

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

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

In the Matter of the Application of H&B Cable)
Service, Inc. for an Order Confirming)
Relinquishment of its Eligible)
Telecommunications Carrier Designation in the) Docket No. 17-HBCT-508-ETC
Chase Exchange and Notice Pursuant to K.S.A.)
2015 Supp. 66-2005(d) of Intent to Cease)
Participation in the Kansas Lifeline Service)
Program.)

**ORDER GRANTING ETC RELINQUISHMENT IN THE CHASE EXCHANGE;
ACKNOWLEDGING CESSATION OF KLSP PARTICIPATION IN THE CHASE
EXCHANGE**

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:

Background

1. On May 17, 2017, H&B Cable Service, Inc. (H&B Cable) filed an Application¹ seeking a Commission order: (1) relinquishing its Eligible Telecommunications Carrier (ETC) designation in the Chase exchange area, effective August 15, 2017; and (2) confirming its notice of intent to cease participation in the Kansas Lifeline Service Program (KLSP) in the same area, effective August 15, 2017.

¹The full title of the Application is *Application of H&B Cable Service, Inc. for an Order Confirming Relinquishment of its Eligible Telecommunications Carrier Designation in the Chase Exchange and Notice Pursuant to K.S.A. 2015 Supp. 66-2005(d) of Intent to Cease Participation in the Kansas Lifeline Service Program* (May 17, 2017) (Application).

2. H&B Cable is a telecommunications carrier providing competitive local exchange services (CLEC) in Kansas pursuant to a certificate of convenience and authority issued by the Commission.² H&B Cable was designated as an ETC in the Chase and Claflin exchanges by Commission Order dated October 25, 2004, in Docket No. 04-HBCT-1107-ETC, and was additionally designated an ETC in the Ellinwood exchange by separate Commission Order dated October 3, 2006, in Docket No. 06-HBCT-1220-ETC.³

3. H&B Cable asserts in its Application that ETC relinquishment in the Chase exchange is prompted by the fact that it currently serves no residential or business customers in the exchange and it cannot presently be sure of its ability, should it receive a request for such service, to provide reliable and affordable local exchange service to all requesting consumers in the Chase exchange as required of an ETC.⁴

4. With respect to KLSP cessation in the Chase exchange, H&B Cable states that it is entitled to cease participation upon 90-days written notice pursuant to K.S.A. 66-2006(d). H&B Cable also notes that there are currently seven Lifeline-only ETCs in such exchange.⁵

Legal Standards

5. With respect to ETC relinquishment, the governing statute is 47 U.S.C. § 214(e)(4), which provides:

A State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State

²Id. at 2.

³Id.

⁴Id. H&B Cable notes that its only customer in the Chase exchange is the Chase Unified School District 401.

⁵Id. at 4.

commission (or the Commission in the case of a common carrier designated under paragraph (6)) of such relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall establish a time, not to exceed one year after the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) approves such relinquishment under this paragraph, within which such purchase or construction shall be completed.⁶

6. With respect to KLSP cessation by a telecommunications carrier, the governing statute is K.S.A. 66-2006(d), which provides:

Telecommunications carriers and electing carriers may cease participation in the KLSP at any time upon provision of 90-days prior written notification to the commission. Telecommunications carriers and electing carriers participating in the KLSP shall be eligible to receive KUSF support for KLSP services, but shall not be subject to any regulation by the commission based on such participation other than that provided for in subsection (z) of K.S.A. 66-2005, and amendments thereto.⁷

Staff's Analysis

7. The Commission's technical staff (Staff) reviewed H&B Cable's Application, and on August 1, 2017, submitted a Report and Recommendation (R&R) to the Commissioners, attached hereto and made a part hereof by reference.

8. Staff indicated that with respect to ETC relinquishment under 47 U.S.C. § 214(e)(4), the statute requires there be at least one other ETC in the designated area and that the

⁶47 U.S.C. § 214(e)(4).

⁷K.S.A. 66-2006(d).

Commission require the remaining ETC(s) to ensure all customers served by the relinquishing carrier will continue to be served.⁸

9. Staff states that the Chase exchange currently has five high-cost ETCs.⁹ Not including H&B, eleven carriers, including AT&T, have been designated as ETCs in the Chase exchange for Lifeline service.¹⁰ H&B states that it currently has no Lifeline customers in the Chase Exchange.¹¹ AT&T has a pending request to relinquish its ETC designation and no longer provide Lifeline service in Docket No. 17-SWBT-158-MIS.¹² Staff has no concerns with H&B's ETC relinquishment in the Chase exchange as there are four high-cost ETCs able to ensure that customers continue to be served and seven Lifeline-only ETCs able to ensure Lifeline customers can continue to be served.¹³ Staff does, however, recommend that the remaining ETCs in the Chase exchange be served a copy of any order granting H&B's ETC relinquishment.¹⁴

10. Staff noted that with respect to the KLSP, H&B Cable is authorized by K.S.A. 66-2006(d) to cease participating in the program upon 90-days written notification to the Commission.¹⁵ H&B Cable submitted its notice in this docket on May 17, 2017. Thus, the pre-requisite 90-day time frame concludes August 15, 2017. Staff recommended the Commission acknowledge that H&B Cable has met the statutory requirement and should therefore be granted authority to cease participation in the KLSP program in the Chase exchange.¹⁶

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

⁸Staff's Report and Recommendation, p. 2 (Aug. 1, 2017).

⁹Id. at 3.

¹⁰Id.

¹¹Id.

¹²Id.

¹³Id.

¹⁴Id.

¹⁵Id. at 2.

¹⁶Id.


IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

- A. H&B Cable's Application is granted.
- B. H&B Cable's ETC designation in the Chase exchange is hereby relinquished, effective August 15, 2017.
- C. H&B Cable may cease participation in the KLSP in the Chase exchange, effective August 15, 2017.
- D. This Order shall be served upon all ETCs identified in Attachment A to Staff's Report and Recommendation.
- E. 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).
- F. 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.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: **AUG 15 2017**


Lynn M. Retz
Secretary to the Commission

MRN

Order Mailed Date

AUG 16 2017

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Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
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Sam Brownback, Governor

REPORT AND RECOMMENDATION UTILITIES DIVISION

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

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: August 1, 2017

SUBJECT: Docket No. 17-HBCT-508-ETC

In the Matter of the Application of H&B Cable Service, Inc. for an Order Confirming Relinquishment of its Eligible Telecommunications Carrier Designation in the Chase Exchange and Notice Pursuant to K.S.A. 2015 Supp. 66-2005(d) of Intent to Cease Participation in the Kansas Lifeline Service Program

EXECUTIVE SUMMARY:

On May 17, 2017, H&B Cable Service, Inc. (H&B) filed a letter with the Commission requesting approval to relinquish the Company's designation as an Eligible Telecommunications Carrier (ETC) in the Chase exchange in Kansas and notifying the Commission of the Company's intention to cease offering Lifeline Service under the Kansas Lifeline Service Program (KLSP) effective August 15, 2017. The letter indicated H&B currently does not have any Lifeline customers in the Chase exchange; therefore, no notification of customers in the Chase exchange in Kansas will be required. Staff recommends the Commission issue an Order approving H&B's request to relinquish the Company's ETC designation and approving the Company's request to cease participation in the KLSP in the Chase exchange.

Staff further recommends the Order be served on all ETCs listed in Attachment A.

Ninety days' notice is required for electing carriers to cease participating in the KLSP, but there is no statutory deadline for relinquishing ETC authority. H&B states they have no Lifeline customers to notify in the Chase exchange.

BACKGROUND:

H&B received an ETC designation for Kansas Universal Service Fund (KUSF) and Federal Universal Service Fund (FUSF) purposes in the Chase and Claflin exchanges in Kansas in Docket No. 04-HBCT-1107-ETC, approved October 25, 2004. The Company then applied to

provide for KUSF and FUSF ETC designation in a separate docket, 06-HBCT-1220-ETC, for the Ellinwood exchange, approved October 3, 2006. The Commission derives its authority to supervise telecommunications public utilities pursuant to 47 U.S.C. § 214 (e)(2).

The request for relinquishment indicates H&B serves no business or residential customers in the Chase exchange. H&B indicates in the Application that it cannot presently be sure of its ability to provide reliable and affordable service in the Chase exchange, should it receive a request for such service. Providing reliable and affordable service in the entire exchange is a requirement of an ETC.

ANALYSIS:

A. KLSP Relinquishment

Pursuant to K.S.A. 66-2006(d),

(d) Telecommunications carriers and electing carriers may cease participation in the KLSP at any time upon provision of 90-days prior written notification to the commission. Telecommunications carriers and electing carriers participating in the KLSP shall be eligible to receive KUSF support for KLSP services, but shall not be subject to any regulation by the commission based on such participation other than that provided for in subsection (z) of K.S.A. 66-2005, and amendments thereto.

The Application submitted on May 17, 2017, requesting an August 15, 2017, date fulfills the 90 day notification to the Commission required by 66-2006(d). Therefore, Staff recommends the Commission confirm that H&B has satisfied the requirements to exit the KLSP effective August 15, 2017.

B. ETC Relinquishment

Section 214(e)(4) of the Federal Telecommunications Act allows a state commission to permit an ETC to relinquish its designation in any area served by more than one ETC. Prior to permitting a telecommunications carrier to cease providing universal service in an area served by more than one ETC, the state commission shall require the remaining ETC or ETCs to ensure that all customers served by the relinquishing carrier will continue to be served.

In Docket No. 04-HBCT-1107-ETC, approved October 25, 2004, H&B requested to be designated in two exchanges/wire centers in Kansas, Chase and Claflin. The Chase exchange is currently served by Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T), the Incumbent Local Exchange Carrier (ILEC) for wireline service. The Claflin exchange is served by United Telephone Company of Kansas d/b/a CenturyLink (CenturyLink) as the ILEC for wireline service. In Docket 06-HBCT-1220-ETC, approved October 3, 2006, H&B expanded the Company's ETC authorization to include Ellinwood. Ellinwood is also served by CenturyLink as the ILEC for wireline service. H&B is only requesting permission to relinquish

the ETC designation in the Chase exchange and will continue to serve the Claflin and Ellinwood exchanges.

The Chase exchange currently has five high-cost ETCs. Not including H&B, 11 carriers, including AT&T, have been designated as ETCs in the Chase exchange for Lifeline service. AT&T has requested to relinquish its ETC designation and no longer provide Lifeline service in Docket 17-SWBT-158-MIS. That request is pending. The remaining ETCs would be able to ensure that the remaining Lifeline customers continue to be served. H&B states they currently have no Lifeline customers in the Chase exchange.

In addition to H&B, Nex-Tech Wireless, LLC, United Wireless, Inc. and AT&T are ETCs for Federal and State ETC purposes and USCOC of Nebraska/Kansas, LLC, is an ETC for Federal purposes only.

Staff has no concerns with H&B being relieved of the Company's ETC designation in the Chase exchange, as long as the remaining ETCs continue to be required to serve any requesting customer in the Chase exchange.

The list of ETCs designated to serve the Chase exchange is provided in Attachment A.

RECOMMENDATION:

Staff recommends the Commission issue an Order approving H&B's request to relinquish the Company's ETC designation and approving the Company's request to cease participation in the KLSP in the Chase exchange.

Staff further recommends the Order be served on all ETCs listed in Attachment A.

Other Eligible Telecommunications Carriers Designated in the Chase Exchange

Southwestern Bell Telephone Company d/b/a ATT Kansas (ILEC)

Boomerang Wireless, LLC

i Wireless, LLC

Nex-Tech Wireless, LLC

Q Link Wireless, LLC

TAG Mobile

Telrite Corporation dba Life Wireless

TracFone Wireless, Inc.

United Wireless, Inc.

USCOC of Nebraska/Kansas, LLC

YourTel America, Inc.

CERTIFICATE OF SERVICE

17-HBCT-508-ETC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on AUG 15 2017.

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17-HBCT-508-ETC

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/S/ DeeAnn Shupe
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Order Mailed Date

AUG 16 2017