

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

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Pat Apple

In the Matter of the Application of Southwestern                      )  
Bell Telephone Company for Approval of                      )  
Interconnection Agreement Under the                      )     Docket No. 11-SWBT-413-IAT  
Telecommunications Act of 1996 With Broadview                      )  
Networks, 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 January 20, 2015, Southwestern Bell Telephone Company d/b/a AT&T Kansas (SWBT) filed an Application requesting Commission approval of a modification to the Interconnection Agreement between SWBT and Broadview Networks, Inc. (Broadview). Supplementing its Application, SWBT included as Attachments I and II, a copy of the subject Amendment to the Interconnection Agreement and the Affidavit of Janet Arnold, SWBT's Manager-Regulatory Relations.

2.        SWBT states that the Amendment to Interconnection Agreement entered into between SWBT and Broadview, dated December 4, 2014, amends the Interconnection Agreement between the two parties, which was approved by the Commission on December 30, 2010. The subject Interconnection Agreement and Amendment to Interconnection Agreement are collectively referred to herein as "amended Agreement". SWBT further states that the amended Agreement replaces the notice provisions in the current Agreement. SWBT maintains that 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.<sup>1</sup>

3. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2013 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.

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.

4. On March 9, 2015, the Commission Staff (Staff) submitted its Report and Recommendation dated March 4, 2015, recommending the Commission approve the amended Agreement between SWBT and Broadview. Citing Section 252(e) of the Federal Act, Staff confirms that the amended Agreement fully complies with Section 252(e) of the Federal Act and believes that approval of the Agreement is consistent with the public interest, convenience, and necessity. Staff further indicates that it has no concerns regarding this filing. Both SWBT and Broadview are properly registered with the Kansas Secretary of State's office and their status

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<sup>1</sup> Application, page 2.

with that office is "active and in good standing". Concluding, Staff recommends the Commission grant SWBT's Application and approve the amended Agreement.

5. The Commission adopts Staff's recommendation of March 4, 2015, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that SWBT's Application should be granted and that the amended Agreement between SWBT and Broadview should be approved.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Southwestern Bell Telephone Company d/b/a AT&T Kansas' Application is hereby granted and the amended Interconnection Agreement between SWBT and Broadview Networks, Inc. is hereby approved.


B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2014 Supp. 77-529(a)(1).

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; Apple, Commissioner

Dated: MAR 12 2015

  
ORDER MAILED MAR 13 2015  
Neysa Thomas  
Acting Secretary

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Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Pat Apple, Commissioner

Sam Brownback, Governor

## **REPORT AND RECOMMENDATION UTILITIES DIVISION**

**TO:** Shari Feist Albrecht, Chair  
Jay Scott Emler, Commissioner  
Pat Apple, Commissioner

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

**DATE:** March 6, 2015

**SUBJECT:** Docket No. 11-SWBT-413-IAT  
In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Broadview Networks, Inc.

### **EXECUTIVE SUMMARY:**

On January 20, 2015, Southwestern Bell Telephone Company d/b/a AT&T Kansas (SWBT) filed a Modification to an Interconnection Agreement (Agreement) between SWBT and Broadview Networks, Inc. Staff recommends approval of the filing.

The Commission action date is **Monday, April 20, 2015.**

### **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 preempted 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:**

This modification replaces the Notices provision in the current Agreement.

The Applicant is seeking review and approval of an Amendment to this Agreement under Section 252(e) of the Federal Telecommunications Act. Section 252(e) of the Federal Act 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. Staff has reviewed the proposed Amendment to the Agreement and finds no such cause for concern with this filing.

### **RECOMMENDATION:**

Staff recommends the Commission grant approval of the Amendment to the Agreement between SWBT and Broadview Networks, Inc.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
JARROD HARPER, MANAGER, REGULATORY & COMPLIANCE BROADVIEW NETWORKS, INC. 1018 West 9th Ave. King Of Prussia, PA 19406		
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
BRUCE A. NEY, GENERAL ATTORNEY SOUTHWESTERN BELL TELEPHONE CO. D/B/A AT&T KANSAS 220 SE 6TH AVE RM 505 TOPEKA, KS 66603-3596		

ORDER MAILED **MAR 13 2015**

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.