

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

In the Matter of the Application of Southwestern)
Bell Telephone Company d/b/a AT&T Kansas for)
an Order Confirming Relinquishment of Its Eligible) Docket No. 17-SWBT-158-MIS
Telecommunications Carrier Designation in Specified)
Areas, and Notice Pursuant to K.S.A. 2015 Supp.)
66-2006(d) of Intent to Cease Participation in the)
Kansas Lifeline Services Program.)

Received
on
MAR 08 2017

**AT&T KANSAS' COMMENTS ON
STAFF REPORT AND RECOMMENDATION**

by
State Corporation Commission
of Kansas

Southwestern Bell Telephone Company d/b/a AT&T Kansas respectfully submits its
Comments on the Staff Report and Recommendation ("R&R") issued on February 28, 2017.

INTRODUCTION

1. AT&T Kansas' Application provides notice of its intent to cease participation in the Kansas Lifeline Services Program ("KLSP") and also seeks an order confirming AT&T Kansas' relinquishment of its status as an Eligible Telecommunications Carrier ("ETC") in portions of its service area (the "relinquishment area") under 47 U.S.C. § 214(e)(4). Staff's R&R proposes prompt action on the first but unjustifiable delay on the second. Specifically, Staff's R&R proposes that the Commission (i) confirm that AT&T Kansas may cease participating in the KLSP effective May 31, 2017, and (ii) provide notice of AT&T Kansas' Application to all carriers designated as ETCs in AT&T Kansas' service area, and then give those ETCs three weeks to intervene and file objections to or comments on AT&T's Application and Staff three weeks to file yet another Report and Recommendation. R&R at 1, 4-5.

2. AT&T Kansas fully supports Staff's first recommendation and urges the Commission to confirm that AT&T Kansas can cease participating in the KLSP effective May 31, 2017, as allowed by K.S.A. 2015 Supp. 66-2006(d).

3. AT&T Kansas opposes Staff's second recommendation to further delay this proceeding for at least six weeks to solicit comments from competing ETCs. First, all ETCs have had notice of AT&T Kansas' Application for four months now and none have sought to intervene or otherwise shown any interest in the docket. Additionally, the R&R's assumption that all ETCs automatically qualify to intervene is erroneous because none of their legal rights will be affected by AT&T Kansas' Application.

4. Second, AT&T Kansas undeniably meets the standard for relinquishing its ETC status under 47 U.S.C. § 214(e)(4), as every wire center in the relinquishment area is served by seven to 14 other ETCs. Staff does not dispute that fact, which means as a matter of law that the Commission *must* allow relinquishment.

5. Third, while Staff's R&R relies on language in Section 214(e)(4) requiring state commissions to ensure that customers in a relinquishment area will continue to receive service, that is not a concern here. AT&T Kansas has made clear in its Application and discovery responses that it will *not* stop providing any services in the relinquishment area as result of relinquishing its ETC status, but rather will simply stop providing a Lifeline discount on its services. After relinquishment, all of AT&T Kansas' customers can either continue to obtain service from AT&T Kansas at standard rates or else switch to another provider, including the several competitive ETCs that offer a Lifeline discount. Indeed, the marketplace facts show that consumers strongly *prefer* to obtain voice service – with or without a Lifeline discount – from providers other than AT&T Kansas. Customers have been switching to those carriers for some time, and those carriers have had no problem serving 82% of AT&T Kansas' retail residential voice lines and 81% of its Lifeline customers.¹

¹ Application, ¶¶ 8-9. Year-end 2016 Lifeline subscribership numbers are now available, and show a further decline in AT&T Kansas' Lifeline counts. The Application showed 3,672 AT&T Kansas Lifeline subscribers as of mid-

6. Furthermore, to the extent Staff is concerned about some hypothetical future situation in which AT&T Kansas *might* seek to discontinue traditional, residential voice service in a given area, the facts are that (i) AT&T Kansas is not doing that now, so the hypothetical is outside the scope of this case, and (ii) if that situation ever did arise, federal law ensures the Commission will have notice and an opportunity to be heard or take action as necessary. Specifically, 47 U.S.C. § 214(a) would require AT&T Kansas to file an application with the FCC to discontinue basic residential voice service – a process in which state commissions are guaranteed notice and an opportunity to be heard and to challenge any FCC decision.

7. At bottom, Staff seems reluctant to recommend approving AT&T Kansas' ETC relinquishment because, even though AT&T Kansas will continue providing voice service in the relinquishment area, nothing in state law compels it to do so forever. That, however, is a deliberate policy choice made by the Kansas legislature when it removed Carrier of Last Resort ("COLR") obligations in 2013 in House Bill 2201. K.S.A. 2015 Supp. 66-2205(z)(1).² Staff may or may not agree with that law, but it cannot use its delegated role in overseeing ETC relinquishments under Section 214(e)(4) to hold AT&T Kansas' Application hostage or as back-door way to reimpose COLR obligations that the legislature has removed.

8. Accordingly, delaying this proceeding to issue notice to all competitive ETCs is neither necessary nor appropriate. The Commission should reject Staff's second recommendation and promptly approve AT&T Kansas' Application.

2016. By year-end that number had fallen to 2,626. See AT&T Kansas' Response to Staff Data Request 7(b), provided Feb. 16, 2017. Thus, from 2009 through year-end 2016, AT&T Kansas' Lifeline subscribership declined by some 81%.

² Under Kansas law, AT&T Kansas is an "electing carrier." As an electing carrier, it is no longer subject to regulation for the provision of telecommunications services. K.S.A. 66-2005(z). Post-relinquishment, in the relinquishment area where it is no longer an ETC, AT&T Kansas will have the same legal obligations, if any, as any other similarly situated telecommunications carrier with regard to the provision of service(s). K.S.A. 2015 Supp. 66-1,187 (h), (m).

ARGUMENT

I. **AT&T KANSAS MEETS THE STANDARD TO RELINQUISH ITS ETC DESIGNATION**

9. The core question in this proceeding is whether AT&T Kansas meets the federal test for relinquishing its ETC status under 47 U.S.C. § 214(e)(4). Section 214(e)(4) requires a state commission to allow relinquishment as long as at least one other ETC serves the relinquishment area. AT&T Kansas undeniably meets that test: every wire center in the relinquishment area is served by seven to 14 other ETCs. Application, ¶ 14. Staff does not dispute that AT&T Kansas meets the relinquishment standard.

10. Once that standard is met, relinquishment *must* be allowed, for Section 214(e)(4) provides that a state commission “*shall* permit” relinquishment in “*any* area served by more than one [ETC].” (Emphasis added). The standard is objective and non-discretionary. *Shapiro v. McManus*, 136 S. Ct. 450, 454 (2015) (when used in a statute, “the mandatory ‘shall’ normally creates an obligation impervious to judicial discretion.”). The standard also is binding, because it is only through delegation from Congress under Section 214(e) (4) that state commissions have authority to permit ETC relinquishments, and states must act within the limited scope of that delegated authority. *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 378-79 n.6 (1998) (when implementing federal telecommunications law, state commissions “must hew” to the lines drawn by Congress and the FCC).

11. The issue Staff raises in its R&R has no impact on the central question of whether AT&T Kansas is entitled to relinquish its ETC status. Rather, Staff’s recommendation goes to a separate and distinct matter under Section 214(e)(4), namely the state commission’s duty to

ensure that “all customers served by the relinquishing carrier will continue to be served[.]”³ As demonstrated below, that is not a concern in this proceeding.

II. SPECIAL NOTICE TO ETCs IS UNNECESSARY

12. Neither federal law nor state law requires an ETC to notify other ETCs when it files for relinquishment. Nevertheless, Staff’s R&R suggests inviting all competitive ETCs to intervene and “include any objections to, or comments about, AT&T’s filing at the time they file their motion.” R&R at 1. In other words, the R&R assumes all competitive ETCs are entitled to intervene and preemptively grants them the right to participate in the case.

13. Staff’s recommendation would be a marked departure from the Commission’s established process for intervention, in which a party must be granted intervention *before* making any substantive filings by showing that its “legal interests may be substantially affected” and that the “orderly and prompt conduct of the proceeding will not be impaired.” K.A.R. 82-1-225(a)(2) & (3). The R&R improperly appears to skip that essential step, without requiring any competitive ETC to show how its “legal interests” could be affected by AT&T Kansas’ relinquishment. To the contrary, as discussed below, relinquishment will not require competitive ETCs to do anything.

14. Delay to allow for competitive ETCs to intervene and comment also would interfere with prompt conduct of the case. AT&T Kansas filed its Application on October 27, 2016, and asked to relinquish its ETC status in those areas by May 31, 2017. The Application is a publicly available filing, with no proprietary or confidential information, posted on the Commission’s website. Accordingly, all ETCs in Kansas have had more than *four months*

³ The FCC recognized that this is an entirely separate matter from determining an ETC’s right to relinquish by putting it in a separate subsection of 47 C.F.R. § 54.205(b), which is the regulation implementing Section 214(e)(4).

notice of the Application.⁴ To the extent any ETC felt affected by the Application it could have sought to intervene at any time. Yet, as of this filing, none has done so.⁵ That is not surprising, since those competitive ETCs likely recognize AT&T Kansas' relinquishment as an opportunity to pick up new Lifeline customers. In fact, AT&T ILECs filed ETC relinquishments in six other states at the same time as AT&T Kansas, and no competitive ETCs sought to intervene or comment in *any* of those proceedings.⁶ In fact, four of those state commissions have already approved relinquishment.⁷

III. STAFF'S CONCERNS INVOLVE A HYPOTHETICAL SITUATION THAT IS IRRELEVANT TO THIS CASE AND MAY NEVER ARISE

15. Staff's proposal in the R&R hinges on two sentences in Section 214(e)(4):

Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission . . . **shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.** The State commission . . . shall establish a time, not to exceed one year after the State commission approves such relinquishment

⁴ Under Kansas law, the competitive ETCs all had constructive notice of the Application from the time it was publicly filed and posted. See *Baraban v. Hammonds*, 49 Kan. App. 2d 530, 541 (2013). Constructive notice applies in Commission proceedings and to public filings such as the filing of a tariff. *Grindsted Prod., Inc. v. Kansas Corp. Comm'n*, 262 Kan. 294, 295, 308-10 (1997). Because ETCs had at least constructive notice of AT&T Kansas' Application, there is no need for a special second notice to them, especially one requiring at least six weeks' delay in the case.

⁵ The R&R is silent as to why Staff waited so long after the Application was filed and posted on the Commission's website to suggest that ETCs should receive additional notice of the Application.

⁶ To date only one state commission, Missouri, has issued any pre-decision notice to ETCs of the relinquishment filing, and in that state (like all the others) no ETCs sought to intervene or comment. *Southwestern Bell Telephone Company, d/b/a AT&T Missouri's Notice of Relinquishment of its Eligible Telecommunications Carrier Designation Pursuant to 47 U.S.C. §214(e)(4) and Notice of Withdrawal From State Lifeline and Disabled Programs*, File No. IO-2017-0132, at 1 (Mo. P.S.C., Jan. 11, 2017).

⁷ So far the state commissions in Missouri, Oklahoma, Alabama, and Wisconsin have approved ETC relinquishment by AT&T ILECs. *Id.*; *Application of AT&T Oklahoma for Order Confirming Relinquishment of ETC Designation*, Cause No. PUD 201600455, Order No. 661226 (Corp. Comm'n of Oklahoma, Feb. 22, 2017); *Implementation of Universal Service Requirements of Section 254 of the Telecommunications Act of 1996*, Docket No. 25980 (Ala. P.S.C., Mar. 7, 2017); *AT&T Notice of Partial ETC Relinquishment*, Docket No. 05-TI-162 (Wis. P.S.C.) (approved by vote on Feb. 9, 2017, order forthcoming).

under this paragraph, within which such purchase or construction shall be completed. (Emphasis added).

16. Citing this language, Staff argues that before the Commission can allow AT&T Kansas to relinquish its ETC status, the Commission first must notify other ETCs of AT&T Kansas' Application, and then ensure those other ETCs have the capacity in place to serve AT&T Kansas' entire customer base in the relinquishment area. R&R at 3-4. Staff speculates that it might be "problematic" for other competitive ETCs to serve AT&T Kansas' customer base and that there is a "question of the ability of the remaining" ETCs to serve customers in the relinquishment area once AT&T Kansas is not an ETC. *Id.* at 4. Those concerns are irrelevant to this proceeding for several reasons.

A. The Language Staff Cites is Inapplicable Here Because AT&T Kansas Is Not Discontinuing Voice Service

17. The statutory concern with requiring remaining ETCs to "ensure that all customers served by the relinquishing carrier will continue to be served" would come into play only if the relinquishing ETC were going out of business or discontinuing voice service in the relinquishment area and there was some obvious, concrete concern with the abilities of the remaining carriers in the area. But that is not the case here. *No customer is going to be left without voice service as a result of AT&T Kansas' ETC relinquishment.* As Staff acknowledges, after relinquishment AT&T Kansas "will continue to offer and provide service in the relinquishment area." *Id.* at 3; Application, ¶ 11. Footnote 8 of the Application even quoted the statutory language at issue and explained why it does not apply here:

This language is inapplicable to this request as AT&T Kansas will not discontinue *any* service as a result of the Commission granting this Petition. Rather, AT&T Kansas will continue to provide the services it offers today until such time as it obtains any necessary approvals to discontinue any of them. Thus, even after AT&T

Kansas' ETC designation is relinquished, every AT&T Kansas customer will continue to have AT&T Kansas services available.⁸

Accordingly, there is no need to ensure that other carriers will remain able to serve AT&T Kansas' customers in the relinquishment area, because AT&T Kansas itself will continue providing service to those customers unless and until they voluntarily switch to another provider. Nor will any ETC need to take any action – much less build any facilities – to ensure that those customers have access to service.

18. The marketplace facts show that competing carriers in Kansas have had no problem serving the vast majority of the state's voice service customers, who increasingly prefer to obtain voice service from providers other than AT&T Kansas. From 2005 to 2015, AT&T Kansas' retail residential voice lines declined by about 82% as customers flocked to other providers, especially wireless and VoIP providers. Application, ¶ 8. Competing providers have been able to serve those former AT&T Kansas customers, and there is no reason to doubt that competitive carriers will continue aggressively seeking to serve AT&T Kansas' few remaining residential voice customers in the relinquishment area.

B. Customers Have Many Options for Lifeline-Discounted Service

19. Although Section 214(e)(4) speaks only in terms of ensuring that customers “will continue to be served,” rather than that they will continue to receive Lifeline discounts, Staff's

⁸ AT&T Kansas made the same point in its response to Staff Data Request No. 5(a) on February 16, 2017:

AT&T Kansas has committed in its Application that it will continue to provide all of its existing services in the relinquishment area unless and until AT&T Kansas obtains any necessary regulatory approvals to discontinue them. Consumers in all portions of the AT&T Kansas wireline footprint, including former Lifeline subscribers in the relinquishment area, will continue to be able to purchase all of AT&T services at AT&T's standard prices, including all applicable fees, surcharges and taxes. The only thing that is changing is that the Lifeline discount will not be available. . . .

In short, AT&T Kansas' ETC relinquishment does not trigger discontinuance of any existing AT&T Kansas services. In the future, if AT&T Kansas seeks to discontinue any service, it will obtain any necessary approvals.

concern may be with ensuring that AT&T Kansas' Lifeline customers in the relinquishment area will continue to be able to obtain Lifeline-discounted service. If that is Staff's concern, it is not an issue here.

20. As the Application shows (and Staff does not dispute), every exchange in the relinquishment area is served by seven to 14 ETCs other than AT&T Kansas. Application, ¶ 14. The marketplace facts indicate that these competitive ETCs are more than capable of taking on all of AT&T Kansas' remaining 2,626 Lifeline customers in the relinquishment area, if necessary. Competitive ETCs today already serve tens of thousands Lifeline customers in Kansas.⁹ After all, from 2009 to year-end 2016 AT&T Kansas' Lifeline customers declined by some 81%, even as the total number of Lifeline customers in Kansas more than doubled. *See supra* n.2. These figures show the ability (and success) of other ETCs in winning away and serving former AT&T Kansas Lifeline customers. There can be no doubt that the competing ETCs in the relinquishment are ready and able – and presumably eager – to take on any and all Lifeline customers who elect to leave AT&T Kansas after relinquishment.¹⁰

C. Staff's Concern About Hypothetical Future Events Overlooks Safeguards in Federal Law

21. Staff cannot and does not dispute these marketplace facts or that AT&T Kansas meets the relinquishment standard. Instead, Staff relies on a hypothetical, noting that although AT&T Kansas “will continue to offer and provide service in the relinquishment area,” it “would be under no obligation to do so” because it has no COLR obligation under Kansas law. R&R at

⁹ At year-end 2015 there were about 62,000 Lifeline customers in Kansas, and AT&T Kansas served only a small percentage. Application, ¶ 9.

¹⁰ While Staff notes that some of the remaining ETCs are Lifeline-only (R&R at 4), the relinquishment would not affect the ability of those ETCs to serve AT&T Kansas customers looking for a new Lifeline provider. And while Staff notes that some of those other ETCs are resellers (R&R at 4), they will continue to be able to rely on the networks of their underlying carriers, including as applicable the underlying network of AT&T Kansas, which will remain in place and operational (and AT&T Kansas will retain its resale duties under K.S.A. 2015 Supp. 66-2003(b) and interconnection agreements).

3-4. Based on this, Staff appears to believe that it must “ensure” in this case that the remaining ETCs in the relinquishment area would be able to serve all of AT&T Kansas’ customers *if, hypothetically*, AT&T Kansas were to stop providing voice service in that area at some unknown point in the future. That hypothetical, however, is irrelevant to Section 214(e)(4).

22. When Section 214(e)(4) directs state commissions to ensure that customers in the relinquishment area “will continue to be served,” the only logical reading is that it means ensuring they will continue to be served immediately after relinquishment – such as in a situation where the relinquishing ETC is going out of business. It cannot mean that state commissions must ensure in advance that customers in an area will continue to be served regardless of any conceivable events in the indefinite future.

23. In addition, Staff’s concerns seem driven by the fact that AT&T Kansas has no state-law COLR obligation and therefore conceivably *could*, at some unknown point in the future, stop providing TDM-based residential voice service (what the FCC calls legacy voice service) in the relinquishment area. *See* R&R at 3-4. The reason AT&T Kansas has no state-law COLR obligation, however, is that the Kansas legislature decided in 2013 (House Bill 2201) to remove that obligation, no doubt as a result of the robust competition in local telephone service marketplace (as shown by AT&T Kansas’ large and ongoing line loss). K.S.A. 2015 Supp. 66-2005(z)(1). The Staff (and Commission) cannot use the lack of a state-law COLR obligation as a basis to deny or delay relinquishment of ETC status under federal law. Indeed, denying relinquishment because of hypothetical concerns about the abilities of the remaining ETCs would be the same as imposing a *de facto* COLR requirement on AT&T Kansas, contrary to both Kansas and federal law.

24. Furthermore, Staff overlooks the key federal safeguards that protect consumers in the relinquishment area and ensure the Commission will receive notice and can provide input if AT&T Kansas ever were to seek to discontinue legacy voice service there. Specifically, AT&T Kansas could not stop providing basic residential voice service unless and until it filed a petition with the FCC under 47 U.S.C. § 214(a).¹¹ AT&T Kansas would then have to demonstrate to the FCC that “neither the present nor future public convenience and necessity will be adversely affected” by discontinuing service.

25. To determine whether a proposed discontinuance would adversely affect the public interest, the FCC employs a five-factor balancing test that analyzes: (1) the financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) increased charges for alternative services; and (5) the existence, availability, and adequacy of alternatives.¹² And in the *2016 Technology Transitions Order*, the FCC concluded that the existence, availability, and adequacy of alternatives (fifth factor) has heightened importance in the context of technology transitions.¹³ Finally, the FCC also is expressly authorized to impose conditions on the approval of any discontinuance request that “in its judgment the public convenience and necessity require.” 47 U.S.C. § 214(c).

¹¹ Pursuant to federal law, common carriers such as AT&T Kansas are required to furnish service throughout their territory upon reasonable request. See 47 U.S.C. § 201. Prior to discontinuing voice service, AT&T Kansas would need to file a request with the FCC to discontinue service. See 47 U.S.C. § 214(a) and 47 C.F.R. § 63.71.

¹² *Applications for Authority Pursuant to Section 214 of the Communications Act of 1934 to Cease Providing Dark Fiber Service*, Memorandum Opinion and Order, 8 FCC Rcd. 2589, 2600, ¶ 54 (1993), *remanded on other grounds, Southwestern Bell v. FCC*, 19 F.3d 1475 (D.C. Cir. 1994).

¹³ *Technology Transitions*, Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd. 8283 (rel. July 15, 2016) (“*2016 Technology Transitions Order*”). In that Order, the FCC adopted optional streamlined processes for Section 214(a) discontinuance applications involving a technology transition for legacy voice service. *Id.* at ¶ 64. However, regardless of the Section 214(a) process that AT&T Kansas pursues (if it ever should seek to discontinue basic residential voice service), the Governor of Kansas and the Kansas Commission would be provided notice and an opportunity to participate in the FCC proceeding. *Id.* at ¶ 187; 47 C.F.R. § 63.71(a).

26. State commissions play a vital role in any Section 214(a) discontinuance request. The FCC's rules ensure that the affected state is provided notice and has the opportunity to participate in any Section 214(a) proceeding involving a discontinuance of basic residential voice service in Kansas. Specifically, Section 63.71(a) of the FCC's rules requires AT&T Kansas to send a copy of any Section 214(a) application seeking discontinuance to the Governor of Kansas, and the State then has a "right . . . to be heard" on all issues and concerns in that proceeding. 47 U.S.C. § 214(b). Moreover, Congress authorizes a state commission to seek an injunction in "any court of competent jurisdiction" if it believes FCC approval of a discontinuance request is not in the public interest. 47 U.S.C. § 214(c). Thus, as a practical matter, the FCC would not be able to approve any AT&T Kansas request to discontinue basic residential voice service anywhere in Kansas without notifying the Commission and providing the Commission with an opportunity to submit comments on whether such discontinuance could occur without harm to the public interest. And if the Commission disagrees with the FCC's conclusions, it has a statutory right to challenge the FCC in court.

27. In short, even after it relinquishes its ETC designation, AT&T Kansas could not discontinue legacy voice service in the relinquishment area (or elsewhere) without the Commission having substantive input or without express regulatory approval from the FCC. AT&T Kansas' pending ETC relinquishment is not a short-cut to service discontinuance, nor does it cut the Commission out of the review process.

D. Limiting AT&T Kansas' ETC Obligations to Specific Census Blocks is Fully Consistent With Federal Law and the FCC's Approach to ETCs

28. Staff suggests that the case should be delayed to allow competing ETCs to comment on the fact that the ETCs' service areas were designated by exchange or wire center, "but AT&T's relinquishment is by census block." R&R at 1. As a threshold matter, that is

factually incorrect. AT&T Kansas is not relinquishing ETC status by census block. Rather, it is *retaining* ETC status by census block because census blocks are the geographic unit the FCC now uses to allocate high-cost funding to ETCs and to determine ETC obligations. AT&T Kansas is relinquishing its ETC status in all areas outside the retained census blocks.

Application, ¶ 7.

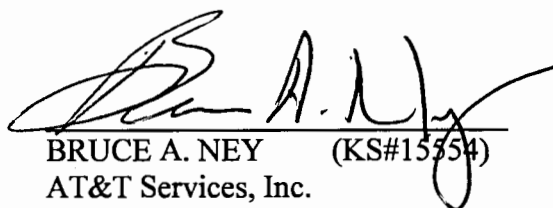
29. In any event, the nature of AT&T Kansas' relinquishment has nothing to do with other ETCs' designated service areas, which will remain the same and which cover the entire relinquishment area. If such an ETC seeks to relinquish ETC status in the future but retain ETC status in some census blocks the Commission can deal with that request when it arises. As for this case, Section 214(e)(4) expressly entitles an ETC to relinquish its designation in "*any area*" (emphasis added), not just an exchange, wire centers, or entire service area.¹⁴

CONCLUSION

30. For all of the reasons stated, the Commission should:
- (i) Confirm that AT&T Kansas can cease participating in the KLSP effective May 31, 2017, as allowed by K.S.A. 2015 Supp. 66-2006(d);
 - (ii) Reject Staff's proposal to delay ruling on AT&T Kansas' relinquishment of ETC status to solicit input from other competitive ETCs; and,
 - (iii) Issue an order confirming AT&T Kansas' relinquishment of its status as an ETC under 47 U.S.C. § 214(e)(4) in the relinquishment area designated in its Application.

¹⁴ Staff, in conversations with AT&T Kansas, has raised the possibility that AT&T Kansas could relinquish its ETC designation for Lifeline purposes only but retain it for other purposes. But that is not what the Application requests. AT&T Kansas is relinquishing its ETC designation in the specified area for *all* purposes, as allowed by controlling federal law, and undeniably has met the standard for relinquishment. Once that standard is met there is no requirement to retain an ETC designation for any purpose and no delegated authority for a state to require such retention. AT&T Kansas' relinquishment simply aligns its ETC designated area with the diminished area where it still receives funding to fulfill its ETC obligations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce A. Ney", written over a horizontal line.

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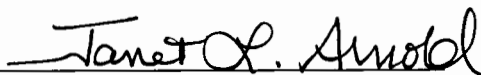
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VERIFICATION

I, Janet L. Arnold, of lawful age, and being first duly sworn, now state: I am Area Manager-External Affairs, and have read AT&T Kansas' Comments on Staff Recommendation and Report, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.


Janet L. Arnold

Subscribed and sworn to before me this 8th day of March, 2017.


Notary Public

My appointment expires:

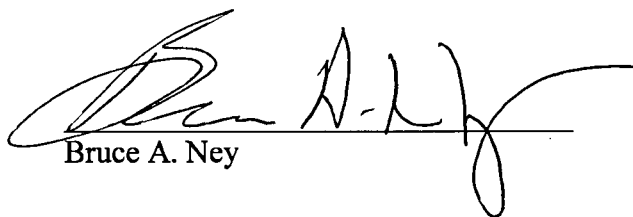


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing AT&T Kansas' Comments on Staff Report and Recommendation was electronically served this 8th day of March, 2017 to:

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March 8, 2017

Amy L. Green
Secretary to the Commission
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Received
on

MAR 08 2017

Re: KCC Docket No. 17-SWBT-158-MIS

by
State Corporation Commission
of Kansas

Dear Ms. Green:

Attached you will find the Comments of Southwestern Bell Telephone Company d/b/a AT&T Kansas, on the Staff Report and Recommendation (“R&R”) issued on February 28, 2017 for electronic filing in the above referenced docket.

Sincerely,

Bruce A. Ney
AVP - Senior Legal Counsel

Attachment

cc: Parties of Record