

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
Jay Scott Emler
Dwight D. Keen

In the Matter of the Application of YourTel)
America, Inc. to Amend Its Designation as an) Docket No. 12-TPCT-768-ETC
Eligible Telecommunications Carrier in the)
State of Kansas.)

ORDER APPROVING REVISED KLSP CALLING PLANS

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 7, 2018, YourTel America, Inc. (YourTel) filed for authority to revise its current Kansas Lifeline Service Program (KLSP) calling plans. On November 14, 2018, YourTel provided corrected information regarding its proposed calling plans.

2. YourTel currently has two KLSP calling plans: (1) the “KS Broadband Base Plan” which provides 920 calling minutes, 1 GB of free data for subscribers with data capable phones, and unlimited texting; and (2) the “KS Voice Base Plan” which provides 1,380 calling minutes and unlimited texting. YourTel proposes to revise both plans effective December 1, 2018.

3. YourTel’s revised “KS Broadband Base Plan” provides 920 calling minutes, 2 GB of free data for subscribers with data capable phones, and unlimited texting. The revised “KS Voice Base Plan” provides 1,840 calling minutes and unlimited texting.

4. The requirement to seek Commission approval for KLSP calling plans stems from the October 18, 2016, *Order Modifying Kansas Lifeline Service Program (KLSP) Requirements*;

Soliciting Further Comment (Order) in Docket No. 16-GIMT-575-GIT. The Order required, among other things, all mobile Eligible Telecommunications Carriers (ETCs) participating in the Kansas Lifeline Service Program (KLSP) to request approval of their KLSP calling plans at least 30 days prior to offering such plans and receiving support.

5. Commission Staff (Staff) submitted a Report and Recommendation to the Commissioners regarding YourTel's two revised KLSP calling plans on November 15, 2018, attached hereto and made a part hereof by reference.

6. Staff explained that in order for carriers to qualify for full KLSP subsidies, they must offer sufficient additional value over what is offered by the carrier in states where no corresponding state Lifeline subsidy is provided. For example, a carrier that offers a "free" calling plan that includes 750 voice minutes in a state without a state Lifeline subsidy must offer additional value to Kansans sufficient to justify the additional \$7.77 KLSP subsidy. Otherwise, the \$7.77 KLSP subsidy would be a windfall to the ETC and would not benefit Kansas consumers.

7. Staff explained that beginning December 1, 2018, the Federal Communications Commission (FCC) will require mobile Lifeline providers to offer at least 1000 calling minutes or 2 GB of data per month to qualify for federal Lifeline subsidies.¹

8. Staff found that YourTel's two revised KLSP calling plans do provide the requisite added value to KLSP subscribers sufficient to justify receipt of the KLSP subsidy. YourTel's Voice Base Plan in states where YourTel does not receive a state subsidy will include 1000 calling minutes, which equates to roughly \$0.00925 per voice calling minute. YourTel's KS Voice Base Plan will include 1,840 voice calling minutes, which equates to the same \$0.00925 per minute. Thus, sufficient value is added. YourTel's calling plans that include data in states that do not have

¹See *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd. 3962 (rel. Apr. 27, 2016).

a state subsidy include 500 calling minutes, 2 GB of data, and unlimited texting. In Kansas, the calling minutes are increased to 920 minutes and they also receive 2 GB of data plus unlimited texting. This provides sufficient additional value. As Staff found both plans to be appropriate, it recommended approval of the same.

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

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. YourTel's revised KLSP calling plans are approved, effective December 1, 2018.
- 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; Keen, Commissioner

Dated: 11/27/2018



Lynn M. Retz
Secretary to the Commission

MRN

STATE OF KANSAS



CORPORATION COMMISSION
UTILITIES DIVISION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3220
FAX: 785-271-3357
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

FROM: Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Utilities Division Director

DATE: November 15, 2018

RE: Docket No. 12-TPCT-768-ETC
In the Matter of the Application of YourTel America, Inc. to Amend Its
Designation as an Eligible Telecommunications Carrier in the State of Kansas.

EXECUTIVE SUMMARY:

The Commission issued an Order on October 18, 2016, in Docket No. 16-GIMT-575-GIT (16-575 Docket), in which it, among other things, required all mobile Eligible Telecommunications Carriers (ETCs) for the Kansas Lifeline Service Program (KLSP) to request approval of their KLSP calling plans at least 30 days prior to offering such plans and receiving support from the Kansas Universal Service Fund (KUSF).

YourTel America, Inc.'s (YourTel) filed for approval of its KLSP offerings to begin in December 2018 on November 7, 2018, and revised proposed offerings on November 14, 2018. Staff recommends Commission approval of YourTel's proposed KLSP offerings, as revised and filed on November 14, 2018. YourTel did not file its proposed calling plans at least 30 days prior to the effective date, as required. Staff, therefore, recommends the Commission allow YourTel to collect the KLSP from the KUSF for December only if the Commission is able to issue an Order approving the proposed calling plans prior to December 1, 2018. If the Commission is unable to issue an Order approving the calling plans prior to December 1, 2018, Staff recommends the Commission allow YourTel to begin collecting the KLSP for the approved KLSP calling plans beginning with the January 2019 data month.

BACKGROUND:

Prior to the *2016 Lifeline Order*¹, the Federal Communications Commission (FCC) declined to establish minimum service requirements for Lifeline providers. However, the FCC previously said that, while it did not adopt minimum service requirements for any ETCs offering Lifeline service, the FCC expected all ETCs to continue to offer low-income subscribers innovative and sufficient service plans.

In its *2016 Lifeline Order*, the FCC determined that requiring mobile Lifeline providers to offer 1,000 voice calling minutes is appropriate. Based on recently available data, the FCC stated it is clear that a “substantial majority” of Americans already subscribe to plans that offer 1,000 or more minutes because none of the smartphone plans have limited minutes and 77% of cell phones in the U.S. are smartphones. The FCC believes that requiring mobile voice providers to offer 1,000 minutes to consumers is consistent with its statutory directive to ensure that Lifeline consumers have access to the same services to which a substantial majority of Americans subscribe.

As part of its modernization efforts, the FCC further found that federal Lifeline services must include a broadband offering beginning December 1, 2019. However, during the transition period of December 1, 2016, to November 30, 2019, a mobile bundle of voice and data services must include at least one supported service (voice or broadband) meeting the minimum service standard applicable at that time for such supported service.

However, in order to be mindful of providers’ concerns about affordability and feasibility of immediately requiring providers to offer 1,000 minutes, the FCC developed a transition period beginning with an initial minimum standard of 500 voice minutes per month increasing over time to 1,000 minutes by December 1, 2018. Beginning December 2, 2016, for federal support purposes, mobile Lifeline providers were required to offer at least 500 minutes or 500 MB of data per month to mobile voice consumers. Beginning December 1, 2017, providers were required to offer at least 750 minutes or 1 GB of data per month and, beginning December 1, 2018, providers are required to offer at least 1,000 minutes or 2 GB of data per month to mobile voice consumers.

The Commission has not adopted a specific minimum number of minutes of usage per se for the KLSP. However, the Commission does require the entirety of the KLSP discount to be passed along to the end user consumer and, if the carrier offers the same service plans in other states that do not provide state support in addition to the federal Lifeline subsidy, the carrier must offer a plan in Kansas that justifies the additional Lifeline funds from the KLSP. In other words, if a provider offers a “free” calling plan that includes 1,000 voice minutes in states without a state Lifeline program, the Commission requires the provider to offer a calling plan with additional value to justify receiving the additional \$7.77 state subsidy. Otherwise, the \$7.77 KLSP subsidy would be a windfall to the ETC and would not benefit Kansas consumers.

Staff recommended in its September 19, 2016 Report and Recommendation (September R&R) in the 16-575 Docket that the Commission require TAG Mobile, LLC (TAG), YourTel, and any other mobile ETC that is designated in the future, to request approval of its calling plans for the KLSP

¹ *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, Rel. April 27, 2016 (“*2016 Lifeline Order*”).

at least 30 days prior to offering such plans and receiving support from the KLSP², which during the FCC minimum mobile voice requirement phase-in would be 30 days prior to December 1.³ The carrier, in its filing, will need to demonstrate that the plan will provide additional value to the Kansas Lifeline consumer greater than or equal to the KLSP discount. The Commission issued an Order on October 18, 2016, which among other things, adopted Staff's recommendations in the September R&R and specifically required "all mobile ETCs for state Lifeline purposes to request approval of their calling plans for the KLSP **at least 30 days prior to offering such plans and receiving support from the KLSP**" (emphasis added).

YourTel filed a revision to its KLSP offerings in Kansas on October 23, 2017, in compliance with the FCC's phase-in of the minimum service standards for mobile Lifeline providers. The first Kansas plan, the KS Broadband Base Plan, for YourTel's new and existing subscribers with data-capable phones, includes 920 voice minutes, 1 GB of data, and unlimited texting. The second Kansas plan, the KS Voice Base Plan, for YourTel's new and existing subscribers without data-capable phones, includes 1,380 voice minutes and unlimited texting. The Commission approved the two proposed KLSP calling plans and found that the calling plans provide the requisite additional value to KLSP subscribers sufficient to justify receipt of the KLSP subsidy.

On November 7, 2018, YourTel filed its proposed KLSP offerings for Kansas that it will offer to Kansas Lifeline customers beginning in December 2018. According to the filing, YourTel's KS Broadband Base Plan will include 920 voice minutes, 2 GB of free data for subscribers with data-capable phones, and unlimited texting. YourTel's KS Voice Base Plan will include 1,840 voice minutes and unlimited data.

On November 14, 2018, Staff issued Data Request (DR) 5, the responses to which YourTel filed in this Docket on November 14, 2018. Staff inquired in DR 5.3 whether YourTel intended to include unlimited data in its KS Voice Base Plan and YourTel responded that its KS Voice Base Plan does not include data, but does include unlimited texting. YourTel made a revised filing on November 14, 2018, in which YourTel corrected the KS Voice Base Plan to include 1,840 voice minutes and unlimited texting instead of unlimited data.

ANALYSIS:

YourTel stated in response to DR 5.1 that its Voice Base Plan in states where YourTel does not receive a state Lifeline subsidy will include 1,000 voice minutes, which equates to roughly \$.00925 per voice minute. YourTel proposes offering 1,840 voice minutes in Kansas, which equates to the same \$.00925 per voice minute. Therefore, Staff believes YourTel's Kansas Voice Base Plan will provide additional value to justify the additional \$7.77 KLSP subsidy. YourTel's Voice Plan will also include unlimited texting in Kansas and the other states in which it offers Lifeline service.

² Staff recommended TAG and YourTel file for approval of their plans because they were the only two mobile KLSP providers that provide "free" service to customers and do not bill KLSP customers on a monthly basis. All other mobile KLSP providers bill their customers on a monthly basis and pass through the Lifeline subsidies as a credit on low-income consumers' bills. TAG's ETC designation has since been revoked in Kansas.

³ The implementation date for 2016 was December 2nd rather than December 1st due to the timing of approval from the Office of Management and Budget.

YourTel's stated in response to DR 5.1 that its Lifeline customers with data-capable phones in states where YourTel does not receive a state Lifeline subsidy will receive 500 voice minutes, 2GB of data, and unlimited texting. In Kansas, YourTel's customers with data-capable phones will receive 920 voice minutes, 2 GB of data, and unlimited texting. The KLSP does not currently support data (broadband) services, only voice services. Accordingly, YourTel states that it will not utilize KLSP funding for the additional data service provided to KLSP subscribers.

YourTel's proposed voice and broadband calling plan meets the FCC's minimum service standards for data; therefore, the 1,000 minimum voice minutes does not apply. KLSP subscribers will receive an additional 420 minutes of voice calling over the 500 minutes provided to Lifeline subscribers in other states without a state Lifeline program, providing additional value for the \$7.77 KLSP subsidy.

Staff finds that the proposed revised KLSP calling plans continue to provide additional value to KLSP subscribers to justify receipt of the KLSP subsidy. Staff believes approval of the proposed revised KLSP plans are in the public interest because KLSP subscribers will receive additional value for the KLSP subsidy.

RECOMMENDATION:

Staff recommends the Commission approve YourTel's proposed revised KLSP calling plans. YourTel requests an effective date in December 2018, and the FCC requires YourTel to increase its calling plans as discussed above by December 1, 2018. YourTel, however, did not file its proposed calling plans at least 30 days prior to the effective date, as required. Staff, therefore, recommends the Commission allow YourTel to collect the KLSP from the KUSF for December only if the Commission is able to issue an Order approving the proposed calling plans prior to December 1, 2018. If the Commission is unable to issue an Order approving the calling plans prior to December 1, 2018, Staff recommends the Commission allow YourTel to begin collecting the KLSP for the approved KLSP calling plans beginning with the January 2019 data month.

CERTIFICATE OF SERVICE

12-TPCT-768-ETC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 11/27/2018.

MATT DEAN, REGULATORY AGENT
TELECOM PROFESSIONALS, INC.
P.O. BOX 720128
OKLAHOMA CITY, OK 73172-0128
Fax: 405-755-8377
mdean@telecompliance.net

ROSE MULVANY HENRY, ATTORNEY
BRADLEY ARANT BOULT CUMMINGS LLP
1600 DIVISION ST STE 700
PO BOX 340025
NASHVILLE, TN 37203-0025
Fax: 615-252-4713
rhenry@bradley.com

MICHAEL NEELEY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3167
m.neeley@kcc.ks.gov

DALE SCHMICK, VICE-PRESIDENT/GEN. MANAGER
YOURTEL AMERICA, INC.
D/B/A TERRACOM
710 CEDAR LAKE BLVD
SUITE 100
OKLAHOMA CITY, OK 73114-7811
Fax: 816-388-1044
dale@terracominc.com

/S/ DeeAnn Shupe

DeeAnn Shupe