

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Audit of NE Colorado Cellular, Inc.)
d/b/a Viaero Wireless by the Kansas Universal Service)
Fund (KUSF) Administrator Pursuant to K.S.A. 2016) Docket No. 18-NECZ-040-KSF
Supp. 66-2010(b) for KUSF Operating Year 20, Fiscal)
Year March 2016-February 2017.)

**ORDER ACCEPTING AND ADOPTING GVNW CONSULTING, INC.'s
AUDIT REPORT AND RECOMMENDATIONS**

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 August 1, 2017, the Commission directed GVNW Consulting, Inc. (GVNW) to perform an audit of NE Colorado Cellular, Inc. d/b/a Viaero Wireless (Viaero) for Kansas Universal Service Fund (KUSF) purposes.

2. On April 26, 2018, GVNW filed its Audit Report of even date covering GVNW's audit of Viaero stating that the company is current with its KUSF obligations. GVNW's Audit Report identifies and describes in detail three reporting deficiencies, including the applicable reporting standards, resulting in the following audit findings and recommendations:

Audit Finding No. 1:

Standard: Carriers contributing to the KUSF are to report gross revenues prior to recognizing any customer discounts for KUSF reporting purposes through June 30, 2016.¹ Effective July 1, 2016, companies are authorized to report revenues to the KUSF net of customer discounts, consistent with their reporting for Federal USF purposes.

¹ Order Adopting KUSF Assessment Rate for Year Eighteen of KUSF Operations, 14-GIMT-105-GIT, January 23, 2014 and Order Closing Docket, July 19, 2016.

Finding: Viaero reported revenues to the KUSF after deducting discounts to customers. The discounts reduced Viaero's Kansas intrastate revenues reported to the KUSF, resulting in the Company under-paying its KUSF assessments by \$1,204.89 for the period of March through June 2016.

Recommendation: The Company should be directed to submit Audit True-ups for the period of March through June 2016 and pay the additional \$1,204.89 to the KUSF within thirty (30) days of the Commission's issuance of an Order in this Docket. GVNW will address Viaero's compliance with this audit finding in its Compliance Report.

Audit Finding No.2:

Standard: For Lifeline customers, the total gross intrastate customer charge prior to any Federal or State Lifeline credit or discount reimbursements is to be reported to the KUSF.²

Finding: Viaero did not report revenues associated with the gross monthly recurring charge prior to recognizing federal or state Lifeline credits to the KUSF for the months of April 2014-March 2018. The Company reported only the total number of monthly Kansas Lifeline subscribers to the KUSF in order to determine the Lifeline discount credit. Therefore, Viaero under-reported revenues to the KUSF and owes an additional \$723.71 to the KUSF. Viaero stopped this reporting practice effective with the April 2018 data to be reported in May 2018.³

Recommendation: The Commission should direct Viaero to submit Audit True-ups for April 2014 through March 2018 to correct this audit deficiency and pay \$723.71 in additional assessments to the KUSF within thirty (30) days of the issuance of an Order. GVNW will address Viaero's compliance with this audit finding in its Compliance Report.

Audit Finding No. 3

Standard: International revenues are excluded from the calculation of the KUSF assessment.⁴

Finding: The Company applied the KUSF surcharge to non-assessable international revenues and reported the related revenues to the KUSF. As a result, Viaero over-collected its surcharge from customers with international plans and over-paid \$534.67 to the KUSF for the period March 2016 through December 2017. The

² Kansas Universal Service Fund (KUSF) Carrier Remittance Worksheet Instructions dated March 9, 2016, effective March 2016-February 2017 (FY20). *See also* Order Accepting and Adopting GVNW Consulting, Inc.'s Audit Report and Recommendations, 17-TFWZ-022-KSF, June 22, 2017 and Order Accepting and Adopting GVNW Consulting, Inc.'s Audit Report and Recommendation, 17-VMBZ-023-KSF, July 11, 2017.

³ Audit Report, page 4.

⁴ Order; 47 C.F.R. 214(e)(1), Docket No. 94-GIMT-478-GIT, December 27, 1996.

Company corrected the error effective with the January 2018 data reported in February 2018.

Recommendations: Viaero should be required to issue \$534.67 in refunds to its current international service customers through one-time equal billing credits. The KCC should direct the Company to complete the one-time refund within sixty (60) days from the date of the Commission's Order and provide GVNW with an affidavit, executed by an officer of the Company, attesting to the customer refunds and total amount of the refund. Viaero should also be directed to provide, to GVNW, copies of customer bills to substantiate that Viaero issued the refunds within the sixty (60) day period. If Viaero is unable to complete the ordered refunds within the sixty (60) day period, the Company should file an explanation explicitly outlining why the Company is unable to comply with the sixty (60) day refund requirement and the timeframe within which the Company expects the refund to be completed, with the Commission. GVNW will address Viaero's compliance with this audit finding in its Compliance Report.

3. Separately, GVNW provided a follow-up regarding deficiencies reported from its KUSF audit of Viaero in Docket No. 15-NECZ-051-KSF, which included the following:

Finding No. 1: The Company reported calculated revenues based on the KUSF assessment amount billed to customers divided by the KUSF assessment rate.

Audit Finding Compliance: GVNW confirms that this reporting practice has been discontinued.

Finding No. 2: Viaero did not identify customer revenue to the Kansas jurisdiction based on a customer's Primary Place of Use (PPU).

Audit Finding Compliance: Viaero uses PPU to identify Kansas jurisdictional revenues.

Finding No. 3: The Company did not consistently collect the approved KUSF assessment rate from customers.

Audit Finding Compliance: GVNW's review of the Company's subscriber bills verifies that Viaero used the correct assessment rate.

Finding No. 4: Viaero did not submit Quarterly and/or Annual True-ups, as appropriate, to report its actual Kansas intrastate revenue.

Audit Finding Compliance: Viaero remits an Annual True-up to reflect revenue corrections or adjustments to the Company's books.

Audit Finding No. 5 – Policy: Viaero reported revenue to the KUSF net of customer discounts.

Audit Finding Compliance: Refer to Audit Finding No. 1.

4. The Commission has reviewed GVNW's KUSF Audit Report filed in this matter on April 26, 2018, and finds that it should accept and adopt the Audit Report and recommendations contained therein.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission accepts and adopts GVNW Consulting, Inc.'s Audit Report and recommendations filed in this matter on April 26, 2018.

B. With respect to Audit Finding No. 1, NE Colorado Cellular, Inc. d/b/a Viaero Wireless is directed to submit Audit True-ups for the period of March through June 2016 and pay the additional assessment of \$1,204.89 to the KUSF for the period of March through June 2016, with said submission of True-ups and payment to be completed within thirty (30) days from the date of this Order. Upon GVNW's receipt, review, and acceptance of Viaero's True-up and the Company's payment of \$1,204.89 to the KUSF, GVNW is directed to submit a Compliance Report to the Commission.

C. With respect to Audit Finding No. 2, Viaero is directed to submit Audit True-ups for the period of April 2014 through March 2018 and pay the additional assessment of \$723.71 to the KUSF for the period of April 2014 through March 2018, with said submission of True-ups and payment to be completed within thirty (30) days from the date of this Order. Upon GVNW's receipt, review, and acceptance of Viaero's True-up and the Company's payment of \$723.71 to the KUSF, GVNW is directed to submit a Compliance Report to the Commission.

D. With respect to Audit Finding No. 3, Viaero is directed to issue \$534.67 in refunds to its current international service customers through one-time equal billing credits, with said one-time refunds to be completed within sixty (60) days from the date of this Order, and provide to GVNW an affidavit, executed by an officer of the Company, attesting to the customer refunds and total amount of the refund.⁵ Viaero is further directed to provide to GVNW copies of customer bills to substantiate that the Company issued the refunds within the sixty (60) day period. If Viaero is unable to complete the ordered refunds within the sixty (60) day period, it shall file with the Commission an explanation explicitly outlining why it is unable to comply with the sixty (60) day refund requirement and the timeframe within which the Company expects the refund to be completed. Upon Viaero's compliance with the foregoing requirements and completion of the refunds, GVNW is directed to submit a Compliance Report to the Commission.

E. GVNW's Compliance Report referencing the requirements under ordering paragraphs B, C, and D above shall be submitted within ninety (90) days from the date of this Order.

F. The parties have fifteen (15) days, plus three (3) 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. 2017 Supp. 77-529.

G. The Commission retains jurisdiction over NE Colorado Cellular, Inc. d/b/a Viaero Wireless and the subject matter of this Docket for the purpose of issuing such additional orders as it may deem necessary.

⁵ Amounts due to the Company and owed by the Company should be netted together by the KUSF Administrator for purposes of issuing a refund from the KUSF.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair, Emler, Commissioner; Keen, Commissioner

Dated: 05/03/2018



Lynn M. Retz
Secretary to the Commission

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CERTIFICATE OF SERVICE

18-NECZ-040-KSF

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 05/04/2018.

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