

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Mark Sievers, Chairman
Thomas E. Wright
Shari Feist Albrecht

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 ON FILING REQUIREMENTS

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 June 10, 2009, in Docket No. 09-TPCT-596-ETC, YourTel America, Inc. ("YourTel") was granted Eligible Telecommunications Carrier ("ETC") status in certain AT&T exchanges for the purpose of receiving low-income Federal Universal Service Fund ("FUSF") support and Kansas Universal Service Fund ("KUSF") support when providing universal service via wireless technology. On August 8, 2012, in this docket, YourTel's low-income wireless ETC designation was expanded to additional AT&T exchanges and Rural Local Exchange Carrier ("RLEC") service areas.

2. The Commission requires that carriers receiving Kansas Lifeline Service Program ("KLSP") funds from the KUSF pass on the entirety of the KLSP discount to the end user consumer. This means that carriers offering nationwide Lifeline calling plans that receive the

current \$9.25 per month Federal Lifeline subsidy must offer a plan with more minutes in Kansas to justify the additional Kansas Lifeline subsidy which is currently \$7.77 per month.

3. YourTel offers several Lifeline Calling Plans nationwide where YourTel is only reimbursed \$9.25 from the FUSF. Those plans are the Lifeline Free Plan 68, the Lifeline Free Plan 125, and the Lifeline Free Plan 250. YourTel should not be receiving any funds from the KUSF/KLSP for Kansas customers using one of those plans. In the August 8, 2012 Order in this docket, the Commission clarified that YourTel would only receive reimbursement from the KUSF/KLSP on its 400 free minute or higher plans.

4. Commission Staff ("Staff") submitted a Report and Recommendation on October 31, 2012, attached hereto and made a part hereof by reference. Staff recommended that the Commission reiterate that YourTel must pass the KUSF/KLSP discount along to consumers in its entirety. Staff also recommended that in order to ensure YourTel is only receiving KUSF/KLSP reimbursement for 400 minute or greater plans, YourTel be required by the Commission to submit quarterly lists showing the number of Kansas customers subscribing to each of its calling plans where a state and/or federal Lifeline subsidy is being applied.

5. 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 must pass the KUSF Lifeline discount along to consumers in its entirety.
- B. YourTel is hereby required to submit quarterly reports to the Commission listing the number of Kansas customers subscribing to each calling plan where a state and/or federal Lifeline subsidy is being applied. The reports are due by the 15th of the month following the end

of the quarter (e.g. January 15th, April 15th, July 15th, and October 15th) with the first report due by January 15, 2013.

C. 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).

D. 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.

Sievers, Chmn.; Wright, Com.; Feist Albrecht, Com.

Dated: NOV 15 2012



ORDER MAILED NOV 16 2012

Patrice Petersen-Klein
Executive Director

MRN

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Mark Sievers, Chairman
Thomas E. Wright, Commissioner
Shari Feist Albrecht, Commissioner

Sam Brownback, Governor

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

**STATE CORPORATION
COMMISSION**

NOV 02 2012

TO: Chairman Mark Sievers
Commissioner Thomas E. Wright
Commissioner Shari Feist Albrecht

**PATRICE PETERSEN-KLEIN
EXECUTIVE DIRECTOR**

FROM: Christine Aarnes

DATE: October 31, 2012

DATE SUBMITTED TO EXECUTIVE DIRECTOR: 11/2/12

DATE SUBMITTED TO LEGAL: 11.6.12

DATE SUBMITTED TO COMMISSIONERS: 11-07-12

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:

In order to assist the Commission in ensuring YourTel America, Inc. (YourTel) does not receive reimbursement from the Kansas Universal Service Fund (KUSF) for customers that are not receiving the full Kansas Lifeline Service Program (KLSP) discount, Staff recommends the Commission require YourTel to file quarterly reports with the Commission listing the number of Kansas customers subscribing to each of its calling plans.

BACKGROUND:

On January 23, 2009, YourTel America, Inc. (YourTel) filed an Application in Docket No. 09-TPCT-596-ETC requesting eligible telecommunications carrier (ETC) designation in specific AT&T exchanges for the purpose of receiving low-income Federal Universal Service Fund (FUSF) and KUSF support when providing universal service via wireless technology. The Commission approved the request in an Order dated June 10, 2009.

YourTel filed a request on April 17, 2012, in this Docket, requesting ETC designation in specific rural local exchange carrier service areas and additional AT&T exchanges for the

purpose of receiving low-income FUSF and KUSF support when providing universal service via wireless technology.

YourTel offers the following Lifeline calling plans in all of the states in which it has been designated an ETC, including Kansas:

- Lifeline Free Plan 68: Each month the customer receives 68 free voice minutes. Text messaging will be assessed at a rate of 0.3 minutes per text messaging for sending and 0.3 minutes per text message for receiving text messages. Unused minutes will rollover from month-to-month and are available for a maximum of sixty (60) days.
- Lifeline Free Plan 125: Each month the customer receives 125 free voice minutes. Text messaging will be assessed at a rate of 1 minute per text messaging for sending and 1 minute per text message for receiving text messages. Unused minutes will rollover from month-to-month and are available for a maximum of sixty (60) days.
- Lifeline Free Plan 250: Each month the customer receives 250 free voice minutes. Text messaging will be assessed at a rate of 1 minute per text messaging for sending and 1 minute per text message for receiving text messages. There are no rollover minutes with this plan. Unused minutes will expire each month on the service expiration date.

In addition, YourTel stated in its Application that with the receipt of KLSP support, it would offer 400 free minutes of use to new wireless Lifeline subscribers in Kansas.

Many carriers, such as YourTel, offer the same calling plans on a nationwide basis regardless of whether the carrier receives state Lifeline support in addition to the federal Lifeline subsidy of \$9.25 per month. When customers receive the same amount of free calling minutes as customers in states that do not provide an additional state Lifeline discount; the customers are not receiving the added benefit of the state subsidy. Therefore, the Commission issued an Order on August 8, 2012, approving YourTel's request, but it reiterated that YourTel must pass the KLSP discount through to its eligible customers in its entirety to ensure the KLSP discount is used for its intended purpose.

Kansas Lifeline Service Program Credit

The Kansas Legislature required the Commission to establish the Kansas Lifeline Service Program to promote the provision of universal service to persons with low income, and it is to be targeted to maintain affordable rates for residential local service. (K.S.A. 66-2008(a)) As the Commission stated in its August 17, 2011, Order in Docket No. 10-GIMT-658-GIT, "in order for the KLSP purpose to be fully realized, the entirety of the KLSP discount must be passed along to the end user consumer, to be reflected in the end user consumer's bill, and all consumers must receive the full, maximum benefit, and not some lesser benefit due to a choice of a carrier."

In order to ensure that Kansas low-income consumers are receiving the full, maximum benefit of the KLSP discount, Staff recommended in its July 25, 2012, Report and Recommendation that the Commission reiterate to YourTel that it must pass along the

entirety of the KLSP to its consumers. Staff explained that if YourTel offers Kansas subscribers the same plans it offers to Lifeline subscribers in other states, particularly states in which YourTel's customers receive only the federal Lifeline discount, YourTel is not passing along the full KLSP discount to its consumers and Kansas low-income consumers are not receiving the full, maximum benefit of the KLSP discount. Rather, they are receiving the same benefit consumers in states that do not provide a state Lifeline discount receive and YourTel should not be eligible to receive the KLSP for those customers. Therefore, Staff explained that YourTel could only request KLSP reimbursement from the KUSF for its customers on the 400 free minute plan (or higher) because those are the only customers receiving the added benefit of the KLSP discount.

In order to assist the Commission in ensuring YourTel does not receive reimbursement from the KUSF for customers that are not receiving the full KLSP discount, Staff recommends the Commission require YourTel to file quarterly reports with the Commission listing the number of Kansas customers subscribing to each of its calling plans. The data should be separated by month and provided to the Commission on a quarterly basis. The reports should be due by the 15th of the month following the end of the quarter (e.g., January 15th, April 15th, July 15th, and October 15th) with the first report due by January 15, 2013.

YourTel is the only wireless carrier that has been designated, to date, as a Lifeline-Only ETC for KUSF purposes. Staff has not recommended a similar filing be made of landline carriers that receive reimbursement for the KLSP credit because it is easy to determine whether the full KLSP discount has been passed through to landline customers by reviewing the customers' bills.

RECOMMENDATION:

Staff recommends the Commission reiterate that YourTel must pass the KUSF Lifeline discount along to consumers in its entirety. YourTel should not include customer lines that are not receiving the full KUSF discount on its Carrier Remittance Worksheets to the KUSF Third Party Administrator because YourTel is not eligible to receive reimbursement for those lines.

In order to assist the Commission in ensuring YourTel does not receive reimbursement from the KUSF for customers that are not receiving the full KLSP discount, Staff recommends the Commission require YourTel to file quarterly reports with the Commission listing the number of Kansas customers subscribing to each of its calling plans. The data should be separated by month and provided to the Commission on a quarterly basis. The reports should be due by the 15th of the month following the end of the quarter (e.g., January 15th, April 15th, July 15th, and October 15th) with the first report due by January 15, 2013.

cc: Patrice Petersen-Klein, Executive Director
Jeff McClanahan, Director of Utilities

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROSE MULVANY HENRY, ATTORNEY BRADLEY ARANT BOULT CUMMINGS LLP 1600 DIVISION ST STE 700 PO BOX 340025 NASHVILLE, TN 37203-0025		
MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
DALE SCHMICK, VICE-PRESIDENT/GEN. MANAGER YOURTEL AMERICA, INC. 401 E MEMORIAL ROAD STE 500 OKLAHOMA CITY, OK 73114		

ORDER MAILED NOV 16 2012

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.