

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

Before Commissioners: Shari Feist Albrecht, Chairman
 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-366-IAT
Under the Telecommunications Act of 1996)
With XO Communications Services, Inc.)

ORDER APPROVING AMENDED INTERCONNECTION AGREEMENT

NOW, 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 record and being duly advised in the premises, the Commission makes the following findings:

1. On July 13, 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 between Southwestern Bell Telephone Company and XO Communications Services, Inc. (now XO Communications Services, LLC, and hereinafter referred to as "XO Communications Services"). AT&T Kansas included as Attachments I and II to the Application, a copy of the subject Amendment to the Interconnection Agreement and the Affidavit of Richard T. Howell, Area Manager-Regulatory Relations for AT&T Kansas.

2. AT&T Kansas states that the Amendment to the Interconnection Agreement entered into between AT&T Kansas and XO Communications Services, LLC, on June 4, 2018, amends the Interconnection Agreement, which was approved by the Commission on October 24, 2005, in the above-captioned docket. The subject Interconnection Agreement and Amendment to Interconnection Agreement are collectively referred to herein as "amended Agreement". AT&T

Kansas further states that the amended Agreement reflects changes resulting from the Federal Communications Commission's Lifeline and Link Up Reform and USTelecom Forbearance Orders, and replaces the OS/DA language and rates; changes name; and revises notice provisions in the underlying Agreement. AT&T Kansas indicates the amended Agreement fully complies 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.¹

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.

4. 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 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 authority.

¹ Application at 2.

5. On July 25, 2018, the Commission Staff (Staff) submitted its Report and Recommendation, recommending the Commission approve the amended Agreement between AT&T Kansas and XO Communications Services. Citing Section 252(e) of the Federal Act, Staff acknowledges the amended Agreement fully complies with Section 252(e) of the Federal Act and is consistent with the public interest and convenience and necessity. Both AT&T Kansas and XO Communications Services are properly registered with the Kansas Secretary of State's office and their status with that office is active and in good standing. Staff accordingly recommends the Commission grant AT&T Kansas' Application and approve the amended Agreement.

6. The Commission adopts Staff's recommendation of July 25, 2018, as stated in its Report and Recommendation, which is attached and made a part of this Order, and finds that AT&T Kansas' Application should be granted, and the amended Agreement between AT&T Kansas and XO Communications Services be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Southwestern Bell Telephone Company d/b/a AT&T Kansas' Application filed July 13, 2018 is hereby granted and the amended Interconnection Agreement between AT&T Kansas and XO Communications Services, LLC, is hereby 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

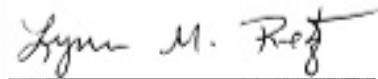
C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/31/2018

A handwritten signature in cursive script, reading "Lynn M. Retz", written over a horizontal line.

Lynn M. Retz
Secretary to the Commission

wah

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SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chair Shari Feist Albrecht
Commissioner Jay Emler
Commissioner Dwight D. Keen

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

DATE: July 25, 2018

SUBJECT: 06-SWBT-366-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 XO Communications Services, Inc.

EXECUTIVE SUMMARY:

On July 13, 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 XO Communications Services, Inc. The Agreement is also to change the Company name of XO Communications Services, Inc. to XO Communications Services, LLC (XO). Staff recommends approval of the filing.

BACKGROUND:

On June 4, 2018, AT&T and XO entered into an Amendment for the removal of Lifeline and Link Up resale offerings from the original Agreement per the Federal Communications Commission (FCC) June 22, 2015, Lifeline and Link Up Reform and Modernization Order¹. Modifications were also made to the Agreement due to the US Telecom Forbearance Order² from the enforcement

¹ *Lifeline and Link Up Reform and Modernization* WC Docket 11-42 et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order FCC 15-71, rel. June 22, 2015, ¶244.

² *Petition of US Telecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next Generation Networks*, WC Docket No. 14-192, Released December 28, 2015.

of obsolete ILEC legacy regulations; to modify intercarrier compensation rate requirements per the Connect America Fund Order³; to modify certain provisions related to the Customer Information Services section; and to change XO's name from an Incorporation to a Limited Liability Company (LLC). AT&T filed for approval of this Amended Agreement between AT&T and XO. The Amendment expires concurrent with the existing 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.

XO's company headquarters is in Herndon, Virginia; is part of Verizon Communications; and is registered as a Limited Liability Company. XO received a Certificate of Convenience and Authority on October 15, 1999, in Docket No. 00-NLKT-169-COC to provide Competitive Local Exchange Carrier (CLEC) service under the name Nextlink Kansas, Inc. The Commission approved the subsequent name change to XO Communications Services, LLC in Docket No. 12-XOKT-311-CCN on January 24, 2012. XO 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 to the Agreement 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.

³ *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").

Staff does not have any concerns regarding this Application. Staff reviewed the Amendment to the Agreement 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 necessity. Partial changes made to the Agreement 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 XO. Staff finds no evidence of discrimination against other parties and finds that approval is in the public interest.

CERTIFICATE OF SERVICE

06-SWBT-366-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 08/01/2018.

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/S/ DeeAnn Shupe

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