

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners:                    Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Pat Apple

In the Matter of Giant Communications, Inc.    )  
Notice of Relinquishment of its Designation as    ) Docket No. 15-GCIT-393-ETC  
an Eligible Telecommunications Carrier.            )

**ORDER GRANTING RELINQUISHMENT OF ETC DESIGNATION**

NOW, 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.        On November 12, 2014, in Docket No. 15-GCIT-203-ETC (Docket 15-203), Giant Communications, Inc. (Giant) filed an Application with the Commission requesting provisional Eligible Telecommunications Carrier (ETC) status in eighty-five (85) census blocks in Kansas. Giant had placed a bid for funding from the Federal Communications Commission's (FCC's) Rural Broadband Experiment (RBE) program, and Giant stated that it would withdraw its ETC application in the event of an unsuccessful bid.

2.        On January 7, 2015, in Docket 15-203, Giant filed an Update with the Commission, explaining that it was a successful RBE bidder, and had been awarded a \$650,000 grant.

3.        On January 29, 2015, in Docket 15-203, the Commission granted Giant ETC status for purposes of participating in the RBE program.

4.        On February 24, 2015, in the immediate docket, Giant mailed a letter to the Commission indicating that the Federal Communications Commission (FCC) would not waive

its audited financials filing deadline, causing Giant to back out of participation in the RBE program. Giant also requested relinquishment of its ETC designation.

5. Staff submitted a Report and Recommendation to the Commissioners dated March 10, 2015, attached hereto and made a part hereof by reference. Staff indicates that 47 U.S.C. §214(e)(4) permits an ETC to relinquish its designation in any area served by more than one ETC. Prior to permitting a telecommunications carrier to cease providing universal service in an area served by more than one ETC, the state commission shall require the remaining ETC or ETCs to ensure that all customers served by the relinquished carrier will continue to be served. Staff states that not including Giant, fourteen (14) carriers have been designated as ETCs in the relinquished CenturyLink service areas, and would be capable of serving any customers previously served by Giant. Thus, Staff has no concerns with Giant's request to relinquish its ETC designation in Kansas.

6. The Commission finds Staff's analysis, findings, and recommendations to be reasonable and hereby adopts the same.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Giant's request to relinquish its ETC designation granted on January 29, 2015, in Docket No. 15-GCIT-203-ETC, is approved.


B. The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 77-529(a)(1).

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: MAR 17 2015



ORDER MAILED MAR 18 2015

Neysa Thomas

Acting Secretary

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**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

**FROM:** Hal Baumhardt, Senior Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** March 10, 2015

**SUBJECT:** 15-GCIT-393-ETC

In the Matter of Giant Communications, Inc. Notice of Relinquishment of its Designation as an Eligible Telecommunications Carrier.

**EXECUTIVE SUMMARY:**

On November 12, 2014, Giant Communications, Inc. (Giant) filed an Application for designation as an Eligible Telecommunications Carrier (ETC) in the state of Kansas in Docket No. 15-GCIT-203-ETC. The Commission designated Giant as an ETC in 85 census blocks within the United Telephone Company of Kansas d/b/a CenturyLink (CenturyLink) service area for purposes of participating in the Federal Communications Commission's (FCC's) Rural Broadband Experiment (RBE) bid process.<sup>1</sup> Giant was selected as a provisional winner in Category 2.

In a letter dated February 24, 2015, Giant requested that the Commission cancel its ETC designation granted January 29, 2015, resulting from the FCC's denial of Giant's waiver request of the audited financial filing deadline. Staff recommends approval of Giant's request to relinquish its designation as an ETC in the aforementioned service areas.

**BACKGROUND:**

Giant is a wholly owned subsidiary of J.B.N. Telephone Company, which is a subsidiary of Lynch Corporation. J.B.N. offers local services in sixteen exchanges in northeast Kansas. J.B.N. is headquartered in Holton, Kansas, and its President and General Manager is Gene Morris.

On August 2, 1999, Giant was certificated as a Competitive Local Exchange Carrier (CLEC) in Docket No. 00-GCIT-024-COC to offer local service throughout the service

<sup>1</sup> *Connect America Fund et al*, WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, rel. July 14, 2014 ("Rural Broadband Experiments Order").

areas of CenturyLink and Southwestern Bell Telephone Company d/b/a AT&T Kansas in the state of Kansas.

On August 15, 2001, Giant was certified as an Interexchange Carrier (IXC) in Docket No. 01-GCIT-1055-COC to engage in the business as an interexchange services provider within the state of Kansas.

On November 12, 2014, Giant filed an Application requesting designation as an ETC in 85 census blocks within the CenturyLink service areas for the purpose of participating in the FCC's RBE funding in Docket No. 15-GCIT-203-ETC. The Commission granted approval of Giant's Application for the designation as an ETC in the aforementioned service areas on January 29, 2015.

On February 24, 2015, Giant filed a letter requesting the Commission cancel the ETC designation within the state of Kansas.

### **ANALYSIS:**

In the *Rural Broadband Experiments Order*, the FCC took steps to implement the Connect America Fund (CAF) to advance the deployment of voice and broadband-capable networks in rural, high-cost areas, including extremely high-cost areas. The FCC determined it will use these RBEs to explore how to structure the CAF Phase II competitive bidding process in price cap areas and to gather information about interest in deploying next generation networks in high-cost areas.

In an FCC Order dated January 30, 2015, the FCC denied the Petition filed by Giant for a waiver of the rural broadband experiment requirement to file three consecutive years of audited financial statements. In the FCC's December 5, 2014, Order, the FCC required provisionally selected bidders to submit certain information and materials by a specified deadline; specifically December 19, 2014. Fifteen entities filed petitions, Giant being one, requesting the waiver. However, the FCC concluded that the standards for waiver have not been met and further concluded that the public interest would not be served by granting the waiver<sup>2</sup>.

Giant stated in its February 24 letter it has decided to relinquish its ETC designation subsequent to the FCC denying waivers of the audited financials filing deadline.

Section 214(e)(4) of the Federal Telecommunications Act allows a state commission to permit an ETC to relinquish its designation in any area served by more than one ETC. Prior to permitting a telecommunications carrier to cease providing universal service in an area served by more than one ETC, the state commission shall require the remaining ETC or ETCs to ensure that all customers served by the relinquished carrier will continue to be served.

Not including Giant, fourteen (14) carriers have been designated as an ETC in all or part of CenturyLink's service areas. In addition to the 14 competitive ETCs, CenturyLink

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<sup>2</sup> See FCC Order, WC Docket No 10-90, 14-259, released January 30, 2015 at para.5.

would also be capable of serving any customer previously served by Giant. Thus, Staff has no concerns with Giant's request to relinquish its ETC designation in Kansas.

**RECOMMENDATION:**

Staff finds that the public convenience will be promoted by relinquishing Giant's ETC designation. Pursuant to 47 USC 214(e)(4), Staff recommends the Commission relinquish Giant's ETC designation in the aforementioned service areas for RBE funding, as requested.

IN RE: DOCKET NO. 15-GCIT-393-ETC

DATE MAR 17 2015

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
COLLEEN R. JAMISON JAMES M. CAPLINGER, CHARTERED 823 SW 10TH AVE TOPEKA, KS 66612-1618		
MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED MAR 16 2015

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.