



Bruce A. Ney
AVP – Senior Legal Counsel

20180628154610
Filed Date: 06/28/2018
Kansas Corporation Commission
AT&T Kansas
816 Congress Avenue
Suite 1100
Austin, Texas 78701

T: 512.457.2311
F: 512.870.3420
bruce.ney@att.com

June 28, 2018

Ms. Lynn M. Retz
Secretary to the Commission
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

Re: KCC Docket No. 18-GIMT-394-GIT

Dear Ms. Retz:

Attached you will find the Motion of Southwestern Bell Telephone Company for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File for electronic filing in the above referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce A. Ney".

Bruce A. Ney
AVP - Senior Legal Counsel

Attachment

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

In the Matter of Certification of Compliance)	
With Section 254(e) of the Federal)	
Telecommunications Act of 1996 and)	Docket No. 18-GIMT-394-GIT
Certification of Appropriate Use of Kansas)	
Universal Service Fund Support.)	

**MOTION OF SOUTHWESTERN BELL TELEPHONE COMPANY
FOR WAIVER AND EXEMPTION FROM CERTAIN FILING REQUIREMENTS;
ENLARGEMENT OF TIME TO FILE**

COMES NOW Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T Kansas"), pursuant to K.A.R. 82-1-217, 82-1-218 and 82-1-219, and hereby submits its motion for an order of the State Corporation Commission of the State of Kansas (hereinafter the "Commission") granting AT&T Kansas a waiver and exemption from certain filing requirements, as well as an enlargement of time to file in the above captioned proceeding. In support of its motion, AT&T Kansas shows the Commission as follows:

BACKGROUND

1. On April 5, 2018, the Commission issued its *Order Opening Docket* (hereinafter the "*Opening Order*") in the above captioned proceeding "for the purpose of receiving information and certifications to ensure compliance with the Section 254(e) of the Federal Telecommunications Act of 1996 and ensure appropriate use of federal and Kansas Universal Service Fund [KUSF] support."¹

2. In ordering the opening of the proceeding, the Commission also approved and adopted a March 29, 2018 Report and Recommendation (hereinafter the "Staff

¹ Order Opening Docket, Docket No. 18-GIMT-395-GIT, dated April 5, 2018, at Ordering Paragraph A.

R&R”) prepared by Commission Staff (“Staff”) which was attached to and made a part of the *Opening Order*.² Staff’s R&R noted the Commission had previously determined that ETCs must provide “information to document that carriers appropriately spent their KUSF support and will continue to spend their KUSF appropriately.”³ Further, Staff explained that

[b]eginning in 2013, the FCC required ETCs to file Form 481 and file a copy of their Form 481 with respective state commissions by July 1 of each year. However, in a July 7, 2017 Report and Order, the FCC determined, among other things, that it will no longer require ETCs to file a copy of their Form 481 with the state commissions, contingent upon USAC’s completion of the rollout of an online portal for recipients of high-cost services. Staff contacted USAC and was informed that the online portal is active; therefore, it is Staff’s understanding that ETCs are no longer required to submit a copy of their Form 481 to the Commission.⁴

3. The Staff R&R listed seven (7) attachments, the Kansas ETC Certification Forms and instructions, that are to be used by ETCs in making their certification filings, including Attachment 6, “Additional ETC Requirements Adopted in Docket No. 06-GIMT-446-GIT.”⁵ Attachment 6 is to be completed by ILECs and Competitive ETCs that “received in 2017 and or will receive federal high-cost support and/or KUSF support in 2019.”⁶ Lifeline-only ETCs will also need to complete Attachment 6.⁷

² *Order Opening Docket* at ¶ 3.

³ *Id.* Staff R&R at p. 2.

⁴ *Id.* (Citations omitted).

⁵ *Id.* The version of Attachment 6 attached to Staff’s R&R is titled: “Annual ETC Certification Requirements Imposed by the Commission in Docket Number 06-GIMT-446-GIT”.

⁶ Staff R&R at p. 3.

⁷ *Id.*

4. Ordering Paragraph B of the *Opening Order* directed that the “required ETC certifications for the year 2019, along with the attached worksheet(s) and a copy of their Form 481 shall be filed with the Commission in this docket on or before July 2, 2018.”⁸

5. On April 17, 2018 the Commission issued its *Amended Order Opening Docket* (hereinafter the “*Amended Order*”) in the instant proceeding. The *Amended Order* clarifies that the Federal Communications Commission (“FCC”) no longer requires ETCs to submit a copy of their Form 481 to the Commission. Accordingly, the Commission amended Ordering Paragraph B of the *Opening Order* to remove the requirement for ETCs to file their Form 481 on or before July 2, 2018.⁹

6. AT&T Kansas receives no KUSF support.

**MOTION FOR WAIVER OR EXEMPTION FROM FILING
CERTAIN INFORMATION REQUIRED BY ATTACHMENT 6**

7. Kansas ETC Certification Form, Attachment 6, requests seven (7) specific parts/categories of information that all ETCs are required to provide:

- 6.1 Detailed Outage Information;
- 6.2 Number of Unfulfilled Requests for Service;
- 6.3 Number of Complaints per 1,000 connections;
- 6.4 Wireline and Wireless Quality of Service Certifications;
- 6.5 Ability to Function in an Emergency Annual Certification;
- 6.6 Advertising of services information; and,
- 6.7 Local Usage Plan and Rate Comparability Certification.

⁸ *Id.* at Ordering Paragraph B.

⁹ Amended Order Opening Docket, Docket No. 18-GIMT-394-GIT, dated April 17, 2018.

In prior years, and as recently as AT&T Kansas' July 2017 ETC certification filings, almost all the information sought by the Commission through Attachment 6 was contained in and submitted with AT&T Kansas' FCC Form 481.

8. In addition to eliminating the requirement for ETCs to file duplicate copies of Form 481 with the FCC, state commissions, and/or Tribal governments, in its *ETC Reporting Streamlining Order*¹⁰, the FCC considered and ultimately determined to eliminate ETC's obligations to report: (1) network outage information; (2) unfulfilled service requests; (3) the number of complaints received by an ETC per 1,000 subscribers for both voice and broadband services; (4) pricing for voice and broadband services; and, (5) compliance with applicable service quality certifications.¹¹

9. Attachment 6, specifically subparts 6.1, 6.2, 6.3, 6.4, and the local usage plan pricing portion of 6.7, mirror the ETC reporting obligations eliminated by the FCC for purposes of monitoring the use of federal high-cost universal service support for its intended purpose. AT&T Kansas relied upon its Form 481 to provide the information sought in each of these sections of Attachment 6. The *ETC Reporting Streamlining Order* discusses in detail why the FCC eliminated each of the reporting obligations.

- Network outage reporting – the FCC concluded that its Network Outage Reporting System (NORS) already collects detailed outage information in a timelier fashion than its Form 481. Further, because of the confidential nature of outage information use of NORS would reduce the burden on ETCs in

¹⁰ *Connect America Fund; ETC Annual Reports and Certifications*, Report and Order, 32 FCC Rcd 5944, FCC 17-87, rel. July 7, 2017 (“*ETC Reporting Streamlining Order*”).

¹¹ *Id.* at ¶13. “Based on the record before us, we find that we can eliminate all elements of the Commission’s annual high-cost reporting rules on which we sought comment without compromising our ability to monitor whether ETCs are using high-cost universal service support for its intended purpose.” *Id.* (Footnote omitted).

seeking confidential treatment of the information and allow more Form 481 information to be made publicly available.¹²

- Unfulfilled service request reporting – the FCC determined that the rule as written was not appropriately tailored to further its goal, while other obligations and mechanisms provide a more efficient way to measure compliance than reporting unfulfilled requests.¹³
- Complaint reporting – the FCC, based on its experience, concluded that the high-level complaint data collected on the Form 481, which does not contain data about individual complaints, was not as useful as detailed data collected by the FCC’s Consumer and Governmental Affairs Bureau (CGB) from consumers who file complaints.¹⁴
- Pricing information – the FCC eliminated an ETCs obligation to report the pricing and nature of its voice and broadband offerings through the Form 481 because it had not made sufficient use of the information to justify its collection. Instead, the FCC said it would rely on its urban rate survey to set comparability benchmarks and the ETCs certifications that their rates do not exceed those benchmarks.¹⁵
- Service quality certification – finding that “ETCs have an independent obligation to comply with all applicable service quality standards and consumer

¹² *Id.* at ¶ 4.

¹³ *Id.* at ¶ 6.

¹⁴ *ETC Reporting Streamlining Order* at ¶ 8.

¹⁵ *Id.* at ¶¶ 10, 11.

protection rules”¹⁶ the FCC determined that service quality certifications were unnecessary for its oversight of ETCs. “Both the [FCC] and USAC already have sufficient authority to investigate, audit, and pursue recovery of high-cost support for violation of program rules.”¹⁷

10. With the elimination of federal reporting requirements for purposes of FCC Form 481 for the categories identified and discussed above, AT&T Kansas now has no business purpose to gather and maintain the exact same information sought by the identified sections of Attachment 6. To the extent the FCC no longer relies on the above described reporting metrics for certifying the use of federal high-cost support, this Commission should not require a carrier to separately maintain and report them through a different mechanism for the same purpose – certifying the use of federal high cost support.

WHEREFORE, considering the FCC’s *ETC Reporting Streamlining Order*, AT&T Kansas respectfully requests an order of the Commission waiving and exempting AT&T Kansas from the reporting provisions of Kansas ETC Certification Form, Attachment 6, specifically parts 6.1, 6.2, 6.3, 6.4, and the local usage plan/pricing portion of 6.7, but not the annual comparability certification.

¹⁶ *Id.* at ¶ 13.

¹⁷ *Id.* (Footnote omitted).

MOTION FOR ENLARGMENT OF TIME TO FILE

11. On June 6, 2018, the FCC's Wireline Competition Bureau issued its Order granting, for reasons described therein, a limited waiver to all ETCs of the July 2, 2018 filing deadline for FCC Form 481 and extending the filing date to July 16, 2018.¹⁸

12. It is no coincidence that the FCC's Form 481 filing date and the Commission's ETC Certification filing date have historically been set on the same date, as it was this year in the instant proceeding. Even though AT&T Kansas is no longer required to file its FCC Form 481 with the Commission, important information AT&T Kansas will provide the Commission as part of the ETC certification process in the instant proceeding is drawn from FCC Form 481. AT&T Kansas cannot provide all the Commission required information until it has completed its FCC Form 481. Indeed, AT&T Kansas is technically unable to certify its FCC Form 481 through USAC's online system until the FCC obtains approval for its proposed information collection revisions from OMB.

13. AT&T Kansas believes it is necessary and important for the Commission to enlarge and extend the date by which all ETCs in Kansas can file their Kansas ETC Certification information forms from July 2, 2018 to July 16, 2018 to maintain consistency between the Commission's requirements and those of the FCC.

14. AT&T Kansas' request for enlargement of time is timely made and it is the first request for enlargement of time in this proceeding. AT&T Kansas does not believe

¹⁸ *Connect America Fund*, Order, WC Docket No. 10-90, rel. June 6, 2018, DA 18-585 (explaining that the delay was attributable to the FCC not yet having received approval for the FCC Form 481 modified information collection from the Office of Management and Budget (OMB)).

any other party to this proceeding will be prejudiced by the request for enlargement of time.

WHEREFORE, pursuant to K.A.R. 82-1-217, AT&T Kansas respectfully requests an order of the Commission enlarging and extending the date by which all ETCs in Kansas are to file their Kansas ETC Certification information forms from July 2, 2018 to July 16, 2018.

Respectfully submitted,

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

BRUCE A. NEY (KS#15554)

AT&T Services, Inc.

816 Congress Ave., Suite 1100

Austin, Texas 78701

(512) 457-2311 (office-direct)

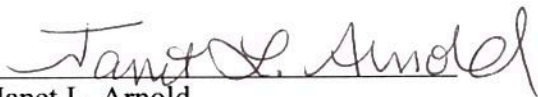
(512) 870-3420 (facsimile)

bruce.ney@att.com


Attorney for Southwestern Bell Telephone
Company d/b/a AT&T Kansas

VERIFICATION

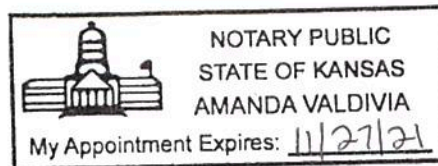
I, Janet L. Arnold, of lawful age, and being first duly sworn, now state: I am Area Manager-External Affairs, and have read the Motion of Southwestern Bell Telephone Company for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.


Janet L. Arnold

Subscribed and sworn to before me this 28th day of June 2018.


Notary Public

My appointment expires: 11/27/21



CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Motion of Southwestern Bell Telephone Company for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File was electronically served this 28th day of June 2018 to:

Ahsan Latif, Litigation Counsel
Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, KS 66604
a.latif@kcc.ks.gov

Collen R. Jamison
James M. Caplinger, Chartered
823 S.W. 10th Ave
Topeka, KS. 66612
colleen@caplinger.net

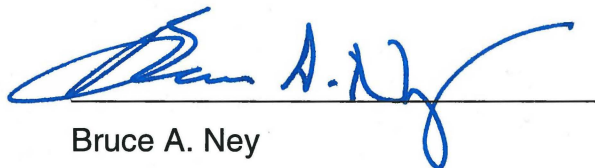
Mark Caplinger
Mark E. Caplinger, P.A.
7936 SW Indian Woods Place
Topeka, KS 66615
mark@caplingerlaw.net

Thomas E. Gleason, Jr.
Gleason & Doty, Chartered
PO Box 6
Lawrence, KS 66044-0006
gleason@sunflower.com

David W. Nickel
Todd E. Love
Thomas J. Connors
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Rd
Topeka, KS 66604
t.love@curb.kansas.gov
d.nickel@curb.kansas.gov
tj.connors@curb.kansas.gov

Kevin K. Zarling Senior Counsel
CenturyLink
400 W. 15th Street,
Suite 315,
Austin TX 78701
Kevin.K.Zarling@CenturyLink.com

Susan B. Cunningham
Dentons US LLP
7028 SW 69th Street
Auburn, KS 66402
susan.cunningham@dentons.com



Bruce A. Ney