

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

Before Commissioners: Mark Sievers, Chairman
 Thomas E. Wright

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

**ORDER DENYING LIFELINE PHONE SERVICE'S PETITION FOR
RECONSIDERATION**

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:

BACKGROUND

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 May 10, 2012, Commission Staff (Staff) filed a Report and Recommendation (R&R) recommending the Commission deny Lifeline's application.
3. On May 21, 2012, Lifeline filed a Reply to Staff's R&R.
4. On June 6, 2012, the Commission issued an Order Denying Lifeline Phone Service's Application (June 6, 2012, Order). The Commission fully reviewed Lifeline's Application, Staff's R&R, and Lifeline's Reply and concluded Lifeline lacks the requisite managerial and financial capabilities to support approval of its application. (June 6, 2012, Order, ¶¶ 25, 27.)

5. On June 21, 2012, Lifeline filed a Petition for Reconsideration of the Commission's June 6, 2012, Order (Lifeline Petition).

6. On June 26, 2012, Staff filed a Reply to Lifeline's Petition for Reconsideration (Staff Reply).

FINDINGS AND CONCLUSIONS

7. As a preliminary matter, the Commission will not dismiss Lifeline's Petition for Reconsideration. In Staff's Reply, it suggests that the Petition should be dismissed because it was not filed and verified by Lifeline's attorney of record. (Staff Reply, ¶ 2.) At a hearing, Commission regulations do not allow a corporation to make an appearance, except by its attorney. K.S.A. 82-1-228(d)(2). As this is not a hearing, the Commission finds it has discretion to accept Lifeline's filing, signed by its Owner and President, Rick Laham. Furthermore, although the Petition for Reconsideration does not include proper verification language, it is signed by an officer of the corporation. Also, Commission regulations give the Commission discretion to waive written verifications. K.A.R. 82-1-219(g). The Commission finds that this requirement should be waived in this instance, and will address Lifeline's Petition.

8. In Lifeline's Petition, it first contends that the Commission based its decision to deny the application on items that were taken "out-of-context" and cited "'evidence' well outside any reasonable limitations period." (Lifeline Petition, p. 1.) Staff responds by noting there is no statutory limitation on evidence the Commission may consider. Staff argues, in deciding whether the application was in the public interest, the Commission was charged with examining the applicant's technical, managerial, and financial capabilities. It was reasonable, Staff concludes, for the Commission to review any aspect of these capabilities to gain "a full picture of the applicant." (Staff Reply, ¶ 3.)

9. The Commission finds the evidence it considered was extremely relevant to its inquiry. Furthermore, there is no time limitation on the evidence that Staff may investigate and bring to the Commission's attention. Any relevant past items that reflected poorly, or positively, on the Applicant's technical, managerial, and financial capabilities were rightly examined. In fact, the Commission had a duty to scrutinize these issues to determine whether approval of the application was in the public interest.

10. Next, Lifeline complains that, although it "provided a detailed explanation for the concerns of Staff, virtually none of Lifeline's explanations were reflected in the Order." (Lifeline Petition, p. 1.)

11. The Commission notes that it fully considered Lifeline's May 21, 2012, Reply to Staff's R&R. Lifeline's main arguments were summarized throughout the Order and considered in response to Staff's contentions. (June 6, 2012, Order, ¶¶ 17, 19-20, 22.)

12. The Commission concludes that Lifeline's explanations were sufficiently considered in the June 6, 2012, Order. Lifeline's chief concern appears to be the fact that the Commission did not agree with those explanations in its decision. The Commission had a duty to weigh the merits of all the evidence and arguments before it. Which evidence the Commission found compelling and weighty was at its sole discretion.

13. Lifeline also contends that the Commission's Order, in referring the matter to the Office of the Attorney General for further investigation and action, was "threatening." (Lifeline Petition, p. 1; See Ordering Clause C of June 6, 2012, Order.)

14. The Commission notes the language of Ordering Clause C reflected the seriousness with which it took allegations concerning Mr. Laham's business practices. Specifically, the Commission is concerned about the possibility that Mr. Laham continues to

provide unauthorized telecommunications services in Kansas. Requesting further investigation of this matter is an entirely reasonable and responsible action.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Lifeline's Petition for Reconsideration of the Commission's June 6, 2012, Order is denied.

B. To the extent that this Order constitutes final agency action that is subject to judicial review under K.S.A. 77-607(b)(1), the agency officer designated to receive service of any petition for judicial review is Patrice Petersen-Klein, Executive Director. K.S.A. 2011 Supp. 77-529(d).

C. 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.

Sievers, Chairman; Wright, Commissioner

Dated: **JUL 19 2012**



ORDER MAILED JUL 19 2012

Patrice Petersen-Klein
Executive Director

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROBERT A. FOX, SENIOR LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
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ORDER MAILED JUL 19 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.