

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

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

In the Matter of the Application of)
Southwestern Bell Telephone Company) Docket No. 07-SWBT-355-VSA
Filing for Kansas Video Service)
Authorization.)

ORDER APPROVING VIDEO SERVICE AUTHORIZATION

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On June 7, 2018, Southwestern Bell Telephone Company d/b/a AT&T Kansas (SWBT) filed an Amended Application (Application) for state-issued Video Service Authorization (VSA), as authorized by K.S.A. 2017 Supp. 12-2023 and K.A.R. 82-15-1.

2. K.S.A. 2017 Supp. 12-2023 authorizes the Commission to review applications for those entities desiring to provide cable or video services within the State of Kansas. Upon an applicant meeting all application requirements, the Commission will issue the requested VSA.

3. On July 2, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated June 28, 2018, recommending the Commission grant SWBT's Application requesting to expand its previously granted authority to include Wolf Creek Meadows Development, being more particularly described as:

The west one-half (W $\frac{1}{2}$) of the southwest quarter (SW $\frac{1}{4}$) and west one-half (W $\frac{1}{2}$) of the southeast quarter (SE $\frac{1}{4}$) of Section 27, Township 14 South, Range 24 East, sixth Principal Meridian (6th PM) in the City of Overland Park, Johnson County, Kansas.

An electronic version of the description is included with the Application in a format compatible with the Commission's mapping system. Staff finds SWBT's Application to be complete and in conformity with K.S.A. 2017 Supp. 12-2023 and K.A.R. 82-15-1. Staff observes that by initialing, SWBT has previously agreed to comply with all applicable municipal regulations regarding the use and occupation of public rights-of-way in the delivery of video services, including the police powers of the municipalities in which the service is delivered.¹ SWBT has previously been granted VSA in nine footprint areas in Kansas.

4. Staff's Report and Recommendation confirms that SWBT is registered with the Kansas Secretary of State's office as a foreign for profit corporation and that its current status with that office is *active and in good standing*.

5. Staff notes that AT&T Kansas is not registered with the Federal Communications Commission (FCC) as a Cable System Operator. According to Staff, the FCC has stated that "SWBT has not filed with the Federal Communications Commission a 'Cable Community Registration form 322' or been assigned any 'Community Unit Identification Number (CUID)' as these items are described in federal regulations 47 C.F.R. 76.1801. This regulation applies only to a 'cable operator' operating a 'cable system' as defined at 47 C.F.R. 76.5 and does not apply to AT&T's IPTV, Homezone, or satellite video programming offerings." Staff further notes its agreement with the FCC's determination.

6. According to Staff, SWBT has previously provided drawings and a general description of the technologies to be used in providing the company's video service. The technologies include fiber to the home, a combination of satellite and DSL service, and an

¹ Item #5, Initial Application.

integrated satellite service. Utilizing any combination of these services, SWBT states that it will pass 100% of the households within their proposed footprint within the required five-year deployment window. By initialing, SWBT has previously agreed that it will not deny access to service to any group of potential residential subscribers because of the income of residents in the local area in which such group resides.²

7. Staff states that it has reviewed SWBT's Amended Application and has found it to be complete and in conformity with K.S.A. 12-2023 and K.A.R. 82-15-1. Staff recommends Commission approval of SWBT's Application with its additional service area footprint to be identified and known as Wolf Creek Meadows, Johnson County, WCMJ-10-SWBT-01.

8. The Commission concurs with Staff's analysis and recommendation of June 28, 2018, and finds that SWBT's Application should be granted approving the company's request to expand its service area footprint to include the Wolf Creek Meadows Development, Johnson County, Kansas.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Southwestern Bell Telephone Company d/b/a AT&T Kansas for state-issued Video Service Authorization is hereby granted and the requested expansion of SWBT's service area footprint to include the Wolf Creek Meadows Development, Johnson County, Kansas, is hereby approved, which shall be known and identified as Wolf Creek Meadows Development, Johnson County, WCMJ-10-SWBT-01. The Video Service Authorization granted herein shall become effective as of the date of this Order.

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).³

² Initial Application last item.

³ K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

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.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 07/10/2018

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

Lynn M Retz
Secretary to the Commission

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STATE OF KANSAS



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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 Scott Emler
Commissioner Dwight D. Keen

FROM: Kelly Mabon, Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: June 28, 2018

SUBJECT: Docket No. 07-SWBT-355-VSA
In the Matter of the Application of Southwestern Bell Telephone
Company Filing for Kansas Video Service Authorization.

BACKGROUND:

On June 7, 2018, Southwestern Bell Telephone Company (SWBT) filed an Amended Application for its state-issued Video Service Authorization, as authorized by K.S.A. 12-2023 and K.A.R. 82-15-1.

The Applicant has previously been granted video service authorization in nine footprint areas in Kansas. This Application seeks to add a subdivision (Wolf Creek Meadows Development) in Johnson County, Kansas.

Although the Company filed an Application on June 7, 2018, it was incomplete as the filing fee required in K.A.R. 82-15-1(d)(2) was not received until June 19, 2018. Therefore, in accordance with K.S.A. 12-2023(a), Commission action in this matter is required not later than **Thursday, July 19, 2018.**

ANALYSIS:

The Applicant has previously identified its principal place of business as 220 E. 6th Street, Topeka, Kansas.

The Applicant is registered with the Kansas Secretary of State's office and is currently 'Active and in Good Standing' with that office.

The Applicant is not registered with the FCC as a Cable System Operator. They have previously stated that "AT&T has not filed with the Federal Communications Commission a 'Cable Community Registration form 322' or been assigned any 'Community Unit Identification Number (CUID)' as these items are described in federal regulations, 47 C.F.R. 76.1801. This regulation applies only to a 'cable operator' operating a 'cable system' as defined at 47 C.F.R. 76.5, and does not apply to AT&T's IPTV, Homezone, or satellite video programming offerings." Staff agrees.

By initialing, the Applicant has previously agreed to comply with all applicable federal and state statutes and regulations and agrees to comply with all lawful and applicable municipal regulations regarding the use and occupation of public rights-of-way in the delivery of video services, including the police powers of the municipalities in which the service is delivered. (Initial Application item #5.)

The Applicant is proposing to add the Wolf Creek Meadows Development in Johnson County, Kansas, which has been described through metes and bounds in an attachment to the Application. An electronic version of this description is included with the Application in a format compatible with the Commission's mapping system.

The Applicant has previously provided drawings and a general description of the technologies to be used in providing their video service. The technologies include fiber to the home, a combination of satellite and DSL service, and an integrated satellite service. Utilizing any combination of these services, the Applicant states that they will pass 100% of the households within their proposed footprint within the required five year deployment window.

By initialing, the Applicant has previously agreed that it will not deny access to service to any group of potential residential subscribers because of the income of residents in the local area in which such group resides. (Initial Application last item.)

Staff has reviewed the Applicant's Amended Application and has found it to be complete and in conformity with K.S.A. 12-2023 and K.A.R. 82-15-1.

RECOMMENDATION:

Staff recommends Commission approval of SWBT's Application with its additional service area footprint to be identified¹ and known as Wolf Creek Meadows, Johnson County, WCMJ-10-SWBT-01.¹

¹ For ease of future referencing, staff assigns a four field footprint number using the following convention: ABCD-xx-EFGH-yy, where ABCD is the four character abbreviation of the major city encompassed by the service area, xx is a two digit sequentially assigned number of the provider's service areas, EFGH is the four alpha character company code and yy indicating the version of the company's footprint where 01 is the initial version, 02 the first revision, etc.

CERTIFICATE OF SERVICE

07-SWBT-355-VSA

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of
07/11/2018
first class mail/hand delivered on _____.

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/S/ DeeAnn Shupe

DeeAnn Shupe