

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

Before Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

In the Matter of a General Investigation for Tru)
Mobility, Inc. to Show Cause Why this)
Commission Should Not Levy Sanctions,) Docket No. 21-TMIV-449-SHO
Penalties, and Fines for Non-Compliance with)
Kansas Statutes and Commission Orders.)

ORDER ASSESSING PENALTIES FOR FAILURE TO COMPLY WITH
K.S.A. 66-2008(a)

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

1. K.S.A. 66-2008(a) requires all telecommunications carriers, telecommunications public utilities, wireless telecommunications service providers, and interconnected Voice-over-Internet-Protocol (VoIP) providers to contribute to the Kansas Universal Service Fund (KUSF) based upon their intrastate telecommunications services net retail revenues. Failure to contribute to the KUSF may result in additional penalties under K.S.A. 66-138.¹

2. On June 2, 2021, Commission Staff submitted a Report and Recommendation (R&R), recommending the Commission open an investigation into Tru Mobility, Inc. (Tru) for failing to comply with its obligations under K.S.A. 66-2008(a) and to consider issuing further penalties pursuant to K.S.A. 66-138.² Staff's R&R indicated Tru owes \$5,679.26 in unpaid

¹See Order Modifying Kansas Universal Service Fund Penalties, Docket No. 18-GIMT-084-GIT, Sept. 27, 2018 and Order Granting Petition of Southwestern Bell Telephone Company for Clarification and/or Reconsideration of Order Modifying Kansas Universal Service Fund Penalties, Docket No. 18-GIMT-084-GIT, Oct. 30, 2018.

² Order to Show Cause, June 10, 2021, ¶ 2.

contributions for KUSF FY 21-23 (March 2017-February 2020) plus \$11,076.71 in administrative penalties assessed by Vantage Point Solutions (VPS), formerly GVNW, Inc., for a grand total of \$16,755.97 in outstanding contributions and penalties owed as of June 1, 2021.³ Additionally, Tru did not report its revenues for January and February 2018 or pay its contributions, and needs to come into compliance for those months.⁴ Thus, Staff recommended: (1) opening a proceeding requiring Tru to show cause why it should not be subject to penalties, sanctions, or fines pursuant to K.S.A. 66-138 for failure to comply with its KUSF obligations; (2) directing Tru to come into compliance with its KUSF obligations by reporting its January and February 2018 revenues and paying the related assessment contributions to the KUSF; and (3) directing Tru to pay the \$5,678.26 in outstanding assessment contributions and \$11,076.71 in outstanding administrative penalties to the KUSF within 30 days of a Commission Order.⁵

5. On June 10, 2021, the Commission issued an Order to Show Cause, giving Tru 30 days to: (1) show cause why it should not be subject to penalties and fines for violating K.S.A. 66-2008(a); (2) comply with its KUSF obligations; and (3) pay its \$5,678.26 in outstanding assessment contributions and \$11,076.71 in outstanding administrative penalties.⁶

6. On June 28, 2021, Tru submitted a letter from Yvonne Rokaw, its Comptroller, blaming its failure to complete its filings on staff shortages caused by COVID-19, and offering to set up a payment plan to pay off its balance.⁷ On July 13, 2021, Ms. Rokaw sent Ms. Reams, the Commission's Assistant Chief of Telecommunications, a second letter requesting relief from as much of the penalties and interests as possible.⁸

³ *Id.*, ¶ 3.

⁴ *Id.*

⁵ *Id.*, ¶ 4.

⁶ *Id.*, Ordering Clauses ¶¶ A-C.

⁷ Yvonne Rokaw Letter to Sandy Reams, dated June 28, 2021.

⁸ Yvonne Rokaw Letter to Sandy Reams, dated July 13, 2021.

7. On April 8, 2022, Staff filed a second R&R, recommending the Commission: (1) find Tru non-compliant with the Commission's Show Cause Order; (2) find that Tru owes \$4,274.37 of assessment contributions and \$13,495.66 of penalties to the KUSF; (3) deny Tru's requests to remit monthly payments and waive or reduce its KUSF penalties; (4) direct VPS to stop accruing additional penalties for Tru; and (5) give Tru 45 days to pay its delinquent KUSF balance before the Commission initiates collection actions against the Company.⁹

8. Tru has not responded to Staff's second R&R. In its letters to Ms. Reams, Tru never denies it failed to report its revenues for January and February 2018 or pay its contributions. Instead, Tru simply offered explanation for those lapses and asked the Commission for relief from the resulting penalties. Thus, Tru has not provided any evidence that it was compliant with its obligations under K.S.A. 66-2008(a). Tru's request for lenience is unwarranted. Tru reported its January and February 2018 revenues, but it has not paid all of its KUSF assessments. Since Tru has not complied with K.S.A. 66-2008(a), penalties are appropriate under K.S.A. 66-138. Tru does not contest it owes \$4,274.37 of assessment contributions and \$13,495.66 of penalties to the KUSF. Accordingly, the Commission finds Tru owes \$4,274.37 of assessment contributions and \$13,495.66 of penalties to the KUSF. The Commission directs Tru to pay \$4,274.37 of assessment contributions and \$13,495.66 of penalties to the KUSF within 45 days of this Order being issued or face collections.

9. While the Commission will not reduce any of the assessment contributions due or the penalties incurred, it directs VPS to stop accruing additional penalties on Tru.

⁹ Report and Recommendation, Apr. 7, 2022, p. 1.

THEREFORE, THE COMMISSION ORDERS:

A. Tru has failed to comply with the Commission's Show Cause Order. Tru's requests to remit monthly payments and waive or reduce its KUSF penalties is denied.

B. Tru has 45 days from the date this Order is issued to pay \$4,274.37 of assessment contributions and \$13,495.66 of penalties to the KUSF, before the Commission initiates collections actions against it.

C. Vantage Point Solutions (VPS), the KUSF administrator, is directed to stop accruing additional penalties for Tru.

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹⁰

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner
04/28/2022

Dated: _____



Lynn M. Retz
Executive Director

BGF

¹⁰K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

CERTIFICATE OF SERVICE

21-TMIV-449-SHO

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 04/28/2022.

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