



GVNW CONSULTING, INC.

2270 LA MONTANA WAY#100
COLORADO SPRINGS, CO 80918
TEL. 719.594.5800
www.gvnw.com

June 28, 2018

Ms. Lynn M. Retz
Secretary to the Commission
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027

RE: Docket No. 18-ICIT-041-KSF
In the Matter of the Audit of Ionex Communications, Inc. by the Kanas Universal Service Fund (KUSF) Administrator Pursuant to K.S.A 2015 Supp. 66-2010(b) for KUSF Operating Year 20, Fiscal Year March 2016-February 2017.

Dear Ms. Retz:

In its August 1, 2017 Order, the Kansas Corporation Commission (KCC) directed GVNW to perform a KUSF carrier audit of Ionex Communications, Inc. (Ionex or Company).¹

The KCC directed GVNW to file two (2) Audit Reports, if applicable, with one containing confidential information and one with the confidential data redacted for public disclosure. GVNW is filing both a confidential and a redacted Audit Report due to Ionex requesting confidential treatment for Attachments B, C, E, F and G. Ionex, citing a Commission order,² states any information provided to the KUSF administrator is confidential. Ionex's request for confidential designation is included with the Attachments.

GVNW disagrees that Attachments C, E, and F meet the threshold for confidential designation as they do not contain company: 1) specific revenue data; 2) customer information; 3) sensitive employee information; 4) marketing data; 5) reports, workpapers or other documentation related to internal or external auditor or consultants; nor 6) contract negotiation strategies and/or trade secret information.³ GVNW requested that Ionex withdraw its request for confidential designation for Attachments C, E, and F;⁴ however, at the time of this filing, the Company has not responded. GVNW has, therefore, filed Attachments C, E, and F as confidential.

¹ On March 21, 2018, the Company submitted a Notice of Change of Company Name in Docket No. 18-ICIT-412-CCN to change its name to Ionex Communications, LLC d/b/a Birch Communications.

² Ionex cited to a November 2, 1998 Order in Docket No. 94-GIMT-478-GIT. GVNW believes the correct cite is the Order, dated October 30, 1998 (478 October Order). In the 478 October Order, ¶18, the Commission determined, "although the requested information is not subject to public review or disclosure by the fund administrator under KORA, in this Commission proceeding, it is available for limited review if the standards governing the examination of confidential and proprietary information are met."

³ *Ibid.*, See also K.S.A. 66-1220a, Kansas Administrative Regulation 82-1-221a; and Order On Prehearing Motions, Docket No. 16-KCPE-593-ACQ, January 26, 2017.

⁴ K.A.R 82-1-221a(b)(2).

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 will be provided by GVNW upon request.

Sincerely,

A handwritten signature in black ink, appearing to read 'DW', with a stylized flourish extending to the right.

David Winter
Senior Consultant

cc w/encl: Sandy Reams

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

In the Matter of the Audit of Ionex)
Communications, Inc. by the Kansas)
Universal Service Fund (KUSF)) Docket No. 18-ICIT-041-KSF
Administrator Pursuant to K.S.A. 2016)
Supp. 66-2010(b) for KUSF Operating)
Year 20, Fiscal Year March 2016-)
February 2017

KANSAS UNIVERSAL SERVICE FUND AUDIT REPORT

Prepared By: David Winter
Blake Young
GVNW Consulting, Inc.

Company Representatives: Sharyl Fowler – Manager, Regulatory Administration
Elena Thomasson – Transaction Taxes Manager

Date of On-Site Visit: February 6 - 7, 2018

Date Submitted to Company: June 13, 2018

Audit Summary

Based on the Kansas Universal Service Fund (KUSF) Carrier Review Procedures for Operating Year 20,¹ GVNW Consulting, Inc. (GVNW) identified two (2) reporting deficiencies regarding Ionex Communications, Inc.² (Ionex or Company) with a net impact of an additional \$1,856.36 paid to the KUSF:

- Finding No. 1: The Company reports calculated revenues to the KUSF based on the KUSF assessment collected from subscribers and recorded as a KUSF liability. The aggregate monthly KUSF liability is divided by the assessment rate to determine the revenues reported in the monthly report. Based on additional audit testing, GVNW concludes Ionex met its KUSF obligations for revenue represented by the calculated revenue; however, as discussed in Finding No. 2, the Company did not report all revenue.
- Finding No. 2: Ionex failed to report its December 2016 revenues or pay the related assessments to the KUSF, even though the Company collected the KUSF surcharge from its subscribers. On June 8, 2018, the Company submitted a

¹ Order Accepting GVNW's KUSF Year 20 Audit Selections, Proposed Revisions to Selection Criteria and Audit Review Procedures, Docket No. 16-GIMT-067-GIT, July 25, 2017 (16-067 Order).

² On March 21, 2018, the Company submitted a Notice of Change of Company Name in Docket No. 18-ICIT-412-CCN to change its name to Ionex Communications, LLC d/b/a Birch Communications.

Revised December 2016 Carrier Remittance Worksheet (CRW) and revenues to the KUSF Administrator and, on June 11, 2018, remitted \$1,856.36 of related assessments. The Company is subject to Commission approved late payment penalties.³

GVNW recommends that the Kansas Corporation Commission (KCC or Commission) issue an Order to: (1) adopt the findings and recommendations of this Audit Report; and (2) close this Docket.

GVNW also recommends, based on Ionex's history of failing to comply with its statutory and regulatory KUSF obligations, as detailed in this Report and Attachment A, the Commission Staff be directed to initiate a show cause proceeding if the Company becomes delinquent with its KUSF obligations in the future.

Current KUSF Obligations

As detailed in GVNW's Administrative Division's Memorandum, included as Attachment A, Ionex has repeatedly failed to comply with its KUSF obligations including failing to submit monthly CRWs and assessment payments and its annual Company Identification and Operations form.⁴ GVNW Administration has assessed multiple penalties to Ionex, consistent with Commission Orders for failure to comply with its KUSF Obligations.

Ionex Response

Ionex takes its regulatory reporting obligations seriously, and regrets any prior delay in filing reports or responding to inquiries. The late filings for the Carrier Remittance Worksheet were due to misunderstandings of the due date of filings. The three late CRW reports (April, May, and June 2016) were postmarked by the US Postal Service on the 15th of the following month which was the third-party preparer's understanding of the due date. When we received notices of late filings, we realized that the due date was actually the date of receipt of the report. Ionex immediately implemented changes to correct this issue for future filings and as of July 2016 began online filings and making payment via electronic funds transfers instead of mailed paper copies and checks. Ionex had no late filings since this came to our attention.

Ionex has implemented changes in its regulatory reporting, and is in the process of contracting with a third-party to assist with the management of the multi-state regulatory

³ The Company is subject to \$309.84 in penalties, of which the Company paid \$315.58, resulting in an overpayment of \$5.74. KUSF penalties include: Late Payment Penalties, Order, Docket No. 94-GIMT-478-GIT, Feb. 19, 1997; Late Carrier Remittance Worksheet (CRW) Penalties, Order, Docket No. 06-GIMT-332-GIT, Jan. 23, 2006; and Delinquent Balance Penalties, Order, Docket No. 10-GIMT-188-GIT, Jan. 23, 2010 Order.

⁴ The Company Identification and Operations form includes information about the company and company contacts for KUSF purposes and must be filed yearly by April 15th. See Order Setting the Kansas Universal Service Fund Assessment Rate for Year Ten and Establishing Reporting Requirements, Docket No. 06-GIMT-332-GIT, January 23, 2006 (06-332 Order).

reporting process. Ionex believes these changes are reflected in the information provided in Attachment A for FY 21 and FY 22, which show a significant reduction in delinquent filings. Ionex therefore disagrees with GVNW's recommendation since the issue was corrected immediately and corrective steps taken to prevent recurrence.

Background

Ionex is a competitive local exchange carrier (CLEC) and interexchange (IXC) service provider headquartered in Atlanta, Georgia. The Company is required to report its revenue and pay the related assessments to the KUSF on a monthly basis.⁵ Ionex is authorized to collect an amount equal to or less than its assessment from customers,⁶ and does so. The Company has not been designated as an Eligible Telecommunications Carrier (ETC) in Kansas, therefore, it does not offer Lifeline services to its subscribers.

Ionex bundles assessable and non-assessable services and reports total bundled revenues to the KUSF.⁷ The Company offers subscriber discounts⁸ and reports revenues to the KUSF net of discounts.⁹ Ionex, however, did *not* deduct discounts from revenues reported to the KUSF for the period March through June 2016; instead, it reported gross revenues¹⁰ consistent with the Commission Order.¹¹ Ionex does *not* use the same bundled service methodology to identify, report, and allocate revenue to the KUSF and the Federal Universal Service Fund (Federal USF).¹² For Federal USF reporting purposes, Ionex reports revenues from bundled telecommunications and CPE/enhanced services offering(s) based on the unbundled service offering prices.¹³

On August 1, 2017, the Commission issued Order No. 1 in Docket 18-041 directing GVNW to conduct an audit for KUSF purposes.

On May 4, 2018, Fusion Telecommunications International, Inc. (Fusion), a cloud service provider, merged with the cloud and business services of Birch Communications Holding, Inc. (Birch Communications). Ionex did not become a subsidiary of Fusion, but was spun-off to a newly formed holding company held by the existing owners of Birch Communications. Ionex represents that the merger will not affect Ionex's operations or KUSF reporting.¹⁴

⁵ Order Setting the Kansas Universal Service Fund Assessment Rate for Year Ten and Establishing Reporting Requirements, Docket No. 06-GIMT-332-GIT, January 23, 2006 (06-332 Order)

⁶ K.S.A. 66-2008.

⁷ Source: Ionex response to DR No. 7 (Attachment B).

⁸ Source: Ionex response to DR No. 15 (Attachment C).

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Order Adopting KUSF Assessment Rate for Year Eighteen of KUSF Operations, Docket No. 14-GIMT-105-GIT, January 23, 2014, and Order Closing Docket, July 19, 2016.

¹² *Ibid.* Footnote 6.

¹³ *Ibid.*

¹⁴ Source: Ionex response to DR No. 22 (Attachment D).

Audit Finding No. 1

Standard: Carriers are required to report actual intrastate retail revenues, and may report uncollectible revenue written off, to the KUSF to determine their KUSF assessment obligation.¹⁵

Finding: Ionex reported revenue based on the “total KUSF collected from customers”¹⁶ and “dividing by the KUSF rate to arrive to reportable revenues.”¹⁷ The KUSF surcharge collected from subscribers is “recorded in an accounts payable sub-ledger account.”¹⁸ The Company reports to the KUSF based on its monthly billing reports that provides detailed data broken-down by “taxing jurisdictions, exemptions, and taxable services.”¹⁹ For revenue represented by the calculated revenue, GVNW performed additional testing and determined that, based on Ionex’s assessment methodology, the KUSF assessment was properly applied to its subscribers’ total assessable revenues derived from its various recurring and non-recurring service plans (e.g. unlimited local and unlimited toll calling, call hunting, call forwarding, speed calling, etc.).

GVNW expanded its audit testing to include: (1) tracing the KUSF assessments collected from subscribers to the monthly KUSF revenue and expense accounts per the general ledger, (2) verification of monthly subscriber KUSF assessment collections; and (3) tracing the monthly KUSF gross assessment collections to the revenue reported on each respective CRW; and (4) verifying, for the test months, revenues reported to the KUSF were equal to or exceeded revenue recorded in Ionex’s general ledger. The results of GVNW’s testing for the audit period confirms that Ionex has met its KUSF obligations.

Recommendation: GVNW does not recommend any further actions at this time; however, Ionex should be reminded that it is required to ensure it meets its KUSF obligations and to submit Quarterly True-ups if there are material changes, billing errors or corrections, or changed circumstance that would result in a correction to its reported revenue or KUSF assessment obligation.

Audit Finding No. 2

Standard: Carriers are required to report actual intrastate retail revenues, and may report uncollectible revenue written off, to the KUSF to determine their KUSF assessment obligation.²⁰

¹⁵ See K.S.A. 66-2008(a), Docket No. 94-GIMT-478-GIT, Dec. 27, 1996 Order, ¶ 108-110; Feb. 3, 1997 Order, Attachment; and March 25, 1999 Order, ¶ 9, 31, 56. See also Docket No. 16-GIMT-517-GIT, Feb. 17, 2017 Order.

¹⁶ Source: Ionex response to DR No. 13 (Attachment E).

¹⁷ *Ibid.*

¹⁸ Source: Ionex response to DR No. 16 (Attachment F).

¹⁹ *Ibid.*

²⁰ *Ibid.* Footnote 14.

Finding: Ionex reported zero (\$0.00) Kansas intrastate retail revenues to the KUSF for the month of December 2016, but collected \$1,856.36²¹ in KUSF assessments from its subscribers.²² The Company provided two (2)²³ *certified*²⁴ filings to the KUSF Administrator to confirm it had zero (\$0.00) Kansas retail revenue for KUSF reporting purposes for the month (*emphasis added*). The KUSF Administrator and KCC Staff made numerous inquiries regarding this reporting anomaly without resolution.²⁵ Ionex represents that the Company did not report December 2016 revenues due to a data processing error to its third-party preparer.²⁶ And, that it tried to correct this reporting error in January 2017, but was unaware until recently that the December 2016 reporting error had not been corrected.²⁷

On June 8, 2018, Ionex submitted to the KUSF Administrator a revised December 2016 CRW and, on June 11, 2018, remitted payment of \$2,171.94, consisting of \$1,822.61 of assessments and \$349.33 of penalties.

Ionex Response

The December 2016 reporting issue was due to a data processing error, and was corrected as soon as Ionex was made aware of the issue. The error concerned one (1) month of KUSF reporting, and Ionex has paid the fines under K.S.A 66-138 and included 17 months of interest on the payment in connection with this reporting error. Ionex submits an additional fine is unnecessary and unjustified.

Recommendation: Ionex incorrectly interpreted the late penalties it was assessed, pursuant to Commission Orders governing the KUSF, with penalties applied pursuant to K.S.A 66-138. Furthermore, the December 2016 filing was a revision and, therefore, no late penalties were assessed to the Company. GVNW and Staff contacted Birch regarding the December 2016 filing to no avail. Since Ionex is not subject to any KUSF-penalties for failure to report its December 2016 revenues or pay the assessments, GVNW recommends that the Commission consider whether it is appropriate to assess fines pursuant to K.S.A. 66-138 for non-compliance with Commission Orders.

²¹ Source: Ionex response to DR No. 21 (Attachment G).

²² *Ibid.*

²³ Kansas Universal Service Fund Annual KUSF Assessment True-up Mar 2016 – Feb 2017 Fiscal Year filed with the KUSF Administrator on April 12, 2017 and December 2016 CRW filed with the KUSF Administrator on January 12, 2017.

²⁴ An officer of the company is required to “certify that I have examined this report and to the best of my knowledge and it is true, correct and complete.”

²⁵ KCC Staff emails to Ionex dated July 7, 13 and 14, 2017.

²⁶ *Ibid.* Footnote No. 20.

²⁷ *Ibid.*

IONEX - Request for Confidential Treatment

- On Attachment B, pages 1 and 2 – Ionex requests that its responses to the audit inquiries be redacted for the reasons set forth below.
- On Attachment C, page 1 – Ionex requests that its responses to the audit inquiries be redacted for the reasons set forth below.
- On Attachment E, pages 1 and 2 – Ionex requests that its responses to the audit inquiries be redacted for the reasons set forth below.
- On Attachment F, pages 1 and 2 – Ionex requests that its responses to the audit inquiries be redacted for the reasons set forth below.
- On Attachment G, pages 1 and 2 – Ionex requests that its responses to the audit inquiries be redacted for the reasons set forth below.

For the following reasons, Ionex Communications, LLC (“Ionex” or the “Company”) respectfully requests confidential treatment for the items listed above, which are the Company’s responses to the audit inquiries issued by GVNW Consulting, Inc. (“GVNW”). The Company provides this explanation in accordance with the requirements of K.A.R. 82-1-221a.

K.S.A. 66-2010(c) states “[a]ny information made available or received by the administrator from carriers, utilities or providers receiving funds from or providing funds to the KUSF shall not be subject to any provisions of the Kansas open records act and shall be considered confidential and proprietary.” The Kansas Corporation Commission has stated “[t]here is no dispute that information received from the telecommunications carriers, public utilities and wireless service providers, and in the hands of the fund administrator is not subject to release under [the Kansas Open Records Act].¹ In addition, the Company’s responses also are protected from public disclosure under K.S.A. 66-1220a, which states the Commission “shall not disclose to or allow inspection by anyone, including, but not limited to, parties to a regulatory proceeding before the commission, any information which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq., and amendments thereto) or any confidential commercial information of a corporation.”

Ionex is not publicly traded, and its responses contain data regarding the Company’s financial status, operations, and internal policies and procedures. The information contained in the responses is not routinely made available for public disclosure, and the Company takes efforts to maintain its confidentiality. The responses contain proprietary, sensitive, commercial, and financial information that is not publicly available and, if released, could be used by the Company’s competitors to cause competitive harm. The potential harm to Company is substantial, and the need for proprietary protection of this information outweighs any need for public disclosure at this time. As such, the Company’s responses fall within K.S.A. 66-1220a, are “trade secrets” as defined in K.S.A. 60-3320, and therefore are exempt from public disclosure.

In the event it is determined the Company’s responses should be made available to the public, the Company respectfully requests notice of that determination and an opportunity to appeal that determination prior the responses being made available for public inspection.



CONSULTING

KUSF MEMO

Date: June 26, 2018
To: David Winter, KUSF Auditor
From: Nicole Stephens, KUSF Compliance Administrator
RE: Ionex Communications, Inc. – KUSF Account KS002250

BACKGROUND

This Memorandum provides KUSF reporting for Ionex Communications, Inc. ("Ionex"), KUSF Account No. KS002250, for the March 2015 – February 2016 (FY 19), March 2016 – February 2017 (FY 20), March 2017 – February 2018 (FY 21) and March 2018 – February 2018 (FY 22) fiscal years (FY).

For FY 19, Ionex's KUSF delinquency included the following:

- FY 19 Attachment B was due on April 15, 2015. FY 19 Attachment B was over 30 days past due and received on May 20, 2015.

For FY 20, Ionex's KUSF delinquencies include the following:

- FY 20 Company Identification and Operations form, referred to as Attachment B, was due on April 15, 2016. FY 20 Attachment B was received on May 10, 2016;
- April 2016 Carrier Remittance Worksheet (CRW) and assessment payment, due May 16, 2016, were received May 20, 2016, with the Company incurring Late Worksheet¹ and Late Payment² penalties totaling \$140.51;
- May 2016 CRW and assessment payment, due June 15th, were received June 17, 2016, therefore, Ionex was assessed Late Worksheet and Late Payment penalties totaling \$121.65;
- June 2016 CRW and assessment payment were due July 15, 2016, but received July 18, 2016. Late worksheet and Late Payment penalties, totaling \$102.62, were assessed; and
- December 2016 CRW, due January 15, 2017, was received timely on January 12, 2017. However, the December 2016 CRW reported \$0.00 revenue for the period. Both GVNW and Staff sent numerous emails to the Company, beginning in January 2017, requesting that the

¹ Order, Docket No. 06-GIMT-332-GIT, 1/23/2006.

² Order, Docket No. 190-492-U (94-GIMT-478-GIT), 2/19/1997.

Company submit a Revised December 2016 CRW to report the actual revenue for the period and pay the related assessment. On June 8, 2018, the Revised December 2016 CRW was submitted and on June 11, 2018 the related assessment was paid. Late Payment penalties were assessed in accordance with Commission Order.

- Ionex did not timely remit payment of the total penalties (\$364.78), resulting in the Company being assessed a monthly Delinquent Balance³ penalty of 1.0% of the total balance each month. Although the Company was sent monthly Delinquent Notices, it did not pay the accrued penalties of \$383.39 until January 11, 2017.

For FY 21, Ionex is current with its reporting and payment obligations.

For FY 22, Ionex was delinquent in submitting its FY 22 Company Identification and Operations (Attachment B) Form, which was due by April 16, 2018. Ionex submitted its FY 22 Company Identification and Operations (Attachment B) Form on June 4, 2018.

In addition, Ionex has been sent numerous notifications from both the Kansas Corporation Commission Staff (Staff) and GVNW in regard to its reported revenues. Specifically, the Net KUSF Assessment due to the Fund each month is equal to the KUSF assessment collected from end-users, indicating the intrastate revenue reported to determine the KUSF Assessment owed due by the Company may be derived by dividing the reported assessment collected from end-users by the KUSF assessment rate

KPMG reports to the KUSF on behalf of Ionex. Both Staff and GVNW have contacted Ionex to request that the Company provide an explanation as to whether the reported assessments collected from customers and revenues are correct since the monthly KUSF assessment owed by the Company equals the assessment amount collected from customers. Despite the numerous requests, neither Staff nor GVNW has received a response. This was addressed in GVNW's Audit Finding # 2.

³ Order, Docket No. 10-GIMT-188-GIT, 1/13/2010.

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3220
Fax: 785-271-3357
<http://kcc.ks.gov/>

Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

March 2, 2017

Christopher Bunce, VP-Legal & Gen Counsel
Ionex Communications, Inc.
2323 Grand Blvd Ste 925
Kansas City, MO 64108-2670

Dear Mr. Bunce:

Ionex Communications, Inc. Company Identification Operations and Form identified KPMG, LLC (KPMG) as an agent for Kansas Universal Service Fund (KUSF) purposes. GVNW Consulting, Inc. (GVNW), the KUSF administrator, has advised Kansas Corporation Commission Staff (Commission and Staff, respectively) that the Company may not be in compliance with KUSF requirements. Specifically, a company is required to report its actual intrastate retail revenue and pay the related assessments for KUSF purposes; however, there is a concern that the Company may be reporting calculated intrastate retail revenue based on dividing the assessments collected from customers by the KUSF assessment rate.

Enclosed is a copy of Staff's letter to KPMG. We request the Company, and if applicable, KPMG, review the reporting procedures used for KUSF purposes to ensure compliance with Kansas statute and Commission policies. Such review should also ensure revenue reported for prior KUSF years reflect the Company's actual intrastate retail revenue to ensure the Company's KUSF records reflect actual intrastate retail revenue and the related KUSF assessments. Please contact Nicole Stephens, GVNW, at nstephens@gvnw.com or (217) 862-1510 if a revision to the reported revenues is necessary.

The Commission has authority to ensure a provider reports to the KUSF consistent with Kansas statute and Commission policies. K.S.A. 66-2010 requires GVNW to audit providers to ensure a provider is in compliance with its KUSF obligations. A provider may be recommended for an audit and/or a show cause proceeding to determine compliance with its KUSF obligations and/or if the assessment of sanctions or fines for failure to comply with Kansas statute and Commission orders, are warranted.

Your attention to this matter is appreciated.

Sincerely,

Sandy Reams
Assistant Chief of Telecommunications
Utilities Division
Kansas Corporation Commission
(785) 271-3130

Enc.

cc: Nicole Stephens

Utilities Division
1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3220
Fax: 785-271-3357
<http://kcc.ks.gov/>

Jay Scott Emler, Chairman
Shari Feist Albrecht, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

March 2, 2017

Karen Wilkins, Tax Manager
KPMG, LLP
1050 Crown Pointe Parkway, Suite 1500
Atlanta, GA 30338

Ms. Wilkins,

This letter requests that KPMG, LLP (KPMG) review its and its clients' Kansas Universal Service Fund (KUSF) reporting procedures to ensure compliance with Kansas statute and the Kansas Corporation Commission's (Commission) policies to ensure each client fulfills its KUSF obligations. GVNW Consulting, Inc. (GVNW), the KUSF administrator, has advised Commission Staff that KPMG and/or some of its clients' rely on KUSF processes to report revenue to the KUSF. The revenue reported, however, is calculated by dividing the assessment collected from end-user customers by the KUSF assessment rate; not the actual intrastate retail revenue of the provider.

K.S.A. 66-2008(a) requires all providers to report actual Kansas intrastate retail revenue and pay the related assessments to the KUSF. Effective July 1, 2016, K.S.A. 66-2008(a) was amended to allow a provider to report net intrastate retail revenue consistent with its contribution methodology for Federal Universal Service Fund (FUSF) purposes; however, the requirement to report intrastate retail revenue was not modified.¹

In 2016, GVNW began to send reminders to providers and agents reiterating the requirement to report actual intrastate retail revenue to the KUSF. This requirement is also detailed in the KUSF Instructions. Although K.S.A. 66-2008(a) authorizes providers to collect an amount equal to or less than their KUSF assessment obligation from end-user customers, the assessment collected from customers should not be used to calculate the revenue reported to the KUSF. Block C, entitled "KUSF Assessments Collected from Customers," is included on the Carrier Remittance Worksheet to provide a mechanism for GVNW and the provider to ensure it collects no more than its KUSF assessment obligation from customers.

Commission policies require a provider to submit a True-up within 45 days after the end of a reporting period if estimated revenue was reported.² Several of KPMG's clients have remitted True-ups to report actual revenue; however, not all clients have done so.

¹ The Commission implemented the amendments to Kansas statute in Docket No. 17-GIMT-517-GIT. Commission Orders and industry pleadings may be viewed at: <http://estar.kcc.ks.gov/estar/portal/kscs/page/docket-docs/PSC/DocketDetails.aspx?DocketId=ab6aeebe-771c-4545-9fc8-0a5733a02938>.

² January 13, 2010 Order, Docket No. 10-GIMT-188-GIT.

The Commission has authority to ensure each provider reports and pays contributions to the KUSF consistent with Kansas statute and Commission policies. K.S.A. 66-2010 requires GVNW to audit providers to ensure they report consistent with Kansas statute and Commission policies. Any provider may be recommended for a KUSF audit and/or assessment of sanctions or fines for failure to comply with Kansas statute and Commission orders.

Staff, therefore, requests a review of the procedures relied on for KUSF reporting processes to ensure each client fulfills its KUSF obligations. Such a review should also include revenue reported for the past several years to ensure all KUSF records reflect actual intrastate retail revenue and the related assessments. Please contact Nicole Stephens, GVNW, at nstephens@gvnw.com or (217) 862-1510 if a client needs to submit a revenue revision.

Your attention to this matter is appreciated.

Sincerely,



Sandy Reams
Assistant Chief of Telecommunications
Utilities Division
Kansas Corporation Commission
(785) 271-3130
s.reams@kcc.ks.gov

cc:	Nicole Stephens	Stephen Blair	Jerald Blakeney	Jennifer Cole
	Barbara Gibson	William Harris	Shantel James	Debbie Long
	Andy Mao	Fatou Mbenga	Noel Reynolds	Tracey Sawyer

Docket No. 18-ICIT-041-KSF

CONFIDENTIAL

Attachment B

To Kansas USF Audit Report

Dated 6/28/2018

**Ionex Communications, Inc. Follow Up Responses to
KUSF Carrier Audit Information Request**

Request No. 7

RE: Contribution Methodology\

Please provide the following information:

- a Provide the Company's internal KUSF reporting policies or procedures, including, but not limited to how the Company identifies and reports revenues derived from Lifeline subscribers, discounts and promotional service revenues, and bundled services to the KUSF.

RESPONSE: [REDACTED]

- b. If your Company offers assessable and non-assessable services in a bundle, does your Company report revenues to the KUSF based on the:
1. Unbundled service price of the assessable service;
 2. The total price of the bundle containing the service; or
 3. An alternative methodology. If the Company uses an alternative methodology to allocate bundled service revenue to the assessable services in a bundle, please provide a detailed description of the allocation methodology, including an example calculation.

RESPONSE: [REDACTED]

- c. If your company recognizes any end-user, promotional, or other discounts in the revenue reported to the KUSF, please provide:
1. A detailed listing of the types of discounts provided;

Response: [REDACTED]

2. A detailed explanation regarding *how the discounts are assigned to assessable and non-assessable services if the Company offers bundled services;*

RESPONSE: [REDACTED]

- d. Are the methodologies to identify, report, and allocate revenue from bundled services and discounts the same for both KUSF and FUSF purposes (Yes/No)? If yes, provide a copy of the Company's internal Federal USF and associated KUSF reporting policies or procedures that supports the Company's KUSF contribution methodology is consistent with its Federal USF contribution methodology. If no, please explain the differences between the methodologies and why the Company uses separate practices.

RESPONSE:

[REDACTED]

[REDACTED]

Verification of Response

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: /s/ Elena Thomasson

Date: 6/12/2018

Docket No. 18-ICIT-041-KSF

CONFIDENTIAL

Attachment C

To Kansas USF Audit Report

Dated 6/28/2018

KUSF Carrier Audit Information Request

Submitted By: David Winter
Submitted To: Sharyl Fowler
Company Name: Ionex Communications, Inc.
Docket Number: 18-ICIT-041-KSF
Request Date: November 27, 2017
Date Information Needed: December 11, 2017

Request No. 15

RE: Discounts.

a. Confirm whether Ionex reported revenues to the KUSF net of discounts, i.e. deducts Preferred Customer and Price Protection Plan Term discounts from revenues reported to the KUSF.

RESPONSE. [REDACTED]

b. If Ionex did report revenue net discounts to the KUSF: provide, by month for period March 2016 through June 2016, the revenues associated with the discounts not reported to the KUSF.

RESPONSE. [REDACTED]

c. Does Ionex offer 90-day promotional discounts? If yes, were these discounts "netted" against KUSF reportable revenues only for the initial 90-day period, after which, the full service revenue were reported?

Response .- [REDACTED]

NOTE: If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A, provided in the initial audit packet).

Verification of Response

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: Alena Thomasson

Date: January 18, 2018

KUSF Carrier Audit Information Request

Submitted By: David Winter

Submitted To: Sharyl Fowler
Elena Thomasson

Company Name: Ionex Communications, Inc.

Docket Number: 18-ICIT-041-KSF

Request Date: May 23, 2018

Date Information Needed: June 1, 2018

Request No. 22

RE: Fusion Merger

- a. Explain how Ionex operations and KUSF reporting will change due to Birch's merger with Fusion.

NOTE: If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A).

IONEX RESPONSE:

(a) Ionex's operations and KUSF reporting will not change due to the merger transaction between Birch Communications, Inc. and Fusion Telecommunications International, Inc. ("Fusion"), which was consummated on May 4, 2018. As explained in the notice filed with the Kansas Corporation Commission, Ionex did not become a subsidiary of Fusion as a result of the merger transaction. Instead, Ionex was spun-off to a newly formed holding company held by the existing owners of Birch Communications, Inc. This *pro forma* change has no effect on Ionex's current operations and or its KUSF reporting.

Verification of Response – Data Request No. 22

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: /s/ Sharyl D. Fowler

Date: May 31, 2018

Docket No. 18-ICIT-041-KSF

CONFIDENTIAL

Attachment E

To Kansas USF Audit Report

Dated 6/28/2018

KUSF Carrier Audit Information Request

Submitted By: David Winter
Submitted To: Sharyl Fowler
Company Name: Ionex Communications, Inc.
Docket Number: 18-ICIT-041-KSF
Request Date: November 27, 2017
Date Information Needed: December 11, 2017

Request No. 13

RE: Revenues Reported to the KUSF.



KS Ionex KUSF - FY
20 DR No. 3 Revenue

- Please explain the source of the revenues reported to the KUSF, *i.e.* General Ledger, billing system, calculated (the KUSF assessment collected from subscribers and dividing by the assessment rate to arrive at reportable revenues), etc.
- **Response.-** [REDACTED]
- Please provide copies any work papers, spreadsheets, memorandum, etc. that supports the revenues reported per the attached to the KUSF for the test months of April, July and September 2016.
- [REDACTED]
- Please provide the total *actual* KUSF surcharge collected from the Company's subscriber's for the test months of April, July, and September 2016.
- **Response** [REDACTED]

NOTE: If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A, provided in the initial audit packet).

Verification of Response

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

KUSF Carrier Audit Information Request

Page 2 of 2

Signed: *Clara Thomasson*

Date: January 10, 2018

Docket No. 18-ICIT-041-KSF

CONFIDENTIAL

Attachment F

To Kansas USF Audit Report

Dated 6/28/2018

KUSF Carrier Audit Information Request

Submitted By: David Winter
Submitted To: Sharyl Fowler
Elena Thomasson
Company Name: Ionex Communications, Inc.
Docket Number: 18-ICIT-041-KSF
Request Date: February 7, 2018
Date Information Needed: February 21, 2018

Request No. 16

RE: KUSF Reporting

Please provide the following information:

- Confirm whether Ionex reports revenues to the KUSF by dividing the KUSF assessments collected from the Company's subscribers by the KUSF assessment rate to produce the actual intrastate revenue reported to the KUSF.

Response. [REDACTED]

- Verify whether Ionex's reporting methodology reflects the Kansas intrastate revenue on which the Company assessed the KUSF surcharge.

Response. [REDACTED]

- Confirm whether Ionex's revenue is not broken down in the general ledger or other reporting systems in sufficient detail to determine taxing jurisdiction, exemptions, taxable service, etc.

Response. [REDACTED]

- Are Ionex's billing systems setup to identify actual Kansas intrastate retail revenue on which KUSF amounts are billed and/or calculated?

Response. [REDACTED]

KUSF Carrier Audit Information Request

- Confirm that lonex's calculated and reported revenue to the KUSF is based upon actual amounts identified by its billing systems, billed and owed.

Response. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- Are the lonex assessment amounts recorded in Birch's books and records and reconciled to its remittances to the KUSF.

- **Response.** [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

- Please provide any detailed work papers, calculations, memorandum, etc. that ties to the revenue reported to the KUSF for the test months of April, July and September 2016.

Response. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

NOTE: If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A).

Verification of Response – Data Request No. 16

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVMW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: Elena Thomasson

Date: February 28, 2018

Docket No. 18-ICIT-041-KSF

CONFIDENTIAL

Attachment G

To Kansas USF Audit Report

Dated 6/28/2018

KUSF Carrier Audit Information Request

Submitted By: David Winter

Submitted To: Sharyl Fowler
Elena Thomasson

Company Name: Ionex Communications, Inc.

Docket Number: 18-ICIT-041-KSF

Request Date: May 23, 2018

Date Information Needed: June 1, 2018

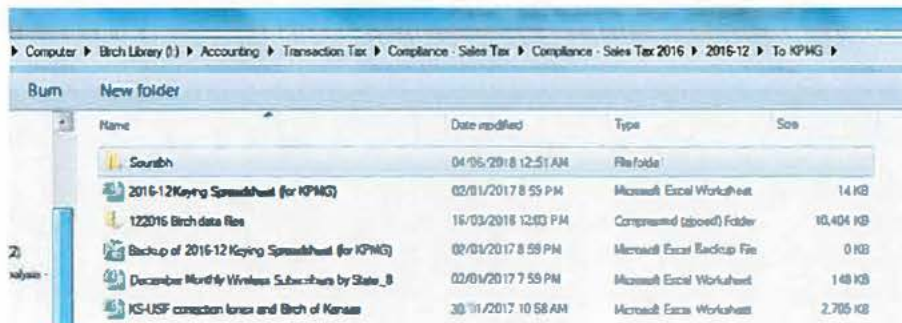
Request No. 21

RE: December 2016 Revenues



RE: December 2016 Revenues

- Confirm that the FY 20 Annual True-up and the individual December 2016 Carrier Remittance Worksheet filed on June 21, 2017 (both attached) indicates no KUSF reportable revenues for December 2016. Explain why there were no reportable Kansas intrastate revenues for December 2016.
- Response.- The Annual true up is prepared by KPMG, our 3rd party tax preparer with the data uploaded from the billing reports. The December 2016 was sent in error on an older version of Excel 2007 (XLS) which had a limitation on the number of rows. This schedule cut off the last part of the file which included KS USF tax type 26. KPMG received the file and without any data for KS USF filed zero report. We became aware of the error on the upload toward the end of the month and provided the KS_USF Correction Ionex and Birch of Kansas report to KPMG on January 30, 2017 to prepare the correction. However recently realize the schedule was not uploaded on the system to correct the December 2016 report.



KUSF Carrier Audit Information Request

- Confirm that the attached spreadsheet shows approximately [REDACTED] in Kansas intrastate revenues and \$1,856 in associated KUSF surcharge collected from its customers. Please confirm that these revenues should have been reported to the KUSF. If the amounts are different please provide the correct amounts. If lonex cannot make this confirmation, please explain why.
- **Response.** Yes the collection for KS USF should have been reported to the KS USF and the collection are collections from the billing reports.
- Please explain why lonex did not report KUSF assessable revenues to the KUSF for December 2016 when in fact it appears that the Company indeed had reportable revenues.
Response.- lonex did not report KUSF due to an error on using an older version of Excel in which had limitation on the number of rows for this type of file. The failure to report the KSUSF was not with intention of not reporting the revenue to the Kansas Public Service Commission.

•
•
NOTE: If for some reason, the above information cannot be provided by the date requested, please submit a Request for Additional Time (see Attachment A).

Verification of Response – Data Request No. 21

I have read the foregoing Data Request and answer(s) thereto and find answer(s) to be true, accurate, full and complete and contain no material misrepresentations or omissions to the best of my knowledge and belief; and I will disclose to GVNW's auditor any matter subsequently discovered which affects the accuracy or completeness of the answer(s) to this Data Request.

Signed: ELENA THOMASSON

Date: June 5 2018

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of June 2018, the above Kansas Universal Service Fund Audit Report was e-filed with the Kansas Corporation Commission and a copy was sent via electronic mail and/or U.S. Mail to:

Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604

Otto Newton, Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604
Email: o.newton@kcc.ks.gov

Nicole Stephens, KUSF Administrator Manager
GVNW Consulting, Inc.
2930 Montvale Drive, Ste. B
Springfield, IL 62704
Email: nstephens@gvnw.com

Sharyl Fowler, Regulatory & Lifeline Compliance Manager
Tempo Telecom, LLC
115 Gateway Dr
Macon, GA 31210
Email: sharyl.fowler@lonex.com

Elena Thomasson, Transaction Taxes Manager
320 Interstate North Parkway, SE
Atlanta, GA 30339
Email: elena.thomasson@lonex.com



David G. Winter

s