

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 An Investigation to Determine)
the Assessment Rate for the Twenty-Second)
Year of the Kansas Universal Service Fund,) Docket No. 18-GIMT-084-GIT
Effective March 1, 2018.)

ORDER MODIFYING KANSAS UNIVERSAL SERVICE FUND PENALTIES

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On July 31, 2018, in the 18-BTKT-033-KSF Docket (“Docket 18-033”), the Commission issued an Order adopting GVNW Consulting, Inc.’s (“GVNW”) Audit Report.¹ In the Order, the Commission stated it had concerns about relying on a company’s verification of its Kansas Universal Service Fund (“KUSF”) data when the reported information is not correct, as well as a company’s failure to comply with its obligation to correct past filings or remit payment of assessments collected from subscribers in a timely manner.² Thus, the Order directed Staff or GVNW to file a Report and Recommendation (“R&R”) in this Docket by August 31, 2018, to recommend penalties to be assessed to a company for failure to timely submit corrections of previously reported data and/or pay monies collected from subscribers for KUSF purposes.³

¹ Order Adopting Audit Report, ¶ 12, Docket No. 18-BTKT-033-KSF, July 31, 2018 (18-033 Order).

² Id., ¶ 12.

³ Id.

2. On August 30, 2018, the Commission's Staff filed its R&R, attached hereto and made a part hereof, in this Docket, recommending the Commission issue an Order to modify the KUSF penalties, effective the first of the month following an Order.

3. Staff states that for KUSF purposes, a company is required to remit several different types of forms and pay related KUSF assessments. These forms include the Company Operations and Identification form, referred to as Attachment B ("Attachment B"), the Carrier Remittance Worksheet ("CRW"), as well as a Quarterly True-Up and/or an Annual True-Up, depending on the size and operations of the company. Each form is required to be filed by a certain date pursuant to Commission Orders.

4. According to Staff, when a company fails to submit the above documentation by the Commission ordered deadline, GVNW has limited options with regard to penalizing companies. GVNW currently is able to assess three penalties: a Late Carrier Remittance Worksheet (CRW) penalty⁴ of 1% per month (12% per annum) of the assessment due or \$100.00, whichever is greater, for each original CRW received after the due date; a Late Payment Penalty (LPP)⁵ of 1% per month (12% annum) when a payment is received after the due date; and Delinquent Balance Penalty (DBP)⁶ of 1% per month (12% per annum) of the total outstanding KUSF balance, including all assessment principle and penalties, on a company's account as of the last day of the month.⁷

⁴ Order Setting the Kansas Universal Service Fund Assessment Rate for Year Ten and Establishing Reporting Requirements, Docket No. 06-GIMT-332-GIT, Jan. 23, 2006 (06-332 Order).

⁵ Order Authorizing KUSF Administrator to Assess Late Payment Fee, Docket No. 190-492-U (94-GIMT-478-GIT), Feb. 19, 1997 (94-478 Order).

⁶ Id.

⁷ Order Setting the Kansas Universal Service Fund Assessment Rate for Year Fourteen and Canceling January 20, 2010 Technical Hearing, Docket No. 10-GIMT-188-GIT, Jan. 13, 2010 (10-188 Order).

5. Staff states there are currently no penalties which apply when a company fails to timely submit an Attachment B, or a revised CRW, a Quarterly True-Up, or an Annual True-Up to modify previously reported revenues and assessments owed to the KUSF.

6. No filings were made in response to Staff's R&R.

7. Staff recommends that the Late CRW penalty be modified or eliminated and a new Late Filing Penalty (LFP) be created. The LFP should be assessed at 1% per month (12% per annum) of the assessment due or \$100.00, whichever is greater, except that the LFP for an Attachment B should be \$100.00 per month. Staff and GVNW recommend that two exceptions to the LFP be adopted: (1) when a wireless or Voice over Internet Protocol (VoIP) service provider registers with the KUSF and states it is not generating any Kansas intrastate retail revenue; and (2) when a filing does not result in any additional monies owed to the KUSF or results in a credit owed to the provider. The LFP should be based on the date received by GVNW, not postmarked or sent. Staff also recommends that the Commission adopt a due date for a revised CRW or True-up as 30 calendar days from the date a company receives written notification from GVNW that a variance or other concern with a filing exists and a revision may need to be filed. Staff also recommended that the Commission direct GVNW to include a statement in its written notification to a company that the company must resolve the issue and file a revision, if needed, within 30 calendar days of the date of receipt of the written notification and identify the calendar day due date.

8. Staff also recommends that the Commission modify the Late Payment Penalty (LPP) to include any additional assessment due to the KUSF that is received by the bank after the due date, with the LPP remaining at 1% per month (12% per annum) of any assessment due to the KUSF.

9. The Commission adopts Staff's analysis and recommendation of August 30, 2018, as stated in its Report and Recommendation and finds the recommended modifications to the KUSF penalties should be ordered.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Late Carrier Remittance Worksheet penalty is eliminated and replaced by a new Late Filing Penalty. The Late Filing Penalty shall be assessed at 1% per month (12% per annum) of the assessment due or \$100.00, whichever is greater, except that the Late Filing Penalty for an Attachment B shall be \$100.00 per month. The Late Filing Penalty will be waived when a wireless or Voice over Internet Protocol (VoIP) service provider registers with the KUSF and states it is not generating any Kansas intrastate retail revenue and when a filing does not result in any additional monies owed to the KUSF or results in a credit owed to the provider. The Late Filing Penalty shall be based on the date received by the KUSF Administrator, not the date postmarked or sent.

B. The due date for a revised Carrier Remittance Worksheet or True-up is 30 calendar days from the date a company receives written notification from the KUSF Administrator that a variance or other concern with a filing exists and a revision may need to be filed. The KUSF Administrator is directed to include a statement in its written notification to a company that the company must resolve the issue and file a revision, if needed, within 30 calendar days of the date of receipt of the written notification and identify the calendar day due date.

C. The Late Payment Penalty shall be applied to include any additional assessment due to the Kansas Universal Service Fund, with the Late Payment Penalty remaining at 1% per month (12% per annum) of any assessment due to the Kansas Universal Service Fund.

D. The modifications to the KUSF penalties ordered in Paragraphs A-C will take effect on November 1, 2018.

E. Parties have 15 days, plus three days if service is by mail, from the date of service of this Order to petition the Commission for reconsideration or request a hearing, as provided in K.S.A. 77-542.⁸

F. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chairman; Emler, Commissioner; Keen, Commissioner

Dated: 09/27/2018



Lynn M. Retz
Secretary to the Commission

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⁸K.S.A. 77-537(b); K.S.A. 66-118b; K.S.A. 77-529(a)(1).

STATE OF KANSAS

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GOVERNOR JEFF COLYER, M.D.
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

To: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight Keen

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

Date: August 24, 2018

Re: Docket No. 18-GIMT-084-GIT
In the Matter of An Investigation to Determine the Assessment Rate for the Twenty-Second Year of the Kansas Universal Service Fund, Effective March 1, 2018.

EXECUTIVE SUMMARY:

In a July 31, 2018 Order regarding a carrier audit that was conducted by the Kansas Universal Service Fund (KUSF) Administrator, GVNW Consulting, Inc. (GVNW), the Commission directed Staff or GVNW to file a Report and Recommendation (R&R) to develop a process and penalty(ies) to levy when a company: (1) fails to comply with its obligations to correct prior filings or remit payment of assessments collected from subscribers in a timely manner; or (2) provides inaccurate information to the KUSF Administrator.¹ The Commission has not established set penalties for such infractions. The Commission directed the R&R to be filed by August 31, 2018, in this Docket, instead of the carrier-specific audit Docket, since any decisions on these issues will impact all companies that are required to report to the KUSF.

Based on the information provided in this R&R, as well as that provided in GVNW's Memorandum and Penalty Summary attached to this R&R, Staff recommends the Commission issue an Order modifying its KUSF-related penalties as further discussed in this R&R. Staff further recommends that these penalties be effective the first of the month following the Commission Order.

¹ Order Adopting Audit Report, Docket No. 18-BTKT-033-KSF, July 31, 2018 (18-033 Order), ¶ 12.

BACKGROUND:

I. Required KUSF Filings

For KUSF purposes, a company is required to remit several different forms and pay the related KUSF assessments. The first form, the Company Operations and Identification form, referred to as Attachment B (Attachment B), is submitted by a company to register with the KUSF each Fiscal Year. Attachment B includes the company's contact information, authorization for an agent to act on the company's behalf, the agent's contact information, if applicable, and the frequency for which the company will remit filings and payments, based on its revenues.² Attachment B is due on or before April 15th (or the following business day) each year.

The next form is the Carrier Remittance Worksheet (CRW), used by a company to report its revenues, calculate the assessment owed to the KUSF, and report the amount of its assessment it collected from its subscribers. Both the CRW and the related KUSF assessment payment must be received by the KUSF Administrator and the bank, respectively, by the 15th of the following month. Smaller companies with less than \$50,000 of annual revenue are authorized to report their revenues and pay their assessments on a monthly, quarterly, semi-annual, or annual basis.³

The third form, a Quarterly True-up, is required to be filed by any monthly or quarterly filer that estimates the revenue it earned or that reports revenues in arrears.⁴ This means that any company that files on a monthly or quarterly basis and meets one or both of these criteria is required to remit a Quarterly True-up within 45 days after the end of a KUSF Fiscal Year quarter.

Lastly, an Annual True-up is required to be submitted by smaller companies that report their estimated revenues and pay their assessments on a semi-annual or annual basis. These companies submit an Annual True-up to ensure the actual revenue earned and the related assessments are reported and paid to the KUSF. Other companies may also need to file an Annual True-up to report any corrections or adjustments to their reported revenues and assessments, such as accounting adjustments required by an external auditor. An Annual True-up and any additional assessments owed by the company are required to be received by the KUSF Administrator and the bank, respectively, by May 15th of each year.

II. Penalties

The KUSF Administrator is authorized by the Commission to assess the following penalties to companies:

1. the Late Carrier Remittance Worksheet (CRW) penalty⁵ is assessed for each original CRW received by GVNW after the due date and is based on the date the CRW is received by the Administrator, not the date mailed or postmarked. The penalty is 1% per month (12% per annum) of the assessment due or \$100, whichever is greater. The Late CRW penalty is not

² Order Setting the Kansas Universal Service Fund Assessment Rate for Year Ten and Establishing Reporting Requirements, Docket No. 06-GIMT-332-GIT, Jan. 23, 2006 (06-332 Order).

³ Id.

⁴ Order Setting the Kansas Universal Service Fund Assessment Rate for Year Fourteen and Canceling January 20, 2010 Technical Hearing, Docket No. 10-GIMT-188-GIT, Jan. 13, 2010 (10-188 Order).

⁵ 06-332 Order.

currently assessed for any subsequently filed CRW that includes a revision to the company's revenues or amount of assessment owed;

2. the Late Payment Penalty (LPP)⁶ is assessed when a payment is received by the bank after the due date. The LPP payment is assessed at 1% per month (12% per annum); and
3. the Delinquent Balance Penalty (DBP)⁷ is assessed on the total outstanding KUSF balance, including all assessment principle and penalties, on a company's account as of the last day of the month. The late DBP is assessed at 1% per month (12% per annum) of the total outstanding balance.

The aforementioned penalties do not apply when a company submits any of the following forms after the due date: (1) Attachment B; (2) Quarterly True-up; (3) Annual True-up; or (4) a revised CRW to modify previously reported revenues and assessments owed to the KUSF.

ANALYSIS:

Staff and GVNW suggest that the Commission modify the KUSF penalties to encourage each company to remit its KUSF forms and payments in a timely manner. First, the Commission should either modify or eliminate the current Late CRW penalty so that it applies to all required filings received after the due date, not just an original CRW. The penalty should be referred to as the Late Filing Penalty (LFP) and apply to each Attachment B; initial or revised CRW, Quarterly True-up, and Annual True-Up. The LFP would be assessed at 1% per month (12% per annum) of the assessment owed to the KUSF as reported on the filing. For a late-filed Attachment B, Staff recommends that the LFP be a flat \$100 per month penalty since the percentage rate cannot be applied because the Attachment B does not include revenue or assessment data.

GVNW recommends, and Staff concurs, that two exceptions should exist for the application of the LFP: (1) when a wireless or Voice over Internet Protocol (VoIP) service provider registers with the KUSF and states it is not generating any Kansas intrastate retail revenue; and (2) when the filing does not result in any additional monies owed to the KUSF or results in a credit owed to the provider.

Waiver of the LFP for a wireless or VoIP service provider is appropriate since a wireless or VoIP service provider that is not generating any Kansas intrastate retail revenue is not required to report to the KUSF. Some wireless and VoIP providers register with the KUSF to ensure compliance with their KUSF obligations, however, the receipt of a late-filed Attachment B from these providers does not have a monetary impact on the KUSF. Furthermore, if the company is not generating any intrastate retail revenue, the company may not have any internal processes and procedures set up to remit payment of a penalty to the KUSF. The administrative time and resources expended to collect such penalty may, therefore, exceed any benefit gained. Therefore, Staff concurs with GVNW's recommendation that an exception be granted for wireless and VoIP providers not generating revenues in the state for an Attachment B being subject to the LFP.

⁶ Order Authorizing KUSF Administrator to Assess Late Payment Fee, Docket No. 190-492-U (94-GIMT-478-GIT), Feb. 19, 1997 (94-478 Order).

⁷ 10-188 Order.

The waiver of the LFP for revised CRWs and True-ups should exist for a filing that does not result in any additional monies owed to the KUSF or that results in a credit owed to the provider. Staff concurs with GVNW's recommendation that a waiver of the LFP be granted for revised filings that do not result in any additional monies owed to the KUSF or that result in a credit owed to the provider.

In contrast, the LFP should be applied when a company submits a revised filing and owes monies to the KUSF. The assessment of the LFP, however, is complicated by the fact that a due date for when a revision must be filed does not currently exist. To address this issue, Staff suggests the Commission authorize the KUSF Administrator to assess the LFP beginning the thirty-first day after the KUSF Administrator sends written notification identifying a concern or problem with an original filing to a provider.

Pursuant to GVNW's operational and administrative controls, GVNW has ten business days to process a filing after receipt. If GVNW identifies a material revenue variance or other concern with the reported data, GVNW provides written notification of the variance or concern to the company and requests that the company review the reported data, provide an explanation for the variance and/or concern, and file a revised filing as needed. A company needs time to review the reported data, determine if an error occurred, and provide an explanation and submit a revised filing, if applicable. Some companies, however, fail to respond or provide a revised filing in a timely manner, allowing the company to avoid KUSF penalties.

Staff, therefore, recommends that when the KUSF Administrator provides written notice⁸ to a company about a variance or other concern with a filing, the KUSF Administrator's written notification include a statement that the company is required to respond and resolve the issue within 30 calendar days from the date the notification is sent.⁹ If a revised filing is required, the Commission should authorize the KUSF Administrator to assess the LFP of 1% of any additional assessment owed to the KUSF or \$100 per month, whichever is greater, from the date the revised filing was due until it is received by the KUSF Administrator.

Staff also recommends that the Late Payment Penalty be modified to be assessed whenever a company owes monies to the KUSF, regardless of whether the filing is an original or revised CRW or True-Up, and payment is received by the bank after the due date. This means that if a company submits a revised filing and is owed a credit from the KUSF, the LPP would not be assessed since no additional monies are owed to the KUSF.

Lastly, with regard to the Commission's concern about forms that are signed by an officer of the company to verify that the reported is accurate when the form actually contains inaccurate data, Staff suggests that when a concern arises that a company intentionally reported erroneous data or otherwise failed to comply with its KUSF obligations, Staff file an R&R to recommend that the Commission open a show cause proceeding for the company. If a company intentionally attempts

⁸ Written notice is sent via email if the KUSF Administrator has a current email for the company and/or its agent. In the event that the KUSF Administrator does not have current email information, the KUSF Administrator will call the company to obtain current email information. In the event that the KUSF Administrator is unable to contact the company via email or phone, the written notice will be sent via US Postal Service.

⁹ The KUSF Administrator should also list the calendar due date on the written notification.

to avoid its KUSF obligations, imposition of a KUSF administration penalty is insufficient and the matter should be brought before the Commission for further action.

RECOMMENDATION:

Based on the information contained in this R&R, GVNW's Memorandum, and the Penalty Summary, Staff recommends the Commission issue an Order to modify the KUSF penalties, effective the first of the month following the issuance of the Order. Specifically, Staff recommends:

- (1) the Late CRW penalty be modified or eliminated and replaced with the Late Filing Penalty. The Late Filing Penalty should be assessed at 1% per month (12% per annum) of the assessment due or \$100.00, whichever is greater, except that the penalty for an Attachment B should be a flat \$100.00 per month. The Late Filing Penalty should be based on the date received by the KUSF Administrator, not postmarked or sent;
- (2) the Commission should waive the Late Filing Penalty for a wireless or VoIP provider that files its Attachment B after the due date when the provider verifies the company is not generating any intrastate retail revenue, no additional money is owed to the KUSF, or a credit is due to the provider;
- (3) the Commission adopt a due date for a revised filing as thirty calendar days from the date the KUSF Administrator sends written notification to a company regarding a variance or other concern with a filing. The KUSF Administrator should be directed to identify the calendar day due date in its written notification; and
- (4) the Late Payment Penalty be modified to be assessed any time any additional monies are due to the KUSF. The Late Payment Penalty should remain as a penalty of 1% per month (12% per annum) of any assessment due to the KUSF or \$100 per month, whichever is greater.



CONSULTING

KUSF MEMO

Date: August 16, 2018
To: Sandy Reams
From: Blake Young, KUSF Auditor
Nicole Stephens, KUSF Compliance Administrator
RE: Assessment of KUSF Penalties

GVNW Consulting, Inc. (GVNW), as the Kansas Universal Service Fund (KUSF) Administrator, is providing this information pursuant to paragraph 12 of the Kansas Corporation Commission's (Commission) Order Adopting Audit Report, dated July 31, 2018, in Docket No. 18-BTKT-033-KSF. Specifically, the Commission stated its concerns that: (1) Birch Telecom of Kansas, LLC failed to comply with its KUSF obligations for a seventeen month period and was only subject to "a penalty when brought to the Commission's attention;" and (2) "the gravity of reliance upon a Company's verification of its KUSF compliance that is not accurate." The Commission, stating its desire to investigate these issues and determine appropriate sanctions, directed Staff or GVNW to submit a Report and Recommendations to allow the Commission to develop a process and appropriate penalties against a Company when it fails to comply with its obligations to correct prior filings or remit payment of assessments collected from subscribers in a timely manner. This Report and Recommendation is to be filed in Docket No. 18-GIMT-084-GIT no later than August 31, 2018.

KUSF policies require all active carriers to submit a Company Identification and Operations form (referred to as Attachment B) for each KUSF Fiscal Year, by April 15 of each year. A provider reports its contact information, agent contact information (if applicable) and the reporting frequency election for each specific fiscal year on Attachment B. If an Attachment B is not received, the KUSF Administrator cannot process any Carrier Remittance Worksheets (CRWs) received from a carrier.

Based on the Commission's requirements for when a company is to report its revenues and pay the related assessments,¹ the majority of providers report to the KUSF on a monthly basis. A provider reports its revenues and the assessment owed to the KUSF via a Carrier Remittance Worksheet (CRW), which is due on or before the 15th of the following month. The provider is also to remit payment of its KUSF assessments on or before the 15th of the following month.

To illustrate how the KUSF process works, assume Company A reports \$400,000.00 in assessable revenues each month. Company A would submit its March 2018 revenues and assessment payment no later than April 15, 2018, and based on the current 7.5% assessment rate, would owe \$30,000 ($\$400,000.00 \times .075$). If the CRW or assessment payment is not received by the due date of the 15th, Company A is assessed the following penalties: (1) a Late CRW penalty of \$100.00 or 1% of the assessment owed (\$300.00), whichever is greater; and/or (2) a \$300.00 LPP.

¹ 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 (Year Ten Order).

KUSF policies allow for a carrier to submit a Revised CRW. A Revised worksheet must be submitted when a carrier has corrections or adjustments to make to previously reported revenue.

KUSF policies also require Quarterly and Annual True-ups to be submitted as follows:

- Monthly Filers that report estimated revenue or actual revenue one or more months in arrears must submit a Quarterly True-up to report actual monthly revenue within 45 days after the end of each KUSF fiscal year quarter.²
- Quarterly Filers must remit a Quarterly True-up to report actual revenue within 45 days after the end of the applicable KUSF quarter. With the Quarterly True-ups due on July 15, October 15, January 15 and April 15 each fiscal year.
- Quarterly, Semi-Annual, and Annual Filers are required to submit an Annual True-up to report actual earned or collected revenues and reflect revenue corrections or adjustments to the company's books (i.e. audit or end-of-year adjustments, etc.). Monthly filers may also file an Annual True-up if any adjustments are made to its revenues (e.g. external third-party audit) that impacts the revenues reported and assessments owed to the KUSF. The Annual True-up is due April 15 each fiscal year.

A carrier may, however, manipulate the KUSF process and avoid or reduce its penalties in several ways. First, a company can avoid or reduce the penalties it is assessed by under-reporting its revenues. For example, Company A reports zero (\$0.00) revenues for March 2018 instead of the \$400,000 of revenue it earned, however, as long as Company A's CRW is received by the due date, it is not subject to any penalty. Alternatively, if Company A's CRW is received after the April 15th due date, the Company would only be subject to a late CRW penalty of \$100.00 since it reported zero revenue and no assessment is due.

GVNW's processes identify material variances between revenues reported by a company and, when such a variance is identified, GVNW contacts the company to confirm that the reported revenue is correct. GVNW also asked the Company to explain why the variance occurred and expects that a company would investigate the matter, determine if an error occurred, and submit a revised CRW to report the correct revenues and pay the correct assessments that same month. No Commission policy currently addresses the time frame in which a company must submit a revised CRW to report corrections or pay the related assessment. As the Commission is now aware, a company can wait months to submit a revision and may have an incentive to do so if the revision will result in the company owing monies to the KUSF.

Furthermore, since no KUSF receivable will be recorded on a company's KUSF account until it files the revised CRW, a Company may collect its assessment from subscribers and retain such money until it submits the revised CRW and pays the related assessment. Continuing the example of Company A, if the Company collected \$30,000.00 from its subscribers, it would retain the monies until it submits the assessment payment as calculated on the revised CRW. Since the Company reported zero revenue and no receivable was recorded on its KUSF account, the Company has effectively avoided the Delinquent Balance Penalty of 1% of the outstanding KUSF balance per month.

The Commission has authorized GVNW to assess the following penalties to providers:

1. The Late Payment Penalty (LPP)³ of 1% per month (12% APR cumulative) for each payment received by the bank after the due date;
2. The Late Carrier Remittance Worksheet (CRW) Penalty⁴ of 1% per month (12% APR cumulative) of the assessment due or \$100, whichever is greater, for each CRW received after the due date,

² Order Setting the Kansas Universal Service Fund Assessment Rate for Year Fourteen and Cancelling January 2010 Technical Hearing, Docket No. 10-GIMT-188-GIT, Jan. 13, 2010 (Year 14 Order).

³ Order Authorizing KUSF Administrator to Assess Late Payment Fee, Docket No. 190-492-U (94-GIMT-478-GIT), Feb. 19, 1997.

⁴ Year 10 Order.

with the penalty based on the date the CRW is received by GVNW, not the date mailed or postmarked;⁵ and

3. A Delinquent Balance Penalty (DBP)⁶ of 1% of the outstanding KUSF balance, including all assessment principle and outstanding penalties, as of the last day of the month.

However, under the current KUSF policies, GVNW is not authorized to apply penalties when a carrier's Attachment B, Quarterly True-up, or Annual True-up is received after the due date. In addition, GVNW does not have authority to apply any late payment penalty when a carrier owes additional assessments to the KUSF as a result of a revised CRW or True-up. Therefore, GVNW suggests that the Commission consider the following:

1. modify the current Late CRW penalty, which currently applies to an original CRW filing, and rename or refer to the penalty as a Late Filing Penalty (LFP) that would be assessed on all required filings received after the due date; and
2. modify the Late Payment Penalty (LPP) criteria to encompass all payments, including additional assessments owed as a result of a True-up or revised CRW.

Modifying the Late CRW to encompass all filings, to be referred to as a Late Filing Penalty (LFP), means the penalty would be applied to Attachment B and each Revised CRW, Quarterly True-Up, and Annual True-up that reflects additional assessment due, based on the date the filing is received by GVNW, not the date mailed or postmarked. GVNW suggests keeping the penalty at 1% per month (12% APR cumulative) of the assessment due or \$100, whichever is greater. For an Attachment B, the penalty would be \$100.00 per month it is received after the due date. GVNW does not recommend that the LFP be applied to Revised CRWs, a Quarterly True-up, or Annual True-up that does not reflect any change in the assessment due or a credit due to the carrier (i.e., overpayment to the Fund). GVNW also does not recommend that the LFP be applied to Attachment B submitted after the due date for Wireless and VoIP entities that have historically reported they are not generating Kansas intrastate retail revenue and continue to elect the "Not Generating Kansas Intrastate Retail Revenue" reporting frequency election.

GVNW recommends that the Late Payment Penalty (LPP) remain at 1% per month (12% APR cumulative) for each payment received by the bank after the due date, but be expanded to any payment received after the due, including additional assessments owed to the KUSF due to submission of a revised CRW, a Quarterly True-up, or Annual True-up.

GVNW believes that the adoption of the suggested modifications to the penalties would close any gaps to circumventing penalties and reduce carrier delinquencies in late filings and payments.

⁵ Id.

⁶ Id.

Kansas Universal Service Fund
Penalty Summary

Current Penalty Structure			Proposed Penalty Structure		
Applied To:	Due Date	Penalty	Applied To:	Due Date	Penalty
Late Payment Penalty (LPP)			Late Payment Penalty (LPP)		
Original CRW	15 days after end of the Data month	1% per month (12% APR cumulative) of the Assessment Due	Original CRWs	15 days after end of reporting Period	1% per month (12% APR cumulative) of the Assessment Due
			Filings with Additional assessments due:		
			Revised CRWs	15 days after end of reporting Period	1% per month (12% APR cumulative) of the Additional Assessment Due
			Quarterly True-ups	45 days after end of reporting Period	
			Annual True-ups		
Late Carrier Remittance Worksheet (CRW) Penalty			Late Filing Penalty (LFP)		
Original CRWs	15 days after end of the Data month	1% per month (12% APR cumulative) of the assessment due or \$100, whichever is greater.	Original CRWs	15 days after end of reporting Period	1% per month (12% APR cumulative) of the assessment due or \$100, whichever is greater.
			Attachment B	April 15th	\$100.00 per month Exception for wireless and VoIP providers that are not generating intrastate retail revenue.
			Filings with Additional assessments due:		
			Revised CRWs	15 days after written notice from the KUSF Administrator that a revision is needed	1% per month (12% APR cumulative) of the assessment due or \$100, whichever is greater. Exception for any revision that does not result in additional monies owed to the KUSF or that results in a credit due to the provider.
			Annual True-ups	45 days after end of reporting Period	
			Quarterly True-ups	45 days after end of reporting Period	
Delinquent Balance Penalty (DBP)			Delinquent Balance Penalty (DBP)		
Entire outstanding balance, including outstanding KUSF assessment principle and previously assessed penalties.	Last day of the Month	1% per month (12% APR cumulative) of the Assessment Due	Entire outstanding balance, including outstanding KUSF assessment principle and previously assessed penalties.	Last day of the Month	1% per month (12% APR cumulative) of the Assessment Due
*If the 15 th of the month falls on a weekend or legal holiday, payments and filings are due the next business day.					

CERTIFICATE OF SERVICE

18-GIMT-084-GIT

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 09/28/2018.

WAYNE TODDUN, CEO
2TALK, LLC
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