (00-758 Order).

⁵ *Order and Certificate*; Docket No. 00-ICIC-759-COC; March 20, 2000 (00-759 Order).

⁶ Ionex Communications, LLC Response to Order to Show Cause.

⁷ Staff's Reply to Ionex Communications, LLC's Response to Order to Show Cause, ¶ 3, Dec. 14, 2018.

⁸ Payment Order, Ordering ¶ A.

Attachment 1 to this Report includes a chart showing Lingo's KUSF activity for the March 2018 through February 2019 KUSF Fiscal Year (FY 22), the penalty assessed by the Commission for each month through November 2018, and Staff's proposed penalties for violations for the month of December 2018 and failure to pay KUSF penalties.

Lingo owes \$445.92 of Commission assessments.⁹

ANALYSIS:

Attachment 1 shows Lingo remitted its December 2018 CRW and the assessment payment on February 12, 2019. Lingo timely remitted its January and February 2019 CRWs and assessment payments. Lingo has been assessed KUSF penalties, but has not paid the penalties.

The delinquency for the month of December 2018 includes two separate violations – the filing of the CRW and the payment of the assessment. GVNW has assessed Lingo \$127.86 in KUSF penalties pursuant to Commission Order, but Lingo has not paid the penalties.

Lingo owes \$445.92 of assessments to the Commission.

Consistent with the Penalty Order, a penalty of \$100 per KUSF obligation violation would result in a total penalty of \$300. An additional penalty may be appropriate since Lingo has not timely paid its Commission's assessments.

RECOMMENDATION

Staff recommends that the Commission assess Lingo a total penalty of \$300 for failure to comply with its KUSF obligations. The Commission should consider if further penalties are appropriate since Lingo owes \$445.92 of assessments to the Commission. Staff recommends the Commission direct Lingo to pay the \$127.86 of penalties to the KUSF, the \$300 KUSF violation penalty, and the \$445.92 of Commission assessments within 21 days of the mailing of the Order.

⁹ Invoice No. 2019001906, dated Feb. 15, 2019.

KUSF Delinquent Chart
For FY 22
Lingo Communications Midwest, LLC

Attachment 1

Delinquent Item	Due Date	Delinquent Notification Date	Notification Recipient(s)	Date Remitted/Paid	KCC Penalty
FY 22 (March 2018 - February 2019)					
FY 22 Company Identification & Operations Form (Attachment B)	April 16, 2018	May 29, 2018	Ms. Fowler (Ionex)	June 4, 2018 - Monthly Reporting Frequency	\$ 100.00
May 2018 CRW & Assessment Payment	June 15, 2018	July 25, 2018 August 28, 2018 September 25, 2018	Ms. Thomasson (Ionex) Ms. Thomasson (Ionex) Mr. Ardyevyev (Ionex); Compliance Solutions	December 6, 2018 - CRW: December 10, 2018 - Assessment Payment December 6, 2018 - CRW: December 10, 2018 - Assessment Payment December 6, 2018 - CRW: December 10, 2018 - Assessment Payment	200.00
June 2018 CRW & Assessment Payment	July 16, 2018	August 28, 2018 September 25, 2018	Ms. Thomasson (Ionex) Mr. Ardyevyev (Ionex); Compliance Solutions	December 6, 2018 - CRW: December 10, 2018 - Assessment Payment December 6, 2018 - CRW: December 10, 2018 - Assessment Payment	200.00
July 2018 CRW & Assessment Payment	August 15, 2018	September 25, 2018	Mr. Ardyevyev (Ionex); Compliance Solutions	December 6, 2018 - CRW: December 10, 2018 - Assessment Payment	200.00
August 2018 CRW & Assessment Payment	September 17, 2018	October 25, 2018	Mr. Ardyevyev (Ionex); Compliance Solutions	December 6, 2018 - CRW: December 10, 2018 - Assessment Payment	200.00
September 2018 CRW & Assessment Payment	October 15, 2018	November 26, 2018	Mr. Ardyevyev (Ionex); Compliance Solutions	December 6, 2018 - CRW: December 10, 2018 - Assessment Payment	200.00
October 2018 CRW & Assessment Payment	November 15, 2018	N/A - not 30 days past due		December 6, 2018 - CRW: December 10, 2018 - Assessment Payment	200.00
November 2018 CRW & Assessment Payment	December 17, 2018	N/A - received timely		December 6, 2018 - CRW: December 10, 2018 - Assessment Payment	-
STATUS UPDATE:					
December 2018 CRW & Assessment Payment	January 15, 2019	N/A - not 30 days past due		February 12, 2019 - CRW; February 14, 2019 - Assessment Payment	\$ 200.00
Late worksheet/Late payment/Delinquent Balance Penalties	April 4, 2019 (127.86)	Mr. Ardyevyev (Ionex); Compliance Solutions		Not yet received	\$ 100.00
January 2019 CRW & Assessment Payment	February 15, 2019	N/A - received timely		February 12, 2019 - CRW; February 14, 2019 - Assessment Payment	-
February 2019 CRW & Assessment Payment	March 15, 2019	N/A - received timely		March 14, 2019 - CRW; March 15, 2019 - Assessment Payment	-
FY 22 Annual True-Up	April 15, 2019	N/A - received timely			-
				Additional Penalties Proposed	\$ 300.00

CERTIFICATE OF SERVICE

19-ICIT-179-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 07/16/2019.

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

MICHAEL DUENES, ASSISTANT GENERAL COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
m.duenes@kcc.ks.gov

SHARYL FOWLER, MANAGER, REGULATORY
ADMINISTRATION
LINGO COMMUNICATIONS MIDWEST, LLC
320 INTERSTATE NORTH PKWY SE
ATLANTA, GA 30339
Fax: 816-300-3247
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
