

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Application of)
Midcontinent Communications, A South) Docket No. 24-MCCT-411-ETC
Dakota General Partnership, for Designation as)
an Eligible Telecommunications Carrier.)

ORDER GRANTING EXPANSION OF ETC DESIGNATION

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, the Commission finds and concludes:

1. On November 28, 2023, Midcontinent Communications (Midco or company) filed an application with the Commission requesting designation as an Eligible Telecommunications Carrier (ETC) for purposes of federal and state Lifeline support to include an area in western Johnson County from De Soto to the county line of Douglas County as well as a portion of the City of Boner Springs, Kansas.¹
2. On February 11, 2025, Midco supplemented its application to correct its request to indicate it is an expansion of its existing ETC designation and added Exhibits C and D.²
3. In order to originally receive an ETC designation, the requesting carrier must make showings required under federal law.³ For an expansion of a company’s ETC ‘s service area to be approved, the new service area must also be in the public’s interest.⁴

¹ Application for Designation as an Eligible Telecommunications Carrier, ¶ 3, Nov. 28, 2023 (Application).

² Amended Application for Expansion of Designation as an Eligible Telecommunications Carrier, Feb. 11, 2025

³ Staff’s Report and Recommendation, (Feb. 25, 2025), p. 2-3.

⁴The Commission will weigh certain factors to determine whether it is in the public interest to grant another carrier ETC status. Those factors include a) benefits of increased competitive choice; b) the impact of multiple ETC designations on the KUSF; c) the unique advantages and disadvantages of the carrier’s service offering; d)

4. In order to make a public interest showing for both federal and state ETC designation, the Commission requires the potential ETC to show:

- a. The carrier is financially and technically capable of providing the supported Lifeline service in compliance with all of the low-income program rules.⁵
- b. The carrier has received approval of its Compliance Plan with the FCC (if applicable).
- c. The carrier undertakes efforts to eliminate waste, fraud, and abuse in the Lifeline program.
- d. The carrier has sufficient back-up power to remain functional without external power in emergency situations, is able to reroute traffic around damaged facilities, and can manage emergency traffic spikes.⁶
- e. The carrier will provide service throughout its designated service area to all customers making a reasonable request for service.
- f. The carrier will comply with all applicable federal and state laws, rules, regulations, and orders. The carrier will inform the Commission of any changes in service made to comply with updated laws, rules, regulations, and orders.

5. Commission Staff (Staff) filed a Report and Recommendation (R&R) regarding the application on February 25, 2025, attached hereto and made a part hereof by reference.⁷ Staff

commitments made regarding quality of telephone service provided by competing providers; and e) the carrier's ability to provide the supported services throughout the designated service area within a reasonable time frame. *See* Docket No. 04-RCCT-338-ETC, Order No. 14 Order Granting ETC Designation and Addressing Additional Issues, September 30, 2004 and Docket No. 04-ALKT-283-ETC, Order Granting ETC Designation and Addressing Additional Issues, September 24, 2004. The Commission will also take into account any other relevant factors in determining whether ETC designation is in the public interest.

⁵*See* 47 § C.F.R. 54.201(h), 54.202(a)(4); Docket No. 10-GIMT-658-GIT, Order Requiring Lifeline-Only ETC Applicants to Provide Kansas-Specific Information and Requesting Comments on AT&T Refund Issue, June 21, 2012. The FCC has stated that relevant considerations for such a showing include: a) Whether the Applicant previously offered services to non-Lifeline consumers; b) How long the Company has been in business; c) Whether the Applicant intends to rely exclusively on USF disbursements to operate; d) Whether the Applicant receives or will receive revenue from other sources; and e) Whether the Company has been subject to enforcement action or an ETC revocation proceeding in any state. In Docket No. 10-GIMT-658-GIT, the Commission also stated that lifeline-only ETC applicants should provide Kansas-specific information regarding technical and financial capacity similar to the information provided in the carrier's FCC Compliance Plan.

⁶*See* Docket No. 06-GIMT-446-GIT, Order Adopting Requirements for Designations of Eligible Telecommunications Carrier, October 2, 2006.

⁷ Staff's Report and Recommendation, Feb. 25, 2025. (R&R).

thoroughly examined Midco's application and made detailed findings in the R&R, which is incorporated herein by reference.

6. The Commission finds Midco demonstrated its ability to provide the service or functionalities supported by the universal service support system and that its local usage component was comparable to that of the incumbent carrier.⁸

7. The Commission finds that Midco meets the advertising requirements and shall file a revised advertisement in this docket.⁹

8. The Commission finds that Midco should also file a revised billing statement showing the updated Dig Safe telephone number in this docket.¹⁰

9. The Commission finds that the public interest will be served by ETC expansion in the requested service areas for the purpose of participating in the federal and state Lifeline program.¹¹

10. The Commission finds Midco meets the FCC's rules pursuant to 47 C.F.R. § 54.201 and 54.202 as being financially and technically capable to offer Lifeline-only support in its requested service areas.¹²

11. Based on Midco's representations, Staff recommended approval of the application for expansion of its ETC designation into the areas outlined in Exhibit 1 attached to Staff's R&R.

12. The Commission adopts as additional findings, Staff's R&R.

⁸ Staff's R&R, p. 3-4.

⁹ Staff's R&R, p. 6-7.

¹⁰ Staff's R&R, p. 6.

¹¹ Staff's R&R, p. 8.

¹² Staff's R&R, p. 9-10.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Midcontinent Communications' ETC Application in this matter is approved. The company is granted ETC status in western Johnson County from De Soto to the county line of Douglas County and a portion of the City of Bonner Springs as set forth in Exhibit 1 to Staff's Report & Recommendation.

B. Midcontinent Communication shall use federal and state Lifeline funds for their intended purpose, and the company shall pass the entire Lifeline credit through to the consumer. Furthermore, the company shall abide by Lifeline-only ETC requirements adopted by this Commission, including annual ETC recertification requirements, and Midcontinent Communications shall comply with such requirements to continue to receive state and federal support.

C. Midcontinent Communications shall file in this docket within thirty (30) days of this order a revised: 1) billing statement demonstrating the Dig Safe telephone number has been updated to 1-800-344-7233; and 2) advertisement including the Public Affairs and Consumer Protection contact information in the instant docket.

D. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).¹³

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 03/04/2025



Abigail D. Emery
Acting Secretary to the Commission

¹³K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Steve Garrett, Deputy Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: February 25, 2025

SUBJECT: Docket No. 24-MCCT-411-ETC

In the Matter of the Application of Midcontinent Communications, A South Dakota General Partnership, for Designation as an Eligible Telecommunications Carrier.

EXECUTIVE SUMMARY:

On November 28, 2023, Midcontinent Communications (Midco) filed an Application with the Kansas Corporation Commission (Commission) for Eligible Telecommunications Carrier (ETC) designation in order to receive federal and state Lifeline support to include an area in western Johnson County from De Soto to the county line of Douglas County and a portion of the City of Bonner Springs, Kansas.

On February 11, 2025, an amended Application was filed correcting the purpose of the ETC designation request to indicate it is for an expansion and also include Exhibits C and D that were missing from the original Application at the request of Commission staff (Staff).

Staff recommends the Commission approve Midco's ETC Expansion Application to include the area identified in the Application.

BACKGROUND:

On December 13, 2016, Midco was granted a Lifeline-only ETC in its footprint within the Lawrence, Bonner Springs, Tonganoxie, Bethel, Eudora, Basehor, and Linwood exchanges or zones. All of the exchanges are served by Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) except for the Linwood exchange, which is served by Brightspeed Companies of Kansas (Brightspeed).¹

¹ *Order Granting Eligible Telecommunications Carrier Status*, Docket No. 17-MCCT-254-ETC (17-254 Docket), dated April 13, 2017.

Midco is a South Dakota General Partnership. Midco currently provides telecommunications services in South Dakota, North Dakota, Minnesota, and Wisconsin.²

ANALYSIS:

Federal and State ETC Requirements

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier designated as an eligible telecommunications carrier shall be eligible to receive universal service support in accordance with section 254 of the Federal Act and shall, throughout the service area for which the designation is received – (A) offer the services that are supported by Federal universal service support mechanism under section 254(c) of the Federal Act, either using its own facilities or a combination of its own facilities and resale of another carrier’s service (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such service and the charges therefore using media of general distribution.³

Congress empowers the states to designate a common carrier as an ETC. Federal law, 47 U.S.C. § 214(e)(2), states that “Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission.”

Kansas law adopts the federal standards, contained in 214(e)(1), for designating a provider as an ETC for KUSF purposes. K.S.A. 66-2008(c) states:

Pursuant to the federal act, distributions from the KUSF shall be made in a competitively neutral manner to qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications providers, that are deemed eligible both under subsection (e)(1) of section 214 of the federal act and by the commission.

In order to be designated as an ETC, a company must be a “common carrier” as defined in 47 U.S.C. § 153(11). The term “common carrier” or “carrier” means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

Midco states in its application that it offers local exchange service including the basic phone line and various features to choose from, such as Caller ID, Call Waiting, Call Forwarding, and ancillary services like voice mail to the general public.⁴ Staff’s review of the Application requesting expansion of its service area; Midco meets the federal definition of common carrier.

² FCC Form 499 Filer Database; <https://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=802284>, last viewed Feb. 5, 2025.

³ 47 U.S.C. § 254.

⁴ Application, ¶ 12.

Service or Functionalities

The FCC identifies the services or functionalities that shall be supported by the federal universal service support mechanisms, pursuant to 47 U.S.C. § 254 (c). The supported services are codified in 47 C.F.R. § 54.101(a),

Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

In its Application, Midco provided the following explanations of how it proposes to provide Voice Telephony services.

Voice-grade access to the public switched network – Midco will provide wireline-based digital voice telecommunications service, interconnected to the public switched network.⁵

Local usage – Although federal requirements do not specify the extent of local usage to be made without additional charge, Midco's Lifeline voice service will provide unlimited local minutes of use as an element of the basic service offering. Lifeline customers will additionally have the option to purchase domestic interexchange calling at affordable rates as an element of a variety of service packages.⁶

Access to emergency services – Midco's wireline voice service includes connectivity to the relevant Public Safety Access Points for each portion of its proposed Lifeline service area, at the highest level of functionality implemented by the respective governmental units. This service component will assure reliable provision of customer access to E911 emergency services as well as emergency service provider access to precise customer locations.⁷

Toll limitations for qualifying low-income consumers – Midco offers in other states, and will offer in Kansas, toll limitation capability for qualifying customers.⁸

Midco's proposed voice calling plans include unlimited local calling; therefore, Staff believes Midco's local usage offering is comparable to the local usage offered by the incumbent providers. Staff is satisfied that Midco has demonstrated an ability to provide the service or functionalities

⁵ *Id.* at ¶ 7a.

⁶ *Id.* at ¶ 7b.

⁷ *Id.* at ¶ 7c.

⁸ *Id.* at ¶ 7d.

supported by the universal service support systems and that its local usage component is comparable to that of the incumbent carrier.

Types of Facilities Used to Provide Service

The facilities over which Midco will provide telecommunications services will be interconnected with the public switched telephone network. Midco will offer telephone service over its broadband network in much the same way local phone companies provide service. However, Midco's network reach is defined by its underlying cable facilities.⁹

Service Areas

Section 214(e)(5) of the Federal Act defines "service area" as:

The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the [Federal Communications] Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

"Service areas" or "operating areas" are defined by the state act in K.S.A. 66-1,187(k). K.S.A. 66-1,187(k) provides that,

- (1) In the case of a rural telephone company, operating area or service area means such company's study area or areas as approved by the federal communications commission;
- (2) in the case of a local exchange carrier, other than a rural telephone company, operating area or service area means such carrier's local exchange service area or areas as approved by the commission.

Specifically for Lifeline, K.S.A. 66-2006(c) states:

To generate and facilitate participation in the lifeline service program, provide choice for Kansas consumers, and allow collection of federal lifeline program reimbursements, **the KCC shall approve a wireline (non-CMRS) facilities-based telephone service provider's application** for eligible telecommunications carrier, hereinafter referred to as the ETC, designation in a non-rural service area for the purpose of receiving low-income federal universal service fund support for participation in the lifeline service program, **for the area equal to the applicant provider's own service area**, provided the applicant provider meets all other ETC eligibility requirements. The commission, however, may condition that such designation remains consistent with the guidelines of the federal program. (emphasis added)

⁹ *Order Granting Eligible Telecommunications Carrier Status*, Docket No. 17-MCCT-254-ETC (17-254 Docket), dated April 13, 2017.

Thus, pursuant to K.S.A. 66-1,187(k), for an ETC operating in a non-rural telephone company's service area, the service area means such carrier's local exchange service area or areas as approved by the Commission. And, pursuant to K.S.A. 66-2006(c), the KCC shall approve a wireline (non-CMRS) facilities-based telephone service provider's application for the purpose of receiving federal Lifeline support for the area equal to the applicant provider's own service area, provided the applicant meets all other eligibility requirements.

Midco seeks expansion of its ETC designation for low-income support in its footprint within the following Kansas areas:¹⁰

- Area One:
 - Western Johnson County from De Soto to the county line of Douglas County. The area does encompass a portion of the City of De Soto. The north border is K 10 (Governor John Anderson Jr. Hwy). The east border serves the parcels on the east side of Lexington Ave. and the south border serves the parcels along the south side of W 103rd Street.
- Area Two:
 - A portion of the City of Bonner Springs, Kansas.
 - Minnesota Avenue between N 142nd St and N 141st St;
 - N 142nd Street from Minnesota Avenue to just north of Riverview Ave.;
 - N 141st Street from Minnesota Avenue to Sandusky Ave.;
 - Sandusky Ave between N 141st St and N 142nd St.

AT&T is a non-rural telephone company in Kansas. Therefore, Midco may expand its ETC designation as a Lifeline-only ETC in its own service area within the aforementioned areas. Staff issued Discovery Request KCC-1 (DR 1) to Midco to confirm a map of the proposed expansion area that was filed in Docket No. 17-MCCT-238-VSA and attached to this Report and Recommendation (R&R) as Exhibit 1. Midco's response to DR 1 confirmed this map to be an accurate representation of the requested expansion area in this Application.

Advertising

Eligibility for Federal universal service support is addressed by Section 214(e) of the Federal Act. Section 214(e) (1) of the Federal Act states as follows:

- (1) ELIGIBLE TELECOMMUNICATIONS CARRIERS – A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received – (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the

¹⁰ Application, ¶ 3

availability of such services and the charges therefore using media of general distribution.

Midco states it will satisfy the federal Lifeline promotional requirements set forth in 47 C.F.R. § 54.405(b) and in the FCC's Lifeline Reform Order. Midco also states it will advertise the availability of the supported services throughout its designated service area using media of general distribution. The methods utilized may include direct mail, Internet advertisements, print advertisements in newspapers, and Public Service Announcements on Midco's cable TV system. Midco's telecommunications service brochures and the handbooks provided to new telecommunications customers will include information on the availability of Lifeline assistance. Also, at least annually, Midco advises customers of the program through a billing statement message. Additionally, Midco will make specific efforts to advertise to likely eligible consumers by providing its Lifeline brochures at locations where qualified consumers would find them (e.g., at social service agencies and senior citizen centers).¹¹

Staff's review of the sample billing statement provided by Midco found that the Dig Safe telephone number for Kansas was not correct per Kansas 811's website.¹² Staff submitted Discovery Request KCC-2 (DR 2) requesting Midco correct the number on their billing statement. Midco's response to DR 2 indicates that the company will make the suggested correction. Staff requests that Midco file a revised billing statement showing the updated Dig Safe telephone number in the instant docket.

The Commission required competitive ETCs to develop "meaningful language so that consumers will understand what they can expect from an ETC". In addition, the Commission determined that all competitive ETCs shall include contact information for the Commission's Office of Public Affairs and Consumer Protection (PACP) in its advertisements to make sure that customers know where to turn with questions and complaints.¹³

Accordingly, in response to DR 2, Midco was provided suggested language by Staff, which it has agreed to use, in its advertising for the Kansas ETC areas. The language is as follows:

For unresolved questions or complaints, you may contact the state commission in your state. Contact information is:

Midco provides Lifeline service throughout its service territory. To learn about the Lifeline program and discounts you may be eligible to receive, visit our Lifeline Terms and Conditions page available at <https://midco.com/internetassistance/>. Customers may contact the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection with any concerns, at address 1500 SW Arrowhead Road, Topeka, KS 66604, through email: kcc.public.affairs@ks.gov or call toll-free 1-(800)-662-0027 or in Topeka (785)- 271-3140. Hearing or speech impaired TTY Kansas Relay Center 1-(800)-766-3777.

¹¹ Application, ¶¶ 8-9.

¹² <https://kansas811.com/>

¹³ *Order Adopting Requirements for Designation of Eligible Telecommunications Carriers*, Docket No. 06-GIMT-446-GIT, dated October 2, 2006, ¶ 13

Staff is satisfied that Midco will meet the advertising requirements and requests that Midco file a revised advertisement in the instant docket.

Public Interest

The FCC, in its *Virginia Cellular Order*,¹⁴ made new findings regarding determination of the public interest. While the FCC's decision is not binding on this Commission, the Commission found in its ALLTEL¹⁵ and RCC Minnesota¹⁶ Orders that examination of the additional factors enumerated in the FCC's Order is reasonable. Staff finds that Midco's explanation in Docket 17-254 is also represented in the expansion request in this Application and is provided in the following:

- **Benefits of Increased Competitive Choice** – The public benefit from designation of additional Lifeline ETC carriers, particularly in non-rural service areas, is well established as recognized both by this Commission and the FCC. The presence of additional providers results in greater innovation, price restraint and quality of service enhancement. Both the new entrant and existing providers in a communications market are incited to offer consumers more attractive service and more favorable terms. Specifically additional Lifeline availability enhances and expands universal service generally, by making access to the public switched network available to more consumers. This result in turn enhances the value of the network to all customers by increasing the number of individuals able to call and be called. In addition to advancing the public interest generally by expanding consumer choice, designation of an additional Lifeline ETC for state support will advance a specific public interest confirmed by the Kansas Legislature in K.S.A. 66-2006(a): ‘The purpose of the KLSP shall be to promote the provision of universal service by local exchange carriers to persons with low income. The KLSP shall be targeted to maintain affordable rates for residential local exchange service.’¹⁷
- **Impact of Multiple Designations on the Universal Service Fund** – Designation of Midco as a state and federal ETC will be paid only for the number of qualifying consumers who elect the Midco Lifeline service, not for high-cost service generally. To the extent Lifeline service adds customers to the network; additional contributions to the respective support funds will offset a portion of the minimal increased demand on the funds.¹⁸
- **Unique Advantages and Disadvantages of the Competitor's Service Offering** – Midco's proposed Lifeline Service offering has unique features beneficial to customers and to the public generally. By reducing the cost of basic service Lifeline

¹⁴ See *In the Matter of Federal State Joint Board on Universal Service: Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Released: January 22, 2004 (“*Virginia Cellular Order*”), FCC Docket No. DA 03-338.

¹⁵ *Order Granting ETC Designation and Addressing Additional Issues*, Docket No. 04-ALKT-283-ETC, dated Sept. 24, 2004, ¶ 28.

¹⁶ *Order No. 14: Granting ETC Designation and Addressing Additional Issues.*, Docket No. 04-RCCT-338-ETC, dated Sept. 9, 2004, ¶ 26.

¹⁷ Application, ¶¶ 19-20.

¹⁸ *Id.* at ¶ 21.

discounts will make combinations of services, including advanced services, more readily and affordably available to eligible consumers. In addition, Midco will also be offering Lifeline Broadband, which will reduce the net cost for robust digital data services that are increasingly important to low-income consumers.¹⁹

The availability of consumer-selected Midco service enhancements is indirectly enhanced by greater and more affordable access to basic service, which allows consumers increased choice among such service enhancements as common vertical calling services, unlimited domestic interexchange calling, and terminating call management by which the consumer may block “robocalls”, telemarketing calls and other unwanted intrusions.²⁰

The public benefit resulting from designation of additional Lifeline ETC carriers, particularly in non-rural service areas, is well established as recognized both by this Commission and by the FCC. The presence of additional providers results in greater innovation, price restraint and quality of service enhancement. Both the new entrant and existing providers in a communications market are incented to offer consumers more attractive service and more favorable terms. Specifically, additional Lifeline availability enhances and expands universal service generally, by making access to the public switched network available to more consumers. This result in turn enhances the value of the network to all customers by increasing the number of individuals able to call and be called.²¹

In addition to advancing the public interest generally by expanding consumer choice, designation of an additional Lifeline ETC for state support will advance a specific public interest confirmed by the Kansas Legislature in K.S.A. 66-2006(a): ‘The purpose of the KLSP shall be to promote the provision of universal service by local exchange carriers to persons with low income. The KLSP shall be targeted to maintain affordable rates for residential local exchange service.’²²

After reviewing Midco’s Application and its responses to Staff DR 1, Staff believes that Midco has demonstrated that it is in the public interest to designate its ETC expansion in the requested service area for the purpose of participating in the federal and state Lifeline program.

Consumer Eligibility and Enrollment

In the FCC’s *Lifeline Reform Order*, the FCC comprehensively reformed and began the modernization of the federal Lifeline program.²³ Pursuant to the Order and 47 C.F.R. 54.410(d), ETCs in all states were required to update their Lifeline Certification forms by June 1, 2012, to include specific information in clear, easily understood language and participants are required to

¹⁹ *Id.* at ¶ 16.

²⁰ *Id.* at ¶ 17.

²¹ *Id.* at ¶ 19.

²² *Id.* at ¶ 20.

²³ See *In the Matter of Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*; WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23; Report and Order and Further Notice of Proposed Rulemaking; Rel. Feb. 6, 2012, (“*Lifeline Reform Order*”).

make initial and annual certifications. The information required to be disclosed includes that Lifeline is a Federal benefit and that Lifeline can only be received for one line per household. Staff reviewed Midco's website link to the Lifeline Certification Form and determined the form is clear that consumers may receive only one Lifeline benefit per household.²⁴ Staff is satisfied that the form complies with Federal rules that prohibit subscribers from receiving more than one Lifeline service per household.²⁵

Technically and Financially Capable

The FCC, in its *Lifeline Reform Order*, amended section 54.202 of its rules, which govern ETC designation by states to require a carrier seeking designation as a Lifeline-only ETC to demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with all of the low-income program rules. The FCC stated that among the relevant considerations for such a showing are:

- a) Whether the Applicant previously offered services to non-Lifeline consumers;
- b) How long the Company has been in business;
- c) Whether the Applicant intends to rely exclusively on USF disbursements to operate;
- d) Whether the Applicant receives or will receive revenue from other sources; and
- e) Whether the Company has been subject to enforcement action or an ETC revocation proceeding in any state.

The Commission requested comments in its March 27, 2012, Order in Docket No. 10-GIMT-658-GIT on what additional information should be provided by Lifeline-only ETCs to demonstrate their technical and financial capacity in Kansas. After reviewing the Comments filed, the Commission determined in its June 21, 2012, Order that:

The FCC requires Lifeline-only ETC applicants to provide, in their Compliance Plan, a detailed description of how the carrier offers service, the geographic areas in which it offers service, and a description of the carrier's various Lifeline service plan offerings, including subscriber rates, number of minutes included and types of plans available. Lifeline-only ETC applicants should file Kansas-specific information regarding technical and financial capacity similar to the information provided in the carrier's FCC Compliance Plan when filing for Lifeline-only ETC status in Kansas.

Midco has been in business since 1931²⁶ and has not been subject to enforcement action or ETC revocation in any state. Midco received Commission approval in Docket No. 17-MCCT-252-COC on January 5, 2017, to provide Competitive Local Exchange Carrier services and in Docket No. 17-MCCT-238-VSA on December 22, 2016 to provide video services. Midco will receive revenue for video, broadband, and telecommunications customers in the states it does business in; therefore, it will not rely exclusively on universal service funding to operate.

²⁴ <https://midco.com/internet-assistance/> "How to Apply"

²⁵ 47 C.F.R. § 54.405(c)

²⁶ <https://midco.com/about/history/>

Staff is satisfied that Midco meets the FCC's rules pursuant to 47 C.F.R. § 54.201 and 54.202 as being financially and technically capable to offer Lifeline-only support in its requested service areas.

Ability to Remain Functional in an Emergency

The Commission determined in its October 2, 2006 Order in Docket No. 06-GIMT-446-GIT that, as part of its public interest evaluation, the Commission will require an ETC Applicant to demonstrate that it has sufficient back-up power to remain functional without external power in emergency situations, is able to reroute traffic around damaged facilities, and can manage emergency traffic spikes.²⁷

In its Application, Midco states it will remain functional during emergencies as required by 47 C.F.R. § 54.202(a)(2). Midco is an experienced provider of local exchange services to more than 100,000 customers in Minnesota, North Dakota, and South Dakota. In those states, Midco states that winter weather is regularly more severe than that ordinarily occurring in Kansas. Accordingly, Midco has developed considerable experience anticipating and managing emergency situations and assuring continuation of service. Midco constantly monitors quality of service and endeavors to stay ahead of issues such as battery backup affecting service in an emergency. Midco states it offered 8-hour backup and free replacement of the battery backup to its customers before the FCC began to address this issue.²⁸

Midco currently provides auxiliary and battery backup, and has a Power Supply Response Team (PSRT) whose objective is to provide uninterrupted service to telecommunications subscribers during periods of commercial power interruptions. Staff is satisfied that Midco will be able to properly respond to emergency situations and remain functional during emergencies as required by 47 C.F.R. § 54.202(a)(2).²⁹

RECOMMENDATION:

Based on its review of Midco's Application and responses to Staff DR 1 and DR 2, Staff recommends the Commission grant Midco's request and expand its Lifeline ETC designation to include an area in western Johnson County from De Soto to the county line of Douglas County and a portion of the City of Bonner Springs identified in Staff Exhibit 1. Staff is satisfied that Midco has demonstrated its ability to meet the federal and state requirements for being designated as a Lifeline-only ETC in the expansion area.

Staff believes that Midco has demonstrated that it is in the public interest to expand its ETC designation in the requested service area for the purpose of participating in the federal and state Lifeline program.

Midco should be reminded that federal and state Lifeline funds must be used for their intended purpose, and Midco shall pass the entire Lifeline credit through to the consumer.

²⁷ The FCC also revised its rules in 47 C.F.R. 54.202(a)(2) to require an ETC to demonstrate it has the ability to remain functional in an emergency.

²⁸ Application, ¶ 12.

²⁹ *Id.* at ¶ 13.

Additionally, Midco should be aware that it is required to abide by Lifeline-only ETC requirements adopted by this Commission, including annual ETC recertification requirements, and Midco will be required to follow these to continue to receive state and federal support.

Staff recommends the Commission issue an Order granting Midco's request to expand its ETC designation to include an area in western Johnson County from De Soto to the county line of Douglas County and a portion of the City of Bonner Springs. Staff further recommends the Commission issue an Order:

1. Granting Midco's request for ETC expansion in the area identified in Staff Exhibit 1;
2. Requiring Midco file a revised billing statement demonstrating the Dig Safe telephone number has been updated to 1-800-344-7233 in the instant docket;
3. Requiring Midco to file a revised advertisement including the Public Affairs and Consumer Protection contact information in the instant docket.

CERTIFICATE OF SERVICE

24-MCCT-411-ETC

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 03/04/2025.

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