

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Application of Giant)
Communications, Inc. Requesting Provisional) Docket No. 15-GCIT-203-ETC
Designation as an Eligible)
Telecommunications Carrier.)

**ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER
DESIGNATION IN 85 KANSAS CENSUS BLOCKS**

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 November 12, 2014, Giant Communications, Inc. (Giant) filed an Application with the Commission requesting provisional Eligible Telecommunications Carrier (ETC) status in eighty-five (85) census blocks in Kansas. Giant had placed a bid for funding from the Federal Communications Commission's (FCC's) Rural Broadband Experiment (RBE) program, and Giant stated that it would withdraw its ETC application in the event of an unsuccessful bid. The purpose of the FCC's RBE is to "advance deployment of voice and broadband-capable networks in rural, high-cost areas, including extremely high-cost areas..."¹

2. On January 7, 2015, Giant filed an Update with the Commission, explaining that it was a successful RBE bidder, and had been awarded a \$650,000 grant.

¹Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, WC Docket No. 14-58 (July 14, 2014).

3. In order to receive ETC designation from the Commission, the requesting carrier must make showings required under federal law. Pursuant to 47 U.S.C. § 214(e)(1)-(2), § 254(c), and 47 C.F.R. § 54.101(a), the carrier must make the following showings:

- a. The carrier will offer the services supported by federal universal service support mechanisms under 47 U.S.C. § 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 ETC) throughout the service area for which designation is received.²
- b. The carrier will advertise the availability of such service and the charges therefore using media of general distribution.
- c. Designation would be consistent with the public interest, convenience, and necessity.³

4. Pursuant to FCC orders, Commission orders, and Kansas law, the carrier requesting ETC designation must also show (when applicable):

²The supported services are codified in 47 C.F.R. § 54.101(a), which reads as follows:

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.

47 C.F.R. § 54.101(a). Carriers who receive forbearance from the "own-facilities" requirement for federally-supported universal service still need to meet the "own facilities" requirement in order to be eligible for Kansas Universal Service Fund (KUSF) support. "Service area" is defined in 47 U.S.C. § 214(e)(5). In determining whether "minutes of use for local service is provided at no additional charge to end users," the Commission will consider the comparability of a competitive Eligible Telecommunications Carrier's (ETC's) offering to the incumbent local exchange carrier's offering. *See* Docket No. 06-GIMT-446-GIT, Order Addressing Comments Regarding Revisions to Eligible Telecommunications Carrier Certification Forms, October 2, 2007. The Commission will evaluate the total service package, "including the local calling scope, included features, and usage that might otherwise be considered long distance." *Id.* The Commission will also consider whether an ETC applicant offers unlimited calling to government, social service, health facilities, educational institutions and emergency numbers when considering comparability. *Id.*

³The 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) 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. The Commission will also take into account any other relevant factors in determining whether ETC designation is in the public interest.

- a. Lifeline customers will be able to apply the Lifeline discount to any calling plan offered by the carrier.⁴ Additionally, the entirety of the Kansas Lifeline Service Program (KLSP) discount will be passed along to the end user consumer.⁵ If the carrier offers the same service plans in other states that do not have additional support on top of federal Lifeline subsidies, the carrier will offer a plan in Kansas that justifies the additional Lifeline funds from the KLSP.⁶
- b. The carrier will use the Kansas Lifeline Credit Application to enroll eligible customers in the KLSP or their own Credit Form which must contain all the data found in the Kansas Lifeline Credit Application.⁷
- c. The carrier is financially and technically capable of providing the supported Lifeline service in compliance with all of the low-income program rules.⁸
- d. The carrier has received approval of its Compliance Plan with the FCC.
- e. The carrier undertakes efforts to eliminate waste, fraud, and abuse in the Lifeline program.
- f. The carrier, in its advertising, will use “meaningful language so that consumers will understand what they can expect from an ETC,” and include contact information for the Commission’s Office of Public Affairs and Consumer Protection (PACP), the Kansas Corporation Commission, and the Kansas Relay Center for the hearing or speech impaired.
- g. 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.⁹
- h. The carrier is properly registered with the Kansas Secretary of State’s Office.

⁴See Docket No. 06-GIMT-446-GIT, Order Adopting Requirements for Designations of Eligible Telecommunications Carrier, October 2, 2006.

⁵See Docket No. 10-GIMT-658-GIT, Order Addressing Issues Concerning The Kansas Lifeline Service Program, August 17, 2011.

⁶This only applies if the carrier is seeking Kansas Lifeline Service Program (KLSP) funds.

⁷See Docket No. 10-GIMT-658-GIT, Order Requiring Eligible Telecommunications Carriers to Comply With New Lifeline Requirements and Requesting Comments, March 27, 2012; 47 C.F.R. § 54.410(d).

⁸See 47 § C.F.R. 54.201, 54.202; 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.

⁹See Docket No. 06-GIMT-446-GIT, Order Adopting Requirements for Designations of Eligible Telecommunications Carrier, October 2, 2006.

- i. The carrier will provide service throughout its designated service areas to all customers making a reasonable request for service.
- j. 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) submitted a Report and Recommendation to the Commissioners in regards to the Application for ETC designation dated January 21, 2015, attached hereto and made a part hereof by reference. The Report and Recommendation contains Exhibit C, which lists the requested eighty-five (85) census blocks. Staff thoroughly examined Giant's Application and made detailed findings in the Report and Recommendation. A summary of those findings will be noted in this order. For a detailed account of Giant's evidentiary showings, refer to the Report and Recommendation.

6. Staff found that Giant is properly registered with the Kansas Secretary of State's Office and its status is "*active and in good standing.*" Staff found that Giant demonstrated its ability to provide the services and functionalities supported by the federal universal service support mechanisms, including the RBE requirements, throughout its requested service areas. Staff found that Giant will properly advertise its services with meaningful language and include required contact information. Finally, Staff found that designating Giant as an ETC in Kansas would be consistent with the public interest, convenience, and necessity.

7. Staff, satisfied with Giant's showings, recommended approval of Giant's Application for ETC designation in the eighty-five (85) census blocks listed in Exhibit C included with its Report and Recommendation.

8. The Commission finds Staff's analysis, findings, and recommendations to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Giant's Application for ETC designation is approved. ETC designation is granted in the eighty-five (85) census blocks identified in Exhibit C attached to Staff's Report and Recommendation.

B. Giant shall utilize federal support for its intended purpose and Giant shall be required to certify that it uses such support as intended each year. Future decisions made by the Commission regarding additional ETC requirements must also be followed in order to maintain ETC designation in Kansas.


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.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: JAN 29 2015


ORDER MAILED JAN 30 2015

Neysa Thomas
Acting Secretary

MRN

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

FROM: Hal Baumhardt, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: January 21, 2015

SUBJECT: 15-GCIT-203-ETC
In the Matter of the Application of Giant Communications, Inc.
Requesting Provisional Designation as an Eligible Telecommunications
Carrier.

EXECUTIVE SUMMARY:

Giant Communications, Inc. (Giant) has filed an Application for designation as an Eligible Telecommunications Carrier (ETC) for purposes of participating in the Federal Communications Commission's (FCC's) Rural Broadband Experiment (RBE) bid process¹ in the state of Kansas. Giant is a successful bidder in Category 2 comprising of 85 census blocks.

Giant's RBE funding will provide broadband services in unserved areas to advance mobile voice and broadband networks in rural, insular and high-cost areas by providing a minimum broadband speed of 10Mbps downstream and 1Mbps upstream.² Among other things, the *Rural Broadband Experiments Order* requires Giant to become an ETC within 90 days of the FCC's Public Notice announcing the winning bidders as a condition of receiving the funding.³ Staff recommends approval of Giant's request to be designated an ETC in the requested census blocks.

¹ *Connect America Fund* et al, WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, rel. July 14, 2014 ("*Rural Broadband Experiments Order*").

² *Connect America Fund* et al., WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8769, para. 25 & n.58 (2014) (stating that winning bidders in categories two and three must offer 10/1 Mbps service at a price no higher than the reasonable comparability benchmarks for 10/1 Mbps fixed broadband ...)

³ *Id.* at 54. The FCC's Public Notice was issued on December 5, 2014; therefore, Giant must be designated an ETC by March 5, 2015.

BACKGROUND:

On November 12, 2014, Giant filed this Application to request designation as an ETC in 85 census blocks within the United Telephone Company of Kansas d/b/a CenturyLink (CenturyLink) service areas in the state of Kansas for the purpose of participating in the FCC's RBE funding.

Giant is a wholly owned subsidiary of J.B.N. Telephone Company, which is a subsidiary of Lynch Corporation. J.B.N. offers local services in sixteen exchanges in northeast Kansas. J.B.N. is headquartered in Holton, Kansas, and its President and General Manager is Gene Morris.

On August 2, 1999, Giant was certificated as a Competitive Local Exchange Carrier (CLEC) in Docket No. 00-GCIT-024-COC and offers local service throughout the service areas of CenturyLink and Southwestern Bell Telephone Company d/b/a AT&T Kansas in the state of Kansas.

On August 15, 2001, Giant was certified as an Interexchange Carrier (IXC) in Docket No. 01-GCIT-1055-COC to engage in the business as an interexchange services provider within the state of Kansas.

Rural Broadband Experiment (RBE)

In the Report and Order and Further Notice of Proposed Rulemaking,⁴ the FCC took further steps to implement the Connect America Fund (CAF) to advance the deployment of voice and broadband-capable networks in rural, high-cost areas, including extremely high-cost areas. The FCC will use these RBEs to explore how to structure the Phase II competitive bidding process in price cap areas and to gather information about interest in deploying next generation networks in high-cost areas.

In the *USF/ICC Transformation FNPRM*, the FCC proposed that census blocks should be the minimum geographic areas for which support will be provided through the Phase II bidding process. The FCC also concluded that proposals for rural broadband experiments in price cap territories would be at the census tract level, with funding provided only for locations in eligible census blocks as determined by the Connect America Cost Model.

On July 11, 2014, the FCC adopted a \$100 million budget for the RBEs and established an objective methodology for selecting among formal applications. The \$100 million available for the experiments is divided into three types:

- Category 1: \$75 Million for projects meeting very high performance standards capable of delivering 100 Mbps downstream / 25 Mbps upstream, while requiring at least one service plan that provides 25 Mbps downstream / 5 Mbps upstream to all locations within the selected census blocks.
- Category 2: \$15 million for projects meeting specified minimum performance standards that exceed the FCC's current standard⁵ and capable of delivering 10 Mbps downstream / 1 Mbps upstream to all

⁴ See FCC R&O and FNPM, FCC 14-98, released July 14, 2014.

⁵ Commission's current standard is 4 Mbps downstream / 1 Mbps upstream.

locations within the selected census blocks. This service plan also must offer at least a 100 GB usage allowance.

- Category 3: \$10 million for projects dedicated to serving extremely high-cost locations capable of delivering 10 Mbps downstream / 1 Mbps upstream, with 100 GB of usage.

The FCC will require all recipients of funding in the RBEs to offer, at a minimum, at least one standalone broadband service plan more robust than the Commission's current standard of 4 Mbps downstream / 1Mbps upstream to all locations with the selected census blocks, with a specific amount of usage at a price no higher than the reasonable comparability benchmarks for voice service and broadband service.⁶ The FCC also requires that, as a condition of receiving high-cost support, ETCs must offer voice and broadband services in supported areas at rates that are reasonably comparable to rates for similar services in urban areas.

Moreover, like all recipients of Connect America Fund support, all RBE recipients that have been designated as ETCs by the Commission are required to file an annual certification pursuant to section 54.314 of the Commission's rules. If an entity selected for a RBE is designated an ETC by a state, that state must file this certification on behalf of the entity.⁷

The FCC advised the entities that the carriers need not be an ETC at the time initial submission of their formal proposals for funding through the RBE, but must obtain ETC designation after being identified as a winning bidder for the funding award. Therefore, the FCC expects entities to confirm their ETC status within 90 days of the public notice announcing the winning bidders.⁸

ANALYSIS:

Giant is a telecommunications provider incorporated under the laws of the State of Kansas. Giant is properly registered with the Office of the Kansas Secretary of State and its status is "*active and in good standing*".

Federal 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);

⁶ The Bureau has proposed a methodology for a reasonable comparability benchmark for standalone fixed broadband services that deliver 10 Mbps downstream / 1 Mbps upstream at a price range from \$74.63 to \$77.99, depending on usage.

⁷ 47 C.F.R. § 54.314 (a).

⁸ See Public Notice DA 14-1772, released December 5, 2014, on Wireline Competition Bureau announcement.

and (B) advertise the availability of such service and the charges therefore using media of general distribution.⁹

Congress empowers the states to designate a common carrier as an ETC. Federal law, 47 U.S.C. § 241(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” (emphasis added).

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, and in response to Staff's Request for Information 1.3 (RFI 1.3), Giant provided the following explanations of how it proposes to provide Voice Telephony services.

Voice-grade access to the public switched network – Giant currently provides such access to customers and will continue to do so upon its designation as an ETC. Voice grade access for our Digital Phone customers is established through a leased switch in Wetmore, Kansas. Service includes unlimited local service and 11 calling features. Existing voice service provided by Giant in these CenturyLink towns will be unchanged. Giant will be improving its voice service in the 85 rural census blocks served by the RBE project where currently service is not offered by Giant.

Local usage – Giant's local rates include unlimited minutes of use for local service at no additional charge. Long distance minutes are offered in bundles of 500 with additional minutes available by the minute. Giant offers an unlimited long distance price package. Long distance minutes offered in these packages are limited within the 48 contiguous United States.

⁹ 47 U.S.C. § 254.

Access to emergency services – Giant’s network provides access to 911, enhanced 911, and all other typically-available emergency services that are provided to all of its voice subscribers.

Toll limitation for qualifying low-income consumers – Toll limitation is available to Giant voice customers through an optional toll-blocking feature. Giant provides toll restriction services to qualifying low-income consumers, and the \$2.00 monthly fee for toll-blocking will be waived for Lifeline qualifying customers.

With regard to the local usage component, the Commission determined in its October 2, 2006, Order in Docket No. 06-GIMT-446-GIT [446 Docket] (“October 2nd Order”) that it would follow the FCC’s guidance and evaluate local usage by considering the comparability of a Competitive Eligible Telecommunications Carriers (CETCs) offering on a case-by-case basis “by evaluating the total service package, including the local calling scope, included features and usage that might otherwise be considered long distance.” The Commission further stated that it would consider whether an ETC Applicant offers unlimited calling to government, social service, health facilities, educational institutions and emergency numbers when considering comparability.¶¶7-8.

On December 10, 2014, Staff submitted RFI 1.1, which requested Giant to provide information regarding its proposed service offering(s) that Giant plans on offering in the 85 census blocks in the CenturyLink territory.

In response to Staff’s RFI 1.1, Giant stated the services offered in the 85 census blocks are the same as the current plans provided. Moreover, an additional 12/2 Mbps fixed wireless speed tier priced at \$59.95 per month will be offered that meets the 10/1 Mbps service requirement set by the RBE. In response to RFI 2.2, the Lifeline plans, after USF Lifeline discount of \$9.25 range from \$5.70 to \$30.70, respectfully (ref. chart).

Existing Plans	Retail Rate
Digital Phone Packages - Residential	
Local Advantage: Unlimited Local, L.D. available at 10 cents per minute	\$14.95
500 Minute Bundle: Unlimited Local and 500 minutes L.D*	\$29.95
Unlimited Advantage: Unlimited Local and L.D.	\$39.95
All plans include eleven call management features with ten other features available at minimal cost.	
*Additional minutes at 10 cents.	
Long distance available within 48 contiguous states.	

CenturyLink's monthly retail rate for a residential access line is \$18.08 in the requested 85 census blocks. The local calling scope is the exchange, but local calls are unlimited.

Staff is satisfied that Giant has demonstrated an ability to provide the service or functionalities supported by the Federal universal service support systems and the RBE.

Types of Facilities Used to Provide Service

Giant, by receiving RBE support, intends to build optical links from the Wetmore, Kansas, central office to a Cisco router at Netawaka, Kansas, where optical links will connect to the Internet and two multipoint distribution antennas near Oskaloosa, Kansas. A licensed microwave link is used between towers. The system will operate in a WiMax environment at modulation rates using Quadrature Amplitude Modulation (QAM).¹⁰ If subscribers' demand causes congestion, Giant plans include an overlay of the existing sites with additional distribution frequencies providing additional system throughput. Giant is also prepared to add a third transmitting tower, if necessary, which would add additional capacity to meet future demands.

The backhaul network utilizes a Gigabit Ethernet data links over fiber optics cable to the central office in Netawaka, Kansas. Internet cloud connectivity is provided at this location using redundant optical Gigabit Ethernet links from the Cisco router.

Voice requirements for the RBE program will be provided by an existing softswitch located at Wetmore, Kansas, central office. This switch is connected to the Netawaka, Kansas, location using the existing Gigabit optical ring currently connecting multiple central office locations together.

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), established a different definition of service area for such company.

In its *Rural Broadband Experiments Order*, the FCC adopted a census block methodology for designating a service area for the Rural Broadband Experiments program:

¹⁰ QAM is a method of combining two amplitude-modulated (AM) signals into a single channel, thereby, doubling the effective bandwidth. In a QAM signal, there are two carrier signals, each having the same frequency but differing in phase by 90 degrees. The two modulated carrier signals are combined at the source for transmission. At the destination, the carrier signals are separated, the data is extracted from each, and then the data is combined into the original modulating information.

Based on our review of the expressions of interest, we now conclude that these objectives will best be realized by accepting rural broadband experiment proposals in price cap areas at both the census tract level and the census block level. We recognize that some parties may be able to submit cost-effective proposals that would encompass all of the eligible census clocks within a tract, and we continue to encourage these parties to file such proposals. For entities whose current operations do not allow them to design projects on this scale that make business sense, we waive the requirement to file proposals at the census tract level... Finally, allowing rural broadband experiment proposals on the census block level will help us determine whether the census block approach that the Commission proposed to use for the Phase II competitive bidding process is administratively feasible and straightforward for both Commission staff and applicants.¹¹

The FCC further required successful bidders to provide the FCC with appropriate documentation of their ETC designation in each census block for which they are provisionally selected to receive support and certify that the information is accurate. The information must be provided to the FCC no later than Thursday, March 5, 2015.¹²

Giant requests ETC designation for the purpose of receiving rural broadband experiment support in the 85 Kansas census blocks listed in Confidential Exhibit C. All 85 census blocks are served by CenturyLink.

CenturyLink is considered a non-rural telephone company. Kansas wire centers are the service area currently designated by the Kansas Corporation Commission (KCC) for universal service support for areas served by non-rural telephone companies. Giant's Application indicates it is capable of serving 85 census blocks within CenturyLink's service area.

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

¹¹ *Rural Broadband Experiments Order*, ¶ 14.

¹² Public Notice DA 14-1772, released December 5, 2014, Attachment B, Section C.

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

Regarding advertising, Giant states pursuant to 47 C.F.R. § 54.201, Giant will advertise the availability of supported services throughout its designated service area using media of general distribution in a manner that is designated to reach those likely to qualify for such services. Giant will use a variety of media resources including point-of-sale material of various kinds, onsite merchandising, banners, customer direct mail, customer brochures, and print media. Giant will advertise the availability of Lifeline benefits. Giant further states it commits to publicize Lifeline pursuant to Section 54.405(b) of the FCC Rules. The FCC also adopted specific requirements for Lifeline marketing and outreach in its Lifeline Reform Order with which Giant will comply.¹³

Staff notes that the Commission required CETCs to develop “meaningful language so that consumers will understand what they can expect from an ETC” and provide it to Staff to review within 90 days from the date of the October 2nd Order ¶12. In addition, the Commission determined that all CETCs 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.

Giant’s Application provided Staff with advertising language Giant intends to use for its customers. Moreover, Giant stated in its Application that it recognizes that the Commission, in Docket No. 06-GIMT-446-GIT, paragraph 12, requires all competitive ETCs to develop meaningful advertising language so all customers will understand what they can expect from a CETC. Below is that advertising language provided to Staff in its Application:

As a designated telecommunications carrier eligible to receive universal service support, Giant Communications, Inc. is proud to offer the Lifeline programs in the state of Kansas. We will provide discounts off service activation (if applicable) and on basic monthly service for residential customers who qualify for income-assisted programs. To determine if you qualify for Kansas Lifeline service, customers may call (800) 346-9084. For unresolved questions or complaints, you may contact the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection, at KCC – Consumer Protection, 1500 SW Arrowhead Road, Topeka, KS 66604 or toll-free 1.800.662.0027 or in Topeka 785.271.3140. Hearing or speech impaired TDD Kansas Relay Center 1.800.766.3777.

¹³ Lifeline Reform Order at ¶¶ 275-80.

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 ALLTEL and RCC Minnesota Orders that examination of the additional factors enumerated in the FCC's Order is reasonable.

In Giant's Application, the Company provided the following explanation of how it meets the guidelines that the Virginia Cellular Order suggested for evaluation:

- **Benefits of Increased Competitive Choice** – Giant intends to compete with the incumbent provider in its designated service area, offering consumers additional choices in the provision of telecommunications services.
- **Impact of Multiple Designations on the Universal Service Fund** – Because this Application is provisional and service has not yet [been] provided, nor funds received, it is unknown at this time what the impact on the universal service fund may be.¹⁵
- **Unique Advantages and Disadvantages of the Competitor's Service Offering** – Giant offers a competitive alternative to the traditional wireline carrier in its service areas and will improve the community's advanced telecommunications offerings.
- **Commitments Made Regarding High-quality Telecommunications Services By Company** – If it is a successful bidder of RBE funds, Giant will quickly deploy the infrastructure necessary to accommodate service requests throughout its designated service area in a reasonable time frame.¹⁶
- **Competitive ETC's Ability to Provide the Support Services Throughout the Designated Service Area Within a Reasonable Time Frame** – Giant currently provides extremely high-quality telecommunications services and its designation as an ETC and ability to bid for RBE funds will enable it to bring advanced services to its service areas.

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 On November 11, 2014, Giant filed its Application to be designated an ETC to participate in the FCC's RBE, which was prior to the FCC announcement of the provisional bidders. On January 7, 2015, Giant filed an update to its November 11, 2014, Application. The update informs the Commission that Giant has procured a successful bid to participate in the FCC's RBE. Reference FCC's Public Announcement DA 14-1172, dated December 5, 2014, confirming Giant as a provisionally selected bidder and making it part of the record. The Public Notice indicates Giant will be eligible for approximately \$650,000 in RBE funding.

¹⁶ Id. at Attachment A.

After reviewing Giant's Application and its responses to Staff RFIs, Staff believes that Giant has demonstrated that it is in the public interest to designate Giant as an ETC in the 85 census blocks for the purpose of participating in the FCC's RBE program.

RECOMMENDATION:

Staff is satisfied that Giant has demonstrated an ability to meet the federal requirements for being designated an ETC in the 85 census blocks listed in Confidential Exhibit C and recommends approval of Giant's Application. Furthermore, no party has opposed Giant's Application and being designated as an ETC will serve the public interest by allowing Giant to participate in the FCC's RBE improving voice and broadband services in the requested designated areas.

Giant should be advised that RBE funds received must be used for its intended purpose and the Company will be required to certify that it uses the support as intended each year. Additionally, Giant should be aware that any decisions made by the Commission in a generic docket regarding additional ETC requirements may impact the Company and the Company may be required to follow these to continue to receive support.

EXHIBIT C

CENSUS BLOCK – ETC DESIGNATION

*REDACTED *

Giant is seeking designation as an ETC in the following census blocks in northeast Kansas (the incumbent provider in all cases is United Telephone Company d/b/a CenturyLink):

[illegible]

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
JAMES M. CAPLINGER, ATTORNEY JAMES M. CAPLINGER, CHARTERED 823 SW 10TH AVE TOPEKA, KS 66612-1618		
JAMES M. CAPLINGER, JR., ATTORNEY JAMES M. CAPLINGER, CHARTERED 823 SW 10TH AVE TOPEKA, KS 66612-1618		
COLLEEN R. JAMISON JAMES M. CAPLINGER, CHARTERED 823 SW 10TH AVE TOPEKA, KS 66612-1618		
MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

ORDER MAILED **JAN 30 2015**

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.