

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

STATE CORPORATION COMMISSION

In the Matter of the Application of )  
Southwestern Bell Telephone )  
Company for Price Deregulation of )  
Residential and Business )  
Telecommunications Services in the )  
Kinsley and Erie, Kansas Exchanges )  
pursuant to K.S.A. 2008 Supp. 66- )  
2005(q)(1). )

JUL 10 2009

 Docket  
Room

Docket No. 09-SWBT-936-PDR

**SOUTHWESTERN BELL TELEPHONE COMPANY'S RESPONSE TO THE  
COMMISSION'S ORDER APPROVING APPLICATION FOR PRICE DERGULATION  
OF RESIDENTIAL AND BUSINESS TELECOMUNNICATIONS SERVICE IN THE  
KINSLEY KANSAS EXCHANGE AND SUSPENDING APPLICATION WITH  
RESPECT TO THE ERIE, KANSAS EXCHANGE**

COMES NOW Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T"), in response to the Commission's June 26, 2009 Order Approving Application of Southwestern Bell Telephone Company for Price Deregulation of Residential and Business Telecommunications Service in the Kinsley, Kansas Exchange and Suspending Application With Respect to the Erie, Kansas Exchange in the above captioned matter. AT&T's response is limited to addressing that part of the Commission's Order suspending the application for price deregulation of residential and business telecommunications services in the Erie, Kansas exchange. For its response, SWBT states as follows:

**Background**

1. On June 5, 2009, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) filed its application requesting price deregulation of residential and business telecommunications services in the Kinsley and Erie, Kansas exchanges.

2. On June 24, 2009, the Commission Staff ("Staff") filed a memorandum presenting Staff's research and recommendation to the Commission. Staff's memorandum affirmatively reflected Staff's belief that AT&T had demonstrated, pursuant to K.S.A. 2008 Supp. 66-2005(q)(1)(C) and (D), that there were two or more nonaffiliated telecommunications carriers providing services to residential and business customers in the subject exchanges.

3. On June 25, 2009, the Citizen's Utility Ratepayer Board ("CURB") filed a response to Staff's memorandum and recommendation. Specifically, CURB stated its opposition to the price deregulation of telecommunication services in the Erie, Kansas exchange. CURB voiced concern that they could not identify with specificity any entity other than Cox providing single line residential or business services in the Erie exchange.

4. On June 26, 2009, the Commission approved AT&T's application for price deregulation of residential and business telecommunications services in the Kinsley, Kansas exchange and suspended for 30 days that portion of the application pertaining to the Erie, Kansas exchange to allow additional time for investigation.

#### **AT&T's Response**

5. AT&T agrees with Staff that through its application AT&T has sufficiently demonstrated that all of the identified exchanges, including the Erie, Kansas exchange, have two or more nonaffiliated telecommunications carriers providing service to residential and business customers. More specifically, with regard to the Erie exchange, Staff's review and ultimate recommendation for approval of price deregulation of residential and business telecommunication services in that exchange is

based upon a reasonable interpretation of K.S.A. 66-2005 (q)(1)(C) and (D) and is a rational and logical method for determining the existence of competition. This is especially true in the case of CMRS providers, where wireless carriers may not differentiate between residential or business customers but clearly market to both.

6. AT&T submits to the Commission that Alltel, as well as US Cellular,<sup>1</sup> are significant wireless service providers who market to residential and business customers in the Erie exchange. Considering that competitors are, understandably, unwilling to provide AT&T with their specific customer information; and, customers who have a competitor's service similarly may not wish to share this information with another competing provider, the approach used by Staff to confirm that wireless providers do provide business service in the Erie exchange is a very reasonable, logical and common sense approach to the intent, application and implementation of the statutory standard.<sup>2</sup> CURB's position and approach is none of those things. Further, contrary to CURB's assertions, there is also simply no statutory requirement that AT&T show there to be service to more than one residential or business customer. Had the legislature intended such an explicit showing, it could have included such a requirement as it did

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<sup>1</sup> Following the issuance of the Commission's June 26, 2009 Order in this proceeding it came to AT&T's attention that U.S. Cellular is also a CMRS provider of residential and business telecommunications services in the Erie, Kansas Exchange. See Attachment "A" hereto.

<sup>2</sup> AT&T recognizes that the market is such that wireless competitors may not always differentiate billing between business and residence accounts. Nevertheless, if a national carrier confirms that it offers service generally in an area, it is both reasonable and logical to assume that the carrier serves both business and residential customers in that area. Unfortunately, if the Commission believes that further confirmation is needed to determine whether a wireless carrier serves business customers, the Commission will have to request that information directly from the wireless carriers as it is very unlikely AT&T would ever be able to obtain that information from a competing carrier. It is likely that some wireless carriers do have access to some information that could confirm business customers do use the carrier's service. For example, many wireless providers enter into specific contracts with businesses to provide special pricing. In addition, a review of billing names within a specific city located in an AT&T exchange for which price deregulation is sought could allow a wireless carrier to identify accounts billed to a business name.

when discussing how many alternative providers serve an exchange. The Kansas legislature included no such explicit requirement.

7. Confirming the appropriateness and correctness of Staff's approach to this issue, attached to this response is information further evidencing the fact that end user residential and business customers in the Erie exchange are receiving service from not only Alltel, as initially indicated in AT&T's application, but also US Cellular.<sup>3</sup> Specifically, AT&T provides:

- Attachment B: Copy of e-mail correspondence from Gayle Ballard, Erie, Kansas, confirming she receives residential wireless service from Alltel.
- Attachment C: Copy of e-mail correspondence from Dea Autrey, Erie, Kansas, confirming Alltel is her personal wireless telephone service provider.
- Attachment D: Copy of e-mail correspondence from Steve Ballard, Erie, Kansas, confirming Alltel provides his business wireless telephone service.
- Attachment E: Copy of e-mail correspondence from Linda Powers, Deputy County Clerk, Neosho County, Kansas, confirming Alltel provides wireless telephone service for Neosho County employees. The county seat for Neosho County is Erie, Kansas.

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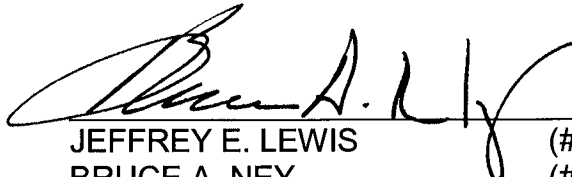
<sup>3</sup> The attached information was collected by AT&T following the issuance of the Commission's June 26, 2009 Order in this proceeding. AT&T's application in this proceeding attempted to provide the Commission with objective data and publicly available information to support its application. CURB's unreasonable position seeks to require AT&T to somehow identify and contact non-AT&T wireless customers in an attempt to secure their cooperation in proceedings such as this. Forcing AT&T to directly contact the Kansas customers of other carriers in order to attempt to secure their participation on its behalf in price deregulation proceedings, a prospect most competitors would surely find objectionable, was certainly never the intent of the Kansas legislature when it rewrote the statute in 2005 to simplify and bring more definition and regulatory certainty to the price deregulation process.

- Attachment F: Copy of e-mail correspondence from the Honorable Deb Miller, Kansas Secretary of Transportation, confirming that U.S. Cellular provides wireless telephone service to Kansas Department of Transportation employees in Erie, Kansas.

8. Accordingly, AT&T requests the Commission endorse the methodology employed by the Staff in this proceeding concerning CMRS (wireless) providers that do not distinguish between residential and business consumers; favorably consider the additional, confirming information provided by AT&T in its attachments to this response; reject the arguments of CURB; and, approve AT&T's application for price deregulation of residential and business services in the Erie, Kansas exchange.

WHEREFORE, AT&T respectfully requests an order of the Commission granting its application for price deregulation of residential and business telecommunication services in the Erie, Kansas exchange.

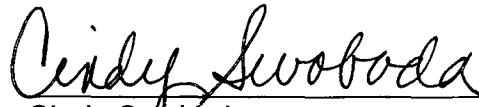
Respectfully submitted,

  
JEFFREY E. LEWIS (#23732)  
BRUCE A. NEY (#15554)✓  
220 SE Sixth Street, Room 515  
Topeka, Kansas 66603-3596  
(785) 276-8413  
(785) 276-1948 (facsimile)  
[bruce.ney@att.com](mailto:bruce.ney@att.com)

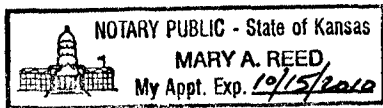
**VERIFICATION**

STATE OF KANSAS        )  
  ) ss:  
COUNTY OF SHAWNEE )

I, Cindy Swoboda, of lawful age, and being first duly sworn, now state: I am Area Manager – Regulatory Relations. I have read Southwestern Bell Telephone Company's Response to the Commission's Order Approving Application for Price Deregulation of Residential and Business Telecommunications Service in the Kinsley, Kansas Exchange and Suspending Application with Respect to the Erie, Kansas Exchange, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Cindy Swoboda

Subscribed and sworn to before me this 10th day of July, 2009.



  
\_\_\_\_\_  
Notary Public

My appointment expires: October 15, 2010

## CERTIFICATE OF SERVICE

I hereby certify that a correct copy of Southwestern Bell Telephone Company's Response to the Commission's Order Approving Application for Price Deregulation of Residential and Business Telecommunications Service in the Kinsley, Kansas Exchange and Suspending Application with Respect to the Erie, Kansas Exchange was sent via U.S. Mail or hand-delivered on this 10th day of July, 2009, to:

Colleen Harrell  
Litigation Counsel, Telecommunications  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027  
\*\*\*HAND DELIVER\*\*\*

Steve Rarrick  
CURB  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027  
\*\*\*HAND DELIVER\*\*\*

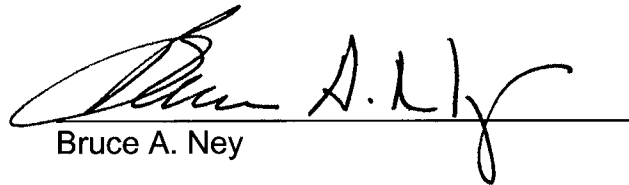
Ron Johnson  
Century Tel Solutions, LLC  
100 CenturyTel Drive 5S  
Monroe, LA 71203

Mark Argenbright  
Cox Communications  
6301 Waterford Blvd., Ste 200  
Oklahoma City, OK 73118

Greg Rogers  
Level 3 Communications, LLC  
1025 El Dorado Blvd.  
Broomfield, CO 80021

Don Howell  
United Wireless  
1107 McArtor Road  
Dodge City, KS 67801

James T. Meister  
Alltel  
1269-B5F11-C  
One Allied Drive  
Little Rock, AR 72202-2177

  
Bruce A. Ney

# **ATTACHMENT A**

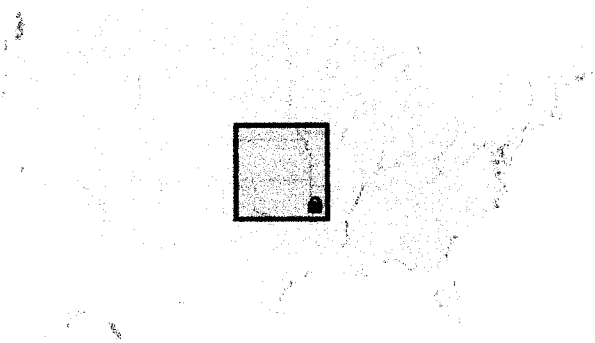




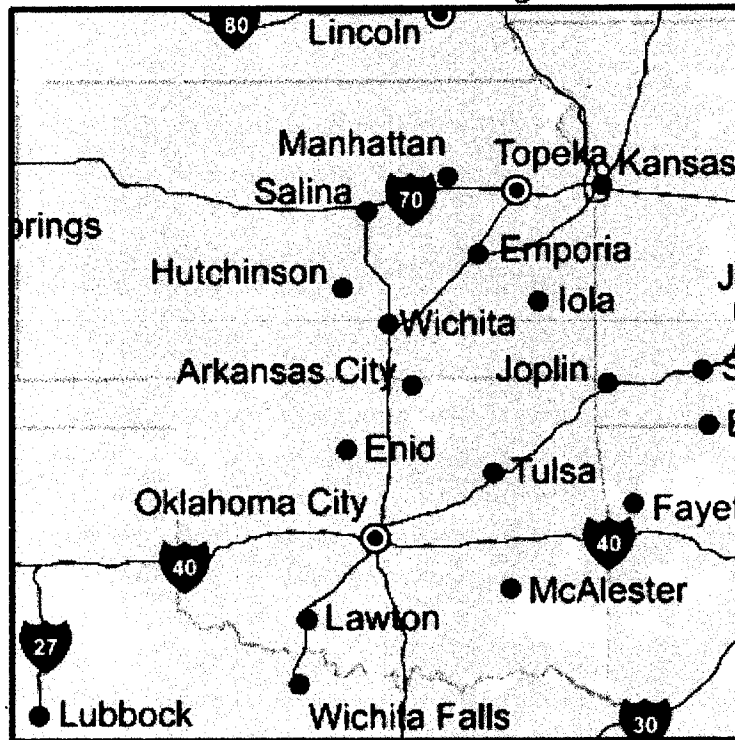
**Choose a coverage map:**

Move mouse over small map for close-up view. Single-click the Viewfinder to lock/unlock it.

- National
- Wide Area
- Mobile to Mobile
- Prepaid Billing
- SmartPhone
- Picture Messaging
- City Map
- Coverage Search



**National Voice Coverage**



To print, right-click and select 'Print' from the menu.

National Calling Area

No Coverage

Having trouble seeing the Map?



\*The map shows an approximation of service coverage. Actual coverage may vary. Service may be interrupted or limited due to weather, terrain, customer equipment, or network limitations. Coverage indoors may also vary. U.S. Cellular does not guarantee coverage. User may incur roaming charges at borders of calling areas.

**STEP 1** Select a phone

**STEP 2** Select additional features

**STEP 3** Select accessories

**STEP 4** Add lines

**STEP 5** Add lines

**COVERAGE MAPS**

Plans available in Erie, KS

**NATIONAL PLANS**

**FAMILY PLANS**

**PREPAID PLANS**

Wide Area Plans are perfect if you make calls primarily from areas close to your hometown and nearby cities. If your calls occur within these coverage areas you can use your minutes anytime, anywhere. And with U.S. Cellular®, all Incoming Calls, Texts and Pix are free.

Plan	Anytime Minutes	Monthly Rate	Additional Anytime Minutes	Included Roaming Minutes	Incoming Calls	Night & Weekend Minutes	Mobile-to-Mobile Minutes
Wide Area 700	700	\$39.99	\$0.49	0	Unlimited Included	9:00 P. M. - \$6.00	Unlimited \$6.00
Wide Area 1000	1000	\$49.99	\$0.49	30	Unlimited Included	Unlimited 7:00 P. M.	Unlimited Included
Wide Area 1300	1300	\$59.99	\$0.25	30	Unlimited Included	Unlimited 7:00 P. M.	Unlimited Included
Wide Area 2000	2000	\$79.99	\$0.25	30	Unlimited Included	Unlimited 7:00 P. M.	Unlimited Included
Wide Area 3000	3000	\$99.99	\$0.25	30	Unlimited Included	Unlimited 7:00 P. M.	Unlimited Included

**ORDER SUMMARY**

Total Due Monthly  
What's this? **\$0.00/mo.**

Total Due Today  
What's this? **\$0.00**

[View Complete Order Details](#)

[Start Over](#)

**LINE # DETAILS**

**BASE PLAN**

None Selected **\$0.00/mo.**

**PHONE**

None Selected **\$0.00**

**ADDITIONAL FEATURES**

None Selected **\$0.00/mo.**

**ACCESSORIES**

None Selected **\$0.00**



# BUSINESS SERVICES

## Calling Plans

### Individual Calling Plans (1 Line)

Choose from calling plans with generous Anytime Minutes and added flexibility:

Wide variety of consumer plans to meet your needs. Prepaid Wireless service for short-term needs and budget management.

### Business Calling Plans (2+ Lines)

These cost-efficient plans bundle your total minutes for all plan users to share, maximizing your total Anytime Minutes and reducing the risk of overage charges. Choose from:

**BizShare<sup>SM</sup>** — Add up to 24 lines and share your minutes with all users on the same plan. Gain maximum flexibility and convenience with your choice of up to two features at no extra charge:

- Unlimited Incoming Calls
- Unlimited Mobile-to-Mobile Calling
- Unlimited Night and Weekend Minutes

**BlackBerry<sup>®</sup> Wireless Solution** – Receive and send e-mails, make calls, access the Internet and manage your schedule on the go.

**Windows Mobile<sup>®</sup> Smartphones** - Voice calling coupled with wireless e-mail, Web and multimedia for personal and business use.

### Business Calling Plans (10+ Lines)

As your business grows, so do our services. Choose from these plans:

**Business Community Plan** - Pool your plan minutes among all users.

**Corporate Custom Plan** - Pay for only the minutes used with a low monthly access fee per line. As more employees are added to the account, both access and usage rates are discounted.

**BlackBerry Wireless Solution** - Receive and send e-mails, make calls, access the Internet and manage your schedule on the go.

**Windows Mobile Smartphones** - Voice calling coupled with wireless e-mail, Web and multimedia for personal and business use.

### Helpful Links

- Business Services Home
- About U.S. Cellular
- Account Management
- Coverage Maps
- Industry-specific Solutions

### Priority Business Customer Service:

1-800-819-9373

### New Business Sales:

1-866-USC-4BIZ  
(1-866-872-4249)  
8 a.m. - 8 p.m. (CENTRAL)  
Monday - Friday



# **ATTACHMENT B**

**From:** Gayle Ballard [mailto:SBallard10@cox.net]  
**Sent:** Monday, July 06, 2009 12:29 PM  
**To:** DIEBOLT, TERRY L (ATTSI)  
**Cc:** Dea Autrey; Steve Ballard  
**Subject:** Alltel Customer

Gayle Ballard, 504 E. Canville, Erie, KS

We have an Alltel account with 4 users on it. 620-212-2642

Gayle Ballard  
[SBallard10@cox.net](mailto:SBallard10@cox.net)

# **ATTACHMENT C**

**From:** doris autrey [mailto:deaa@att.net]  
**Sent:** Sunday, July 05, 2009 2:50 PM  
**To:** DIEBOLT, TERRY L (ATTSI)  
**Subject:** Re: Hi Dea

My name is Dea Autrey. I live in Erie, Ks. and am an Alltel customer. They are my personal cell phone provider. Thanks.

Dea Autrey

# **ATTACHMENT D**



**From:** Steve Ballard [mailto:ballard@bridgewoodcabinets.com]  
**Sent:** Monday, July 06, 2009 5:13 PM  
**To:** DIEBOLT, TERRY L (ATTSI)  
**Subject:** RE: Alltel Customer

My name is Steve Ballard. I live in Erie Ks and use Alltel cellular for my business service needs.

Steve

# **ATTACHMENT E**

From: Neosho County Clerk [mailto:nococlerk@neoshocounty.kscoxmail.com]  
Sent: Friday, July 10, 2009 3:29 PM  
To: DIEBOLT, TERRY L (ATTSI)  
Subject: Re: Terry Diebolt AT&T

Terry,

Yes. Neosho County does use Alltel wireless service for their employees wireless cell phone needs

Linda Powers  
Neosho County  
Deputy County Clerk

# **ATTACHMENT F**

**From:** Deb Miller [mailto:[dmiller@ksdot.org](mailto:dmiller@ksdot.org)]  
**Sent:** Monday, July 06, 2009 9:51 AM  
**To:** Theresa Kiernan  
**Subject:** RE: Favor

Theresa, according to our district office, the cellular service that we are providing to our employees in Erie is with US Cellular.

Deb Miller

Secretary of Transportation

700 SW Harrison Street

Topeka, Ks 66603-3754

785 296-3461