

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

In the Matter of the Audit of T-Mobile Central)
LLC by the Kansas Universal Service Fund)
Administrator Pursuant to K.S.A. 2012 Supp.)
66-2010(b) for KUSF Operating Year 16,)
Fiscal Year March 2012-February 2013.)
Docket No. 14-TMCZ-052-KSF

RESPONSE OF T-MOBILE CENTRAL LLC TO AUDIT REPORT

COMES NOW T-Mobile Central LLC ("T-Mobile"), by and through its undersigned counsel, and submits its Response to the Audit Report filed by GVNW Consulting, Inc. ("GVNW") on June 16, 2014.

1. On August 6, 2013, the State Corporation Commission of the State of Kansas ("Commission") issued its Order to KUSF Administrator to Commence Audit of T-Mobile Central LLC and Order Setting Procedural Schedule ("Order"). In its Order, the Commission explained that pursuant to K.S.A. 2012 Supp. 66-2010(b), T-Mobile is subject to audit for KUSF purposes every four years. Hence, the audit of T-Mobile for KUSF Operating Year 16.¹ Order at 2-3. The Commission further explained that the purpose of the periodic audit of all carriers is to verify that carriers are reporting revenue information in a manner consistent with K.S.A. 2012 Supp. 66-2010(b). Order at 2.

2. The Commission also stated that GVNW shall file its audit report and recommendations no later than Monday, June 30, 2014, and T-Mobile shall file its response to the report no later than 13 days from the date on which GVNW files the audit report with the Commission. Order at 3.

3. GVNW filed its Audit Report on June 16, 2014. In its Audit Report, GVNW found that "T-Mobile does not report gross revenues to the KUSF. Consequently; the Company

¹ Docket No. 12-GIMT-168-GIT.

is not in compliance with Kansas Corporation Commission (KCC or Commission) Orders." GVNW Audit Report at 1. T-Mobile asserts that it makes every effort to report its Kansas revenues consistent with the Commission's requirements, but its current billing system is limited by the tax modules in place.

4. This is the subject of an ongoing investigation instigated by the Commission to examine its current KUSF contribution policies. See Order Soliciting Comments Regarding KUSF Contribution Issues *et al.*, Docket No. 14-GIMT-105-GIT (Mar. 18, 2014) ("Order Soliciting Comments"). Specifically, the Commission requested interested parties to file comments on the issue of whether companies should report revenue gross or net of discount. Order Soliciting Comments at 6. As stated in its Initial Comments filed in response to the Commission's inquiry:

Some carriers' systems are not designed to track its assessments on a pre-discounted basis, and identifying the pre-discounted amounts would require pulling and reviewing individual subscribers' bills every month which would take many weeks to even attempt to accomplish. Requiring carriers to apply the KUSF to pre-discounted amounts is also inconsistent with the methodology imposed for other Kansas taxes, and some carriers' systems cannot utilize pre-discounted revenue for one assessment without incorrectly utilizing the same basis for other taxes that appear on customers' bills.

Initial Comments of T-Mobile Central LLC, Docket No. 14-GIMT-105-GIT (Apr. 17, 2014), at 2.

5. T-Mobile's methodology is consistent with other Kansas telecommunications providers. For example, AT&T stated that, like T-Mobile, "its billing systems are not currently capable of easily providing monthly Kansas revenue gross of any discounts provided and billed to its Kansas end-user customers." See AT&T's Comments on KUSF Contribution Issues, Docket No. 14-GIMT-105-GIT (Apr. 17, 2014), at 4 ("AT&T's Comments").

6. In addition to the practical impossibility of reporting revenues for KUSF purposes gross of discounts, there are policy considerations which support reporting revenues net of

discounts, not gross. In response to the Order Soliciting Comments, T-Mobile stated that customer discounts are analogous to bad debt in that they represent revenue companies do not collect, and companies should not have to remit assessments on revenues not actually collected. Further, T-Mobile stated that discounts may be used by some companies more than others. As a result, net revenues are a better measure for comparing financial performance between companies and would produce a more equitable and nondiscriminatory result. See Initial Comments of T-Mobile Central LLC, Docket No. 14-GIMT-105-GIT (Apr. 17, 2014), at 2.

7. As set out in their respective comments filed in Docket No. 14-GIMT-105-GIT, AT&T, Jive Communications, Verizon, Cox Communications, N.E. Colorado Cellular and Comcast all opined similarly. According to AT&T, for example, requiring carriers to apply the KUSF assessment to pre-discounted amounts is inconsistent with the methodology imposed for other Kansas taxes and would result in the taxation or assessment of revenues not actually received. See AT&T's Comments at 4. Additionally, Verizon argued that, for consistency with its approach to early termination fees ("ETFs"), the Commission should direct companies to report revenue net of discounts rather than gross of discounts. See Verizon's Initial Comments, Docket No. 14-GIMT-105-GIT (Apr. 17, 2014), at 2.

8. The KCC's current policy to require companies to report gross revenue, prior to any service discounts, for KUSF purposes is clearly a controversial one; hence, the Commission's request for comments on this and other issues related KUSF contributions. See generally Order Soliciting Comments at 6-7. Because the issue of whether to report revenues net or gross of customer discounts is the subject of an existing investigation, T-Mobile respectfully suggests that the Commission defer a decision as to T-Mobile's compliance with this audit provision pending the outcome of the Commission's investigation, including the tolling of any

penalties potentially due and owing by T-Mobile. Further, based on the filed comments, T-Mobile is not the only telecommunications provider with this issue. As such, compliance with this audit finding is not confined to T-Mobile; rather, it is an issue of general applicability to all telecommunications providers and should be resolved globally for all companies before a penalty is assessed individually against T-Mobile.

9. T-Mobile continues to work on system upgrades in order to be in full compliance with all taxing authorities, and has used such audit results to streamline its systems and processes in the past. For the reasons outlined above and in its initial response to the auditor's report, it is currently not possible to report gross revenues. Should that situation change, T-Mobile will comply at the earliest possible opportunity.

Respectfully submitted,



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VERIFICATION
K.S.A. 53-601

STATE OF KANSAS)
)
COUNTY OF SHAWNEE) ss:

I, Susan B. Cunningham, verify under penalty of perjury that I have caused the foregoing Response of T-Mobile Central LLC to Audit Report to be prepared on behalf of T-Mobile Central LLC, and that the contents thereof are true and correct to the best of my knowledge, information and belief.

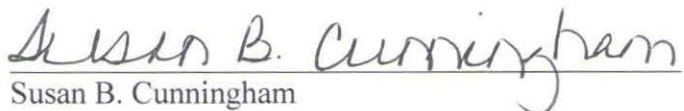


Susan B. Cunningham

June 27, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Response of T-Mobile Central LLC to Audit Report was served via electronic mail, U.S. mail or hand-delivered this 27th day of June, 2014, to the parties appearing on the Commission's service list, as last modified on June 25, 2014.



Susan B. Cunningham