

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

Public Meeting held December 2, 2021

Commissioners Present:

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

Pennsylvania Universal Service Fund Annual Rate  
Adjustment

M-00001337

**ORDER**

**BY THE COMMISSION:**

On September 27, 2021,<sup>1</sup> Vantage Point Solutions (VPS) (f/k/a/ GVNW Consulting, Inc),<sup>2</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 2022 calendar year. VPS 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 on October 4, 2021, pursuant to Section 63.163(f). No comments were filed.

---

<sup>1</sup> On August 31, 2021, VPS provided an initial draft of the Administrator's Report to Commission staff for review.

<sup>2</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 VPS (now Vantage Point Solutions) was amended to reflect the name change on August 28, 2020. VPS is now referring to itself as VPS, a Vantage Point Solutions Company.

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 establishes the size of the Fund, approves a budget for the 2022 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 VPS, we have made the following determinations regarding the PaUSF for calendar year 2022.

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

VPS recommends that the Commission maintain the annual funding contingency reserve of 5% for the 2022 calendar year. The Commission acknowledges that for the last sixteen (16) years, it has approved a 5% contingency reserve for the Fund. 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. Accordingly, we agree with and adopt VPS’s recommendation about maintaining the annual funding contingency reserve of 5% for the PaUSF in 2022.

**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. VPS asserts that it would be prudent to utilize a conservative estimated cash balance of \$1.5 million as of December 31, 2021, for calculation purposes, providing a cushion for any unforeseen variances. We agree with VPS’s recommendation to err on the side of caution so that the Fund is adequately funded.<sup>3</sup> Therefore, we will use a \$1.5 million cash contingency reserve balance to calculate contributions for the 2022 calendar year

---

<sup>3</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).

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

Pursuant to 52 Pa. Code § 63.165(a), contributing telecommunications providers are required to report their annual revenues from the prior calendar year to the Fund Administrator by March 31<sup>st</sup> of each year. The aggregate reported annual revenues are used by the Fund Administrator to calculate the following year's PaUSF assessment rate. VPS maintains a web-based portal for online reporting so that carriers can meet this requirement. The Commission will continue to require contributing carriers to submit their annual affidavit identifying their total gross intrastate end-user telecommunications retail revenue for the previous calendar year to VPS using the web-based portal.

Section 63.165(a) of our regulations also requires contributing telecommunications providers to serve a copy of their affidavit identifying the provider's total intrastate end-user telecommunications retail revenue for the previous calendar year upon the Commission.<sup>4</sup> Normally, reporting carriers would be required to file a paper copy of their annual revenue report with the Commission's Secretary's. The Commission had suspended certain statutory and regulatory requirements as a result of the Governor's Office issuing a Proclamation of Disaster Emergency because of the COVID-19 pandemic. Specifically, the Commission waived the requirement for paper filings and stated that it would accept only e-filings of all documents.<sup>5</sup> Although the Commission's Emergency Order at Docket No. M-2020-3019262 terminated on September 30, 2021, and its corresponding waiver is no longer in effect, pursuant to Section 1.2 of our rules, 52 Pa. Code §1.2(c), the Commission will continue to waive the paper filing requirement and permit contributing carriers to file only an electronic copy of their annual revenue report with the Commission's Secretary's Bureau. The waiver of this subpart is appropriate and does not adversely affect a substantive right of any party.

---

<sup>4</sup> 52 Pa. Code § 63.165(a).

<sup>5</sup> *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).

#### 4. Recommendations for Ensuring Carrier Compliance

VPS recommends that the Commission continue to authorize the Fund Administrator to conduct a review of a certain number of carriers annually to ensure that carrier filings are compliant with the Commission's regulations. The first carrier compliance reviews have been conducted in 2021. The Commission relied on Section 63.167 of our regulations, 52 Pa. Code § 63.167, to authorize VPS to conduct these reviews. The results of the carrier compliance reviews continue to be filed with the Commission by VPS as "Compliance Reports." The Commission continues to believe that these carrier compliance reviews will ensure that selected contributing companies are making their required contributions to the Fund.

However, in order to coincide with the term of the Fund Administrator's contract, the next term of carrier compliance reviews shall be scheduled and conducted between July 1, 2022, and June 30, 2023. As the current contract for the Fund Administrator will expire on June 30, 2022, the Commission will work with the next Administrator to undertake this responsibility. Once again separate reviews of contributing carriers as well as carriers whose reported revenues render them *de minimis* carriers<sup>6</sup> pursuant to subsection 63.169(c) of our regulations, 52 Pa. Code § 63.169(c), will be conducted. To implement these carrier reviews, the Commission will work with the incoming Fund Administrator to describe in detail the compliance reviews to be conducted and specify the cost structure to complete this work.

Specifically, the Commission authorizes the incoming Fund Administrator to conduct carrier compliance reviews of ten contributing carriers for 2022 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. These carrier compliance reviews will consist of site visits

---

<sup>6</sup> *De minimis* carriers are defined as those 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 the selected carriers, if deemed 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. In lieu of onsite visits, the Fund Administrator and the carrier will both agree to other means to ensure the compliance review will result in the Administrator being able to verify adequately the carrier's reports to the Fund.

The Fund Administrator will submit a recommended carrier selection plan to the Commission for approval. Upon completion of each approved compliance review, the Fund Administrator 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 the incoming Fund Administrator 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. VPS will submit a recommended provider selection plan to the Commission for approval of the ten *de minimis* carriers. Upon completion of each approved compliance review, VPS 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 beginning with its Assessment Order entered in 2023.

## 5. Assessment Rate for Calendar Year 2022

We agree with VPS that each provider's contribution rate should be decreased from 2.1673586% (0.021673586) of 2019 average monthly intrastate end-user retail telecommunications revenue to 2.1255092% (0.021255092) of 2020 average monthly intrastate end-user retail telecommunications revenue. This represents a decrease of approximately 1.93%. The new contribution rate will cover the projected expenses for the Fund for calendar year 2022.

VPS based the assessment calculation on data submitted by telecommunications carriers during the annual data collection process, as well as VPS's projections of the Fund carryover balance and projected 2022 administrative and auditing fees as follows:

1. For recipient carriers, reported 2019/2020 annual access line growth rate = -13.41%.
2. Projected PaUSF Fund balance as of 12/31/21 = \$2,318,055.04<sup>7</sup>
3. Projected 2022 annual support due to recipient carriers = \$33,828,568.72<sup>8</sup>
4. Projected 2022 annual administration and audit fees = \$187,100.00<sup>9</sup>
5. Projected 2022 5% allowance for uncollectibles = \$1,575,525.68<sup>10</sup>
6. Projected 2022 total annual fund size = \$33,273,139.36  
[(Line 3 + Line 4 + Line 5 – Line 2)]
7. Reported 2020 intrastate end-user retail revenues = \$1,565,419,656.99
8. Recommended 2022 Assessment Rate =  
 $\$33,273,139.36 / \$1,565,419,656.99 = \underline{\mathbf{0.021255092}}$

---

<sup>7</sup> The fund balance is projected to increase due to two companies revising their annual reporting for prior years and paying additional contribution amounts, resulting in an anticipated year-end fund balance greater than \$1.5 million.

<sup>8</sup> Annual support projections are based upon annual reports submitted by the recipient carriers.

<sup>9</sup> This projection is based upon the contracted administrator's fee of \$100,500 for calendar year 2022 plus \$21,000 needed for the external auditor's fees in 2022 plus \$65,600 for the Carrier reviews

<sup>10</sup> This represents the 5% contingency for uncollectibles over the year 2021.

**6. Obligation to Report Total Gross Intrastate VoIP Revenues for PaUSF Assessment Purposes**

The VoIP Freedom Act preserves the Commission’s jurisdiction over interconnected VoIP services for, among other things, PaUSF purposes. 73 P.S. § 2251.6(1)(iii). In prior assessment years some carriers have voluntarily provided intrastate VoIP revenues when annually submitting their completed Development of Assessment Data Request; however, this practice has not been universal. The Commission has determined that the inclusion of intrastate VoIP revenues is in the public interest and is consistent with its preserved authority under the VoIP Freedom Act. Accordingly, the Commission directs all currently certificated telecommunications carriers in the Commonwealth to begin reporting their total gross intrastate VoIP revenues for PaUSF assessment purposes.

In order to facilitate this directive, VPS will work with the Commission to amend the Development of Assessment Data Request form to provide for the inclusion of total gross intrastate VoIP revenues by our contributing certificated telecommunications carriers.

**7. Provide a mechanism system so that VPS may track the contributions of uncertificated Voice over Internet Protocol (VoIP) Providers that participate in the Fund**

VPS requests the Commission adopt or establish a system to 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. As VPS notes in the Administrator’s Report, historically it has used a carrier’s unique utility code assigned by the Commission as its means to track a carrier’s contributions to the PaUSF. It is true that interconnected VoIP services providers like ViaSat Carrier Services, Inc. (ViaSat)<sup>11</sup>

---

<sup>11</sup> ViaSat, an interconnected VoIP services provider, has not been certificated by the Commission. However, ViaSat was designated as an eligible telecommunications carrier (ETC) by the Commission so

were not assigned utility codes by the Commission because they had not obtained a certificate of public convenience from the Commission in accordance with the Commission’s certification process under 66 Pa.C.S. §§ 1101 and 1103.<sup>12</sup> The Commission notes that it is in the process of addressing this issue for interconnected VoIP service providers whom, like ViaSat, may not be assigned a utility code by the Commission which prevents VPS from tracking their contributions to the PaUSF as required by 73 P.S. § 2251.6(1)(iii).

In any event, the Commission acknowledges that it is taking steps to ensure that interconnected VoIP service providers that have not obtained a certificate of public convenience, but that have been granted an eligible telecommunications carrier (ETC) designation by the Commission, can be issued a “utility code” for PaUSF purposes. This action has become a necessity as interconnected VoIP service providers are increasingly obtaining ETC designations from the Commission in order to become eligible to receive federal universal service high-cost support in order to provide voice and BIAS in certain eligible census blocks across the Commonwealth. Thus, the Commission is considering assigning these “utility codes” to this subset of *uncertificated* interconnected VoIP service providers, which also would involve providing these assigned “utility codes” to the Fund Administrator to enable the tracking of their contributions to the Fund.

---

that it could become eligible to receive federal universal service high-cost support in order to provide voice telecommunications service and broadband internet access services (BIAS) in certain eligible census blocks located throughout Pennsylvania. As a condition to receiving its ETC designation, the Commission directed ViaSat to begin to contribute to the PaUSF consistent with 73 P.S. § 2251.6(1)(iii).<sup>12</sup> Recently, the Commission tentatively concluded that the Voice-over-Internet Protocol Freedom Act (VoIP Freedom Act) prohibits the Commission from granting CPCs to interconnected VoIP service providers operating in the Commonwealth. *See Application of Service Electric Cable T.V., Inc. for Approval to Offer, Render, Furnish, or Supply Telecommunications Services to the Public as a Competitive Local Exchange Carrier in the Service Territories of all thirty-five Incumbent Local Exchange Carriers within the Commonwealth of Pennsylvania*, Docket No. A-2021-3026335 (Motion of Vice Chairman John F. Coleman, Jr. adopted November 18, 2021).

## **8. 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 VPS's recommendations regarding maintaining a 5% annual funding contingency, using a carryover balance, requiring timely filings using VPS'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 decreasing the assessment rate to 2.1255092%. Through this Order, the Commission directs all currently certificated telecommunications carriers to ensure that they are reporting their total gross intrastate VoIP revenues to VPS for PaUSF assessment purposes. Also, in light of VPS's request that the Commission develop a numbering mechanism for interconnected VoIP and wireless providers that contribute to the PaUSF but do not have an assigned utility code because they have not obtained a certificate of public convenience, the Commission has taken steps to address this issue; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Administrator's Report of Vantage Point Solutions dated September 27, 2021, is approved and the monthly contribution factor for the Pennsylvania Universal Service Fund for 2022 is hereby decreased from 2.1673586% (0.021673586) of 2019 average monthly intrastate end-user retail telecommunications

revenue to 2.1255092% (0.021255092) of 2020 average monthly intrastate end-user retail telecommunications revenue.

2. That Vantage Point Solutions amend the PaUSF Development of Assessment Data Request form, in coordination with the Commission, to direct all contributing telecommunications carriers to report their total gross intrastate VoIP revenues for PaUSF purposes.

3. That all contributing carriers file a completed PaUSF Development of Assessment Data Request form, due on March 31, 2022, with Vantage Point Solutions using its web-based portal, and file an electronic 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.

4. That Vantage Point Solutions is directed to send a letter to all contributing telecommunications providers to the Pennsylvania Universal Service Fund explaining specifically how this contribution factor decrease affects them and what their monthly contributions will be for the calendar year 2022. The letter should encourage either payments on a quarterly basis or annual lump-sum payments in early 2022; the letter must be pre-approved by Commission staff before it is mailed to participants.

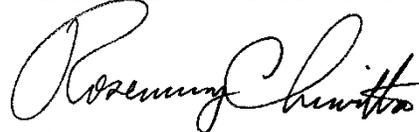
5. That the incoming Fund Administrator, in consultation with the Commission, is authorized to submit as part of its contract, a detailed plan and pricing schedule to conduct carrier compliance reviews for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

6. That the incoming Fund Administrator is authorized to conduct carrier compliance reviews of ten contributing carriers in the fiscal year beginning July 1, 2022 and ending June 30, 2023. Upon completion of each approved compliance review, the

Administrator will submit a written report to the Commission including findings and recommended courses of action to remedy any findings of noncompliance.

7. That the incoming Fund Administrator is authorized 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 each approved compliance review, the Administrator 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 2, 2021

ORDER ENTERED: December 2, 2021