

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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

In the Matter of a General Investigation for)
Unitel Voice, LLC to Show Cause Why this)
Commission Should Not Initiate Sanctions and) Docket No. 20-UNTV-525-SHO
Fines for Non-Compliance with Commission)
Orders and Kansas Statutes.)

ORDER TO SHOW CAUSE

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. Unitel Voice, LLC (Unitel), headquartered in Naperville, Illinois, provides Voice over Internet Protocol (VoIP) service in Kansas.

2. K.S.A. 66-2008(a) requires every telecommunications carrier, telecommunications public utility, wireless telecommunications service provider, and interconnected VoIP service to contribute to the KUSF based on its intrastate telecommunications services net retail revenues.

3. Commission Staff (Staff) submitted a Report and Recommendation (R&R) to the Commissioners, dated June 17, 2020, attached hereto and made a part hereof by reference.

4. Staff explained that based upon information received from GVNW Consulting, Inc. (GVNW), Unitel is delinquent with respect to the following:

- (1) Unitel has not reported its revenues and failed to pay its KUSF contributions for March 2018 – February 2019 Fiscal Year (FY22);
- (2) Unitel failed to register, has not reported its revenues and failed to pay its KUSF contributions for March 2019 – February 2020 (FY23);
- (3) Unitel failed to register, has not reported its revenue and failed to pay its KUSF contributions for March 2020 – February 2021(FY24);

(4) Unitel has not paid \$5,464.21 in penalties owed to the KUSF as of June 1, 2020.

5. Staff indicated that GVNW and Staff have had direct communication with Unitel with limited results.

6. Based upon the foregoing, Staff recommended the Commission open a proceeding requiring Unitel to show cause why this Commission should not initiate sanctions, fines, or penalties.

7. 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. Unitel Voice, LLC shall show cause within thirty (30) days of receipt of this Order, why it should not be subject to sanctions, fines, or penalties for failing to maintain compliance with its Kansas statutory and regulatory obligations.

B. Unitel is also directed to: (1) register with the KUSF for FY 23 and FY 24; (2) report all revenue and pay the related KUSF contributions for March 2018 through June 2020; and (3) pay all penalties owed to the KUSF within 30 days of issuance of this Order.

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).¹

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Keen, Commissioner; French, Commissioner

Dated: 06/30/2020



Lynn M. Retz
Executive Director

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¹K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

FROM: Sandy Reams, Assistant Chief of Telecommunications
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: June 17, 2020

SUBJECT: Docket No. 20-UNTV-525-SHO
In the Matter of a General Investigation for Unitel Voice, LLC to Show Cause Why this Commission Should Not Initiate Sanctions and Fines for Non-Compliance with Kansas Statutes and Commission Orders.

EXECUTIVE SUMMARY:

Unitel Voice, LLC (Unitel), headquartered in Naperville, Illinois, provides Voice over Internet Protocol (VoIP) service in Kansas.¹ Unitel remains delinquent with the following KUSF obligations: (1) reporting its revenues and paying its KUSF contributions for March 2018 – February 2019 Fiscal Year (FY 22); (2) registering, reporting its revenue, and paying its contributions for March 2019 – February 2020 (FY 23); (3) registering, reporting its revenue, and paying its contributions for March 2020 – February 2021 (FY 24); and (4) paying \$5,464.21 of penalties owed to the KUSF as of June 1, 2020. Unitel 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 Unitel 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 Unitel be directed to: (1) register with the KUSF for FY 23 and FY 24; (2) report all revenue and pay the related KUSF contributions for FY 22 through FY 24; and (3) pay all administrative penalties owed to the KUSF 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

¹ FCC Form 499 Filer Database, Unitel Voice, LLC.

<https://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=830099>, last viewed June 11, 2020.

its intrastate telecommunications services net retail revenues. Unitel provides interconnected VoIP services in Kansas and is required to comply with K.S.A. 66-2008.

GVNW provided a Memorandum, enclosed with Staff's Report and Recommendation as Attachment A, detailing Unitel's KUSF history. The Memorandum states that, in March 2018, Unitel paid approximately \$151 to the KUSF for the March 2017 - February 2018 Fiscal Year (FY 21), but did not register with the KUSF or report its revenues. GVNW opened an account for Unitel to record the credit and sent delinquent letters to the Company.

Staff began to directly correspond with Unitel regarding its KUSF obligations in October 2019. In December 2019, Unitel submitted its FY 21 registration and reported its FY 21 revenues, allowing GVNW to record and process all FY 21 data. GVNW assessed Unitel the \$100 per month Late Filing Penalty for the 32 month lag between the April 17, 2017, registration due date and the December 19, 2019, filing date, for a total penalty of \$3,200.²

Unitel also registered for FY 22 in December 2019. GVNW assessed Unitel the \$100.00 per month Late Filing Penalty for 20 months – from the April 16, 2018, KUSF registration due date through December 19, 2019, when Unitel registered, for total penalties of \$2,000.

Unitel advised Staff, on several occasions, it intended to file a waiver with the Commission seeking a reduction of its KUSF penalties, but has not done so.

ANALYSIS

Unitel remains non-compliant with its KUSF obligations for March 2018 through June 2020³ and owes \$5,464.21 in administrative penalties to the KUSF. Staff has been in direct contact with Unitel with limited results. Unitel is aware it may seek a waiver to request a reduction in the administrative penalties, but has not filed a waiver or paid the penalties.

RECOMMENDATION:

Staff recommends the Commission issue an Order opening a proceeding to require Unitel 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 Unitel be directed to: (1) register with the KUSF for FY 23 and FY 24; (2) report all revenue and pay the related KUSF contributions for March 2018 through June 2020; and (3) pay all penalties owed to the KUSF within 30 days of issuance of an Order.

² 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.

³ May 2020 revenue reports and contribution payments were due to the KUSF on June 15, 2020.



CONSULTING

KUSF MEMO

Date: June 1, 2020
To: Sandy Reams, Assistant Chief of Telecommunications
From: Nicole Stephens, KUSF Compliance Manager
RE: Unitel Voice, LLC – KUSF Account KS006418

BACKGROUND

This Memorandum provides KUSF reporting information to the Kansas Corporation Commission (Commission) for Unitel Voice, LLC (“Unitel”), KUSF Account No. KS006418.

GVNW is required, as part of its KUSF Administration contract, to review the FCC’s Form 499 Carrier Locator Directory and Database to identify providers that may be required to report and contribute to the KUSF. This review must be done three times per year - in February, June and October.

Unitel was identified as a company that may be doing business in Kansas with the FCC Form 499 Carrier Locator Directory and Database when GVNW performed its review in October 2017. At that time, GVNW mailed Unitel the March 2017 – February 2018 (FY 21) KUSF Instructions and forms.

GVNW did not receive a response from Unitel, therefore, delinquent letters were mailed to the Company and advised the Company it needed to register with the KUSF for FY 21 by submitting the FY 21 KUSF Company Identification and Operations form (Attachment B). The delinquent letters were mailed beginning in January 2018 and continued to be mailed on a monthly basis through March 2018 when the FY 21 Annual CRW and assessment payment of \$151.87 were received on March 27, 2018. However, the corresponding FY 21 Attachment B was not submitted, therefore, GVNW could not process the FY 21 Annual CRW.

On September 26, 2018, GVNW received an email from Staff member, Sandy Reams, stating her research found the Unitel was not registered with the Kansas Secretary of

State and that the Company's website indicated the Company offered phone systems. GVNW inactivated the KUSF account for Unitel on September 26, 2018.

On January 15, 2019, GVNW reactivated the Company's KUSF account due to a credit balance of \$151.87 on the account. GVNW determined it could not refund the monies to the Company since the Company had not submitted the FY 21 registration. GVNW sent an email to Doug McCabe on January 15, 2019, requesting the Company submit its FY 21 & FY 22 (March 2018 – February 2019) Attachment B's. At that time, the Company's website indicated it was offering business voice service in Kansas.

On January 27, 2019, GVNW resumed mailing monthly delinquent letters to the Company and advised it needed to register with the KUSF for the FY 21 and FY 22. GVNW continued to mail monthly delinquent letters through November 2019.

On December 19, 2019, Unitel submitted its FY 21 and FY 22 Attachment B's, identified it earned Kansas intrastate retail revenue, and elected to report and pay on an Annual basis for both fiscal years. GVNW processed the FY 21 Annual worksheet submitted on March 27, 2018. Unitel has not submitted its FY 22 Annual worksheet or assessment payment.

In accordance with the Commission's *Order Modifying Kansas Universal Service Fund Penalties*,¹ GVNW assessed \$5,200 of penalties, comprised of the following:

1. \$3,200 in Late Filing Penalties, assessed at \$100 per month for 32 months, for filing its FY 21 Attachment B, due April 17, 2017, on December 19, 2019;
2. \$2,000 in Late Filing Penalties, at \$100.00 per month for 20 months since the Company filed its FY 22 Attachment B, due April 16, 2018, on December 19, 2019. The total amount of penalties is \$5,200.00.

As of April 15, 2020, Unitel has not remitted payment for the KUSF penalties. The Delinquent Balance Penalty of 1% of the balance due remaining at the end of each month, has been assessed since January 2020. The outstanding balance as of June 1, 2020 is \$5,464.21.

Additional penalties will be applied when Unitel submits its FY 22 Annual CRW and Assessment Payment and FY 23 Attachment B.

¹ Order, Docket No. 18-GIMT-084-GIT, Sept. 27, 2018.

CERTIFICATE OF SERVICE

20-UNTV-525-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 06/30/2020.

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/S/ DeeAnn Shupe

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