

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Received
on

To: Commissioners: Mark Sievers, Chairman
Ward Loyd, Commissioner
Thomas E. Wright, Commissioner

JUN 21 2012

by
State Corporation Commission
of Kansas

Re: Matter of the Application of Lifeline Phone Service, Inc. for a
Certificate of Convenience and Authority to Provide Exchange
Telecommunications Service on a Resold Basis Within the State of Kansas

Docket No. 12-LLPT-714-COC

Petition for Reconsideration

On June 7, 2012 the Executive Director filed an Order Denying the Lifeline Phone Services (Lifeline) Application for Certificate of Convenience and Authority. The Order is based almost entirely on out-of-context quotes taken from a litany of complex cases up to a decade old. We respectfully request your reconsideration of the Order and a formal hearing.

Lifeline thoroughly refuted the claims contained in this Order in a Reply filed on June 1, 2012. Although the Lifeline Reply provided a detailed explanation for the concerns of Staff, virtually none of Lifeline's explanations were reflected in the Order.

The Order cites "evidence" well outside any reasonable limitations period. The Order ignores complicated financial circumstances beyond the control of Lifeline, which in part are attributable to the regulatory policy of this Commission. The Order circumvents this Commission's own rules by dredging up incidents six to ten years old, when the application process itself calls only for scrutiny of the previous five years. Indeed, most of the "issues" cited in the Order were the result a single tax issue, not five infractions as the Order attempts to portray.

In addition to failing to accurately reflect Lifeline's explanations, the Order was threatening. It contained statements about turning over the Applicant to the Office of Attorney General for "further investigation and action."¹ This appears to be an attempt to bolster the weak and unsubstantiated conclusions in the Order, intimidate Lifeline Phone out of the business, or both. Ham-fisted tactics like these would not be well received in a court appeal of this Order, which under the present circumstances may be inevitable.

¹ Page 7 of June 7, 2012 Order at C.

Standard for Review of Commission Orders

My understanding of the appeals process is that the Kansas Judicial Review Act (KJRA) provides for judicial review of Commission Orders. These reviews are generally confined to the Agency record.² In addition to the record however, supplemental additional evidence may be considered if the evidence relates to the validity of the agency's actions at the time they were taken and if the evidence is necessary to assist the court in a decision.³ The kinds of additional evidence allowed speaks directly to the concerns of Lifeline as the Commission Order presently stands:

- Improper constitution of the decision-making body;
- Improper motives or grounds for disqualification of the individuals making the decision;
- Unlawfulness of the procedure or decision-making process.⁴

The fact that the undersigned has at times been critical of this Commission should not have a negative bearing on this Application. This Commission should follow its own rules in a non-discriminatory manner. Lifeline should not be subject to a 10 year Statute of Limitations when other applicants face only a five-year investigation period. The applicant should also not be penalized for past financial difficulty beyond his control, particularly when this Commission bears at least partial responsibility for these circumstances.

The undersigned does not wish to create any more ill will with Commission Staff than already exists; for whatever the reason it exists. We respectfully petition this Commission to overrule the Executive Director's Order and approve Lifeline's Application, even if such approval is contingent on certain performance by Lifeline. In the alternative, we pray the Commissioners thoroughly review our Application and allow us a fair hearing with a complete record as soon as possible.

Respectfully,



Rick Laham, Applicant
Lifeline Phone Service Inc.

² This is all the more reason why the Reply of Lifeline Phone should be given more than lip service in the Order and that a complete record, including Lifeline Phone's explanations, be reflected in the record.

³ K.S.A. 77-618, K.S.A. 77-619

⁴ K.S.A. 77-619(a). See *Doe v. Kansas Dept. of Human Resources*, 277 Kan. 795, 812-14, 90 P.3d 940 (2004).

June 19 2012

Ms. Patti Petersen-Klein
Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

Dear Ms. Petersen-Klein, please file the Petition for Reconsideration in Docket No. 12-LPLT-714-COC.

Questions may be referred to me at (316) 409-5599.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Rick Laham". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Rick Laham