

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

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

In the Matter of the Application of)
Southwestern Bell Telephone Company)
for Approval of Interconnection Agreement) Docket No. 03-SWBT-305-IAT
Under the Telecommunications Act of)
1996 with BullsEye Telecom, 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 December 15, 2016, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application requesting approval of an amended Interconnection Agreement between AT&T Kansas and BullsEye Telecom, Inc. (BullsEye). Supplementing its Application, AT&T Kansas included as attachments, copies of the following: (i) Amendment to Interconnection Agreement Under Sections 251 and 252 of the Telecommunications Act of 1996 (Federal Act), dated November 30, 2016 (Amendment), amending the Interconnection Agreement between AT&T Kansas and BullsEye previously approved by the Commission on January 6, 2003, said Amendment and Interconnection Agreement being collectively referred to herein as “Amended Agreement”, and (ii) Affidavit of Richard T. Howell, AT&T Kansas’ Area Manager-Regulatory Relations. AT&T Kansas states that the Amended Agreement implements the Federal Communications Commission’s (FCC) USF/ICC, Lifeline and Link Up Reform and Modernization, and USTelecom Forbearance Orders; adds rates and provisions related to Transit

Traffic Services; extends the term of the Plan, without changes; and modifies certain provisions related to Customer Information Services and Notices in the current Agreement.¹

2. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2015 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 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.

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

3. On January 4, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated January 3, 2017, recommending the Commission approve the Amended Agreement between AT&T Kansas and BullsEye. Staff confirms that the parties' Amended Agreement removes Lifeline and Link Up resale offerings from the original Agreement per the

¹ Application, page 1.

FCC's June 22, 2015, Lifeline and Link Up Reform and Modernization Order, adds rates and provisions related to Transit Traffic Service, and modifies provisions related to Customer Information Services. The parties' Amendment expires concurrent with the existing Agreement.² Staff notes that BullsEye received Certificates of Convenience and Authority to provide Interexchange (IXC) service pursuant to the Commission's Order of August 7, 2002, issued in Docket No. 03-BLEC-065-COC. BullsEye was also issued a Certificate of Convenience and Authority to provide Competitive Local Exchange (CLEC) service in Kansas pursuant to the Commission's Order of September 18, 2002, issued in Docket No. 03-BLET-066-COC. BullsEye is properly registered with the Kansas Secretary of State's office as a foreign for profit corporation, whose status with that office is *active and in good standing*.

4. Concluding its Report and Recommendation, Staff states that it has reviewed the Amended Agreement and finds 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 recommends the Commission grant AT&T Kansas' Application and approve the Amended Agreement.³

5. The Commission adopts Staff's analysis and recommendation of January 3, 2017, 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 that the Amended Agreement between AT&T Kansas and BullsEye is in the public interest and should be approved.

² Report and Recommendation, pages 1 and 2.

³ Id., pages 2 and 3.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

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


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(a)(1).

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.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: JAN 10 2017


Amy L. Green
Secretary to the Commission

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Order Mailed Date
JAN 11 2017

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

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

DATE: January 03, 2017

SUBJECT: 03-SWBT-305-IAT

In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement under the Telecommunications Act of 1996 with BullsEye Telecom, Inc.

EXECUTIVE SUMMARY:

On December 15, 2016, 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 BullsEye Telecom, Inc. (Bullseye). Staff recommends approval of the filing.

BACKGROUND:

On November 30, 2016, AT&T and BullsEye entered into an Amended Agreement for the removal of Lifeline and Link Up resale offerings from the original Agreement per the Federal Communications Commission (FCC) June 22, 2015, Lifeline and Link Up Reform and Modernization Order¹. Modifications were also made to the Agreement due to the US Telecom Forbearance Order², to add rates and provisions related to Transit

¹ *Lifeline and Link Up Reform and Modernization* WC Docket 11-42 et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order FCC 15-71, rel. June 22, 2015, ¶244.

² *Petition of US Telecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next Generation Networks*, WC Docket No. 14-192, Released December 28, 2015.

Traffic Service and to modify provisions related to Customer Information Services. AT&T filed for approval of this Amended Agreement between AT&T and BullsEye. The Amendment expires concurrent with the existing 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.

BullsEye is headquartered in Southfield, Michigan, and is registered as a corporation. The Chairman and CEO is William Oberlin. BullsEye received Certificates of Convenience and Authority on August 7, 2002, in Docket 03-BLEC-065-COC to provide Interexchange (IXC) service and September 18, 2002, in Docket 03-BLET-066-COC to provide Competitive Local Exchange (CLEC) service in the State of Kansas. BullsEye is 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 to the Agreement 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 to the Agreement 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. Partial changes made to the Agreement are to be in compliance with FCC Orders.

RECOMMENDATION:

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

CERTIFICATE OF SERVICE

03-SWBT-305-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 JAN 10 2017.

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/s/ DeeAnn Shupe
DeeAnn Shupe

Order Mailed Date

JAN 11 2017