

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

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

In the Matter of the Application of Lifeline                    )  
Phone Service, Inc. for a Certificate of                        )  
Convenience and Authority to Provide Local                    )       Docket No. 12-LLPT-714-COC  
Exchange Telecommunications Service on a                        )  
Resold Basis Within the State of Kansas.                        )

**ORDER DENYING LIFELINE PHONE SERVICE'S APPLICATION FOR  
CERTIFICATE OF CONVENIENCE AND AUTHORITY**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records and being fully advised in the premises, the Commission finds and concludes as follows:

1. On March 23, 2012, Lifeline Phone Service, Inc. (Lifeline) filed its Application for Certificate of Authority to Provide Local Exchange Telecommunications Services.

2. On April 5, 2012, Lifeline filed a Motion for Expedited Adjudication of Application for Certificate of Convenience and Authority. On April 25, 2012, the Commission denied the motion.

3. On May 10, 2012, Commission Staff (Staff) filed its Report and Recommendation (R&R) concerning Lifeline's application. In its R&R, Staff recommends the Commission deny Lifeline's application for a Certificate of Convenience and Authority.

4. On May 21, 2012, Lifeline filed a Reply to Staff's R&R (Lifeline Reply).

**ANALYSIS**

5. K.S.A. 66-131 requires any public utility to obtain a certificate from the Commission. It reads, in relevant part:

No common carrier or public utility, including that portion of any municipally owned utility defined as a public utility by K.S.A. 66-104, governed by the provisions of this act shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state.

6. The Commission primarily uses a factor analysis in deciding whether an application for a Certificate of Convenience and Authority to provide competitive local exchange services is compatible with the public interest and should be approved. These factors were announced in the May 5, 1995, Order in Docket No. 190,492-U, 94-GIMT-478-GIT (May 1995 Order).

7. In determining whether an application is in the public interest and should, therefore, be granted, the Commission considers the technical, managerial, and financial capabilities of the applicant. (May 1995 Order, ¶¶ 28-29.) Although additional factors are listed, the Commission noted that "Once . . . the Commission has . . . allowed competitive entry into a particular service category, subsequent applications by additional providers may be given expedited treatment . . . Therefore, the focus of proceedings regarding additional providers may be limited to those providers' technical, managerial and financial capabilities . . ." (May 1995 Order, ¶ 31.)

### **Managerial Capabilities**

8. Rick Laham (Laham) is listed as Lifeline's sole Owner, Director, and Stockholder. (Application, pp. 3, 5.) Lifeline's Application describes Laham's managerial qualifications. It claims that he is the "single largest independent promoter of the Kansas Lifeline Program." Furthermore, the Application states that Laham has "been a Competitive Local Exchange Carrier from 1998 through 2012." (Application, Exhibit 2.)

9. The Application also lists James Laham as Lifeline's manager. It indicates that he has over six years of "management experience, as well as provisioning, customer service, and computer skills training." (Application, Exhibit 2.)

10. Staff's R&R addresses several concerns regarding Lifeline's managerial qualifications.

11. First, Staff describes "Problems Involving Prior Companies Managed by Applicant's Principals." Staff notes that Laham "previously held Certificates of Convenience and Authority under the entities Local Phone Service, Inc., and Local Phone Services, Inc." (R&R, p. 3.)

12. Staff states that Local Phone Service's Certificate was granted in 1997. That Certificate was cancelled in September 2002 because the company had not reported to the KUSF since 1999, its mail was returned to the KUSF Administrator as "undeliverable" since 2001, and it forfeited with the Kansas Secretary of State its authority to do business in Kansas. (R&R, p. 3.)

13. Staff next addresses similarly-named Local Phone Services, Inc., which was granted a Certificate of Convenience and Authority in February 2002. Staff notes that the Commission opened several dockets to investigate Local Phone Services. (R&R, pp. 3-4.)

14. As a result of extensive mismanagement issues detailed by Staff, Local Phone Services agreed, in a Stipulated Settlement Agreement (SSA), to pay past due amounts of \$67,628 and \$32,068.26 to the KUSF and the Commission, respectively. It also agreed to refund its Lifeline customers \$14,004. Local Phone Services was to make monthly payments to the KUSF Administrator and the Commission. If it breached these terms, Local Phone Services agreed to surrender its Certificates. See February 8, 2008, Order Approving Stipulated

Settlement Agreement in 07-LCLT-011-GIT. Eventually, Staff filed three Notices of Breach of the SSA.

15. In October of 2009, the Commission received a letter from Laham. In the letter, he indicated that Local Phone Services was leaving the Kansas market, and Connect Insured Telephone, Inc., d/b/a Connect IT (Connect IT) had acquired its customers and most of its other assets. Laham then requested the Commission revoke Local Phone Services' Certificates and close any dockets involving Local Phone Services. See October 13, 2009, Filing in Docket No. 10-LCLT-255-CCS; R&R Exhibit A.

16. The Commission rescinded Local Phone Services' Certificates to provide interexchange and competitive local exchange services in January 2010. See January, 25, 2010, Order Rescinding Certificates of LPS in Docket No. 10-LCLT-255-CCS.

17. In its Reply, Lifeline questions the fairness of examining Laham's management experience at Local Phone Service and Local Phone Services. (Lifeline Reply, ¶ 2.) Lifeline claims that the issues are too remote to be considered. Furthermore, Lifeline argues that past complaints against Local Phone Services, Inc., were the result of a "complex, interwoven, sequence of events spanning many years." Lifeline further contends that these issues were due to "intense financial pressure . . . arguably . . . due to actions or inactions of a previous Kansas Corporation Commission." (Lifeline Reply, ¶ 3.)

18. In further analysis of Lifeline's management, Staff alleges that Lifeline has operated without a Certificate. Specifically, Staff details Laham's statements describing his provision of local and interexchange telecommunications services to Kansas customers since 2009, a time period during most of which he had no authority to operate. (R&R, p. 5-6.)

19. Lifeline responds that it simply entered a management agreement with Connect IT, but this did not result in unauthorized provisioning of telecommunications services. (Lifeline Reply, ¶¶ 7-9.)

20. Lifeline further argues that Staff is taking Laham's statements out of context. Lifeline argues that it was not operating without a Certificate, because it was merely providing services to Connect IT, who was certified in Kansas. (Lifeline Reply, ¶¶ 12-13.)

21. The final managerial issues addressed by Staff's R&R are a number of enforcement proceedings initiated by other entities. These proceedings include a Forfeiture Order initiated by the FCC and several Sales Tax Warrants initiated by the Kansas Department of Revenue. (R&R, p. 6.)

22. Lifeline responds to these issues by contending that the Forfeiture Order is too remote to be considered and the tax cases all relate to a single issue caused by financial pressure beyond its control. (Lifeline Reply, ¶ 14.)

#### **Technical and Financial Capabilities**

23. After taking no issue with Lifeline's technical qualifications, Staff addresses Lifeline's financial situation. Staff claims that Lifeline provided no evidence in its Application to show its financial ability to transact the business of a Competitive Local Exchange Carrier. Staff also reiterates its concern about Laham's pattern of financial instability, evidenced by the past enforcement proceedings and other proceedings before the Commission. (R&R, p. 7.)

24. Staff also noted that Lifeline had not been entirely forthcoming when answering a number of questions on its Application. Staff pointed to the past enforcement proceedings and proceedings before the Commission as examples of items not willingly shared.

## FINDINGS AND CONCLUSIONS

25. The Commission finds and concludes that Lifeline's managerial qualifications are insufficient to support approval of its application. These management deficiencies are evidenced by Laham's extensive involvement in proceedings before the Commission. Furthermore, it is apparent that, since surrendering his Certificates in 2009, Laham has continued to provide telecommunications services in some fashion. The Commission also recognizes that other past enforcement actions against Laham reflect poorly on his managerial qualifications.

26. The Commission finds Laham's management involvement with his past companies to be wholly relevant to the current Application. Past proceedings are in no way too remote to be considered. Lifeline's claims that the Commission is to blame for its financial situation are without merit, as well.

27. The Commission also finds the financial mismanagement of Laham's past companies extremely troubling. A clear pattern of delinquent payments, tax issues, and other disputes indicates that Lifeline would face similar issues. The Commission does not look favorably upon granting or permitting the continuation of the authority to do business, regulated or not, by any person or entity that fails to timely pay its obligations for assessments to the KUSF or taxes due and owing to the State of Kansas or any of its subdivisions.

28. The Commission concludes approval of Lifeline's application would not be in the public interest or promote the public convenience. More specifically, the actions of Rick Laham and those businesses he controlled have demonstrated a blatant lack of regard, if not a disdain, for the laws of the State of Kansas, and it is not in the public interest to permit Laham to engage in any ownership, agency, management, or employment capacity in any business over which this Commission has jurisdiction.

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

A. The Commission denies Lifeline's Application for Certificate of Authority to Provide Local Exchange Telecommunications Services.

B. To the extent that Rick Laham, Lifeline, or Local Phone Services continues to provide telecommunications services in Kansas, the Commission orders cessation of these operations.


C. In view of the assertions in this docket of business activities on the part of Laham or his corporate entities, the Commission orders Staff to refer this matter to the Office of the Attorney General for further investigation and action.

D. Parties have 15 days, plus three days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 2011 Supp. 77-529(a)(1).

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

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

Dated:           **JUN 06 2012**          

  
**ORDER MAILED JUN 07 2012**  
Patrice Petersen-Klein  
Executive Director

AF

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ANDREW FRENCH, ADVISORY COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
RICK LAHAM LIFELINE PHONE SERVICE, INC. 2405 E. PAWNEE WICHITA, KS 67211		
PAUL H GARDNER D/B/A ATTORNEY AT LAW 801 N.W. VESPER BLUE SPRINGS, MO 64015		
JUDITH A. RILEY, AGENT TELECOM PROFESSIONALS, INC. 5909 NORTHWEST EXPRESSWAY STE 101 OKLAHOMA CITY, OK 73132		

ORDER MAILED JUN 07 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.