

**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. 11-SWBT-076-IAT
Under the Telecommunications Act of)
1996 with Big River Telephone Company,)
LLC.)

**ORDER APPROVING MODIFICATION TO 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 records and being duly advised in the premises, the Commission makes the following findings:

1. On December 8, 2015, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application for approval of a modification to an existing Interconnection Agreement (Agreement) between AT&T Kansas and Big River Telephone Company, LLC (Big River), which was negotiated, executed and filed with the Commission on September 8, 2010.

2. Big River is certified in Kansas as an interexchange carrier (IXC) and a competitive local exchange carrier (CLEC).

3. K.S.A. 66-1,188 gives the Commission jurisdiction to supervise and control telecommunications public utilities, and K.S.A. 66-1,190 gives the Commission jurisdiction over contracts between telecommunications public utilities. However, the U.S.

Congress and the Federal Communications Commission (FCC) have pre-empted certain aspects of state regulation of interconnection between telecommunications carriers.

4. Specifically, Section 252(e)(2) of the Federal Telecommunications Act of 1996 (47 U.S.C. § 252(e)(2)) provides that a State commission may only reject a negotiated interconnection agreement 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 February 5, 2016, Commission Staff (Staff) submitted a Report and Recommendation (R&R) to the Commissioners, a copy of which is attached hereto and incorporated herein by reference. Staff stated that this modification amends, modifies and supersedes the aforementioned September 8, 2010, Agreement and is consistent with the provisions of Section 252(e) of the Federal Telecommunications Act. The modification also implements the Federal Communications Commission's Lifeline and Link Up Reform and Modernization Order and makes changes to certain provisions related to Customer Information Services.

6. Staff has reviewed the modification to the Agreement and has no concerns. Moreover, Staff affirms that this Agreement does not discriminate against a carrier not a party to the Agreement and approval of this Agreement is in the public interest. Therefore, Staff recommends the Commission grant approval of a modification to the September 8, 2010, Interconnection Agreement between AT&T Kansas and Big River.

7. The Commission finds Staff's recommendation to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The modification to the Interconnection Agreement between AT&T Kansas and Big River is approved.

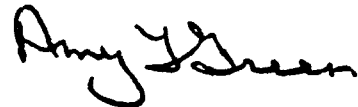
B. The parties have fifteen (15) days, plus three (3) days if served by mail, from the date this order was served in which to petition the Commission for reconsideration. K.S.A. 66-118b; K.S.A. 77-529(a)(1).

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

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: FEB 11 2016



Amy L. Green
Secretary to the Commission

MJD

Order Mailed Date

FEB 12 2016

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

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

FROM: Hal Baumhardt, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: February 5, 2016

SUBJECT: Docket No. 11-SWBT-076-IAT

In the Matter of the Application of Southwestern Bell Telephone for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Big River Telephone Company, LLC.

EXECUTIVE SUMMARY:

On December 8, 2015, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application for approval of a Modification to the Interconnection Agreement (Agreement) between AT&T Kansas and Big River Telephone Company, LLC (Big River), which was negotiated, executed and filed with the Commission on September 8, 2010. Staff recommends approval of the filing.

BACKGROUND:

On December 8, 2015, AT&T Kansas filed this Application for approval of a Modification to its Agreement between AT&T Kansas and Big River.

Big River is a Foreign Limited Liability Company registered in the state of Delaware. The Company operates in eighteen (18) states and is certified in Kansas as an Interexchange carrier (IXC) and a competitive local exchange carrier (CLEC). The Company is headquartered in Cape Girardeau, Missouri, and its CEO is Gerard J. Howe.

On July 13, 2006, in Docket No. 06-BGRT-1222-COC, the Commission granted Big River a Certificate of Convenience and Authority as an IXC within the state of Kansas.

On July 20, 2006, in Docket No. 06-BGRT-1221-COC, the Commission granted Big River a Certificate of Convenience and Authority as a CLEC within the state of Kansas.

Big River is registered with the Kansas Secretary of State's office and is currently "*active and in good standing*".

AT&T Kansas is the largest local exchange carrier (LEC) operating in Kansas. The Company's largest service areas are Kansas City, Topeka, and Wichita. AT&T Kansas is headquartered in Topeka, Kansas, and its President is Mike Scott.

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 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.

This Modification to the Agreement is consistent with the provisions of Section 252(e) of the Federal Act and amends, modifies and supersedes the Agreement previously negotiated, executed and filed with the Commission on September 8, 2010. The Modification amends the Agreement to implement the Lifeline and Link Up Reform and Modernization Order¹ and modifies certain provisions related to Customer Information Services in the current Agreement. Except as modified herein, all other terms and conditions of the underlying agreement remains unchanged and in full force.

Staff has reviewed the Modification to the Agreement between AT&T Kansas and Big River, and Staff does not have any concerns regarding the Application. Furthermore, Staff affirms that this Agreement does not discriminate against a carrier not a party to the Agreement and approval of this Agreement is in the public interest.

¹ See WC Docket No. 11-42 et al., *Second Report and Order*, FCC 15-71, Released June 22, 2015 (FCC Order).

RECOMMENDATION:

Staff recommends the Commission grant approval for a Modification to the Interconnection Agreement between Southwestern Bell Telephone Company d/b/a AT&T Kansas and Big River Telephone Company LLC.

CERTIFICATE OF SERVICE

11-SWBT-076-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 **FEB 11 2016**.

JOHN F JENNINGS, CHIEF FINANCIAL OFFICER
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~~Order Mailed Date~~

FEB 12 2016

/S/ DeeAnn Shupe
DeeAnn Shupe