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June 16, 2014

Kim Christiansen, Executive Director  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

RE: Docket No. 14-TMCZ-052-KSF, T-Mobile Central LLC

Dear Ms. Christiansen:

In its August 6, 2013 order the Kansas Corporation Commission (KCC) directed GVNW to perform a KUSF carrier audit of T-Mobile Central LLC (T-Mobile) 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 T-Mobile's 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, if applicable. Only a public audit report is being filed; however, Attachments A, B and D to this report are confidential. Therefore, enclosed is the public Audit Report and Attachments C along with Confidential Attachments A, B and D.

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,

A handwritten signature in black ink, appearing to read "DW", with a large, stylized loop at the end.

David Winter  
Senior Consultant

cc w/encl: Sandy Reams

## Kansas Universal Service Fund Audit Report

**Docket No.** 14-TMCZ-052-KSF  
T-Mobile Central LLC

**Prepared For:** Kansas Corporation Commission  
Kansas Universal Service Fund

**Prepared By:** David Winter,  
GVNW Consulting, Inc.

**Audit Period:** March 1, 2012 through February 28, 2013  
Kansas Operating year 16 (Operating Year 16)

**Company Representatives:** Marie Harris  
Vincent Nalis

**Date of On-Site Visit:** November 20 and 21, 2013

**Date Submitted to Company:** May 19, 2014

### **Audit Summary**

Based on the Kansas Universal Service Fund (KUSF) Carrier Review Procedures for Operating Year 16,<sup>1</sup> GVNW Consulting, Inc. (GVNW) identified one (1) KUSF audit deficiencies regarding T-Mobile Central LLC (T-Mobile or Company):

- Finding No. 1: T-Mobile does not report gross revenues to the KUSF. Consequently; the Company is not in compliance with Kansas Corporation Commission (KCC or Commission) Orders.

As discussed herein, the KCC may wish to assess penalties, in accordance with K.S.A. 66-138, related to the Company's non-compliance with Commission orders regarding the reporting of revenues to the KUSF. GVNW recommends any such penalties be applied, effective March 2012 and forward, on a monthly basis.

The T-Mobile's Public and Confidential response to the above audit finding is contained in Attachment C and confidential Attachment D respectively.

### **Background**

T-Mobile is a wireless service provider headquartered in Bellevue, Washington. The Company is required to report its revenues and pay the related assessments to the

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<sup>1</sup> Docket No. 12-GIMT-168-GIT (Docket 11-168), July 16, 2013, Order Accepting and Approving GVNW Selection Criteria (July 16, 2013, Order), provided in GVNW Consulting, Inc.'s letter dated June 27, 2013, Attachment B (Carrier Audit Review Procedure).

KUSF on a monthly basis.<sup>2</sup> T-Mobile is authorized to collect an amount equal to or less than its assessment from customers,<sup>3</sup> and does so. The Company uses traffic studies for the identification of intrastate revenues and is current in reporting its intrastate factors to the KCC.

On August 6, 2013, the Kansas Corporation Commission (KCC or Commission) issued Order No. 1 in Docket No. 14-TMCZ-052-KSF (Docket 14-052) directing GVNW to conduct an audit for KUSF purposes.

This audit also requires a review of the Company's compliance with the audit recommendations<sup>4</sup> and the terms of the Stipulated Settlement Agreement<sup>5</sup> adopted by the KCC in Docket 10-076.

### **Current KUSF Obligations**

T-Mobile is current with its KUSF obligations.<sup>6</sup>

### **Audit Findings**

GVNW conducted the audit of T-Mobile in accordance with the KUSF Carrier Review Procedures adopted by the KCC.<sup>7</sup> Based on these procedures, GVNW identified the following audit findings and recommendations:

#### **Audit Finding No. 1**

**Standard:** Gross revenues, prior to any service discounts are to be reported to the KUSF.<sup>8</sup> In its January 2013 Order, in Docket 14-105, the Commission stated: "Carriers contributing to the KUSF are reminded to report gross revenue, prior to any service discounts, for KUSF purposes. Failure to do so is a violation of Commission order and may warrant penalties or a show cause proceeding."

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<sup>2</sup> Docket No. 06-GIMT-332-GIT (Docket 06-332), January 23, 2006, Order Setting the Kansas Universal Service Fund Assessment Rate for Year Ten and Establishing Reporting Requirements.

<sup>3</sup> K.S.A. 66-2008.

<sup>4</sup> Docket No. 10-TMCZ-076-KSF (Docket 10-076), December 30, 2010, Order Adopting Audit Report Recommendations, Directing T-Mobile to Comply with Recommendations and Assessing Penalties.

<sup>5</sup> Docket Nos. 10-TMCZ-076-KSF and 10-TMCZ-076-FIN, September 21, 2011, Order Approving Stipulated Settlement Agreement and Assessing Penalties (Stipulated Settlement Agreement).

<sup>6</sup> Confirmed on May 16, 2014 with the KUSF Administrator.

<sup>7</sup> Docket 11-88, July 16, 2013, Order.

<sup>8</sup> Docket No. 94-GIMT-478-GIT (Docket 94-478), August 13, 1999, Order, On Issue of Uncollectible Revenue and Additional KUSF Revenue Reporting Issues and Docket No. 14-GIMT-105-GIT (Docket 14-105), Order Adopting KUSF Assessment Rate For Year Eighteen of KUSF Operations.

On March 18, 2014, the KCC issued an Order in Docket 14-105<sup>9</sup> to investigate a number of KUSF revenue reporting issues, to include the reporting of discounts to the KUSF.

**Finding:** T-Mobile does not report gross revenues to the KUSF in accordance with the aforementioned Commission orders.<sup>10</sup> T-Mobile's represents that discounts provided to its contract customers are "generally immaterial"<sup>11</sup> and that its current billing system lacks the functionality to assess the KUSF surcharge on a customer's gross bill.<sup>12</sup>

**Recommendations:** T-Mobile should report gross revenues to the KUSF. GVNW notes that given the Company's statements in its confidential response to Data Request No. 3 (Attachment A) and the Commission's pending investigation into how discounts should be reported for KUSF purposes, the Commission may wish to consider the outcome of the Docket 14-105 investigation and at this time, consider implementation of a penalty, consistent with K.S.A. 66-138, for non-compliance with Commission orders. GVNW recommends any such penalties be applied, effective March 2012 and forward, on a monthly basis.

**T-Mobile Management Response:** The Company's Public and Confidential response is contained in Attachment C and confidential Attachment D respectively.

#### **Follow-up Docket 10-076 Audit Compliance**

The following findings and Stipulated Settlement Agreement provisions were adopted by the Commission in Docket 10-076:

**Finding No. 1:** T-Mobile reported calculated revenue, not actual revenues to the KUSF. The Company then reported its actual recorded revenue during the annual KUSF true-up process.

**Audit Finding Compliance:** T-Mobile reports calculated revenue to the KUSF on its required monthly filings. The Company submits Quarterly True-ups that reflects actual revenues per T-Mobile's trial balances less revenue accruals that represent unbilled revenue. T-Mobile submits an Annual True-up due to accounting adjustments to the previously reported Quarterly True-up revenues. These procedures are in accordance with the Stipulated Settlement Agreement.

**Finding No. 2:** The Company did not report Early Termination Fee (ETF) revenue to the KUSF.

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<sup>9</sup> Docket 14-105, March 18, 2014, Order Soliciting Comments Regarding Contribution Issues: Requiring Entry of Appearance to Actively Participate.

<sup>10</sup> T-Mobile Confidential Response to Data Request (DR) No. 3 (Attachment A).

<sup>11</sup> T-Mobile Confidential Response to Data Request (DR) No. 4 (Attachment B).

<sup>12</sup> Ibid.

**Audit Finding Compliance:** T-Mobile has modified its ETF accounting system to allow for the identification and reporting of ETF revenues to the KUSF on a modified cash basis on the same billed. The Company is in compliance with this audit finding.

GVNW notes that the Commission requires companies to report gross revenue, which may be reduced by uncollectibles. The modified cash basis methodology used by T-Mobile results in an equal amount of net revenue being reported to the KUSF. This specific issue is pending before the Commission in Docket No. 14-105.

**Finding No. 3:** T-Mobile reported calculated uncollectible revenue, not the Company's actual recorded uncollectible revenues.

**Audit Finding Compliance:** T-Mobile calculates KUSF uncollectible revenues in accordance with the provisions of the Stipulated Settlement Agreement.<sup>13</sup> This same calculated data is recognized by the Company on its accounting books and records. Therefore, meeting the Stipulated Settlement Agreement that "uncollectible revenue reported to the KUSF is equal to or less than the uncollectible revenue that the Company actually recognizes on its accounting books and records."<sup>14</sup>

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<sup>13</sup> Docket Nos. 10-TMCZ-076-KSF and 10-TMCZ-076-FIN, page 7, paragraph 8.f.

<sup>14</sup> Ibid.

**Docket No. 14-TMCZ-052-KSF**

**Confidential**

**Attachment A**

**To Kansas Universal Service Fund Audit Report**

**Dated June 13, 2014**

**Docket No. 14-TMCZ-052-KSF**

**Confidential**

**Attachment B**

**To Kansas Universal Service Fund Audit Report**

**Dated June 13, 2014**

**T-MOBILE CENTRAL LLC  
RESPONSE TO GVNW AUDIT REPORT  
PUBLIC**

In response to the Audit Report’s finding that “T-Mobile does not report gross revenues to the KUSF,”<sup>1</sup> T-Mobile 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.

\*\* [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

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T-Mobile's methodology is consistent with other Kansas telecommunications providers. For example, in its response to the KCC's March 19, 2014 Order Soliciting Comments Regarding KUSF Contribution Issues in Docket No. 14-GIMT-105-GIT ("Order Soliciting Comments"), 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").

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 KCC's 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.

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 believe 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,

<sup>1</sup> Kansas Universal Service Fund Audit Report at page 1.



**T-MOBILE CENTRAL LLC  
RESPONSE TO GVNW AUDIT REPORT  
PUBLIC**

Verizon argued that, for consistency with its approach to early termination fees ("ETFs"), the KCC 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.

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 KCC's request for comments on this and other issues related KUSF contributions. See generally Order Soliciting Comments. 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 GVNW, Staff and/or the KCC defer a decision as to T-Mobile's compliance with this audit provision pending the outcome of the KCC's investigation, including the tolling of any penalties potentially due and owing by T-Mobile. Further, based on the filed comments, it is clear that 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.

In the meantime, 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, it is currently not possible to report gross revenues. Should that situation change, T-Mobile will comply at the earliest possible opportunity.

**Docket No. 14-TMCZ-052-KSF**

**Confidential**

**Attachment D**

**To Kansas Universal Service Fund Audit Report**

**Dated June 13, 2014**

## CERTIFICATE OF SERVICE

I hereby certify that on this 16<sup>th</sup> day of June 2014, the above Kansas Universal Service Fund Audit Report was e-filed with the Kansas Corporation Commission and a copy was sent via electronic mail and/or U.S. Mail to:

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A handwritten signature in black ink, appearing to read 'D. G. Winter', with a long horizontal stroke extending to the right.

David G. Winter