

**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, L.P. for)
Approval of Interconnection Agreement) Docket No. 06-SWBT-419-IAT
Under the Telecommunications Act of 1996)
with Talk America, Inc.)

ORDER APPROVING AMENDED INTERCONNECTION AGREEMENT

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On March 27, 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 approved by the Commission on October 24, 2005, between AT&T Kansas and Talk America, Inc. n/k/a Talk America, LLC (Talk America). Supplementing its Application, AT&T Kansas included a copy of the Amendment to Interconnection Agreement (Amendment) executed by the parties on February 8, 2018, and the Affidavit of Richard T. Howell, AT&T Kansas' Area Manager-Regulatory Relations. AT&T Kansas' requested amendment to the parties' Interconnection Agreement implements the *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).¹ The requested Amendment also changes the name from Talk

¹ Application, page 1.

America, Inc. to Talk America, LLC in the current Agreement.² The Interconnection Agreement and proposed Amendment are collectively referred to herein as “amended Agreement”.

2. On April 9, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated April 4, 2018, recommending the Commission grant AT&T Kansas’ Application and approve the amended Agreement between AT&T Kansas and Talk America.

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.

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 portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (2) the implementation of such an agreement or portion is not consistent with the public interest, convenience, and necessity.

4. AT&T Kansas contends that implementation of the amended Agreement complies fully 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. Staff states that it has reviewed the proposed Amendment and finds

² Id.

no cause for concern regarding this filing. Staff recommends the Commission grant AT&T Kansas' Application and approve the amended Agreement.³

5. The Commission adopts Staff's analysis and recommendation of April 4, 2018, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that AT&T Kansas' Application is in the public interest and should be granted and the amended Agreement between AT&T Kansas and Talk America approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The March 27, 2018 Application of Southwestern Bell Telephone d/b/a AT&T Kansas is hereby granted and the amended Interconnection Agreement between AT&T Kansas and Talk America, LLC is hereby approved.


B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2017 Supp. 77-529(a)(1).

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: 04/12/2018



Lynn M. Retz
Secretary to the Commission

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³ Report and Recommendation, page 3.

STATE OF KANSAS



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REPORT AND RECOMMENDATION

UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

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

DATE: April 4, 2018

SUBJECT: 06-SWBT-419-IAT
In the Matter of the Application of Southwestern Bell Telephone, L.P. for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 with Talk America, Inc.

EXECUTIVE SUMMARY:

On March 27, 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 Talk America, Inc. AT&T also requested a name change to reflect Talk America, Inc. had changed its name to Talk America, LLC (Talk America). Staff recommends approval of the filing.

BACKGROUND:

On February 8, 2018, AT&T and Talk America entered into an Amendment for the modification to the Agreement to reflect Talk America's name change to an LLC and changes to the carrier compensation rate from the original Agreement per the Federal Communications Commission (FCC) November 18, 2011, carrier compensation rate requirements per the Connect America Fund

Order¹. AT&T filed for approval of this Amendment between AT&T and Talk America. The Amendment expires concurrent with the current Agreement.

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.

Talk America is headquartered in Little Rock, Arkansas, and is registered as a Limited Liability Corporation. Its parent company is Windstream Communications. Talk America ceased the Company's Kansas Certificates in September of 2009 as a corporation and filed as Talk America Services, LLC and received a Certificate of Convenience and Authority in Docket 15-TAST-132-COC to provide Interexchange Services (IXC) and in Docket 15-TAST-131-COC to provide Competitive Local Exchange (CLEC) service in the state of Kansas. Both Dockets were approved March 10, 2015. Talk America 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

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").

necessity. Partial 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 Talk America. Staff finds no evidence of discrimination against other parties and finds that approval is in the public interest.

CERTIFICATE OF SERVICE

06-SWBT-419-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 04/13/2018.

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