

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

Before Commissioners:                      Dwight D. Keen, Chair  
   Shari Feist Albrecht  
   Susan K. Duffy

In the Matter of a General Investigation for Ionex       )  
Communications, LLC to Show Cause Why                )  
This Commission Should Not Initiate Sanctions        )  
and Fines and/or All Certificates of Convenience       ) Docket No. 19-ICIT-179-SHO  
and Authority the Company Holds be Suspended,        )  
Canceled, or Revoked for Non-Compliance             )  
With Kansas Statutes and Commission Orders.         )

**STATUS REPORT ORDER AND PENALTY**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1.       On March 14, 2019, the Commission issued an Order Assessing Penalty (Penalty Order) and determined Ionex Communications, LLC (Ionex) had failed to timely comply with its Kansas Universal Service Fund (KUSF) reporting requirements by not filing Carrier Remittance Worksheets (CRW) when due and making recurring delinquent KUSF assessment payments. As part of the Penalty Order, the Commission adopted the Staff recommendation to monitor Ionex for a period of a year and to have Staff submit quarterly updates to assess whether or not additional sanctions are warranted. This determination was based on a finding that Ionex had committed 29 violations related to delinquent filings and late payments through November 2018 and resulted in a penalty assessment of \$2,900.00 under K.S.A. 66-138(a)(2), which was established by implementing a \$100.00 penalty for each monthly filing delinquency occurring through that period.

2. Ionex has its corporate headquarters in Atlanta, Georgia.<sup>1</sup> It operates as a competitive local exchange carrier (CLEC) and interexchange carrier (IXC) in Kansas.<sup>2</sup> Effective March 5, 2019, Ionex changed its name to Lingo Communications Midwest, LLC (Lingo).<sup>3</sup>

3. On April 26, 2019, the Staff filed a Report and Recommendation dated April 22, 2019, which was based on its investigation in conjunction with responsibilities to submit a quarterly status report under the Penalty Order. The Staff determined that Ionex had come into compliance with its monthly KUSF obligations for Fiscal Year 22. However, Staff found Ionex had been delinquent in submitting the December 2018 CRW and paying the related assessment on time. It also failed to pay \$127.86 in KUSF penalties related to its failure to timely file the December 2018 CRW and make the KUSF assessment. Staff further noted Ionex was outstanding in the payment of \$445.92 for regulatory assessments to the Commission.

4. Based on the Staff review, it recommended penalties be assessed in the amount of \$100.00 for each of the three violations identified for a total penalty of \$300.00. Additionally, Staff noted the outstanding KUSF penalties of \$127.86 and regulatory assessments of \$445.92. It advised the Commission to issue an Order directing Lingo to remit payment of the \$127.86 in KUSF penalties, \$445.92 in outstanding assessments and \$300.00 in statutory penalties within twenty-one days of the issuance of the Order.

5. The Commission has reviewed the Staff Report and Recommendation, which is attached to the Order and made part of it by reference, and adopts the Staff's recommendations.

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<sup>1</sup> FCC Form 499 Filer Database (last reviewed July 12, 2018).

<sup>2</sup> Orders and Certificates granted in Docket No. 00-ICIT-758-COC (CLEC), March 20, 2000, and Docket No. 00-ICIC-759-COC (IXC), March 20, 2000.

<sup>3</sup> Order Approving Name Change, Docket No. 19-ICIT-226-CCN, (CLEC); and Order Approving Name Change, Docket No. 19-ICIC-227-CCN (IXC), March 5, 2019.

6. K.S.A. 2018 Supp. 66-2008(a) authorizes the Commission to require carriers to contribute to the KUSF on an equitable and non-discriminatory basis. The Commission has issued orders under its statutory mandate to provide registration and timely reporting and assessment payments. Ionex failed to make timely contributions to the KUSF and to meet its reporting and payment obligations for the month of December 2018 as well as associated KUSF penalties. It, therefore, violated K.S.A. 2018 Supp. 66-2008 (a).

7. K.S.A. 2018 Supp. 66-138(a)(2) provides the Commission with authority to levy fines and penalties against a telecommunications carrier for violating statutes under which the Commission has a duty to act, refusing to comply or obey any lawful Commission requirement and failing to abide by any Commission order. A sum not less than \$100 and no more than \$5,000 may be assessed against a violator for each offense. The statutory penalties for violating Commission statutes, orders and rules and regulation are applicable to Lingo and it is determined that Lingo pay a penalty of \$100.00 for each of the three violations identified by Staff in its Report and Recommendation for a total penalty of \$300.00.<sup>4</sup> The violations pertain to not meeting its KUSF obligations by failing to timely file a CRW for December 2018 and being delinquent in making the corresponding assessment payments when due.

8. Based on the Staff Report and Recommendation, Lingo is directed to pay the statutory penalty of \$300.00, along with the regulatory assessments of \$445.92, to the Commission for a total payment of \$745.92. Additionally, Lingo is directed to pay \$127.86 to the KUSF for regulatory penalties for not timely filing the December 2018 CRW and not making the associated KUSF assessment. The payments are to be made within twenty-one days of the issuance of the Order.

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<sup>4</sup> Attachment 1 to the Staff Report and Recommendation dated April 22, 2019.

9. This Order is issued as part of the Staff's directive to conduct a quarterly review of Lingo and the requirement to submit quarterly updates regarding Lingo's compliance with KUSF reporting and payment obligations. The review process has been placed into effect in light of the numerous reporting and payment violations that have occurred since Ionex was granted authority in 2000. The review process was established to determine if additional sanctions are warranted as a result of Ionex (now Lingo) not complying with KUSF reporting and payment requirements. Staff has noted partial compliance by Lingo as a result of the review process, but also has highlighted the three violations giving rise to additional penalties. The review process was also implemented to permit an assessment regarding Lingo's continued operation as a CLEC and IXC.

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

A. Lingo Communications Midwest, LLC is assessed a civil penalty of \$300.00 for three violations related to failing to remit its CRW and to timely pay its KUSF assessments for December 2018 as well as an associated KUSF penalty of \$127.86. It also is delinquent in paying \$445.93 in outstanding pass due assessments.

B. Payment of the \$300.00 statutory penalty, the \$127.86 KUSF regulatory penalties and the \$445.93 in outstanding pass-due assessments are to be made within twenty-one (21) days of the mailing of this Order. Payment of \$745.93 for the statutory penalty and the outstanding assessments shall reference the Docket, and be made to the Commission, addressed to the Commission fiscal office, 1500 SW Arrowhead, Topeka, Kansas 66604-4027. Payment of \$127.86 for the regulatory penalties shall be made to the KUSF. If the penalty is not timely paid, the Commission may consider canceling, suspending or revoking Lingo's CLEC and IXC authority.

C. 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).<sup>5</sup>

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it may deem necessary.

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

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 05/21/2019



Lynn M. Retz  
Secretary to the Commission

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<sup>5</sup> K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

## **CERTIFICATE OF SERVICE**

19-ICIT-179-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 05/21/2019.

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/S/ DeeAnn Shupe  
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