

to comply with its obligations under K.S.A. 66-2008(a) and consider issuing further penalties pursuant to K.S.A. 66-138 for its failures.

3. Currently, Staff indicates that Tru owes \$5,679.26 in unpaid contributions for KUSF FY 21-23 (March 2017-February 2020) along with \$11,076.71 in administrative penalties assessed by GVNW, Inc. (\$5,400 in Late Attachment B Penalties, \$3,224.52 of Late Filing Penalties, \$765.82 of Late Payment Penalties, and \$1,686.37 of Delinquent Balance Penalties). This brings the grand total to \$16,755.97 in outstanding contributions and penalties owed as of June 1, 2021. Additionally, Tru did not report its revenues for January and February 2018 or pay its contributions, and needs to come in to compliance for those months.

4. Due to the delinquencies, Staff recommended in its R&R that the Commission open a proceeding requiring Tru to show cause why the Commission should not be subject to penalties, sanctions, or fines pursuant to K.S.A. 66-138 for failure to comply with its KUSF obligations. Staff also recommended Tru be directed 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. Finally, Staff recommended that Tru be directed to pay the outstanding \$5,678.26 in outstanding assessment contributions and \$11,076.71 in outstanding administrative penalties to the KUSF within 30 days of the issuance of an Order.

5. The Commission finds Staff's findings and recommendation to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Tru Mobility, Inc. shall show cause, within thirty (30) days of the issuance of this Order, why it should not be subject to penalties and fines for failing to fulfill its required duties under Kansas law.

B. Tru Mobility, Inc. is hereby ordered 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 within thirty (30) days of the issuance of this Order.


C. Tru Mobility, Inc. is hereby ordered to pay its \$5,678.26 in outstanding assessment contributions and \$11,076.71 in outstanding administrative penalties to the KUSF administrator (GVNW, Inc.) within thirty (30) days of the issuance of this Order.

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).²

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 06/10/2021



Lynn M. Retz
Executive Director

MRN

²K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).



**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairperson Andrew J. French
Commissioner Dwight D. Keen
Commissioner Susan Duffy

FROM: Sandy Reams, Assistant Chief of Telecommunications
Bryan Seamans, Chief of Telecommunications & SPP Affairs
Jeff McClanahan, Director of Utilities

DATE: June 2, 2021

SUBJECT: Docket No. 21-TMIV-449-SHO

In the Matter of a General Investigation for Tru Mobility, Inc. to Show Cause Why this Commission Should Not Levy Sanctions, Penalties, and Fines for Non-Compliance with Kansas Statutes and Commission Orders.

EXECUTIVE SUMMARY

Tru Mobility, Inc. (Tru), headquartered in Vero Beach, Florida, provides cellular phone service in Kansas.¹ The Company is delinquent with its Kansas Universal Service Fund (KUSF) obligations for January and February 2018 and owes \$16,755.97 of assessment contributions and administrative penalties to the KUSF as of June 1, 2021. Tru is, therefore, non-compliant with K.S.A. 66-2008(a) and Commission Orders.

Staff recommends the Commission issue an order to open a proceeding and require 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. Staff also recommends the Company be directed to report its revenues and pay the related assessment contributions for January and February 2018 and pay \$16,755.97 to the KUSF for delinquent assessment contributions and administrative penalties within 30 days of issuance of an order.

BACKGROUND

K.S.A. 66-2008(a) requires every provider of intrastate telecommunications services, including interconnected Voice over Internet Protocol (VoIP) providers, to contribute to the KUSF based on its intrastate telecommunications services net retail revenues. Tru provides cellular services in Kansas and is required to comply with K.S.A. 66-2008.

¹ FCC Form 499 Filer Database, Tru Mobility, Inc.:
<https://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=829025>.

On July 21, 2020, GVNW recommended that Tru be subject to a KUSF carrier audit to ensure it is correctly reporting revenue and paying contributions to the KUSF.² On August 18, 2020, the Commission opened Docket No. 21-TMIV-069-KSF and directed GVNW to conduct an audit of Tru for the Fiscal Year of March 1, 2019, through February 28, 2020.³

Due to the Company's failure to comply with its KUSF obligations and to support its recommendations, Staff requested GVNW to provide a Memorandum, enclosed as Attachment A, detailing Tru's KUSF history. GVNW explained that, in June 2019, it identified Tru as a carrier that may be required to comply with K.S.A. 66-2008(a) when it performed its review of the Federal Communications Commission's (FCC) Form 499 Carrier Locator Directory and Database. GVNW stated it mailed KUSF information to the Company and, when the Company did not respond, began mailing monthly Delinquent Notices to the Company. GVNW also explained that Tru registered with the KUSF for the Fiscal Years (FY) of March 2017 – February 2018 (FY 21), March 2018 – February 2019 (FY 22), and March 2019 – February 2020 (FY 23), owing \$8,679.26 of contributions to the KUSF for the three years. GVNW also explained the Company has paid \$3,000 of the total contributions owed. Thus, GVNW stated that Tru remains delinquent in reporting its revenue and paying the related assessment contributions for the months of January and February 2018 and \$5,679.26 of assessment contributions for FY 21 through FY 23. The Company has registered with the KUSF for March 2020 – February 2021 (FY 24) and March 2021 – February 2022 (FY 25), stating it is not generating any Kansas intrastate retail revenue and, therefore, does not owe contributions to the KUSF for FY 24 or FY 25.

GVNW further explained that in addition to the \$5,679.26 of assessment contributions owed to the KUSF for FY 21-FY 23, the Company also owes \$11,076.71 of administrative penalties to the KUSF assessed by GVNW pursuant to Commission Orders.⁴ GVNW explained the administrative penalties consist of: (1) \$5,400 of Late Attachment B Penalties; (2) \$3,224.52 of Late Filing Penalties; (2) \$765.82 of Late Payment Penalties; and \$1,686.37 of Delinquent Balance Penalties.

ANALYSIS

Tru is non-compliant with its KUSF obligations for January and February 2018 and owes \$5,679.26 of assessment contributions for FY 21 – FY 23 and \$11,076.71 of administrative penalties to the KUSF. GVNW and Staff have reached out to Tru to assist the Company into coming into compliance with its KUSF obligations, to no avail. Furthermore, the Company is subject to a carrier audit by GVNW and still has not addressed its delinquent KUSF obligations.

RECOMMENDATION

Staff recommends the Commission issue an order to open a proceeding and require 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. Staff also recommends the Company be directed to

² Submission of March 2019 through February 2020 KUSF Fiscal Year (FY23) Carrier Audit Selection, Docket No. 19-GIMT-056-GIT, July 21, 2020.

³ Order to Kansas Universal Service Fund Administrator to Commence Audit of Tru Mobility, Inc. and Order Setting Procedural Schedule, Docket No. 21-TMIV-069-KSF, Aug. 18, 2020.

⁴ Order Modifying Kansas Universal Service Fund Penalties, 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, Oct. 30, 2018, Docket No. 18-GIMT-084-GIT.

come into compliance with its KUSF obligations by reporting its January and February 2018 revenues and paying the related assessment contributions to the KUSF. Staff further recommends Tru be directed to pay the outstanding \$5,679.26 of assessment contributions and the \$11,076.71 of outstanding administrative penalties to the KUSF within 30 days of issuance of an order.



C O N S U L T I N G

KUSF MEMO

Date: May 28, 2021
To: Sandy Reams, Assistant Chief of Telecommunications
From: Nicole Stephens, KUSF Compliance Manager
RE: Tru Mobility, Inc. – KUSF Account KS006449

BACKGROUND

This Memorandum provides updated KUSF reporting information to the Kansas Corporation Commission (Commission) for Tru Mobility, Inc (“Tru Mobility”), KUSF Account No. KS006449, as an update to its previous memo dated June 30, 2020.

Tru Mobility registered with the KUSF as a VoIP provider on October 23, 2019. Tru Mobility’s Company Identification and Operations (Attachment B) forms for the March 2017 – February 2018 (FY 21), March 2018 – February 2019 (FY 22), and March 2019 – February 2020 (FY 23) KUSF Fiscal Years contained an election to report to the KUSF on a monthly basis for all three Fiscal Years.

The corresponding FY 21, FY 22, and FY 23 monthly Carrier Remittance Worksheets (CRWS) were not submitted, therefore, GVNW began sending monthly Delinquent Notices in November 2019 and continuing through February 2020. GVNW received the FY 23 monthly CRWs on February 19, 2020, but did not receive the related assessment payments. On April 24, 2020, the FY 21 and 22 monthly CRWs were received, but payments for the related assessments were not received.

The total KUSF assessment contributions due for FY 21 – 23 is \$8,679.26. On June 18, 2020, a payment of \$1,000 was received from Tru Mobility and, on August 27, 2020, a payment of \$2,000 was received.

For the March 2020 – February 2021 (FY 24) and March 2021 -February 2022 (FY 25) KUSF Fiscal Years, Tru Mobility registered with the KUSF, stating it was Not Generating Kansas Intrastate Retail Revenue.

Consistent with Commission Orders,¹ Late Filing Penalties of 1% per month (12% APR cumulative) of the assessment due or \$100 per CRW were assessed for the months of March 2017 – January 2020, for a total of \$3,224.52. Late Payment Penalties, assessed at 1% per month of the contribution owed, totaled \$765.82. Delinquent Balance Penalties of 1% of the balance owed at the end of each month were assessed for February 2020 through April 2021, for a total of \$1,686.37.

GVNW became aware that, due to modifications to the KUSF system and the implementation of the new penalties, it had not assessed Late Attachment B Filing Penalties of \$100 per month based on the Company registering with the KUSF after the due date. Thus, on May 28, 2021, GVNW assessed the following Late Attachment B Penalties:

FY 21 Attachment B penalties - \$3,000
FY 22 Attachment B penalties - \$1,800
FY 23 Attachment B penalties - \$600
Total Late Attachment B Penalties - \$5,400

The total current outstanding balance is \$16,755.97.

GVNW continues to mail monthly Delinquent Notices to Tru Mobility in regard to its past due KUSF obligations. The Company has not responded to the Delinquent Notices.

¹ Order Modifying Kansas Universal Service Fund Penalties, 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, Oct. 30, 2018, Docket No. 18-GIMT-084-GIT.

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 06/10/2021.

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/S/ DeeAnn Shupe

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