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Kansas Corporation Commission
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May 10, 2012

Ms. Patrice Petersen-Klein, Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027

Received
on

MAY 14 2012

by
State Corporation Commission
of Kansas

Dear Ms. Petersen-Klein:

RE: Docket No. 12-BBDC-030-KSF, Broadband Dynamics, LLC

In its July 21, 2011 order the Kansas Corporation Commission (KCC) directed GVNW to perform a KUSF carrier audit of Broadband Dynamics, LLC (Broadband Dynamics) to ensure that the data submitted to the KUSF via the KUSF CRWs, the assessments paid, and the calculation and application of the flow-through surcharge billed to and collected from Broadband Dynamics' customers, if applicable, are appropriate and accurate.

The KCC directed GVNW to file two versions of the audit report with the KCC; one version containing confidential information and one version with the confidential data redacted for public disclosure. Broadband Dynamics' audit does not require a separate confidential report; therefore, only the enclosed public audit report for Broadband Dynamics is being filed.

Copies of the supporting documentation, including GVNW's audit work papers and information provided by the company, are not included with the audit report, but are available from GVNW upon request.

Sincerely,

David Winter
Senior Consultant

cc: Sandy Reams

Enclosures

Kansas Universal Service Fund Audit Report

Docket No.: 12-BBDC-030-KSF
Broadband Dynamics, LLC

Prepared For: Kansas Corporation Commission
Kansas Universal Service Fund

Prepared By: David Winter
GVNW Consulting, Inc.

Audit Period: March 1, 2010, through February 28, 2011
Kansas Operating Year 14 (KUSF Year 14)

Date of On-Site Audit: Desk Audit

Date Submitted to Company: April 24, 2012

Company Representatives: Robert S. Rife
Gary Rodham
Kim Havins

Executive Summary

GVNW Consulting, Inc. (GVNW) has identified one (1) KUSF-related audit deficiency and one (1) non-KUSF related issue during its audit of Broadband Dynamics, LLC (Broadband Dynamics or Company). The Company should be required to issue \$55.66 of equal, one-time billing credits to its current customers, with the Kansas Universal Service Fund (KUSF) refunding \$55.66 to the Company to correct the following KUSF reporting deficiency.

- Finding No. 1: The Company applied the KUSF surcharge to the Federal Telecommunications Relay Services (Federal TRS) and Federal Universal Service Fund (Federal USF) surcharges collected from its customers and reported the associated revenues to the KUSF. This resulted in over-reporting revenues and an over-payment of the related surcharge to the KUSF and a \$55.66 over-collection of the KUSF surcharge from customers. Broadband Dynamics ceased this practice in February 2012.
- Finding No. 2: The services offered and rates charged by the Company to its customers are not in accordance with its interexchange service tariffs on file with the Kansas Corporation Commission (KCC or Commission).

On April 6, 2012, Broadband Dynamics submitted Audit True-ups for KUSF Year 14 and quarterly True-ups for KUSF Year 15 to correct the identified reporting deficiency to the KUSF. Broadband Dynamics, on March 8, 2012, filed tariff revisions in Docket No. 12-BBDC-692-TAR (Docket 12-692). GVNW has reviewed the Company's submissions and verifies it is in compliance with audit findings.

Background

Broadband Dynamics is an interexchange carrier (IXC) and Competitive Local Exchange Company (CLEC) headquartered in Scottsdale, Arizona. The Company is required to report its revenue and pay the related assessments to the KUSF on a monthly basis.¹ Broadband Dynamics is authorized to collect an amount equal to or less than its assessment from customers,² and does so. The Company provides service to business customers in Kansas, but does not have any residential customers in the state.

On July 21, 2011, the KCC issued Order No. 1 in Docket No. 12-BBDC-030-KSF (Docket 12-030) directing GVNW to conduct an audit for KUSF purposes.

Current KUSF Obligations

Broadband Dynamics is current with its KUSF obligations.

Audit Findings

GVNW conducted the audit of Broadband Dynamics in accordance with the KUSF Carrier Review Procedures adopted by the KCC.³ Based on these procedures, GVNW identified the following audit finding and recommendation:

Audit Finding No. 1

Standard: Pass-through charges subject to the Federal jurisdiction are not subject to the KUSF surcharge.⁴

Finding: The Company applied the KUSF surcharge to the Federal TRS and Federal USF assessment surcharges collected from its customers⁵ and reported the associated revenues to the KUSF for the period of March 2010 through January 2012. The error was corrected in February 2012.⁶ As a result, Broadband Dynamics over-reported revenue and over-collected \$55.66 from its customers.

Recommendation: On April 6, 2012, Broadband Dynamics submitted Audit True-ups for KUSF Year 14 and quarterly True-ups for KUSF Year 15 that reflected the removal of the revenues associated with the Federal TRS and Federal USF assessment surcharges reported to the KUSF. The KCC should direct the KUSF Administrator to refund the Company \$55.66 from the KUSF and Broadband Dynamics should be required to issue \$55.66 in refunds to its customers through one-time equal bill credits

¹ Docket No. 06-GIMT-332-GIT, January 23, 2006 Order Setting the Kansas Universal Service Fund Assessment Rate For Year Ten and Establishing Reporting Requirements.

² K.S.A. 66-2008.

³ Docket No. 09-GIMT-272-GIT, February 2011, Order and June 30, 2011, letter GVNW proposed KUSF Contributors Selected for Year 14, Attachment B.

⁴ Docket No. 94-GIMT-478-GIT (Docket 94-478), December 27, 1996, Order. pp. 39-41.

⁵ Response to Data Request No. 2 (Attachment A).

⁶ *Ibid.*

that will be over \$4.00 per customer within a specified time frame. Once the refunds are completed, Broadband Dynamics should file an affidavit attesting that the \$55.66 was refunded to its customers and upon the Company's compliance with the Commission's directives, GVNW will submit an update to the Commission.

Audit Finding No. 2

Standard: Kansas public utilities are required to have approved tariffs on file with the Commission, with the tariffs binding both the utility and its customers.⁷

Finding: The services offered and rates charged by Broadband Dynamics to its customers are not in accordance with its tariffs on file with the KCC. GVNW noted and confirmed,⁸ during its examination of customer billings, that four (4) services⁹ were not included in the Company's tariff and were not promotional offerings. The rates were first charged on customer invoices as follows: 1) Toll Free MRC – December 2005; 2) 8xx Special Feature – April 2008; 3) Carrier Surcharge Recovery (Group 5000) – May 2009 and 4) Carrier Surcharge Recovery (Group 008) – May 2009.

Company Response: The Company, on March 8, 2012, filed tariff revisions in Docket 12-692 that included the four (4) service offerings.¹⁰ The tariff revisions were accepted on March 12, 2012.

Recommendation: The Commission should consider whether to open a separate docket to 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.

⁷ Grindsted Products, Inc. v. Kansas Corporation Commission, 262 Kan. 294, 309, 937 P.2d 1(1997); K.S.A. 66-1, 1190.

⁸ Response to Data Request No. 4 (Attachment B).

⁹ 8xx Special Feature, Toll Free MRC, Carrier Surcharge Recovery (Group 5000) and Carrier Surcharge Recovery (Group 008).

¹⁰ Response to Data Request No. 5 (Attachment C).

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day May 2012, the original and seven (7) copies of the above and foregoing were sent via U.S. Mail, first class postage prepaid to:

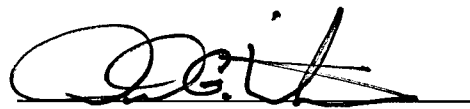
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