

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

JUN 24 2009

In the Matter of the Application of )  
Southwestern Bell Telephone Company for )  
Price Deregulation of Business )  
Telecommunications Services in the Dodge )  
City, Garden City, Humboldt, Larned and )  
Lindsborg, Kansas Exchanges Pursuant to )  
K.S.A. 2008 Supp 66-2005(q) (1). )

 Docket Room

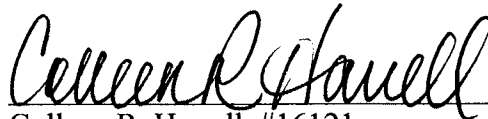
Docket No. 09-SWBT-937-PDR

**NOTICE OF FILING OF STAFF REPORT AND RECOMMENDATION**

COMES NOW the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and files its report and recommendation on Southwestern Bell Telephone Company's application for price deregulation in the designated exchanges..

WHEREFORE Staff requests the Commission consider its report and recommendation and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,




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Attorney for Commission Staff

**VERIFICATION**

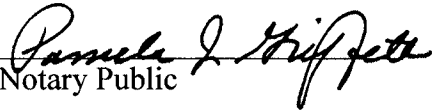
STATE OF KANSAS            )  
  )  
COUNTY OF SHAWNEE    )        SS:

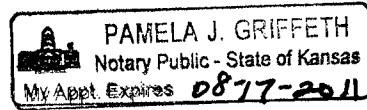
Colleen R. Harrell, of lawful age being first duly sworn upon oath states:

That she is the attorney for the Corporation Commission Staff in this matter; that she has read and is familiar with the foregoing Notice and that the statements made therein are true and correct to the best of her information, knowledge and belief.

  
\_\_\_\_\_  
Colleen R. Harrell

Subscribed and sworn to before me Wednesday, June 24, 2009.

  
Notary Public



My appointment expires: *August 17, 2011*

**MEMORANDUM  
UTILITIES DIVISION**

TO: Chairman Wright  
Commissioner Moffet  
Commissioner Harkins

FROM: Christine Aarnes

DATE: June 23, 2009

DATE SUBMITTED TO LEGAL: 06/23/09

DATE SUBMITTED TO COMMISSIONERS: 06/24/09

RE: Docket No. 09-SWBT-937-PDR

In the Matter of the Application of Southwestern Bell Telephone Company for Price Deregulation of Business Telecommunications Services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas Exchanges Pursuant to K.S.A. 2008 Supp 66-2005(q) (1).

**BACKGROUND:**

This application was filed on June 5, 2009, by Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T"), and requests price deregulation of business telecommunications services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg exchanges in the state of Kansas pursuant to K.S.A. 2008 Supp. 66-2005(q)(1)(C).

**ANALYSIS:**

K.S.A. 66-2005 was amended in 2006 to include provisions that establish procedures for price deregulation of price cap regulated services. K.S.A. 66-2005(q)(1) governs price regulation for the residential and single-line business service basket and the miscellaneous services basket for local exchange carriers subject to price cap regulation. Specifically, K.S.A. 66-2005(q)(1)(C) and (D) address the price deregulation of telecommunications services of price cap carriers in exchanges in which there are fewer than 75,000 local exchange access lines served by all providers.

When considering deregulation of business lines, for exchanges with fewer than 75,000 local exchange access lines, K.S.A. 66-2005(q)(1)(C) states:

In any exchange in which there are fewer than 75,000 local exchange access lines served by all providers, the commission shall price

deregulate all business telecommunication services upon a demonstration by the requesting local telecommunications carrier that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to business customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities shall be a provider of commercial radio services in that exchange.

### **Dodge City**

The Dodge City exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(C). In the application, AT&T indicates that Cox Kansas Telcom, LLC (“Cox”) is a facilities-based carrier providing business service to access lines in the Dodge City exchange. In addition to service provided by Cox, AT&T claims Alltel Kansas Limited Partnership (“ALLTEL”), United Wireless Communications, Inc. (“United Wireless”), WestLink Communications, LLC (“WestLink”), and RCC Minnesota, Inc. (“RCC”), which are not affiliated with the local exchange carrier, also provide business service as providers of commercial mobile radio services (“CMRS”) in the Dodge City exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T’s application. The request for information asked carriers if they provide a single-line business access line to more than one customer in the Dodge City exchange and how the service is provisioned.

Cox, as the nonaffiliated facilities-based carrier responded in the affirmative, that it provides a single-line business access line to more than one customer in the Dodge City, Kansas exchange using its own facilities.

United Wireless, when asked the same questions, responded affirmatively, indicating that it provides a business access line to more than one customer in the Dodge City exchange using United Wireless’ facilities. WestLink indicated that it utilizes its own network to serve 866 active subscribers in the Dodge City exchange, but that it does not differentiate between residential and business customers. RCC responded that it provides wireless service via its own facilities to more than one customer in the Dodge City exchange, as identified by the customer’s billing address; however, RCC does not have a specific classification of “single-line business”. ALLTEL indicated that it provides wireless service via its own facilities to more than one customer with a billing address in the Dodge City exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(C), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to business customers in the Dodge City exchange. As required by Kansas law, one nonaffiliated carrier, Cox, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, United Wireless, WestLink, RCC and ALLTEL would all qualify as the second provider of telecommunications service.

### **Garden City**

The Garden City exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(C). In the application, AT&T indicates that Cox is a facilities-based carrier providing business service to access lines in the Garden City exchange. In addition to service provided by Cox, AT&T claims ALLTEL, RCC, WestLink, and United Wireless, which are not affiliated with the local exchange carrier, also provide business service as providers of CMRS in the Garden City exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application. The request for information asked carriers if they provide a single-line business access line to more than one customer in the Garden City exchange and how the service is provisioned.

Cox, as the nonaffiliated facilities-based carrier responded in the affirmative, that it provides a single-line business access line to more than one customer in the Garden City, Kansas exchange using its own facilities.

United Wireless, when asked the same questions, responded affirmatively, indicating that it provides a business access line to more than one customer in the Garden City exchange using United Wireless' facilities. WestLink indicated that it utilizes its own network to serve 2186 active subscribers in the Garden City exchange, but that it does not differentiate between residential and business customers. RCC responded that it provides wireless service via its own facilities to more than one customer in the Garden City exchange, as identified by the customer's billing address; however, RCC does not have a specific classification of "single-line business". ALLTEL indicated that it provides wireless service via its own facilities to more than one customer with a billing address in the Garden City exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(C), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to business customers in the Garden City exchange. As required by Kansas law, one nonaffiliated

carrier, Cox, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, United Wireless, WestLink, RCC, and ALLTEL would all qualify as the second provider of telecommunications service.

### **Humboldt**

The Humboldt exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(C). In the application, AT&T indicates that Cox and TelCove Operations, LLC (“TelCove”) are facilities-based carriers providing business service to access lines in the Humboldt exchange. In addition to Cox and TelCove, AT&T claims three carriers, ALLTEL, Sprint Spectrum, L.P. (“Sprint”), and USCOC of Nebraska/Kansas, LLC (“US Cellular”), which are not affiliated with the local exchange carrier, also provide business service as providers of CMRS in the Humboldt exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T’s application. The request for information asked carriers if they provide a business access line to more than one customer in the Humboldt exchange and how the service is provisioned.

Cox, as the nonaffiliated facilities-based carrier responded in the affirmative, that it provides a business access line to more than one customer in the Humboldt exchange using its own facilities. TelCove, as a nonaffiliated facilities-based carrier responded in the negative, that it does not provide a business access line to any customers in the Humboldt, Kansas exchange.

Sprint, when asked the same questions responded affirmatively, indicating that a business access line is provisioned to more than one customer in the Humboldt exchange over Sprint’s own facilities. US Cellular responded that it provides lines of service via its own facilities in the Humboldt exchange, but it does not differentiate between residential and business customers. ALLTEL indicated that it provides wireless service via its own facilities to more than one customer with a billing address in the Humboldt exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(C), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to business customers in the Humboldt exchange. As required by Kansas law, one nonaffiliated carrier, Cox, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint, US Cellular, and ALLTEL would all qualify as the second provider of telecommunications service.

### **Larned**

The Larned exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(C). In the application, AT&T indicates that Cox is a facilities-based carrier providing business service to access lines in the Larned exchange. In addition to service provided by Cox, AT&T claims ALLTEL, RCC, WestLink, and Nex-Tech Wireless, LLC (“Nex-Tech Wireless”), which are not affiliated with the local exchange carrier, also provide business service as providers of commercial mobile radio services in the Larned exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T’s application. The request for information asked carriers if they provide a business access line to more than one customer in the Larned exchange and how the service is provisioned.

Cox, as the nonaffiliated facilities-based carrier responded in the affirmative, that it provides a business access line to more than one customer in the Larned, Kansas exchange using its own facilities.

ALLTEL indicated that it provides wireless service via its own facilities to more than one customer with a billing address in the Larned exchange. Nex-Tech Wireless indicated that it uses its own facilities to provide a single-line business access line to more than one customer in the Larned exchange. RCC responded that it provides wireless service via its own facilities to more than one customer in the Larned exchange, as identified by the customer’s billing address; however, RCC does not have a specific classification of “single-line business”. WestLink responded in the negative, that it does not provide a single-line business access line to more than one customer in the Larned exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(C), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to business customers in the Larned exchange. As required by Kansas law, one nonaffiliated carrier, Cox, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, ALLTEL, Nex-Tech Wireless, and RCC would all qualify as the second provider of telecommunications service.

### **Lindsborg**

The Lindsborg exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(C). In the application, AT&T indicates that Cox is a facilities-based carrier providing business service to access lines in the Lindsborg exchange. In addition to service provided by Cox, AT&T claims ALLTEL, US Cellular, and WestLink, which are not affiliated with the local exchange carrier, also provide business service

as providers of commercial mobile radio services in the Lindsborg exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application. The request for information asked carriers if they provide a business access line to more than one customer in the Lindsborg exchange and how the service is provisioned.

Cox, as the nonaffiliated facilities-based carrier responded in the affirmative, that it provides a single-line business access line to more than one customer in the Lindsborg, Kansas exchange using its own facilities.

ALLTEL indicated that it provides wireless service to more than one customer with a billing address in the Lindsborg exchange. US Cellular indicated that it does not distinguish between single-line residential and single-line business wireless service, but it does provide single-line wireless service to more than one customer in the Lindsborg exchange. WestLink responded in the negative, that is does not provide a single-line business access line to more than one customer in the Lindsborg exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(C), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to business customers in the Lindsborg exchange. As required by Kansas law, one nonaffiliated carrier, Cox, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, ALLTEL and US Cellular would both qualify as the second provider of telecommunications service for residential service.

**RECOMMENDATION:**

Staff believes AT&T has demonstrated that the requirements of K.S.A. 66-2005(q)(1)(C) have been satisfied in the Dodge City, Garden City, Humboldt, Larned and Lindsborg exchanges. Thus, Staff recommends the Commission grant AT&T's requests for price deregulation of business services in the aforementioned exchanges.

cc: Don Low Susan Duffy Pat Shurtz  
Tom Stratton Colleen Harrell



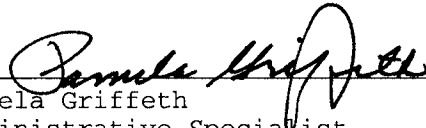
**CERTIFICATE OF SERVICE**

09-SWBT-937-PDR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Notice of Filing of Staff Report and Recommendation was placed in the United States mail, postage prepaid, or hand-delivered this 24th day of June, 2009, to the following:

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\_\_\_\_\_  
Pamela Griffeth  
Administrative Specialist