

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Susan K. Duffy

In the Matter of the Application for Approval)
of an Interconnection, Collocation and Resale)
Agreement Between United Telephone) Docket No. 17-UTDT-077-IAT
Company of Eastern Kansas d/b/a)
CenturyLink; United Telephone Company of)
Kansas d/b/a CenturyLink; United Telephone)
Company of Southcentral Kansas d/b/a)
CenturyLink; Embarq Missouri, Inc. d/b/a)
CenturyLink and Comcast Phone of Kansas,)
LLC d/b/a Comcast Digital Phone Pursuant to)
the Telecommunications Act of 1996)

ORDER APPROVING INTERCONNECTION AGREEMENT MODIFICATIONS

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 February 9, 2021, United Telephone Company of Eastern Kansas, United Telephone Company of Kansas, United Telephone Company of Southcentral Kansas, and Embarq Missouri, Inc., all d/b/a CenturyLink (CenturyLink), filed an application for approval of two modifications of the Interconnection Agreement (Agreement) between CenturyLink and Comcast Digital Phone (Comcast). The agreement states it replaces all other Section 251 existing agreements in Kansas between the companies.

2. 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.”

3. Section 252(e)(2) of the Federal Telecommunications Act of 1996¹ states that State commissions may reject a negotiated agreement only 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.

4. Commission Staff submitted a Report and Recommendation in regards to the Interconnection Agreement on March 16, 2021, attached hereto and made a part hereof by reference. Staff has no concerns regarding the Application, affirming that this Agreement does not discriminate against a carrier not a party to the Agreement and stating that approval of this Agreement is in the public interest. Staff recommended approval of the Interconnection Agreement.

5. The Commission finds Staff’s findings and recommendation to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Interconnection Agreement between United Telephone Company of Eastern Kansas, United Telephone Company of Kansas, United Telephone Company of Southcentral

¹47 U.S.C. §252(e)(2).

Kansas, and Embarras Missouri, Inc., all d/b/a CenturyLink and Comcast Digital Phone filed February 19, 2021, is approved.

B. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).²

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 03/23/2021



Lynn M. Retz
Executive Director

AAL

² K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chairperson Andrew J. French
Commissioner Dwight D. Keen
Commissioner Susan K. Duffy

FROM: Kelly Mabon, Senior Telecommunications Analyst
Sandy K. Reams, Assistant Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: March 16, 2021

SUBJECT: Docket No. 17-UTDT-077-IAT
In the Matter of the Application for Approval of an Interconnection, Collocation and Resale Agreement Between United Telephone Company of Eastern Kansas d/b/a CenturyLink; United Telephone Company of Kansas d/b/a CenturyLink; United Telephone Company of Southcentral Kansas d/b/a CenturyLink; Embarras Missouri, Inc. d/b/a CenturyLink and Comcast Phone of Kansas, LLC d/b/a Comcast Digital Phone Pursuant to the Telecommunications Act of 1996.

BACKGROUND:

On February 19, 2021, United Telephone Company of Eastern Kansas d/b/a CenturyLink; United Telephone Company of Kansas d/b/a CenturyLink; United Telephone Company of Southcentral Kansas d/b/a CenturyLink; Embarras Missouri, Inc. d/b/a CenturyLink (CenturyLink) filed an Application for two modifications of the Interconnection Agreement with Comcast Digital Phone (Comcast). Staff recommends approval of this Application.

The Commission action date is **Thursday, May 20, 2021.**

BACKGROUND:

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.

ANALYSIS:

The first Amendment removes certain analog Unbundled Network Elements (UNE) (Analog Loops) and certain wholesale resale offerings from the original Agreement per FCC 19-72 FCC UNE and resale forbearance Order dated August 2, 2019.^[1] Any Analog UNE qualifying service considered existing embedded base, ordered before February 2, 2020, is grandfathered until August 2, 2022.

The second Amendment included additional modifications made to the Agreement to remove the requirement for DS1/DS3 Unbundled Dedicated Transport (UDT) (DS1/DS3 UDT) between Tier 1 wire centers and/or wire centers subject to UDT forbearance under FCC 19-66^[2] and Public Notice DA 19-733,^[3] dated August 1, 2019. Any Analog UNE qualifying service considered existing embedded base, ordered before February 1, 2020, is grandfathered until August 2, 2022. These Amendments expire **concurrent** with the existing Agreement.

The current FCC Orders remove the requirement for the Incumbent Local Exchange Company (ILEC) to provide Competitive Local Exchange Company (CLEC) access to certain analog facilities owned by the ILEC, provided over copper facilities at wholesale rates. The original rules, imposed under the Telecommunications Act of 1996, were written to require ILEC companies to lease the existing facilities to CLEC companies at wholesale prices. This would have allowed the CLEC to compete in the telecommunications market against the ILEC without the upfront expense of constructing its own telecommunications network. The initial rules were written based on the technology at that time, which was analog copper facilities.

^[1] FCC 19-72, *Petition of US Telecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*; <https://docs.fcc.gov/public/attachments/FCC-19-72A1.pdf>.

^[2] FCC 19-66, *Report And Order On Remand (WC Docket Nos. 05-25, 16-143; GN Docket No. 13-5) and Memorandum Opinion And Order (WC DOCKET NO. 18-141)*, Released July 12, 2019; <https://docs.fcc.gov/public/attachments/FCC-19-66A1.pdf>.

^[3] FCC DA 19-733, *Wireline Competition Bureau Releases List Of Common Language Location Identification Codes For Price Cap Incumbent Local Exchange Carrier Wire Centers Subject To UNE Transport Forbearance*, Released August 1, 2019; <https://docs.fcc.gov/public/attachments/DA-19-733A1.pdf>.

CenturyLink contends that implementation of this Agreement complies fully with Section 252(e) of the Federal Act and believes approval is consistent with the public interest, convenience, and necessity and does not discriminate against any telecommunications carrier.

Having reviewed the Agreement between CenturyLink and Comcast, Staff finds no evidence to conclude this Agreement discriminates against any telecommunications carrier, nor is it inconsistent with public interest, convenience, or necessity. Staff believes the public will generally benefit from KCC approval of this Application.

The companies are registered with the Kansas Secretary of State and are active and in good standing with that office.

RECOMMENDATION:

Staff recommends the Commission grant approval of this Application for a Modification to the Interconnection Agreement between CenturyLink and Comcast.

CERTIFICATE OF SERVICE

17-UTDT-077-IAT

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of

electronic service on 03/23/2021.

KARLY WERNER, DIRECTOR, GOVERNMENT &
REGULATORY AFFAIRS
COMCAST PHONE OF KANSAS LLC
D/B/A COMCAST DIGITAL PHONE
10 RIVER PARK PLAZA
ST. PAUL, MN 55107
karly_werner@cable.comcast.com

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

BROOK VILLA, ASSOCIATE GENERAL COUNSEL
LEVEL 3 TELECOM OF KANSAS CITY, LLC
301 Main Street
Suite 1200
Baton Rouge, LA 70801
Fax: 303-542-4403
brook.villa@centurylink.com

/S/ DeeAnn Shupe

DeeAnn Shupe