



for KUSF Year 14 and quarterly True-ups for KUSF Year 15 that reflected removal of the revenues associated with the Federal TRS and Federal USF assessment surcharges reported to the KUSF. GVNW recommends the Commission direct the KUSF Administrator to refund Broadband Dynamics \$55.66 from the KUSF and, in turn, direct Broadband Dynamics to issue \$55.66 in refunds to its customers through one-time equal bill credits. GVNW also recommends that when the customer refunds are completed, Broadband Dynamics should be required to file an affidavit attesting that the \$55.66 was refunded to its customers. Upon the company's compliance with these requirements, GVNW indicates it will submit an update to the Commission.

(b). As for the non-KUSF related deficiency, GVNW states that certain services offered and rates charged by Broadband Dynamics to its customers were not in accordance with the company's tariffs on file with the Commission. In the course of its audit of Broadband Dynamics, GVNW noted and confirmed that four services were not included in the company's tariff and were not promotional offerings. GVNW's finding is prefaced by citing the standard in Kansas that public utilities are required to have approved tariffs on file with the Commission, with the tariffs binding both the utility and its customers.<sup>1</sup> The rates were first charged on customer invoices as follows: (i) Toll Free MRC-December 2005; (ii) 8xx Special Feature-April 2008; (iii) Carrier Surcharge Recovery-(Group 5000)-May 2009, and (iv) Carrier Surcharge Recovery (Group 008)-May 2009. GVNW states that Broadband Dynamics, on March 8, 2012, filed tariff revisions in Docket No. 12-BBDC-692-TAR that included the foregoing service offerings. The tariffs were accepted on March 12, 2012. Concluding its discussion of this finding, GVNW recommended the Commission consider whether to open a separate docket to

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<sup>1</sup> Grindsted Products, Inc. v. Kansas Corporation Commission, 262 Kan. 294, 309; 937 P.2d 1 (1997); K.S.A. 66-1,190.

examine this issue and determine whether refunds of monies collected for non-tariffed services are appropriate and whether the company should be assessed penalties for offering services without an approved tariff on file with the Commission.

3. The Commission has reviewed GVNW's Audit Report of May 10, 2012 and concludes that it should adopt GVNW's recommendations.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Commission accepts and adopts GVNW Consulting, Inc.'s Audit Report of May 10, 2012, filed in this docket on May 14, 2012.

B. The KUSF Administrator is directed to make a one-time payment of \$55.66 from the KUSF to Broadband Dynamics, L.L.C. for over-payment of Broadband Dynamics KUSF assessment.

C. Broadband Dynamics shall refund to its current customers \$55.66 by means of one-time equal bill credits at the first available billing cycle following the date of this Order. Upon Broadband Dynamics' completion of issuance of the customer billing credits, an officer of Broadband Dynamics shall file in this docket an affidavit attesting to the completion of issuance of the customer billing credits.

D. Upon Broadband Dynamics' completion of the requirements imposed under ordering paragraph C above, GVNW is directed to submit an update to the Commission.

E. Staff shall open a separate docket in which the Commission will determine whether penalties should be assessed against Broadband Dynamics for its failure to have on file with the Commission tariffs for the services identified as items (i) through (iv) in subparagraph 2. (b). above. The separate docket will also determine whether Broadband Dynamics should

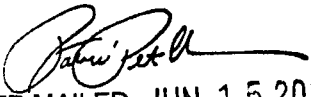
refund to customers monies collected for the non-tariffed services identified as items (i) through (iv) in subparagraph 2. (b). above.

F. The Commission retains jurisdiction over Broadband Dynamics, L.L.C. and the subject matter of this docket for the purpose of issuing such additional orders as it deems necessary.

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

Sievers, Chmn.; Loyd, Comm.; Wright, Comm.

Dated: JUN 15 2012

  
ORDER MAILED JUN 15 2012  
Patrice Petersen-Klein  
Executive Director

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PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROBERT S. RIFE, MANAGING MEMBER BROADBAND DYNAMICS, L.L.C. 8757 EAST VIA DE COMMERCIO 1ST FLOOR SCOTTSDALE, AZ 85258		
DAVID G. WINTER, SENIOR CONSULTANT GVNW CONSULTING, INC. 2270 LA MONTANA WAY PO BOX 25969 COLORADO SPRINGS, CO 80936		
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		

ORDER MAILED JUN 15 2012

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.