

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of the Audit of New Cingular)
Wireless PCS, LLC d/b/a AT&T Mobility by the)
Kansas Universal Service Fund (KUSF))
Administrator Pursuant to K.S.A. 2015 Supp.) Docket No. 17-WSLC-019-KSF
66-2010(b) for KUSF Operating Year 19, Fiscal)
Year March 2015-February 2016.)

ORDER ON PETITION FOR RECONSIDERATION

This matter comes before the State Corporation Commission of the State of Kansas (Commission). Having reviewed the record contained within this proceeding and being duly advised in the premises, the Commission finds and concludes as follows:

Background:

1. On August 2, 2016, the Commission directed GVNW Consulting, Inc. (GVNW) to perform a KUSF audit of New Cingular Wireless PCS, LLS d/b/a AT&T Mobility (AT&T Mobility).¹ Therein, the Commission ordered AT&T Mobility to file a response no later than thirteen days from the date of the audit report filing.²

2. On June 13, 2017, the Commission granted an enlargement of time and stated that, "AT&T Mobility's response and request for a hearing, if the Audit Report is disputed, [shall] be filed no later than thirteen (13) days from the date GVNW files its Audit Report."³

3. On August 25, 2017, GVNW filed its Audit Report of AT&T Mobility.

¹ Order to KUSF Administrator to Commence Audit of New Cingular Wireless PCS LLC d/b/a AT&T Mobility and Order Setting Procedural Schedule at 4 (Aug. 2, 2016).

² *Id.*

³ Order Granting Motion for Enlargement of Time at 2 (June 13, 2017).

4. On August 31, 2017, the Commission issued an Order Accepting and Adopting Audit Report and Closing Docket.

5. On September 15, 2017, AT&T Mobility filed a Petition for Reconsideration of the Commission's Order Accepting and Adopting Audit Report and Closing Docket. AT&T Mobility stated that the Commission's decision on August 31, 2017 accepting the audit report six (6) days after it was filed improperly cut short AT&T Mobility's ability to file a response to the audit report.⁴ AT&T Mobility also included, in its pleading, a recitation of its theory on why the Commission should not accept "Audit Finding No. 2."

6. On September 21, 2017, Staff filed a Response to AT&T Mobility's Petition for Reconsideration. Staff attached and requested the Commission consider a response by GVNW to AT&T Mobility's dispute of "Audit Finding No. 2."⁵ Staff did not contest the issue of timeliness of the Commission's Order raised by AT&T Mobility.

7. On September 27, 2017, AT&T Mobility filed a Reply.

8. On October 5, 2017, Staff filed a surreply in response to AT&T Mobility's reply memorandum.

9. On October 10, 2017, AT&T Mobility responded to Staff's surreply.

Findings and Conclusions:

10. The Commission agrees with AT&T Mobility's argument regarding the timing of the Commission's Order. The Commission inadvertently accepted and approved the Order prior to the running of AT&T Mobility's allotted time to respond. The Commission therefore rescinds its previous Order Accepting and Adopting Audit Report and Closing Docket filed August 31, 2017.

⁴ Petition of New Cingular Wireless for Reconsideration of Order at 4-5 (Sep. 15, 2017).

⁵ Response to Petition of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility for Reconsideration of Order Accepting and Adopting Audit Report and Closing Docket at Attachment A (Sep. 21, 2017).

11. AT&T Mobility shall have the benefit of the remaining balance of time in which to respond to GVNW's Audit Report. Six days having run from the allotted time, the Commission orders AT&T Mobility to file its response within seven (7) days from the effective date of this Order. Any further response or reply will be allowed in accordance with Commission statutes, rules and regulations.

12. The Commission finds that a Prehearing Officer should be designated in this proceeding to address matters pursuant to K.S.A. 77-516-517.⁶ The Commission also finds that a prehearing conference should be scheduled in this matter.

THEREFORE, THE COMMISSION ORDERS:

- A. AT&T Mobility's Petition for Reconsideration is granted.
- B. The Commission's Order Accepting and Adopting Audit Report and Closing Docket filed August 31, 2017 is rescinded.
- C. The Prehearing Officer in this proceeding shall be Dustin L. Kirk, Deputy General Counsel, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, telephone number 785-271-3198, email address d.kirk@kcc.ks.gov.
- D. A Prehearing Conference shall be held on **Tuesday, November 7, 2017 at 2:00 p.m.** by telephone. The conference call information is: telephone number: (866) 620-7326, Conference Code PIN #7632914771.
- E. 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 to petition for reconsideration.⁷
- F. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

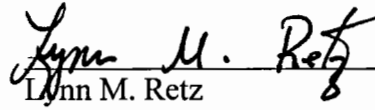
⁶ See K.S.A. 77-551(c).

⁷ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner.

Dated: OCT 10 2017



Lynn M. Retz
Secretary to the Commission

DLK/sc

EMAILED

OCT 10 2017

CERTIFICATE OF SERVICE

17-WSLC-019-KSF

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on OCT 10 2017.

DAVID G. WINTER, SENIOR CONSULTANT
GVNW CONSULTING, INC.
2270 LA MONTANA WAY, Ste 200
COLORADO SPRINGS, CO 80918
Fax: 719-594-5803
dwinter@gvnw.com

OTTO NEWTON, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3167
o.newton@kcc.ks.gov
Hand Delivered

BRUCE A. NEY, EXEC. DIR.-SENIOR LEGAL COUNSEL
NEW CINGULAR WIRELESS PCS, LLC
D/B/A AT&T MOBILITY
816 CONGRESS AVE
SUITE 1100
AUSTIN, TX 78701-2471
Fax: 512-870-3420
bn7429@att.com

/S/ DeeAnn Shupe
DeeAnn Shupe

EMAILED

OCT 10 2017