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State Corporation Commission
of Kansas

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July 13, 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 Reply of Southwestern Bell Telephone Company to Staff's Response to Motion 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

cc: Parties of Record

**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. |) | |

**REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY
TO STAFF'S RESPONSE TO MOTION 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"), in reply to the response of the Staff of the Kansas Corporation Commission ("Staff") to AT&T Kansas' motion for waiver and exemption from certain filing requirements, as well as an enlargement of time to file in the above captioned proceeding ("Motion"). For its reply, AT&T Kansas shows the Commission as follows:

1. AT&T Kansas' motion is not improperly filed. AT&T Kansas does not dispute the Commission's authority to open the proceeding and is not seeking reconsideration of the substantive provisions of the Commission's *Opening Order*¹ or the *Amended Order*². Staff argues that AT&T Kansas has not cited any statutory basis for its request and it is true that no Kansas statute specifically prescribes how a party may subsequently, at any later date, request a carrier specific modification, waiver or exemption from a previously issued Commission order. Similarly, there is no statutory authority explicitly prohibiting a party from subsequently requesting such treatment. AT&T Kansas' request does not seek a substantive change of the Order applicable to

¹ Order Opening Docket, Docket No. 18-GIMT-395-GIT, dated April 5, 2018 ("Opening Order").

² Amended Order Opening Docket, Docket No. 18-GIMT-394-GIT, dated April 17, 2018 ("Amended Order").

all ETCs; the request pertains only to AT&T Kansas' forthcoming certification filing. The Commission has administrative authority and discretion to consider AT&T Kansas' request which is supported by its allegations and the FCC's *ETC Reporting Streamlining Order*³; the ordering language of both the *Opening Order* and the *Amended Order* make clear that "[t]he Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further orders, as necessary."⁴

2. In each instance where AT&T Kansas requested a waiver or exemption, the rationale of AT&T Kansas having "no business purpose" to gather and maintain the information reflects the FCC's determination that this information is either duplicative or simply no longer necessary for purposes of the high cost certification. Staff fails to explain how the Commission has ever used the data no longer required by the FCC to evaluate whether a carrier is complying with its ETC obligations associated with the federal funds. That certain data might be "helpful" or "useful" falls far short of demonstrating that this information has any practical utility in evaluating an ETC's compliance.⁵ Upon preparing for its filing in this proceeding, it has become clear that the Commission-required data identified in AT&T Kansas' Motion imposes an unnecessary regulatory burden and cost. 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 for certifying federal, not state, high cost support.

³ *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*")

⁴ *Opening Order* at Ordering Paragraph E; *Amended Order* at Ordering Paragraph C.

⁵ The *ETC Reporting Streamlining Order* repeatedly notes the FCC's disagreement with and rejection of commenters' suggestions that "reporting this information imposes no additional costs and that the Commission should continue collecting this information for the use of state commissions." *ETC Reporting Streamlining Order* at ¶¶ 7, 9, 12, 14.

3. AT&T Kansas appreciates the Staff's amenability to the motion for enlargement of time and notes its stated concern about timeliness; however, there is no statutory provision or administrative regulation establishing how far in advance a motion for enlargement must be filed so long as it is filed on or before the date an action is required.⁶ AT&T Kansas is concerned that as of this filing the FCC still has not published federal Office of Management and Budget ("OMB") approval of the revised Form 481 in the Federal Register, which is necessary in order for the revisions to be effective. This delay may result in a further FCC extension of the Form 481 filing deadline, which will continue to impact AT&T Kansas' ability to provide a certified copy of its Form 481 through USAC's online system. AT&T Kansas therefore suggests that the Commission further extend the filing date, if necessary, to be consistent with any action by the FCC on its due date for Form 481 filings.

Respectfully submitted,

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

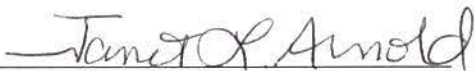
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⁶ K.A.R. 82-1-217(b) even contemplates the ability to file a motion for enlargement of time after a prescribed time for acting has passed as the result of excusable neglect.

VERIFICATION

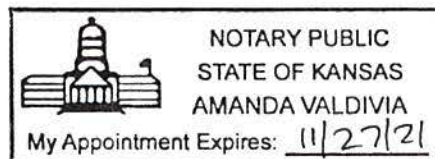
I, Janet L. Arnold, of lawful age, and being first duly sworn, now state: I am Area Manager–External Affairs, and have read the Reply of Southwestern Bell Telephone Company to Staff’s Response to Motion for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File, and verify 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 13th day of July 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 Reply of Southwestern Bell Telephone Company to Staff's Response to Motion for Waiver and Exemption from Certain Filing Requirements; Enlargement of Time to File was electronically served this 13th day of July 2018 to:

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