

**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 Company for Approval of)
Interconnection Agreement Under the) Docket No. 09-SWBT-609-IAT
Telecommunications Act of 1996 with HCI 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 August 30, 2018, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application requesting Commission approval of an amendment to the Interconnection Agreement between Southwestern Bell Telephone Company and HCI Telecom, Inc. (HCI) Added to its Application, AT&T Kansas included as Attachments I and II, a copy of the subject Amendment to the Interconnection Agreement and the Affidavit of Richard T. Howell, Area Manager-Regulatory Relations for AT&T Kansas.

2. AT&T Kansas states that the Amendment to Interconnection Agreement entered into between AT&T Kansas and HCI, and executed by the parties on August 9, 2018, amends the Interconnection Agreement between the two parties, which was approved on April 29, 2009, in the above-captioned docket. The subject Interconnection Agreement and Amendment to Interconnection Agreement are collectively referred to herein as “amended Agreement”. AT&T Kansas further states that the amended Agreement implements the FCC ICC Reform Order, modifies certain provisions related to Customer Information Services and replaces Notice

provisions in the current agreement. AT&T Kansas indicates the amended 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. 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.

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 September 11, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated September 7, 2018, recommending the Commission approve the amended Agreement between AT&T Kansas and HCI. Citing Section 252(e) of the Federal Act, Staff acknowledges the amended 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 Amended Agreement implements reforms initiated by the

¹ Application at 2.

FCC and does not discriminate against other telecommunication carriers. Both AT&T Kansas and HCI are properly registered with the Kansas Secretary of State's office and their status with that office is active and in good standing. Staff accordingly recommends the Commission grant AT&T Kansas' Application and approve the amended Agreement.

6. The Commission adopts Staff's recommendation of September 7, 2018, as stated in its Report and Recommendation, which is attached and made a part of this Order, and finds that AT&T Kansas' Application should be granted, and the amended Agreement between AT&T Kansas and HCI be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Southwestern Bell Telephone Company d/b/a AT&T Kansas' Application filed August 30, 2018 is hereby granted and the amended Interconnection Agreement between AT&T Kansas and HCI Telecom, 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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 09/18/2018



Lynn M. Retz
Secretary to the Commission

wah

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

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

DATE: September 7, 2018

SUBJECT: 09-SWBT-609-IAT
In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With HCI Telcom, Inc.

EXECUTIVE SUMMARY:

On August 30, 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 HCI Telcom, Inc. (HCI). Staff recommends approval of the filing.

BACKGROUND:

On August 9, 2018, AT&T and HCI 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. The Amendment also makes modifications to certain provisions related to customer information services. AT&T filed for approval of this Amendment between AT&T and HCI. The Amendment expires concurrent with the current Agreement.

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").

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.

HCI is headquartered in Wichita, Kansas, and is registered as a corporation. HCI received a Certificate of Convenience and Authority on October 31, 2008, in Docket No. 09-HCIT-245-COC to provide Competitive Local Exchange (CLEC) in the State of Kansas. HCI 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 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 HCI. Staff finds no evidence of discrimination against other parties and finds that approval is in the public interest.

CERTIFICATE OF SERVICE

09-SWBT-609-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 09/19/2018.

WALKER HENDRIX, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
w.hendrix@kcc.ks.gov

CHRISTOPHER L. OWEN
HCI TELCOM INC.
266 N MAIN ST STE 150
WICHITA, KS 67202
owen@hubris.net

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

/S/ DeeAnn Shupe
DeeAnn Shupe
