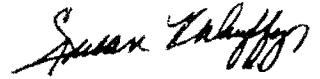


BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

APR 13 2010



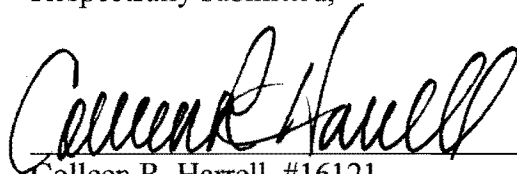
In the Matter of Staff's Motion to the)
Commission to Commence a Generic) Docket No. 10-GIMT-658 -GIT
Proceeding to Address Issues Concerning)
the Kansas Lifeline Service Program)

**STAFF'S MOTION TO THE COMMISSION TO COMMENCE
A GENERIC PROCEEDING TO ADDRESS ISSUES CONCERNING
THE KANSAS LIFELINE SERVICE PROGRAM**

COMES NOW the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and moves the Commission to commence a generic proceeding to address issues concerning the Kansas Lifeline Service Program (KLSP). In support of its Motion, Staff submits the attached memorandum to the Commission detailing the issues that have arisen within the Kansas Lifeline Service Program which require Commission attention.

WHEREFORE Staff requests the Commission consider its report and recommendation and open a generic proceeding to address issues concerning the Kansas Lifeline Service Program, and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,



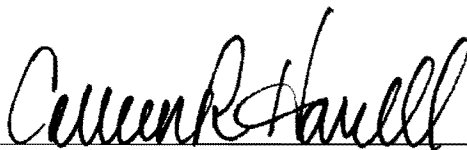
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VERIFICATION

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)
COUNTY OF SHAWNEE) SS:

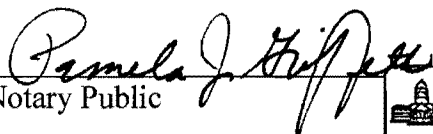
Colleen R. Harrell, of lawful age being first duly sworn upon oath states:

That she is the attorney for the Corporation Commission Staff in this matter; that she has read and is familiar with the foregoing Notice and that the statements made therein are true and correct to the best of her information, knowledge and belief.

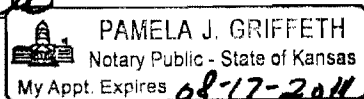


Colleen R. Harrell

Subscribed and sworn to before me Tuesday, April 13, 2010.



Notary Public



My appointment expires:

MEMORANDUM
UTILITIES DIVISION

TO: Chairman Wright
Commissioner Harkins

FROM: Christine Aarnes

DATE: April 8, 2010

DATE SUBMITTED TO LEGAL: 4/8/10

DATE SUBMITTED TO COMMISSIONERS: 4/13/10

RE: Generic Proceeding Regarding Lifeline

BACKGROUND:

K.S.A. 66-2006 required the Kansas Corporation Commission (Commission) to establish the Kansas Lifeline Service Program (KLSP) on or before January 1, 1997. The KLSP, which began on March 1, 1997, was established by the Commission in Docket No. 190,492-U (94-GIMT-478-GIT). In addition, Congress granted states authority to designate carriers as eligible telecommunications carriers (ETCs) in order to be eligible to receive high-cost support and low-income support from the federal Lifeline and Link-Up programs.

For qualifying low-income subscribers, a credit is applied to the bill to offset the cost of local telephone service. Lifeline customers in Kansas are eligible to receive up to \$17.77 per month off their local telephone bill, including a credit of \$7.77 from the KLSP and a \$3.50 credit plus a waiver of the End User Common Line charge (maximum of \$6.50) per month from the federal Lifeline program. In addition, the federal Link-Up program will pay one-half (up to \$30) of a low-income subscriber's initial connection fees.

Since the inception of the KLSP and the federal Lifeline program, the Commission has initiated numerous investigations to review KLSP eligibility requirements, the associated KLSP discount amount, record-keeping requirements, and other Lifeline issues.

In recent months, Commission Staff (Staff) has received questions, complaints, inquiries, etc. regarding various Lifeline issues. In order to address these issues in an efficient manner, Staff suggests the Commission initiate a generic Lifeline investigation to explore all of these issues in a formal manner. Staff will address each of the issues it has identified below.

ANALYSIS:

Requirement to Retain Lifeline Eligibility Documentation

On April 29, 2004, the Federal Communications Commission (FCC) released its Report and Order and Further Notice of Proposed Rulemaking (FNPR) modifying its “rules to improve the effectiveness of the low-income support mechanism, which ensures that quality telecommunications services are available to low-income consumers at just, reasonable, and affordable rates.”¹ The FNPR adopted “federal certification and verification procedures to minimize potential abuse of these programs.”² The FNPR requires the certification and verification procedures be adopted by the federal default states, and allows non-federal default states³, such as Kansas, the flexibility to adopt the FCC’s procedures or implement its own certification and verification procedures. In the FNPR, the FCC determined, among other things, that Lifeline service providers in the federal default states need not retain the consumer’s corroborating documentation of Lifeline eligibility. Carriers need to retain only their self-certifications and those made by the applicant.

On May 19, 2005, the Commission issued an Order Opening Docket and Establishing New Lifeline Service Requirements and Guidelines Effective June 22, 2005 (Order) in Docket No. 05-GIMT-1039-GIT (05-1039). In its 05-1039 Order, the Commission discussed the FCC’s FNPR and adopted specific requirements and guidelines for Lifeline service providers in Kansas; however, the Commission did not adopt the FCC’s rule that carriers do not need to retain the consumer’s corroborating documentation of Lifeline eligibility.

This issue was more recently discussed in a Kansas Universal Service Fund (KUSF) audit proceeding (Docket No. 08-SWBT-041-KSF). Solix, the KUSF administrator at the time, made a finding that Southwestern Bell Telephone Company (SWBT) did not retain copies of the supporting documentation for Lifeline customers once the customer service representative reviewed the information and verified that it was current and met the requirements of acceptance into the Lifeline program. However, Solix noted that SWBT was following the FCC’s record-keeping rule contained in the FNPR. In response to Solix’s Audit Report, SWBT stated it believed it was not required to retain such documentation. SWBT stated the Commission adopted the FCC’s requirements for income-level eligibility self-certification, thus it did not think it was necessary to retain a Lifeline customer's documentation supporting their eligibility. Commission Staff filed a response to SWBT and clarified that the Commission did not adopt the FCC rule regarding not retaining corroborating documentation, but recognized some carriers may have been confused regarding what elements of the FNPR were adopted or not adopted by the Commission. The Commission issued an order finding that SWBT’s reporting procedures were not materially deficient and directed Staff to open a proceeding to review the record-keeping issue.

1 See FCC 04-87, Report and Order and Further Notice of Proposed Rulemaking, rel. 4/29/04, WC Docket No. 03-109, ¶1.

2 Id., ¶2.

3 Federal default states are states that automatically use the federal Lifeline program eligibility requirements to determine state Lifeline program eligibility. Kansas is not a federal default state but has adopted many of the federal default eligibility guidelines.

Annual Certification of Record-Keeping Requirements

The Commission determined in its 05-1039 Order that it would adopt the FCC's requirements for verifying and certifying income-based eligibility as set forth in 47 C.F.R. §54.410(a)(2). 47 C.F.R. §54.410(a)(2) states,

By one year from the effective date of these rules, eligible telecommunications carriers in states that do not mandate state Lifeline support must implement certification procedures to document consumer-income-based eligibility for Lifeline prior to that consumer's enrollment if the consumer is qualifying under the income-based criterion specified in §54.409(b). Acceptable documentation of income eligibility includes the prior year's state, federal, or tribal tax return, current income statement from an employer or paycheck stub, a Social Security statement of benefits, a Veteran Administration statement of benefits, a retirement/pension statement of benefits, an Unemployment/Workmen's Compensation statement of benefits, federal or tribal notice letter of participation in General Assistance, a divorce decree, child support, or other official document.

If the consumer presents documentation of income that does not cover a full year, such as current pay stubs, the consumer must present three consecutive months worth of the same types of document within that calendar year.

The Commission further required ETCs in Kansas to require all Lifeline and Link-Up customers to annually self-certify to the ETC, by December 31, 2005, and annually thereafter that the customers continue to be eligible for Lifeline/Link-Up benefits. However, the Commission did not adopt the requirement in 47 C.F.R. §54.410(c)(2) that requires ETCs in states that do not mandate state Lifeline support to implement procedures to verify annually the continued eligibility of a statistically valid random sample of their Lifeline subscribers. The CFR further requires an officer of the ETC to certify under penalty of perjury that the company has income verification procedures in place and that, to the best of his or her knowledge, the company was presented with corroborating documentation, and to retain records of these certifications.

Staff notes that all ETCs are required to file an Annual Lifeline Certification and Verification form with the Universal Service Administrative Company (USAC) by August 31st of each year. As required by 47 C.F.R. §54.410(c)(2), ETCs in federal default states are required to certify that the company has procedures in place to verify the continued eligibility of a statistically valid random sample of its Lifeline customers. The officer is further required to certify that its company has procedures in place to review income documentation and that, to the best of the officer's knowledge, the company was presented with documentation of the consumer's household income. The officer is further required to complete information regarding the number of customers sampled and the number of customers found to be ineligible for Lifeline support. ETCs in non-federal default states, such as Kansas, are required to complete the form but must simply certify that the carrier is complying with the procedures put in place in the state, as required by 47 C.F.R. §54.410(c)(1).

Commission Staff is aware that Kansas is one of a handful of states that do not require ETCs to provide a Lifeline certification to the state on an annual basis. Staff recommends the

Commission examine whether it should require ETCs to file an annual certification with the state to ensure carriers have the proper procedures in place to make certain the Lifeline discount is applied appropriately.

List of Eligible Programs

Currently, Kansas consumers that receive the following low-income assistance are eligible for the KLSP: Food Stamps, General Assistance, Supplemental Security Income (SSI), Temporary Assistance to Families, Medicaid, United Tribes Food Distribution Program, Bureau of Indian Affairs General Assistance, Tribally Administered Temporary Assistance for Needy Families, Head Start (only those meeting its income-qualifying standard), and the Free School Lunch Program. Additionally, customers that can provide verification that their income falls within 150% of the federal poverty level are also eligible for the KLSP discount.

The Kansas Department of Social and Rehabilitative Services has implemented new low-income programs, such as Grandparents as Caregivers, since the time the Commission last reviewed its list of low-income programs eligible for the KLSP discount. Staff suggests the Commission investigate whether to add additional low-income programs to its list of programs that qualify for the KLSP discount.

Timeliness of Application of the Lifeline Discount

The Commission's Office of Public Affairs and Consumer Protection has fielded numerous complaints regarding the length of time it takes carriers to implement the Lifeline discount on a customer's account following verification that the customer qualifies for the Lifeline discount. Some customers have complained that it takes months for such discount to be applied to their account. Staff suggests the Commission examine why there is a delay in applying the Lifeline discount and whether it should mandate a specific time frame for application of the Lifeline discount.

RECOMMENDATION:

Staff recommends the Commission open a docket to investigate generic Lifeline issues. Staff recommends the Commission request comments on the following issues:

1. Whether carriers should continue to be required to retain Lifeline eligibility documentation. If the Commission continues with its current policy of requiring carriers to retain corroborating documentation, for what duration should the documentation be retained?
2. Whether the Commission should require carriers to provide an annual certification to the Commission.
3. Whether additional social service programs should be added to the list of eligible programs.
4. The timeliness of carriers applying the Lifeline discount to eligible consumers.
5. Any additional issues.

cc: Don Low Susan Duffy Pat Shurtz
Colleen Harrell Tom Stratton

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Staffs Motion to the Commission to Commence a Generic Proceeding to Address Issues Concerning The Kansas Lifeline Service Program was placed in the United States mail, postage prepaid, or hand-delivered this 14~~th~~ day of April, 2010, to the following:

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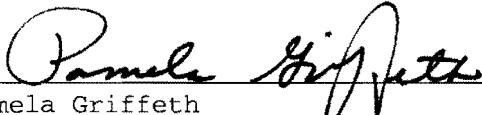
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