

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair  
Jay Scott Emler  
Dwight D. Keen

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

**ORDER DENYING SOUTHWESTERN BELL TELEPHONE COMPANY'S MOTION  
FOR WAIVER AND EXEMPTION FROM CERTAIN FILING REQUIREMENTS**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the pleadings and record, the Commission makes the following findings:

1. On April 5, 2018, the Commission issued its Order Opening Docket to receive information and certification to ensure compliance with Section 254(e) of the Federal Telecommunications Act of 1996 and appropriate use of Kansas Universal Service (KUSF) Support.<sup>1</sup> The Order Opening Docket incorporated a March 29, 2018 Commission Staff (Staff) Report and Recommendation,<sup>2</sup> which detailed the forms that Eligible Telecommunications Carriers (ETCs) need to include in the certification filings.<sup>3</sup> Among the forms required is Attachment 6,<sup>4</sup> which includes seven subparts dealing with outage information, numbers of unfulfilled requests for service, complaints, and other certifications.<sup>5</sup>

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<sup>1</sup> Order Opening Docket, Apr. 5, 2018, Ordering Clause A.

<sup>2</sup> *Id.*, ¶ 3.

<sup>3</sup> Staff Report and Recommendation, Mar. 29, 2018, p. 2.

<sup>4</sup> *Id.*, p. 6.

<sup>5</sup> Motion of Southwestern Bell Telephone Company for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File, June 28, 2018, ¶ 7.

2. On June 28, 2018, Southwestern Bell Telephone Company (SWBT) filed a Motion for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File (Motion), claiming it no longer needs to file specific information contained in Attachment 6 with the Commission because: (1) almost all of the information sought in Attachment 6 is included in SWBT's FCC Form 481;<sup>6</sup> (2) the Federal Communications Commission (FCC) issued an Order eliminating the requirement for ETCs to file duplicate copies of FCC Form 481 with the FCC and state commissions and report five of the reporting requirements contained in Attachment 6;<sup>7</sup> and (3) with the elimination of several of the federal reporting requirements on FCC Form 481, SWBT no longer has any business reason to maintain the information.<sup>8</sup> According to SWBT, Attachment 6 mirrors the ETC reporting obligations eliminated by the FCC.<sup>9</sup> Therefore, SWBT seeks a waiver, exempting it from subparts 6.1, 6.2, 6.3, 6.4, and the local usage plan/pricing portion of 6.7 of Kansas ETC Certification Form, Attachment 6.<sup>10</sup>

3. Typically, the deadline for the Commission's ETC certification filing and the FCC Form 481 filing have been on the same day.<sup>11</sup> Since the FCC Form 481 filing deadline has been extended to July 16, 2018, SWBT requests an extension of the Commission's ETC certification filing deadline for all ETCs in Kansas from July 2, 2018 to July 16, 2018.<sup>12</sup>

4. On July 6, 2018, Staff filed its Response to SWBT's Motion, claiming SWBT's obligation to provide data to the Commission as part of Attachment 6 is independent of the FCC's revisions to FCC Form 481.<sup>13</sup> Staff believes SWBT's justification for a waiver, namely, it has no

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*, ¶ 8.

<sup>8</sup> *Id.*, ¶ 10.

<sup>9</sup> *Id.*, ¶ 9.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*, ¶ 12.

<sup>12</sup> *Id.*, ¶ 13.

<sup>13</sup> Staff's Response to Motion of Southwestern Bell Telephone Company for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File, July 6, 2018, ¶ 14.

business purpose to gather and maintain the information sought in that the Attachment 6, does not warrant a waiver or exemption.<sup>14</sup> Staff explains the FCC has not eliminated SWBT's requirement to report FCC Form 481; instead the FCC now accepts a more limited version of FCC Form 481 because the FCC collects that data through other sources.<sup>15</sup>

5. Staff does not object to SWBT's request for an enlargement of time.<sup>16</sup>

6. On July 13, 2018, SWBT filed its Reply to Staff's Response to Motion of Southwestern Bell Telephone Company for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File, claiming the FCC has determined the information sought is either duplicative or no longer necessary for high cost certification and Staff has not provided any explanation of how it uses the disputed data.<sup>17</sup> SWBT argues "it has become clear that the Commission-required data identified in AT&T Kansas' Motion imposes an unnecessary regulatory burden and cost" and the "Commission should follow the FCC's lead and relieve AT&T Kansas of continuing to create Kansas-specific data in a form that the FCC no longer requires..."<sup>18</sup> In addition, SWBT expresses its concern that the revised FCC Form 481 has not been formally approved by the Office of Management and Budget, which may result in the need for an additional extension.<sup>19</sup>

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<sup>14</sup> *Id.*, ¶ 18.

<sup>15</sup> *Id.*, ¶ 15.

<sup>16</sup> *Id.*, ¶ 25.

<sup>17</sup> Reply of Southwestern Bell Telephone Company to Staff's Response to Motion of Southwestern Bell Telephone Company for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File, July 13, 2018, ¶ 2.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*, ¶ 3.

7. On July 24, 2018, Staff filed its Sur-Reply to SWBT's Motion, explaining the Commission, in a 2006 Order, not Staff, directed ETCs to provide the information.<sup>20</sup> Additionally, Staff notes FCC Form 481 is no longer required to be filed with the Commission.<sup>21</sup>

8. Staff opposes extending SWBT's deadline beyond July 16, 2018, noting the information required to fill out FCC Form 481 is already in SWBT's possession and an additional extension would result in undue delay.<sup>22</sup> Lastly, Staff notes SWBT is the only Kansas ETC, which has not filed its ETC Certification information forms.<sup>23</sup>

9. The Commission denies SWBT's request for a waiver and exemption. As noted by Staff, SWBT is no longer required to submit FCC Form 481 to the Commission and the Commission lacks access to the information previously included in FCC Form 481 that the FCC receives from other sources. Therefore, the Commission is concerned that if it were to grant the requested waiver, SWBT would not be obligated to produce either the FCC Form 481 information or the Attachment 6 information to the Commission. Without that information, the Commission would be unable to perform its annual ETC Certification to ensure that it is fulfilling its ETC obligations and SWBT would be subject to loss of its federal universal service monies. To preserve the Commission's access to necessary filing information to perform its annual ETC Certification, the Commission reiterates its need to receive information contained in Attachment 6. Therefore, the Commission denies SWBT's request for a waiver and exemption for the requirement to file Attachment 6.

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<sup>20</sup> Staff's Sur-Reply to Southwestern Bell Telephone Company's Motion for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File, July 24, 2018, ¶ 2.

<sup>21</sup> *Id.*, ¶ 3.

<sup>22</sup> *Id.*, ¶ 4.

<sup>23</sup> *Id.*, ¶ 5.

10. K.S.A. 82-1-217(b) gives the Commission discretion to grant an extension of time to file for good cause shown. Since SWBT's Motion for Enlargement of Time to File to July 16, 2018 is unopposed, the Commission finds good cause to grant its motion for enlargement for all ETCs to July 16, 2018.<sup>24</sup> However, the Commission declines to extend the filing deadline indefinitely. The Commission is concerned that SWBT did not provide a date that it expects it will be prepared to file the information necessary for the Commission to complete its annual ETC Certification. Therefore, the Commission requires SWBT to submit the information sought in Attachment 6 within 10 days of the issuance of this Order.

**THEREFORE, THE COMMISSION ORDERS:**

A. Southwestern Bell Telephone Company's Motion for Waiver and Exemption from Certain Filing Requirements is denied.

B. Southwestern Bell's Motion for Enlargement of Time for all ETCs to July 16, 2018 is granted. Southwestern Bell's ETC Certification filing is due within 10 days of the issuance of this Order.

C. 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).<sup>25</sup>

D. The Commission retains jurisdiction over the subject matter and parties to enter further orders as it deems necessary.

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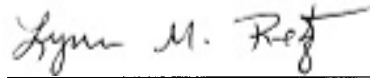
<sup>24</sup> All of the ETCs in Kansas with the exception of SWBT have filed their ETC Certification. Any ETC Certifications filed by July 16, 2018, will be deemed timely filed.

<sup>25</sup> K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 08/09/2018

A handwritten signature in cursive script, reading "Lynn M. Retz", written in dark ink.

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Lynn M. Retz  
Secretary to the Commission

BGF

## CERTIFICATE OF SERVICE

18-GIMT-394-GIT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 08/09/2018.

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