

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ALLEGED FAILURE OF KYNECT)	
COMMUNICATIONS, LLC TO FILE REQUIRED)	CASE NO.
REPORT PURSUANT TO KRS 278.140, KRS)	2021-00388
278.230(3), AND 807 KAR 5:006, SECTION 4)	

ORDER

The Commission, on its own motion, initiates this investigation into the alleged failure of Kynect Communications, LLC (Kynect) to file the required annual report of cellular gross earnings from intrastate business for calendar year 2020.

KRS 278.230(3) directs every utility, when required by the Commission, to file with it any report or other information that the Commission reasonably requires. KRS 278.140 requires each utility to file with the Commission, on or before March 31 of each year, a report of its gross earnings derived for the preceding calendar year. Additionally, 807 KAR 5:006, Section 4(1)(a) requires every utility to file with the Commission, on or before March 31 of each year, a gross annual operating revenue report (Gross Revenue Report) of its utility operations for the preceding calendar year on forms furnished by the Commission. An extension to file the Gross Revenue Report is not permissible under 807 KAR 5:006, Section 4(1)(b). KRS 278.990(1) provides that a utility, and any officer, agent, and employee of the utility that willfully violates any provision of KRS Chapter 278 or any Commission regulation shall be subject to a civil penalty not less than \$25 and not

more than \$2,500. When the act that a utility is required to do is merely clerical in nature, willfulness or deliberant intent can be inferred from the fact of noncompliance.¹

Kynect owns, controls, operates, and manages facilities in the Commonwealth of Kentucky which are used for and in connection with the transmission or conveyance over wire, in air, or otherwise, of any message by telephone for the public for compensation. It is, therefore, a utility subject to Commission jurisdiction pursuant to KRS 278.010(3)(e).

On January 15, 2021, the Commission provided to Kynect an electronic link to the standard form for the 2020 Cellular Gross Revenue Report. On April 29, 2021, and again on May 28, 2021, the Commission provided Kynect with a reminder that the Cellular Gross Revenue Report was overdue and provided an electronic link to the standard form. On July 29, 2021, the Commission sent a demand letter by email and certified mail notifying Kynect that the 2020 Cellular Gross Revenue Report was overdue. The July 29, 2021 letter further stated that failure to file the Cellular Gross Revenue Report may result in the Commission initiating an investigation and, upon a finding that Kynect willfully violated KRS Chapter 278 and 807 KAR 5:006, Section 4, could result in the assessment of a civil penalty up to \$2,500 for each offense, pursuant to KRS 278.990. The Commission's correspondence with Kynect is attached as an Appendix to this Order.

According to Commission records, Kynect has not filed its Cellular Gross Revenue Report for 2020 calendar year operations. Kynect's failure to file this report by March 31, 2021, is *prima facie* evidence that Kynect willfully failed to comply with KRS 278.230(3).

¹ See Case No. 2011-00317, *Investigation of the Failure of Atrium Wireless Partners, LLC to File Required Reports* (Ky. PSC Dec. 21, 2011); Case No. 2012-00499, *Alleged Failure of Longview Land Company, LLC to File Required Reports* (Ky. PSC Mar. 19, 2013); Case No. 2017-00045, *Alleged Failure of Lewis Sanitation Company, Inc. d/b/a Garden Heights Sewer Division to File Required Report* (Ky. PSC May 2, 2017).

Based on the above, the Commission finds that Kynect should file with the Commission, no later than November 9, 2021, its Cellular Gross Revenue Report for the 2020 calendar year. The Commission further finds that a hearing should be scheduled by separate Order for the purpose of showing cause why Kynect should not be subject to the penalties of KRS 278.990(1) for its failure to comply with KRS 278.140, KRS 278.230(3), and 807 KAR 5:006, Section 4.

IT IS THEREFORE ORDERED that:

1. Kynect shall file with the Commission, no later than November 9, 2021, its Cellular Gross Revenue Report for the 2020 calendar year.

2. A formal hearing shall be scheduled by separate Order for the purpose of showing cause why Kynect should not be subjected to the penalties of KRS 278.990 for its failure to comply with KRS 278.140(3), KRS 278.230(3), and 807 KAR 5:006, Section 4.

3. In the absence of such showing, and without further Order, Kynect's authorization to provide service shall be revoked, its tariff shall be removed from the Commission's files, and its name shall be stricken from the Commission's list of active utilities.

4. If Kynect desires to waive its right to a hearing in this matter, Kynect shall, not later than November 9, 2021, file the required report and pay a penalty of \$500. Payment of the penalty shall be made by certified check or money order made payable to the Treasurer, Commonwealth of Kentucky, and shall be delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky, 40602-0165.

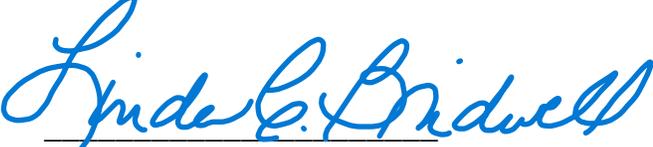
5. A copy of this Order shall be served by electronic mail at the address on file with the Commission and by U.S. Mail to Kynect Communications, LLC, c/o C T Corporation System, Registered Agent, 306 West Main Street, Suite 512, Frankfort, Kentucky 40601.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission

ENTERED
OCT 14 2021 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00388

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00388 DATED OCT 14 2021

FIVE PAGES TO FOLLOW

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Carolyn Lam
Secretary
Kynect Communications, LLC
14675 Dallas Parkway, Suite 150
Dallas, TX 75254



9590 9402 5628 9308 7027 32

2. Article Number (Transfer from service label)

7019 1120 0001 6832 6834

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

RT50 EU

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

8/2

 D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input checked="" type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricte Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Mail Restricted Delivery | |
| <input type="checkbox"/> Registered Mail | |

From: [PSC Reports](#)
To: StreamCommunications.CM@bakertilly.com
Bcc: [PSC Reports](#)
Subject: Past Due Reporting
Date: Thursday, July 29, 2021 2:12:00 PM
Attachments: [Notice to Kynect Communications, LLC for Failure to File 2020 Report of Gross Operating Revenues.pdf](#)

Please refer to the attached PDF for a copy of a letter issued today by the Public Service Commission in regards to past due reporting.



Andy Beshear
Governor

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Michael J. Schmitt
Chairman

Kent A. Chandler
Vice Chairman

Talina R. Mathews
Commissioner

July 29, 2021

TRANSMITTED VIA EMAIL AND CERTIFIED MAIL

Carolyn Lam
Secretary
Kynect Communications, LLC
14675 Dallas Parkway, Suite 150
Dallas, TX 75254

Re: Failure to File Report of Gross Operating Revenues

Dear Ms. Lam:

Pursuant to KRS 278.140, KRS 278.230(3), and 807 KAR 5:006, Section 4, utilities are required to file a report detailing its gross earnings from intrastate business. The report is to cover the preceding year's activities and is due by March 31 annually. As of this date, Kynect Communications, LLC has not filed their 2020 report.

This letter serves as notice that if the utility fails to file its gross reports for the calendar year 2020 by August 13, 2021, the Commission may open an investigation to show cause why the utility should not be penalized for failing to file the reports in violation of KRS Chapter 278 and 807 KAR 5:006, Section 4. This could result in a civil penalty in the amount of \$2,500 for each offense, pursuant to KRS 278.990.

Questions concerning this letter should be directed to PSCED@ky.gov.

Sincerely,


Linda C. Bridwell
Executive Director

From: [PSC Reports](#) on behalf of [PSC - Reports](#)
To: "StreamCommunications.CM@bakertilly.com"
Bcc: [PSC Reports](#)
Subject: Kynect Communications, LLC: 2020 Wireless Gross Report Past Due
Date: Friday, May 28, 2021 8:17:00 AM

The Wireless form has not been received and is considered highly delinquent. Please forward to bring the company back into compliance. More information below.

Regards,

Jeff D. Cline
Kentucky Public Service Commission
Division of General Administration
211 Sower Blvd
P. O. Box 615
Frankfort, KY 40602

www.psc.ky.gov

From: Cline, Jeff D (PSC)
Sent: Thursday, April 29, 2021 4:08 PM
To: StreamCommunications.CM@bakertilly.com
Subject: 2020 Gross Report Past Due

Good afternoon,

Please be advised Kynect Communications, LLC (4109550) was required to submit a **Wireless** 2020 Report of Gross Operating Revenues (Gross Report) by March 31, 2021, and it is now considered past due. If you have already attempted to submit the report, please provide an additional courtesy copy to PSC.Reports@ky.gov. Swift action to comply with the reporting requirement may prevent a show cause action and penalties. Any officer, agent, or employee of a utility failing to comply with reporting requirements may be subject to a civil penalty assessed by the commission up to the amount of two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for up to six (6) months, or both, as provided under [KRS 278.990](#).

To bring the company back into compliance for 2020 reporting requirements pursuant to 807 KAR 5:006, Section 4, KRS 278.140 and KRS 278.230, it is essential to submit the **2020 Gross Report** via email to PSC.Reports@ky.gov, in lieu of sending a hard copy.

Blank forms may be found under Gross Revenue Report Forms at the following link:
<https://psc.ky.gov/Home/utilForms#All?btnGross%20Revenue%20Report%20Forms>

Please contact me in direct reply to this message if you have any questions.

Regards,

Jeff D. Cline
Kentucky Public Service Commission
Division of General Administration
211 Sower Blvd
P. O. Box 615
Frankfort, KY 40602

www.psc.ky.gov

From: Cline, Jeff D (PSC)
To: "StreamCommunications.CM@bakertilly.com"
Subject: Wireless Utility's 2020 Gross Report Due March 31, 2021
Date: Friday, January 15, 2021 2:47:00 PM

This correspondence is to serve as a reminder for **Kynect Communications, LLC (ID 4109550)** that the 2020 **Cellular** Report of Gross Operating Revenues (Gross Report) is required to be filed with the Kentucky Public Service Commission (KPSC) **no later than March 31, 2021**. **The report may be submitted entirely electronically and no hard copies are required.**

Please note: If your company provides more than one service type, separate emails will be sent for each service type to the default regulatory email on file with the KPSC.

Any officer, agent, or employee of a utility failing to comply with reporting requirements may be subject to a civil penalty assessed by the commission up to the amount of two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for up to six (6) months, or both, as provided under KRS 278.990.

If you are not the individual that completes Gross Reports to the KPSC on behalf of Kynect Communications, LLC, please forward to your designated staff as this notice contains pertinent required and time-sensitive information.

Gross Report

One signed and notarized Gross Report for calendar year 2020 is required to be filed pursuant to KRS 278.140 and 807 KAR 5:006, Section 4(1). **A blank copy of a Gross Report may be filled out, signed/notarized and submitted via email to PSC.Reports@ky.gov.** If you submit via email, no hard copy is required. Ensure that the Gross Report complete, including utility's default regulatory email address, pursuant to 807 KAR 5:006, Section 3(2).

Refer to the following links for printing the Gross Report in the format of your choice:

Gross Report

PDF version: <http://psc.ky.gov/agencies/psc/forms/gor05.pdf>

Word version: <http://psc.ky.gov/agencies/psc/forms/gor05.doc>

Should you have any questions regarding reporting requirements, please do not hesitate contacting us at PSC.Reports@ky.gov.

Sincerely,

Jeff D. Cline
Kentucky Public Service Commission
Division of General Administration
211 Sower Blvd
P. O. Box 615
Frankfort, KY 40602

www.psc.ky.gov

*Carolyn Lam
Manager
Kynect Communications, LLC
14675 Dallas Parkway, Suite 150
Dallas, TX 75254

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