

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held December 3, 2020

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
David W. Sweet, Vice Chairman  
John F. Coleman, Jr.  
Ralph V. Yanora

Pennsylvania Universal Service Fund Annual Rate  
Adjustment

M-00001337

**ORDER**

**BY THE COMMISSION:**

On September 15, 2020, GVNW Consulting, Inc. (GVNW),<sup>1</sup> the Administrator for the Pennsylvania Universal Service Fund (PaUSF or Fund), filed its annual Administrator's Report (Report) with the Commission as required under 52 Pa. Code § 63.163(e), providing a Fund income statement, recommendations for Fund operations, and a proposed budget and assessment rates for the upcoming year. GVNW served copies of the Report on the telecommunications carriers participating in the PaUSF, the Office of Consumer Advocate and the Office of Small Business Advocate. No comments were filed.

Pursuant to 52 Pa. Code § 63.164 (relating to the Commission's oversight of the Fund), we are issuing this order within ninety days of receipt of the Report. This order

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<sup>1</sup> On August 1, 2020, GVNW Consulting, Inc. merged with Vantage Point Solutions, Inc. The merged entity is Vantage Point Solutions, Inc., EIN 22-3860061, at 2211 North Minnesota Street, Mitchell SD 57301. The Commission's contract with GVNW (now Vantage Point Solutions) was amended to reflect the name change on August 28, 2020. GVNW is now referring to itself as GVNW, a Vantage Point Solutions Company.

establishes the size of the Fund, approves a budget for the next calendar year, establishes the assessment rate for contributing telecommunications providers, adopts certain recommendations for Fund operations, and establishes administrative guidelines for the upcoming year. Based upon the Report from GVNW, we have made the following determinations regarding the PaUSF for calendar year 2021.

**1. Maintain Five Percent (5%) Contingency**

For the last fifteen (15) years, the Commission has approved a 5% contingency reserve. This percentage has provided a sufficient cash reserve to ensure that PaUSF support payments timely occur in the event of unforeseen funding shortfalls and delinquent accounts. GVNW recommends that we maintain the annual funding contingency reserve of 5% in 2021. We agree with GVNW's recommendation.

**2. Carryover Balance**

The Fund's balance is projected to increase, which will result in an anticipated year-end Fund balance greater than \$1.5 million. GVNW asserts that it would be prudent to utilize a conservative estimated cash balance of \$1.5 million as of December 31, 2020, for calculation purposes, providing a cushion for any unforeseen variances. We agree with GVNW's recommendation to err on the side of caution so that the Fund is adequately funded.<sup>2</sup> Therefore, we will use a \$1.5 million cash contingency reserve balance to calculate contributions for the 2021 calendar year

**3. Electronic Filing of Carrier Data Collection Reports of Prior Year Revenues**

By March 31<sup>st</sup> of each year, carriers are required to report their annual revenues from the prior calendar year, which are used to calculate the following year's PaUSF assessment rate. GVNW maintains a web-based portal for online reporting that carriers

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<sup>2</sup> The Commission previously adopted this methodology in its 2010 Annual Rate Adjustment Order, *In re: Pennsylvania Universal Service Fund Annual Rate Adjustment*, Docket No. M-00001337 (Order entered December 3, 2010).

use to fulfill this requirement. We will continue to require carriers to submit their annual affidavit identifying their total intrastate end-user telecommunications retail revenue for the previous calendar year to GVNW using the web-based portal. Normally, reporting carriers would be required to file a paper copy of their annual revenue report with the Commission's Secretary's Bureau pursuant to the Commission's regulations at 52 Pa. Code § 63.165(a). However, pursuant to an Emergency Order at Docket No. M-2020-3019262, the Commission informed the regulated community and other stakeholders that due to the Governor's Proclamation of Disaster Emergency that was issued in response to the COVID-19 pandemic, the Commission was waiving the requirement for paper filings and was accepting only e-filings of all documents. *See Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*, Emergency Order, Docket No. M-2020-3019262, (Order entered March 20, 2020). Thus, for the time being, until the unique circumstances that lead to the issuance of the Emergency Order have passed and the waiver of applicable paper filing requirements is no longer necessary, reporting carriers need only file an electronic copy of their annual revenue report with the Commission's Secretary's Bureau.

**4. Provide a system for Voice over Internet Protocol (VoIP) Providers that choose or are required to participate in the Fund**

GVNW draws attention to ViaSat Carrier Services, Inc. (ViaSat), a VoIP services provider that was designated as an eligible telecommunications carrier (ETC) in Pennsylvania by the Commission so that it could become eligible to receive federal universal service high-cost support in order to provide jurisdictional voice telecommunications service and broadband internet access services in certain eligible census blocks located throughout Pennsylvania.<sup>3</sup> As a condition to receiving its ETC designation, the Commission directed ViaSat to begin to contribute to the PaUSF as

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<sup>3</sup> See Petition of ViaSat Carrier Services, Inc. for Designation as an Eligible Telecommunications Carrier, Docket No. P-2018-3004983 (Order entered April 30, 2020) (*ViaSat ETC Order*).

required by 73 P.S. § 2251.6.<sup>4</sup> However, as a VoIP services provider, ViaSat has not obtained a certificate of public convenience from the Commission to provide its VoIP services. As such, because ViaSat does not possess a certificate of public convenience issued from the Commission it has not been assigned a utility code. Historically, GVNW notes, a carrier must be assigned a utility code in order to be tracked as a PaUSF participant and contributor. Thus, GVNW requests the Commission to adopt or establish a system that will allow it to fulfill its administrative function of tracking the contributions of any VoIP services provider and/or wireless provider that participates and contributes to the Fund.

Temporarily, GVNW has remedied the situation, with relation to ViaSat, by collecting the carrier's information and adding its information to the Administrator's database. The Commission continues to explore how to address this subset of carriers going forward and will work towards a long-term resolution.

## **5. Recommendations for Ensuring Carrier Compliance**

GVNW recommends that the Commission authorize it to conduct a review of a certain number of carriers annually to ensure that carrier filings are compliant with the Commission's regulations. We rely on Section 63.167 of our regulations, 52 Pa. Code § 63.167, to authorize GVNW to conduct these carrier compliance reviews. Carrier compliance reviews will ensure that selected contributing companies are making their required contributions to the Fund. In particular, subsection 63.167(3) of the PaUSF regulations gives the Fund Administrator the duty to "review the completed forms to ensure completeness and accuracy of reported revenue and Fund assessment and contact providers whose accounts contain unexplained variances in reported revenues or Fund assessments." Also, subsection 63.167(25) gives the Administrator "access to the books of account of all telecommunications service providers to the limited extent necessary to verify their intrastate end-user telecommunications retail revenues and other information

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<sup>4</sup> *Id.*, Ordering ¶ 13.

used by the administrator in determining assessments and disbursements for the Fund.”  
*See also*, Sections 63.163(d), 63.167(7), and 63.367(16).

To institute the carrier compliance reviews for calendar year 2021, the Commission authorizes GVNW to conduct, in the manner discussed directly below, separate reviews of contributing carriers as well as carriers whose reported revenues render them *de minimis* carriers pursuant to subsection 63.169(c) of our regulations, 52 Pa. Code § 63.169(c) (*i.e.*, telecommunications providers whose contributions to the Fund in a given year are less than \$120 and, therefore, are not required to submit a contribution). To implement these carrier reviews, GVNW is directed to submit a revised contract, which will describe in detail the compliance reviews to be conducted and specify the cost structure to complete this work, to the Commission for review and approval within forty-five (45) days of the entry date of this Order.

The Commission authorizes GVNW to conduct carrier compliance reviews of ten contributing carriers for 2021, which will include site visits to the selected carriers, if necessary, and if such can be safely and appropriately conducted given the existence of the COVID-19 pandemic and the social distancing safety protocols issued by the Centers for Disease Control and Prevention, for the limited purpose of verifying their intrastate end-user telecommunications retail revenues and other information used by the administrator in determining assessments and disbursements for the Fund. In lieu of onsite visits, GVNW and the carrier will both agree to other means to ensure the compliance review will result in GVNW being able to verify adequately the carrier’s reports to the Fund.

GVNW will submit a recommended carrier selection plan to the Commission for approval. Upon completion of the approved compliance reviews, GVNW will then submit a written report to the Commission that sets forth its findings and any

recommended courses of action needed to remedy any findings of noncompliance. For each carrier that is selected, the Commission will open a docket for the compliance review and once a final report has been approved by the Commission, the docket will be closed.

Separately, the Commission authorizes GVNW to conduct “spot-check” compliance reviews of ten telecommunications providers whose revenues are reported as *de minimis* for two consecutive years. This measure will ensure that providers meet the criteria for *de minimis* status as these providers are not required to submit payment to the Fund. All carrier compliance reviews for this subset of providers will be desktop reviews and will rely on information gathered via Data Requests. The Data Requests are to be comprehensive and meant to gather sufficient information to determine compliance. GVNW will submit a recommended provider selection plan to the Commission for approval of the ten *de minimis* carriers. Upon completion of the approved compliance reviews, GVNW will submit a written report to the Commission including findings and recommended courses of action to remedy any findings of noncompliance. For each *de minimis* provider selected, the Commission will open a docket for the compliance review and once a final report has been approved by the Commission, the docket will be closed.

The Commission will continue to reevaluate the need for and mechanism of carrier compliance reviews annually.

## **6. Late Filers**

With respect to the overall issue of carrier compliance, we note that in 2019 we established enforcement procedures applicable to contributing telecommunications providers that fail to submit their annual PaUSF Assessment Report in a timely fashion. By March 31<sup>st</sup> of each year, carriers are required to report their annual revenues from the prior calendar year, which are used to calculate the following year’s PaUSF assessment rate. Specifically, the Commission has implemented a policy to issue a warning letter to

all delinquent carriers that fail to file a completed PaUSF Assessment Report by the March 31<sup>st</sup> deadline of each year. The Commission will initiate a proceeding to revoke the carrier's certificate of public convenience for any delinquent carrier that fails to file a completed PaUSF Assessment Report within the time period specified in the warning letter.<sup>5</sup>

Next, we address GVNW's 2019 proposal that we implement a late payment penalty for carriers failing to file their annual PaUSF Assessment Report in the timeframe established by our PaUSF regulations. While we take seriously the matter of carrier compliance as evidenced by our action last year to begin initiating proceedings to revoke carriers' certificates of public convenience, at this time we decline to pursue a late filing civil penalty for delinquent filers. Thus, we will not currently revise our compliance process to impose late fees for untimely filers.

## **7. Assessment Rate for Calendar Year 2021**

We agree with GVNW that each provider's contribution rate should be increased from 2.0838055% (0.020838055) of 2018 average monthly intrastate end-user retail telecommunications revenue to 2.1673586% (0.021673586) of 2019 average monthly intrastate end-user retail telecommunications revenue. This represents an increase of approximately 4.01% over last year's contribution rate. This increase will cover the projected expenses for the Fund for calendar year 2021.

GVNW based the assessment calculation on data submitted by telecommunications carriers during the annual data collection process, as well as

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<sup>5</sup> This procedure is consistent with the Commission's Procedures Manual's treatment of failures to comply with reporting requirements for fixed utilities under Section 1303(B)(1). This procedure varies slightly from our treatment of motor carriers that fail to file an assessment report or that report "0" revenue for two consecutive years pursuant to Section 1303(B)(4). In the instant matter, the Commission will initiate a proceeding to revoke a carrier's certificate of public convenience the first year the carrier fails to file its PaUSF Assessment Report.

GVNW's projections of the Fund carryover balance and projected 2021 administrative and auditing fees as follows:

1. For recipient carriers, reported 2018/2019 annual access line growth rate = -7.08%.
2. Projected PaUSF Fund balance as of 12/31/20 = \$1,500,000
3. Projected 2021 annual support due to recipient carriers = \$33,828,568.72<sup>6</sup>
4. Projected 2021 annual administration and audit fees = \$119,874.00<sup>7</sup>
5. Projected 2021 5% allowance for uncollectibles = \$1,616,428.44<sup>8</sup>
6. Projected 2021 total annual fund size = \$34,064,871.16 [(Line 3 + Line 4 + Line 5 – Line 2)]
7. Reported 2019 intrastate end-user retail revenues = \$1,571,722,920.84
8. Recommended 2021 Assessment Rate =  $\$34,064,871.16 / \$1,571,722,920.84 = \underline{\mathbf{0.021673586}}$

#### **Additional Administrative Guideline for the Fund**

The Commission continues to encourage annual lump-sum payments at the beginning of the calendar year or quarterly payments where it is economically feasible (e.g., when providers have nominal monthly contributions, such as less than \$500 per month). This measure will increase operational efficiencies for carriers, as well as for the Fund Administrator. Thus, we urge contributing telecommunications providers to remit either quarterly payments or lump-sum annual contributions.

#### **CONCLUSION**

The Commission agrees with GVNW's recommendations regarding maintaining a 5% annual funding contingency, using a carryover balance, requiring timely filings using GVNW's web-based portal, conducting carrier compliance reviews for selected contributing carriers as well as selected providers that have reported *de minimis* revenues for two consecutive years, and increasing the assessment rate to 2.1673586%. We also

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<sup>6</sup> Annual support projections are based upon annual reports submitted by the recipient carriers.

<sup>7</sup> This projection is based upon the contracted administrator's fee of \$99,000 for calendar year 2021 plus \$20,874 needed for the external auditor's fees in 2021.

<sup>8</sup> This represents the 5% contingency for uncollectibles over the year 2020.

note GVNW's request that the Commission develop a numbering mechanism for VoIP and wireless providers that contribute to the PaUSF but do not have a public utility code because they have not obtained a certificate of public convenience. The Commission will look at this issue closely and attempt to reconcile it.

**THEREFORE,**

**IT IS ORDERED:**

1. That the Administrator's Report of GVNW Consulting, Inc. dated September 15, 2020, is approved and the monthly contribution factor for the Pennsylvania Universal Service Fund for 2020 is hereby increased from 2.0838055% (0.020838055) of 2018 average monthly intrastate end-user retail telecommunications revenue to 2.1673586% (0.021673586) of 2019 average monthly intrastate end-user retail telecommunications revenue.

2. That all carriers file a completed PaUSF Assessment Report, due on March 31, 2021, with GVNW Consulting, Inc. electronically using its web-based portal, and file a copy with the Commission's Secretary's Bureau. Failure to comply with this requirement may result in revocation of the carrier's certificate of public convenience.

3. That GVNW Consulting, Inc. is directed to send a letter to all contributing telecommunications providers to the Pennsylvania Universal Service Fund explaining specifically how this contribution factor increase affects them and what their monthly contributions will be for the calendar year 2021. The letter should encourage either payments on a quarterly basis or annual lump-sum payments in early 2021; the letter must be pre-approved by Commission staff before it is mailed to participants.

4. That GVNW Consulting, Inc. is directed to submit a revised contract, to account for its carrier compliance review responsibilities, to the Commission for review and approval within forty-five (45) days of the entry date of this Order.

5. That GVNW Consulting, Inc. is directed to conduct carrier compliance reviews of ten contributing carriers in 2021. Upon completion of the approved compliance reviews, GVNW will submit a written report to the Commission including findings and recommended courses of action to remedy any findings of noncompliance.

6. That GVNW Consulting, Inc. is directed to conduct ten “spot-check” compliance reviews of telecommunications providers whose revenues are reported as *de minimis* for two consecutive years utilizing information gathered via Data Requests. Upon completion of the approved compliance reviews, GVNW will submit a written report to the Commission including findings and recommended courses of action to remedy any findings of noncompliance.

**BY THE COMMISSION**

  
Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: December 3, 2020

ORDER ENTERED: December 3, 2020