

**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 Midcontinent)
Communications, A South Dakota General)
Partnership, for a Certificate of Convenience and) Docket No. 17-MCCT-254-ETC
Authority to Provide Telecommunications Services)
Within the State of Kansas, and for Designation as)
an Eligible Telecommunications Carrier.)

ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER STATUS

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 record, and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On December 13, 2016, Midcontinent Communications, a South Dakota General Partnership (Midco), filed an Application requesting designation as an Eligible Telecommunications Carrier (ETC) in order to receive federal and state Lifeline support in the company's operating footprint in the Lawrence, Bonner Springs, Bethel, Tonganoxie, Eudora, Basehor, and Linwood exchanges or zones.

2. On April 10, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated April 6, 2017, recommending the Commission grant Midco's Application and designate Midco as an ETC for the purpose of participating in the federal and state Lifeline program within the exchanges/zones identified in paragraph 1 above.

II. DISCUSSION AND ANALYSIS

3. According to Staff, Midco provides telecommunications services in South Dakota, North Dakota, and Minnesota. Midco has acquired certain assets, including the services

of company personnel, from Knology of Kansas, Inc. d/b/a WOW! (Knology), and was issued a Certificate of Convenience and Authority to provide competitive local exchange and switched access services in the areas served by AT&T Kansas and CenturyLink in the State of Kansas, pursuant to the Commission's Order issued January 5, 2017, in Docket No. 17-MCCT-252-COC.

Federal and State ETC Requirements

Regarding Federal and State ETC requirements, Staff cites the pertinent language of 47 U.S.C. §214 (e)(1) and (2).

47 U.S.C. §214(e)(1) states that:

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 services and the charges therefor using media of general distribution.¹

Staff further states that Congress empowers the states to designate a common carrier as an ETC.

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 that:

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 §214 of the federal act and by the commission.

¹ 47 U.S.C. §254.

In order to be designated as an ETC, a company must be a “common carrier” as defined in 47 U.S.C. §153(11). 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.² Staff concludes that Midco meets the federal definition of common carrier for purposes of ETC designation.³

Service or Functionalities:

Staff relates that the Federal Communications Commission (FCC) has identified the service 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), which reads:

Voice telephony services and broadband service 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.

Eligible broadband Internet access services must provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.

Referencing Midco’s Application, Staff relates that Midco provides the following explanations of how the company 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.

² Application, ¶30.

³ Report and Recommendation, p. 3.

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.

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.

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

Referencing the company’s response to Staff’s Data Request 7, Midco explains that its regular price for a local phone line will be \$20 and \$32.95 for an unlimited long distance line with several features. Midco’s basic Lifeline voice rate will be \$2.98 after the \$9.25 federal and \$7.77 state Lifeline credits are applied. Midco intends to offer Lifeline broadband service in Kansas at \$14.95 per month at a speed of 10/1 Mbps for eligible customers. Staff indicates that this is the same rate charged to the company’s South Dakota, North Dakota, and Minnesota customers. Midco’s Lifeline broadband offering will be eligible for federal Lifeline support, but not state support as the Kansas lifeline service program (KLSP) supports voice services only. Eligible customers will be able to apply the federal Lifeline credit to a voice or broadband service offering, but not both. Staff states that AT&T’s monthly rate is \$26.00 and CenturyLink’s monthly rate is \$18.08 for a residential access line in the requested service areas. The local calling scope is the exchange, but local calls are unlimited. Vertical services, such as Caller ID and Call Waiting, are available for an additional charge. Inasmuch as Midco’s proposed voice calling plans include unlimited local calling, Staff believes Midco’s local usage offering is comparable to the local usage offered by the incumbent providers. Staff states that it is satisfied

that Midco has demonstrated an ability to provide the service or functionalities supported by the universal service support systems and that its local usage component is comparable to that of the incumbent carrier.⁴

Types of Facilities Used to Provide Service

Midco has acquired the cable infrastructure previously owned and operated by Knology in Kansas. Staff indicates that the equipment used to provide Midco's telecommunications services will initially remain deployed in its current location, specifically Lawrence, Kansas. Midco will operate its telecommunications services using a Metaswitch 6010 platform, the ARRIS Cornerstone telephone platform and ARRIS EMTAs. As Midco grows its footprint, additional equipment will likely be added in Lawrence.⁵ According to Staff, 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.⁶

Service Areas

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

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" in Kansas are defined in K.S.A. 66-1,187(k). K.S.A. 66-1,187(k) provides that:

⁴ Id., pp. 2-4.

⁵ Application, Exhibit B.

⁶ Application, Exhibit A.

(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. 2015 Supp. 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 remain consistent with the guidelines of the federal program.

Thus, pursuant to K.S.A. 66-1,187(k), for an ETC operating in a non-rural telephone company 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. 2015 Supp. 66-2006(c), the Commission 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. According to Staff, Midco seeks ETC designation for low-income support in its footprint within the following Kansas exchanges/zones: Lawrence, Eudora, Basehor, Linwood, Tonganoxie, Bonner Springs, and Bethel. Lawrence, Eudora, Basehor, Tonganoxie, Bonner Springs, and Bethel are served by AT&T and the Linwood exchange is served by CenturyLink. AT&T and CenturyLink are both non-rural telephone companies in Kansas. Therefore, Midco may be designated as a Lifeline-only ETC in its own service area within the aforementioned exchanges/zones.⁷

⁷ Report and Recommendation, pp. 4-5.

Advertising

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

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 availability of such services and the charges therefor 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 television 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).⁸ The Commission requires competitive ETCs to develop “meaningful language so that consumers will understand what they can expect from an ETC” and provide it to Staff to review. In addition, the Commission requires that all

⁸ Application, ¶¶ 27-28.

competitive ETCs include contact information for the Commission's Office of Public Affairs and Consumer Protection (PACP) in its advertisements making sure that customers know where to turn with questions and complaints. Midco provided the following language it agrees to provide in its advertising in its Kansas ETC areas:

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

Kansas Corporation Commission, Office of Public Affairs and Consumer Protection
1500 SW Arrowhead Road, Topeka, KS 66604
Toll-free 1.800.662.0027 or in Topeka 785.271.3140.
Hearing or speech impaired TDD Kansas Relay Center 1.800.766.3777.

The addresses of the South Dakota, North Dakota, and Minnesota Public Utility Commissions will be included as well.

Staff is satisfied that Midco will meet the advertising requirements.⁹

Public Interest

The FCC, in its *Virginia Cellular Order*,¹⁰ 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. Midco provided the following explanation of how it meets the guidelines that the *Virginia Cellular Order* suggested for evaluation:

- **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 incented to offer consumers more attractive service and more favorable terms. Specifically, additional Lifeline availability enhances

⁹ Report and Recommendation, pp. 5-6.

¹⁰ 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.

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. 2015 Supp. 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.’¹¹

- **Impact of Multiple Designations on the Universal Service Fund** – Designation of Midco as a state and federal ETC will have minimal impact on universal support mechanisms. Support 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.¹²
- **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. Reducing the cost of basic service Lifeline 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. 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. 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

¹¹ Application, ¶¶ 45-46.

¹² Application, ¶ 47.

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. 2015 Supp. 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.’ Midco states that it is unaware of any disadvantages to the Lifeline Service offering. A unique service initiated by Midco in 2013 was the offering of Broadband Lifeline in all three states it served at that time. This was done by Midco without state or federal funding. Midco strongly believes in enhancing the value of the telecommunications network to all consumers, through making essential services available to those who might not otherwise be able to afford the cost of those services.¹³

- **Commitments Made Regarding High-Quality Telecommunications Services By Company** – Midco is committed to providing quality products and service in the markets it serves. Midco has been a Lifeline ETC in South Dakota, North Dakota and Minnesota for over 10 years. Midco serves over 76,000 residential phone lines and nearly 2% of those customers are eligible for and receive Lifeline funding. Midco is committed to continuing to serve these customers as well as make Lifeline services available in the new markets in Kansas.¹⁴
- **Does Midco Have the Ability to Provide the Supported Services Throughout the Designated Service Area Within a Reasonable Time Frame** – Midco has purchased the video, data and telephone systems of WOW of Kansas that are currently in place and serving customers broadly throughout the ETC Lifeline requested exchanges. The closing of the sale was completed on January 12, 2017. Midco will be operating under a transition services agreement with WOW until all customers can be transitioned to Midco’s network and billing system. Midco expects this transition will occur within the next six months. Midco signed interconnection agreements with AT&T and CenturyLink in December 2016 and has entered into a billing transfer agreement with AT&T to move current connectivity to Midco’s responsibility. Midco currently offers telephone and broadband lifeline services in South Dakota, Minnesota and North Dakota, and

¹³ Midco Response to DR 3.

¹⁴ Midco’s Response to DR 4.

has demonstrated the ability to meet requests for Lifeline service in these jurisdictions. Once connectivity to Midco's network and billing system is in place, Kansas residents in the exchanges above will be offered Lifeline services.¹⁵

Having reviewed Midco's Application and its responses to Staff's Data Requests, Staff believes that Midco has demonstrated that it is in the public interest to designate Midco as an ETC in the requested service area for the purpose of participating in the federal and state Lifeline program.

Consumer Eligibility and Enrollment

Staff states that in the FCC's *Lifeline Reform Order*, the FCC comprehensively reformed and began the modernization of the federal Lifeline program.¹⁶ 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 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 states that it reviewed Midco's Lifeline Certification Form and requested that Midco revise the form to make it clear that consumers may receive only one Lifeline benefit per household and update the income qualification information to reflect the 2017 income guidelines. The revised form was filed on March 24, 2017. Staff is satisfied that the revised form complies with the Commission's requirements.¹⁷

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

¹⁵ Id.

¹⁶ 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*").

¹⁷ Report and Recommendation, p. 9.

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 states that it currently offers services to non-Lifeline customers in North Dakota, South Dakota and Minnesota. With the recent acquisition of Knology's assets, it will also offer non-Lifeline services in Kansas. Midco will receive revenue from video, broadband, and telecommunications customers in the states it does business in; therefore, it will not rely exclusively on universal service funding to operate.¹⁸ Midco further states that it has been in business since 1931 and has not been subject to enforcement action or ETC revocation in any

¹⁸ Midco Response to DR 9.

state. Midco provided a Kansas-specific 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. 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.¹⁹

Ability to Remain Functional in an Emergency

The Commission determined in its October 2, 2006 Order, issued 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.²⁰ 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 to its customers before the FCC began to address this issue. Midco currently provides auxiliary and battery backup. Midco has a Power Supply Response Team (PSRT)

¹⁹ Report and Recommendation, p. 10.

²⁰ 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.

whose objective is to provide uninterrupted service to telecommunications subscribers during periods of commercial power interruptions. Midco utilizes power supplies within its network which convert commercial power of 87.5-volts AC and provide the power to the network nodes, amplifiers, and customer premise equipment. Each power supply unit shall have battery backup in order to continue to provide network power in the event of a commercial power failure. Portable generators are also deployed by the PSRT to provide continuous uninterrupted power augmenting the battery power life cycle.²¹

4. Concluding its review and analysis, Staff states that it is satisfied that Midco has demonstrated an ability to meet the federal and state requirements for being designated as a Lifeline-only ETC in its service area within the following exchanges/zones: Lawrence, Bonner Springs, Bethel, Tonganoxie, Eudora, Basehor, and Linwood. Furthermore, no party has opposed Midco's Application requesting designation as an ETC. Staff believes that Midco has demonstrated that it is in the public interest to designate the company as an ETC in the requested service area for the purpose of participating in the federal and state Lifeline program. Staff adds that Midco should be advised that federal and state Lifeline funds must be used for their intended purpose, and that Midco shall pass the entire Lifeline credit through to the consumer. 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 requirements in order to continue receiving state and federal support.²²

²¹ Application ¶¶ 31-32.

²² Report and Recommendation, p. 11.

III. FINDINGS AND CONCLUSIONS

5. The Commission adopts Staff's analysis and recommendations of April 6, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof, and finds that Midco's Application is in the public interest and should be granted. The Commission further finds that Midco should be designated as a Lifeline-only ETC in its service area within the exchanges/zones of Lawrence, Bonner Springs, Bethel, Tonganoxie, Eudora, Basehor, and Linwood. No party has opposed Midco's Application.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Midcontinent Communications' Application filed in this matter on December 13, 2016, is hereby granted and Midco is hereby designated as a Lifeline-only Eligible Telecommunications Carrier (ETC) in its service area within the exchanges/zones of Lawrence, Bonner Springs, Bethel, Tonganoxie, Eudora, Basehor, and Linwood, Kansas. Midco is advised that federal and state lifeline funds must be used for their intended purpose, and that Midco shall pass the entire Lifeline credit through to the consumer. Midco is further advised that it is required to abide by Lifeline-only ETC requirements adopted by this Commission, including annual ETC recertification requirements in order to continue receiving state and federal support.


B. 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. 2015 Supp. 77-529.

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

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: APR 13 2017



Amy L. Green
Secretary to the Commission

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EMAILED

APR 13 2017

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

FROM: Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: April 6, 2017

SUBJECT: Docket No. 17-MCCT-254-ETC
In the Matter of the Application of Midcontinent Communications, A South Dakota General Partnership, for a Certificate of Convenience and Authority to Provide Telecommunications Services Within the State of Kansas, and for Designation as an Eligible Telecommunications Carrier

EXECUTIVE SUMMARY:

Midcontinent Communications (Midco) filed an Application for designation as an Eligible Telecommunications Carrier (ETC) in order to receive federal and state Lifeline support in its operating footprint in the Lawrence, Bonner Springs, Bethel, Tonganoxie, Eudora, Basehor, and Linwood exchanges or zones. Staff recommends approval of Midco's Application.

BACKGROUND:

On December 13, 2016, Midco filed this Application to request designation as a state and federal 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 United Telephone Company of Kansas d/b/a CenturyLink (CenturyLink).

Midco is a South Dakota General Partnership. Midco currently provides telecommunications services in South Dakota, North Dakota, and Minnesota. Midco acquired certain assets, including the services of company personnel, from Knology of Kansas, Inc. d/b/a WOW! (Knology).

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 therefor using media of general distribution.¹

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.”

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.² Midco meets the federal definition of common carrier for purposes of ETC designation.

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):

¹ 47 U.S.C. § 254.

² Application, ¶ 30.

(a) Services designated for support. Voice telephony services and broadband service shall be supported by federal universal service support mechanisms.

(1) 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.

(2) Eligible broadband Internet access services must provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.

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.

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.

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.

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

In response to Staff Data Request (DR) 7, Midco explains that its regular price for a local phone line will be \$20 and \$32.95 for an unlimited long distance line with several features. Midco's basic Lifeline voice rate will be \$2.98 after the \$9.25 federal and \$7.77 state Lifeline credits are applied.

Midco intends to offer Lifeline broadband service in Kansas at \$14.95 per month at a speed of 10/1 Mbps for eligible customers. This is the same rate charged to its South Dakota, North Dakota, and Minnesota customers. Midco's Lifeline broadband offering would be eligible for federal Lifeline support, but not state support as the KLSP supports voice services only. Eligible customers would be able to apply the federal Lifeline credit to a voice or broadband service offering, but not both.

AT&T's monthly rate is \$26.00³ and CenturyLink's monthly rate is \$18.08⁴ for a residential access line in the requested service areas. The local calling scope is the exchange, but local calls are unlimited. Vertical services, such as Caller ID and Call Waiting, are available for an additional charge.

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 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

Midco has acquired the cable infrastructure previously owned and operated by Knology in Kansas. The equipment used to provide its telecommunications services will initially remain deployed in its current locations, specifically in Lawrence, Kansas. Midco will operate its telecommunications services using a Metaswitch 6010 platform, the ARRIS Cornerstone telephone platform and ARRIS EMTAs. As Midco grows its footprint, additional equipment will likely be added in Lawrence.⁵

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.⁶

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.

³ AT&T Service Guidebook, <http://cpr.att.com/pdf/ks/0004-0002.pdf>.

⁴ CenturyLink Local Tariff for Kansas, http://www.centurylink.com/tariffs/ks_ut-ks_loc_t.pdf.

⁵ Application, Exhibit B.

⁶ Application, Exhibit A.

“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 remain consistent with the guidelines of the federal program. (emphasis added)

Thus, pursuant to K.S.A. 66-1,187(k), for an ETC operating in a non-rural telephone company 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 Commission 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 ETC designation for low-income support in its footprint within the following Kansas exchanges/zones: Lawrence, Eudora, Basehor, Linwood, Tonganoxie, Bonner Springs, and Bethel. Lawrence, Eudora, Basehor, Tonganoxie, Bonner Springs, and Bethel are served by AT&T and the Linwood exchange is served by CenturyLink. AT&T and CenturyLink are both non-rural telephone companies in Kansas. Therefore, Midco may be designated as a Lifeline-only ETC in its own service area within the aforementioned exchanges/zones.

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 availability of such services and the charges therefor 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 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 television 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).⁷

The Commission required competitive ETCs 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. 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.

Accordingly, in response to DR 8, Midco provided the following language it agrees to provide in its advertising in its Kansas ETC areas:

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

Kansas Corporation Commission, Office of Public Affairs and Consumer Protection
1500 SW Arrowhead Road, Topeka, KS 66604
Toll-free 1.800.662.0027 or in Topeka 785.271.3140.
Hearing or speech impaired TDD Kansas Relay Center 1.800.766.3777.

The addresses of the South Dakota, North Dakota, and Minnesota Public Utility Commissions will be included as well.

Staff is satisfied that Midco will meet the advertising requirements.

⁷ Application, ¶¶ 27-28.

Public Interest

The FCC, in its *Virginia Cellular Order*,⁸ 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 Midco's Application and in response to DRs 2-4, 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** – 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 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.

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.'⁹

- **Impact of Multiple Designations on the Universal Service Fund** – Designation of Midco as a state and federal ETC will have minimal impact on universal support mechanisms. Support 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.¹⁰
- **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 discounts will make combinations of services, including advanced

⁸ 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.

⁹ Application, ¶¶ 45-46.

¹⁰ Application, ¶ 47.

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.

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.

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.

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.’

Midco is aware of no disadvantages to the Lifeline Service offering.

One unique thing Midco did was, in late 2013, to start offering, in all 3 states it served at that time, Broadband Lifeline. This was done by Midco without state or federal funding. Midco strongly believes in enhancing the value of the telecommunications network to all consumers, through making essential services available to those who might not otherwise be able to afford the cost of those services.¹¹

- **Commitments Made Regarding High-Quality Telecommunications Services By Company** – Midco is committed to providing quality products and service in the markets it serves. Midco has been a Lifeline ETC in South Dakota, North Dakota & Minnesota for over 10 years. Originally when Midco began offering local dial-tone as a residential product in the early 2000’s, Lifeline services were not offered. However, during that time, Midco received numerous consumers’ inquiries on Lifeline. Midco now serves over 76,000 residential phone lines and nearly 2% of those customers are eligible for and receive Lifeline funding.

¹¹ Midco Response to DR 3.

Midco is committed to continuing to serve these customers, as well as make Lifeline services available in the new markets in Kansas.¹²

- **Does Midco Have the Ability to Provide the Supported Services Throughout the Designated Service Area Within a Reasonable Time Frame** – Midco has purchased the video, data & telephone systems of WOW of Kansas that are currently in place and serving customers broadly throughout the ETC Lifeline requested exchanges. The closing of the sale was done on 1/12/17. Midco will be operating under a transition services agreement with WOW until all customers can be transitioned to Midco’s network and billing system. Midco expects this transition will occur within the next 6 months.

Midco has signed interconnection agreements with AT&T & CenturyLink in December 2016 and has entered into a billing transfer agreement with AT&T to move current connectivity to Midco’s responsibility. Midco currently offers telephone and broadband lifeline services in South Dakota, Minnesota & North Dakota, and has demonstrated the ability to meet requests for Lifeline service in these jurisdictions. Once connectivity to Midco’s network & billing system is in place, Kansas residents in the exchanges above will be offered Lifeline services.¹³

After reviewing Midco’s Application and its responses to Staff DRs, Staff believes that Midco has demonstrated that it is in the public interest to designate it as an ETC 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.¹⁴ 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 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 Lifeline Certification Form and requested Midco revise the form to make it clear that consumers may receive only one Lifeline benefit per household and update the income qualification information to reflect the 2017 income guidelines. The revised form was filed on March 24, 2017. Staff is satisfied that the revised form complies with the Commission’s requirements.

¹² Midco’s Response to DR 4.

¹³ Midco’s Response to DR 4.

¹⁴ 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*”).

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.

In response to DR 9, Midco states that it currently offers services to non-Lifeline customers in North Dakota, South Dakota and Minnesota. With the recent acquisition of Knology's assets, it will also offer non-Lifeline services in Kansas. 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.

Midco has been in business since 1931 and has not been subject to enforcement action or ETC revocation in any state.

In addition, Midco provided a Kansas-specific 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.

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 2nd Order 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.¹⁵

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 to its customers before the FCC began to address this issue.

Midco currently provides auxiliary and battery backup. Midco has a Power Supply Response Team (PSRT) whose objective is to provide uninterrupted service to telecommunications subscribers during periods of commercial power interruptions. Midco utilizes power supplies within its network which convert commercial power of 87.5-volts AC and provide the power to the network nodes, amplifiers, and customer premise equipment. Each power supply unit shall have battery backup in order to continue to provide network power in the event of a commercial power failure. Portable generators are also deployed by the PSRT to provide continuous uninterrupted power augmenting the battery power life cycle.¹⁶

RECOMMENDATION:

Staff is satisfied that Midco has demonstrated an ability to meet the federal and state requirements for being designated as a Lifeline-only ETC in its service area within the following exchanges/zones: Lawrence, Bonner Springs, Bethel, Tonganoxie, Eudora, Basehor, and Linwood. Furthermore, no party has opposed Midco's Application and being designated as an ETC.

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

Midco should be advised 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.

¹⁵ 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.

¹⁶ Application at ¶¶ 31-32.

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 requirements to continue to receive state and federal support.

CERTIFICATE OF SERVICE

17-MCCT-254-ETC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on APR 13 2017.

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APR 13 2017