

**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, L.P. for Approval of)
Interconnection Agreement Under the) Docket No. 07-SWBT-026-IAT
Telecommunications Act of 1996 with YMax)
Communications Corp.)

ORDER APPROVING AMENDED INTERCONNECTION AGREEMENT

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:

1. On June 5, 2018, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application seeking approval of an amendment to the Interconnection Agreement between AT&T Kansas and YMax Communications Corp. (YMax), which was approved by the Commission on July 24, 2006. Supplementing its Application, AT&T Kansas included a copy of the Amendment to the Interconnection Agreement (Amendment) executed by the parties on March 23, 2018, and the Affidavit of Richard T. Howell, AT&T Kansas' Area Manager-Regulatory Relations. The Interconnection Agreement and Amendment are collectively referred to herein as "Amended Agreement".

2. On June 25, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated June 19, 2018, recommending the Commission grant AT&T Kansas' Application and approve the Amended Agreement between AT&T Kansas and YMax. According to Staff, AT&T Kansas and YMax entered into the March 23, 2018 Amendment modifying the Interconnection Agreement to reflect changes to the intercarrier compensation rate from the

original Agreement per the Federal Communications Commission (FCC) November 18, 2011 intercarrier compensation rate requirements per the Connect America Fund Order¹. The Amendment entered into between AT&T Kansas and YMax expires concurrent with the existing Agreement.² YMax, a foreign for profit corporation, was issued a Certificate of Convenience and Authority on July 14, 2006, to provide Competitive Local Exchange Carrier (CLEC) service (Docket No. 06-YMXT-1026-COC) in the State of Kansas. YMax is properly registered with the Kansas Secretary of State's office where its status is shown to be "active and in good standing".³

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.

Section 252(e)(2) of the Federal Telecommunications Act of 1996 (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:

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

¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order issued by the Federal Communications Commission (FCC) on November 18, 2011 (FCC 11-161), and as amended by the FCC on December 23, 2011 (FCC 11-189) (FCC ICC Reform Order).

² Report and Recommendation, page 1.

³ *Id.*

AT&T Kansas affirms that implementation of the Amendment to the Interconnection Agreement fully complies with Section 252(e) of the Federal Act, and that approval of the Amended Agreement is consistent with the public interest, convenience, and necessity, and does not discriminate against any telecommunications carrier.⁴

4. Concluding its review and analysis of AT&T Kansas' Application and the Amended Agreement, Staff states that it has no concerns regarding this filing. Staff states that in the review process it found no language that discriminates against other telecommunications carriers not a party to the Agreement or language that is inconsistent with the public interest, convenience, and necessity. Staff further determines that the changes made to the Interconnection Agreement by the parties' Amendment are in compliance with FCC Orders. Staff recommends the Commission grant AT&T Kansas' Application and approve the Amended Agreement between AT&T Kansas and YMax.⁵

5. The Commission adopts Staff's analysis and recommendation of June 19, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that AT&T Kansas' Application should be granted and the Amended Interconnection Agreement between AT&T Kansas and YMax approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The June 5, 2018 Application of Southwestern Bell Telephone Company d/b/a AT&T Kansas is hereby granted and the Amended Interconnection Agreement between AT&T Kansas and YMax Communications Corp. is hereby approved.

⁴ Application, page 2.

⁵ Report and Recommendation, page 2.

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).⁶

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: 06/28/2018



Lynn M. Retz
Secretary to the Commission

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⁶ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

STATE OF KANSAS



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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

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: June 19, 2018

SUBJECT: 07-SWBT-026-IAT
In the Matter of the Application of Southwestern Bell Telephone, L.P. for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 with YMax Communications Corp.

EXECUTIVE SUMMARY:

On June 5, 2018, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) filed an Application for approval of an Interconnection Agreement Amendment (Amendment) between AT&T and YMax Communications Corp. (YMax). Staff recommends approval of the filing.

BACKGROUND:

On March 23, 2018, AT&T and YMax entered into an Amendment for the modification to the Agreement to reflect changes to the intercarrier compensation rate from the original Agreement per the Federal Communications Commission (FCC) November 18, 2011, intercarrier compensation rate requirements per the Connect America Fund Order¹. AT&T filed for approval of this Amendment between AT&T and YMax. The Amendment expires concurrent with the current 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.

YMax is headquartered in West Palm Beach, Florida, and is registered as a corporation. YMax received a Certificate of Convenience and Authority on July 14, 2006, in Docket No. 06-YMXT-1026-COC to provide Competitive Local Exchange (CLEC) in the State of Kansas. YMax is

¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al, Report and Order issued by the Federal Communications Commission ("FCC") on November 18, 2011 (FCC 11-161), and as amended by the FCC on December 23, 2011 (FCC 11-189) ("FCC ICC Reform Order").

registered with the Kansas Secretary of State's office and is "active and in good standing" with that office.

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

Staff does not have any concerns regarding this Application. Staff reviewed the Amendment and did not find any language that discriminates against other telecommunications carriers not a party to the Agreement or language that is inconsistent with the public interest, convenience, and necessity. Changes made to the Agreement by this Amendment are in compliance with FCC Orders.

RECOMMENDATION:

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

CERTIFICATE OF SERVICE

07-SWBT-026-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/hand delivered on 06/29/2018.

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/S/ DeeAnn Shupe

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