

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

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Dwight D. Keen

In the Matter of the Application of Southwestern)
Bell Telephone Company for Approval of) Docket No. 17-SWBT-563-IAT
Interconnection Agreement Under the)
Telecommunications Act of 1996 with Airus, Inc.)

ORDER APPROVING AMENDED INTERCONNECTION AGREEMENT

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 record and being duly advised in the premises, the Commission makes the following findings:

1. On November 16, 2018, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application requesting Commission approval of an amendment to the Interconnection Agreement between Southwestern Bell Telephone Company and Airus, Inc. (Airus) As part of the Application, AT&T Kansas included as Attachments I and II, a copy of the subject Amendment to the Interconnection Agreement and the Affidavit of Richard T. Howell, Area Manager-Regulatory Relations for AT&T Kansas.

2. AT&T Kansas states that the Amendment to Interconnection Agreement entered into between AT&T Kansas and Airus modifies the Interconnection Agreement between the two parties, which was approved on July 25, 2017, in the above-captioned docket. The subject Interconnection Agreement and Amendment to Interconnection Agreement are collectively referred to herein as “amended Agreement”. AT&T Kansas further states that the amended Agreement expands the scope of the Interconnection Agreement by adding AT&T’s service areas in the state of South Carolina to the original agreement. AT&T Kansas indicates the amended

Agreement fully complies with Section 252(e) of the Telecommunications Act of 1996 (Federal Act) and is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier.¹

3. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2017 Supp. 66-1,188. K.S.A. 66-1,190 requires all telecommunications public utilities doing business in Kansas to:

...publish and file with the commission copies of all schedules of rates, joint rates, tolls, charges, classifications and divisions of rates affecting Kansas traffic, either state or interstate, and shall furnish the commission copies of all rules and regulations and contracts between such telecommunications public utilities pertaining to any and all jurisdictional services to be rendered by such telecommunications public utilities.

4. Section 252(e)(2) of the Federal Act [47 U.S.C. §252(e)(2)] requires the Commission to presume that interconnection agreements entered into through negotiation and submitted for Commission approval are valid unless:

- (1) the agreement (or portions thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (2) the implementation of such an agreement (or portions thereof) is not consistent with the public interest, convenience, and authority.

5. On November 26, 2018, the Commission Staff (Staff) submitted its Report and Recommendation, suggesting the Commission approve the amended Agreement between AT&T Kansas and Airus. Citing Section 252(e) of the Federal Act, Staff acknowledges the amended Agreement fully complies with Section 252(e) of the Federal Act and supports approval of the Agreement as being consistent with the public interest and convenience and necessity. Both AT&T Kansas and Airus are properly registered with the Kansas Secretary of State's office and

¹ Application at 2.

their status with that office is active and in good standing. Staff accordingly recommends the Commission grant AT&T Kansas' Application and approve the amended Agreement.

6. The Commission adopts Staff's recommendation of November 26, 2018, as stated in its Report and Recommendation, which is attached and made a part of this Order, and finds that AT&T Kansas' Application should be granted, and the amended Agreement between AT&T Kansas and Airus be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Southwestern Bell Telephone Company d/b/a AT&T Kansas' Application filed November 16, 2018 is hereby granted and the amended Interconnection Agreement between AT&T Kansas and Airus, Inc. is hereby approved.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).²

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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 12/04/2018



Lynn M. Retz
Secretary to the Commission

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² K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

STATE OF KANSAS



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REPORT AND RECOMMENDATION

UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Dwight D. Keen

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

DATE: November 26, 2018

SUBJECT: 17-SWBT-563-IAT
In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Airus, Inc.

EXECUTIVE SUMMARY:

On November 16, 2018, Southwestern Bell Telephone Company, d/b/a AT&T (AT&T), filed an Amendment (Amendment) to an Application for approval of an Interconnection Agreement between AT&T and Airus, Inc. (Airus). The Amendment adds AT&T service areas in the state of South Carolina to the locations served by the Agreement. Staff recommends approval of the filing.

BACKGROUND:

On May 3, 2017, AT&T and Airus entered into an Agreement for Interconnection and Resale of AT&T services. AT&T filed for approval of this Agreement between AT&T and Airus. The Agreement expires July 24, 2019. On November 16, 2018, AT&T filed an Amendment to this Agreement to add the AT&T service areas in the state of South Carolina to the original Agreement.

AT&T is the largest local exchange carrier (LEC) operating in Kansas. The Company's largest service areas are Kansas City, Topeka, and Wichita. AT&T is headquartered in Topeka, Kansas.

Airus is headquartered in Chicago, Illinois, and the President and CEO is John Barnicle. Airus also maintains a corporate presence in Little Rock, Arkansas, as Airus of Arkansas, Inc. Airus received their Certificates of Convenience from the Kansas Corporation Commission in Dockets

10-ITPT-402-COC for Interexchange (IXC) services and 10-ITPT-403-COC for Competitive Local Exchange (CLEC) services as Intelpeer, Inc. The Orders for approval were issued March 8, 2010. The name was changed to Airus, Inc. in Docket 14-ITPT-501-CCN, approved June 26, 2014.

Both AT&T and Airus are properly registered with the Kansas Secretary of State's office and are "active and in good standing" with the Secretary's office. The Amendment runs coterminous with the existing Agreement.

ANALYSIS:

The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 66-1,188. K.S.A. 66-1,190 requires all telecommunications public utilities doing business in Kansas over which the Commission has control to "publish and file with the commission copies of all schedules of rates, joint rates, tolls, charges, classifications and divisions of rates affecting Kansas traffic, either state or interstate, and shall furnish the commission copies of all rules and regulations and contracts between such telecommunications public utilities pertaining to any and all jurisdictional services to be rendered by such telecommunications public utilities."

The U.S. Congress and the Federal Communications Commission (FCC) have pre-empted certain aspects of state regulation of interconnection between telecommunications carriers. Section 252(e)(2) of the Federal Telecommunications Act of 1996 (47 U.S.C. §252(e)(2)) requires the Commission to presume that interconnection agreements entered into through negotiation and submitted for Commission approval are valid unless:

- 1) the agreement (or portions thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- 2) the implementation of such an agreement (or portions thereof) is not consistent with the public interest, convenience, and necessity.

AT&T affirms that implementation of this Agreement complies fully with Section 252(e) of the Federal Act because the Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier. AT&T deems this Agreement promotes diversity in providers, provides interconnectivity, and will increase customer choices for telecommunications services.

Staff does not have any concerns regarding this Application. Staff reviewed the Agreement and did not find any language that discriminates against other telecommunications carriers not a party to the Agreement. Implementation of this Agreement to add the state of South Carolina is in the public interest because it provides additional telecommunications carrier options for consumers.

RECOMMENDATION:

Staff recommends the Commission grant approval of this Amendment to the Interconnection Agreement between AT&T and Airus. Staff finds no evidence of discrimination against other parties and finds that it is in the public interest.

CERTIFICATE OF SERVICE

17-SWBT-563-IAT

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 and electronic service on 12/04/2018.

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