

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Application for Approval)
of Interconnection Agreement Between)
Brightspeed of West Missouri, LLC;)
Brightspeed of Kansas, LLC; Brightspeed of) Docket No. 24-UTDT-666-IAT
Eastern Kansas, Inc.; Brightspeed of Southern)
Kansas, Inc. and Barr Tell USA, Inc. Pursuant)
to the Telecommunications Act of 1996.)

ORDER APPROVING 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 April 8, 2024, Brightspeed of West Missouri, LLC; Brightspeed of Kansas, Inc.; Brightspeed of Eastern Kansas, Inc.; and Brightspeed of Southern Kansas, Inc., (Brightspeed) filed an Application requesting Commission approval of an Interconnection Agreement between Brightspeed and Barr Tell USA, Inc., (CLEC). As part of the Application, Brightspeed attached a copy of the subject Interconnection Agreement as an Exhibit.

2. The Interconnection Agreement entered into between Brightspeed and CLEC was executed on February 29, 2024. The purpose of the Application is to seek approval of the Interconnection Agreement. The proposed Agreement is a complex, comprehensive agreement and is referred to as the “Agreement” between the parties, all as set forth in the Exhibit attached to the Application. Brightspeed further states that the entire 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. 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 May 7, 2024, the Commission Staff (Staff) submitted its Report and Recommendation, advising the Commission to approve the Agreement between Brightspeed and CLEC. Citing Section 252(e) of the Federal Act, Staff acknowledges the 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. Staff further avers the Agreement does not discriminate against other telecommunication carriers and is consistent with the public interest of having additional telecommunication options and providers. Both Brightspeed and CLEC are properly registered with the Kansas Secretary of State's office and their

¹ Application, p. 1.

status with that office is active and in good standing. Staff accordingly recommends the Commission grant Brightspeed's Application and approve the Agreement.

6. The Commission adopts Staff's recommendation of May 7, 2024, as stated in its Report and Recommendation, which is attached and made a part of this Order, and finds that Brightspeed's Application should be granted, and the Agreement between Brightspeed and CLEC be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Brightspeed of West Missouri, LLC; Brightspeed of Kansas, Inc.; Brightspeed of Eastern Kansas, Inc.; and Brightspeed of Southern Kansas, Inc., filed April 8, 2024, is hereby granted and the Interconnection Agreement between Brightspeed and Barr Tell USA, 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.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 05/21/2024



Lynn M. Retz
Executive Director

BWB

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

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Jorge Soto-Gomez, Telecommunications Analyst
Steve Garrett, Deputy Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: May 7, 2024

RE: Docket No 24-UTDT-666-IAT

In the Matter of the Application for Approval of Interconnection Agreement Between Brightspeed of West Missouri, LLC; Brightspeed of Kansas, LLC; Brightspeed of Eastern Kansas, Inc.; Brightspeed of Southern Kansas, Inc. and Barr Tell USA, Inc. Pursuant to the Telecommunications Act of 1996.

EXECUTIVE SUMMARY:

On April 8, 2024, Brightspeed of West Missouri, LLC, Brightspeed of Kansas, LLC, Brightspeed of Eastern Kansas, Inc., and Brightspeed of Southern Kansas, Inc. (Brightspeed) filed an application for approval of the Interconnection Agreement (Agreement) with Barr Tell USA, Inc. (Barr Tell) under the Telecommunications Act of 1996. Staff recommends approval of the filing.

The Kansas Corporation Commission (Commission) action date is **July 7, 2024**.

BACKGROUND:

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.

ANALYSIS:

Brightspeed contends that implementation of this Agreement complies fully with Section 252(e) of the Federal Act and believes approval is consistent with the public interest, convenience, and necessity and does not discriminate against any telecommunications carrier.

Brightspeed is an Incumbent Local Exchange Carrier (ILEC) certified to provide services in the state of Kansas. On February 6, 2024, Barr Tell’s application for a Certificate of Convenience and Authority (COC) in the AT&T Kansas and Brightspeed study areas was granted in Docket No. 24-BTUT-302-COC as a Competitive Local Exchange Carrier (CLEC). Brightspeed and Barr Tell are “active and in good standing” with the Kansas Secretary of State’s Office.¹

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 is in the public interest, because it provides additional telecommunications carrier options for the consumer.

RECOMMENDATION:

Staff recommends the Commission grant approval of this Interconnection Agreement between Brightspeed and Barr Tell.

¹ Kansas Secretary of State, <https://www.sos.ks.gov/eforms/BusinessEntity/Search.aspx>, last viewed April 23, 2024.

CERTIFICATE OF SERVICE

24-UTDT-666-IAT

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 05/21/2024.

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/S/ KCC Docket Room

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