

**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 TAG Mobile, )  
LLC by the Kansas Universal Service Fund )  
(KUSF) Administrator Pursuant to K.S.A. ) Docket No. 17-TAGC-029-KSF  
2015 Supp. 66-2010(b) for KUSF Operating )  
Year 19, Fiscal Year March 2015-February )  
2016. )

**ORDER SANCTIONING TAG MOBILE, LLC FOR FAILURE TO COMPLY WITH  
COMMISSION ORDER**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On August 2, 2016, the Commission directed GVNW Consulting, Inc. (GVNW) to conduct an annual audit of TAG Mobile, LLC (TAG) pursuant to K.S.A. 66-2010(b) and to file its Audit Report by June 30, 2017.
2. On June 1, 2017, GVNW filed its Audit Report identifying four KUSF reporting issues, resulting in TAG owing an additional \$149,898.84 to the Kansas Universal Service Fund (KUSF).<sup>1</sup>
3. On June 29, 2017, the Commission issued an Order Accepting and Adopting GVNW Consulting, Inc.'s Audit Report and Recommendations (Order). In relevant part, the Commission directed TAG to: (1) submit audit true-ups for the period of March 2015-January 2016 within 10 days; (2) repay \$97,925.31 of Kansas Lifeline (KLSP) credits to the KUSF

<sup>1</sup> Kansas Universal Service Fund Audit Report (Audit Report), June 1, 2017, p. 1.

within 30 days;<sup>2</sup> (3) submit an affidavit verifying when it began offering 600 minutes and global messaging to its Kansas subscribers; and (4) provide a written copy of its internal process and procedures for updating its accounting and billing systems within 30 days.<sup>3</sup>

4. On July 14, 2017, TAG filed its Petition for Reconsideration of the Order. TAG's Petition for Reconsideration did not contest the portion of the Order directing TAG to submit audit true-ups within 10 days.

5. On July 19, 2017, GVNW reported that TAG had failed to submit its audit true-ups by July 13, 2017, as directed by the Commission in its Order.<sup>4</sup>

6. On August 3, 2017, the Commission denied TAG's Petition for Reconsideration.

7. On August 9, 2017, GVNW reported that TAG failed to submit the following: (1) audit true-ups for March 2015 through January 2016; (2) \$97,925.31 of KLSP credits to the KUSF; (3) an affidavit verifying when it began offering 600 minutes and global messaging to its Kansas subscribers; and (4) a written copy of its internal process and procedures for updating its accounting and billing systems.<sup>5</sup>

8. On August 28, 2017, Commission Staff filed Notice of TAG Mobile, LLC's Failure to Comply with Commission Order and Request that Penalties be Assessed, recommending the Commission assess a penalty ranging from \$100 to \$5,000 per violation per day pursuant to K.S.A. 66-138(a)(2). Staff did not give any additional guidance on the overall size of an appropriate penalty.

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<sup>2</sup> Order, June 29, 2017, Ordering Clause D.

<sup>3</sup> *Id.*, Ordering Clause E.

<sup>4</sup> GVNW KUSF Audit Report, July 19, 2017.

<sup>5</sup> GVNW KUSF Audit Report, Aug. 9, 2017, p. 1.

9. On September 19, 2017, GVNW reported TAG's continued failure to submit the documentation and payment ordered by the Commission.<sup>6</sup>

10. Pursuant to K.S.A. 66-138(a)(2), the Commission may impose a fine on a public utility ranging from \$100 to \$5,000 for each violation of a lawful requirement or Commission order. In its 14-GIMT-105-GIT Docket, the Commission adopted guidelines on penalties for violations of Lifeline program rules.<sup>7</sup> In relevant part, the Commission determined that for purposes of non-compliance with KLSP obligations, each occurrence should be defined as one month, with monthly fines ranging from \$250-\$2,000.<sup>8</sup> The Commission has flexibility to increase the fines if it finds: (1) egregious misconduct; (2) the carrier's assets are significant enough to require a larger disincentive; (3) the violation was intentional; (4) the violation resulted in substantial harm; (5) prior violations of Commission requirements; (6) the violation resulted in substantial economic gain; or (7) repeated or continuous violation. Similarly, the Commission would have latitude to reduce the fines if it finds: (1) the violations are minor; (2) good faith or voluntary disclosure; (3) a history of overall compliance; or (4) inability to pay.<sup>9</sup>

11. TAG has failed to comply with four separate directives from the Order for portions of four months. Therefore, under past practice, there would be 16 occurrences subject to penalty. The Commission recently revoked TAG's state and federal ETC designation in its 16-TAGC-323-SHO Docket for TAG's failure to meet its KLSP obligation and imposed a \$118,000 fine.<sup>10</sup> Since TAG has committed repeated and continuous violations of Commission orders, the Commission believes imposing a penalty of \$2,000 per occurrence is appropriate.

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<sup>6</sup> GVNW KUSF Audit Report, Sept. 19, 2017, p. 1.

<sup>7</sup> Order Assessing Penalties Against AT&T, 14-GIMT-105-GIT Docket, Nov. 20, 2014, ¶ 7.

<sup>8</sup> *Id.*, ¶ 6.

<sup>9</sup> *Id.*

<sup>10</sup> Order Revoking TAG's State and Federal ETC Designation, 16-TAGC-323-SHO, Oct. 19, 2017, Ordering Clauses ¶¶ A, D.

Therefore, the Commission levies a \$32,000 fine against TAG for failing to comply with a Commission Order.

**THEREFORE, THE COMMISSION ORDERS:**

A. TAG shall remit payment of its \$32,000 fine for its failure to comply with a Commission Order. Payment shall reference this docket, 17-TAGC-029-KSF, be made out to the Commission, and mailed to the Commission's Fiscal Office, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027, no later than thirty (30) days from the date of this Order.

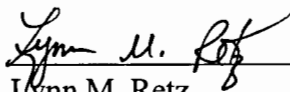
B. The parties have 15 days from the date of service, plus 3 days if by mail, to petition for reconsideration.<sup>11</sup>

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: NOV 09 2017

  
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Lynn M. Retz  
Secretary to the Commission

BGF

Order Mailed Date  
NOV 09 2017

<sup>11</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

**CERTIFICATE OF SERVICE**

17-TAGC-029-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/hand delivered on NOV 09 2017.

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/S/ DeeAnn Shupe  
\_\_\_\_\_  
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Order Mailed Date

NOV 09 2017