

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

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

In the Matter of the Application of                      )  
Southwestern Bell Telephone Company for                      )  
Approval of Interconnection Agreement Under                      ) Docket No. 10-SWBT-647-IAT  
the Telecommunications Act of 1996 with                      )  
Hypercube Telecom, LLC.                      )

**ORDER APPROVING AMENDMENT TO INTERCONNECTION AGREEMENT**

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

1.        On April 25, 2018, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) filed an application for approval of an Amended Interconnection Agreement between itself and Hypercube Telecom, LLC. (Hypercube).

2.        On April 5, 2010, AT&T and Hypercube submitted an Interconnection Agreement to this Commission that was approved on May 4, 2010. The new Amendment modification implements three Federal Communications Commission (FCC) Orders, amends Operator Services and Directory Assistance language and rates, and reflects the name change from Hypercube to West Telecom Services, LLC.

3.        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.”

4. Section 252(e)(2) of the Federal Telecommunications Act of 1996<sup>1</sup> states that State commissions may reject a negotiated agreement only if it finds that the agreement (or portions thereof) discriminates against a telecommunications carrier not a party to the agreement; or the implementation of such an agreement (or portions thereof) is not consistent with the public interest, convenience, and necessity.

5. On May 31, 2018, Commission Staff submitted a Report and Recommendation regarding the Amended Interconnection Agreement, attached hereto and made a part hereof by reference. Staff has no concerns regarding the Application, affirming that this Agreement does not discriminate against a carrier not a party to the Agreement and stating that approval of this Agreement is in the public interest. Staff recommended approval of the Amended Interconnection Agreement.

6. The Commission finds Staff’s findings and recommendation to be reasonable and hereby adopts the same.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. The Amended Interconnection Agreement between Southwestern Bell Telephone Company d/b/a AT&T Kansas and Hypercube Telecom, LLC, filed April 25, 2018, is 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).<sup>2</sup>

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<sup>1</sup>47 U.S.C. §252(e)(2).

<sup>2</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chairman; Emler, Commissioner; Keen, Commissioner

Dated: 06/07/2018



Lynn M. Retz  
Secretary to the Commission

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# STATE OF KANSAS

CORPORATION COMMISSION  
UTILITIES DIVISION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027



PHONE: 785-271-3220  
FAX: 785-271-3357  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

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

## REPORT AND RECOMMENDATION UTILITIES DIVISION

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

**FROM:** Christine Aarnes, Chief of Telecommunications & SPP Affairs  
Jeff McClanahan, Director of Utilities

**DATE:** May 31, 2018

**SUBJECT:** Docket No. 10-SWBT-647-IAT  
In the Matter of the Application of Southwestern Bell Telephone Company for  
Approval of Interconnection Agreement Under the Telecommunications Act of  
1996 with Hypercube Telecom, LLC

### **EXECUTIVE SUMMARY:**

On April 25, 2018, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) filed a request for approval of an Amendment to the Interconnection Agreement between AT&T and Hypercube Telecom, LLC (Hypercube). Staff believes it is in the public interest and recommends approval of the filing.

Commission action on this matter is required no later than **July 24, 2018**.

### **BACKGROUND:**

On April 5, 2010, AT&T filed a request for approval of an Interconnection Agreement with Hypercube under the Telecommunications Act of 1996. On May 4, 2010, the Commission issued an Order granting approval of the Interconnection Agreement.

AT&T filed this Amendment to the Agreement on April 24, 2018. The Amendment implements three Federal Communications Commission (FCC) Orders; amends Operator Services and Directory Assistance language and rates; and reflects the name change from Hypercube to West Telecom Services, LLC.

With regard to implementation of three FCC Orders, the Amendment: (1) implements changes to intercarrier compensation rates as a result of the FCC's *USF/ICC Order*<sup>1</sup>; (2) deletes the rates, terms and conditions related to Lifeline and Link-Up service offerings as a result of the *Lifeline and Link-Up Reform Order*<sup>2</sup>; and (3) deletes rates, terms and conditions related to the unbundling of 64 kbps voice-grade channel to provide narrowband services over fiber as a result of the *US Telecom Forbearance Order*<sup>3</sup>.

KMC Data, LLC was granted a Certificate to operate as a Competitive Local Exchange Carrier (CLEC) and an Interexchange Carrier (IXC) in the state of Kansas in Docket Nos. 01-KDLT-1053-COC and 01-KDLC-1051-COC, respectively, on September 25, 2001. On December 3, 2008, and November 19, 2008, the Commission approved KMC Data, LLC's request to change its name on its Certificates to Hypercube Telecom, LLC in Docket Nos. 09-KDLT-122-CCN and 09-KDLC-121-CCN, respectively. On January 21, 2016, the Commission approved Hypercube Telecom, LLC's request to change its name on its Certificates to West Telecom Services, LLC (West Telecom) in Docket Nos. 16-KLDT-232-CCN and 16-KDLC-321-COC.

### **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

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

<sup>2</sup> *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.

<sup>3</sup> *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, Rel. December 28, 2015.

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 in compliance with FCC Orders.

**RECOMMENDATION:**

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

## CERTIFICATE OF SERVICE

10-SWBT-647-IAT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of  
06/08/2018  
first class mail/hand delivered on \_\_\_\_\_.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

BRUCE A. NEY, ATTORNEY  
SOUTHWESTERN BELL TELEPHONE CO.  
D/B/A AT&T KANSAS  
816 CONGRESS AVE  
SUITE 1100  
AUSTIN, TX 78701-2471  
Fax: 512-870-3420  
bn7429@att.com

RONALD R BEAUMONT, PRESIDENT  
WEST TELECOM SERVICES, LLC  
3200 W PLEASANT RUN RD STE 300  
LANCASTER, TX 75146-1086

/S/ DeeAnn Shupe

DeeAnn Shupe