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State Corporation Commission
of Kansas

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March 17, 2017

Amy L. Green
Secretary to the Commission
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

Re: KCC Docket No. 17-SWBT-158-MIS

Dear Ms. Green:

Attached you will find the Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) Reply to Staff's Reply Comments filed on March 13, 2017 for electronic filing in the above referenced docket.

Sincerely,

A handwritten signature in blue ink that reads "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 the Application of Southwestern)
Bell Telephone Company d/b/a AT&T Kansas for)
an Order Confirming Relinquishment of Its Eligible) Docket No. 17-SWBT-158-MIS
Telecommunications Carrier Designation in Specified)
Areas, and Notice Pursuant to K.S.A. 2015 Supp.)
66-2006(d) of Intent to Cease Participation in the)
Kansas Lifeline Services Program.)

**AT&T KANSAS' REPLY COMMENTS ON
STAFF REPORT AND RECOMMENDATION**

COMES NOW Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) and respectfully submits its Reply to Staff's Reply Comments filed on March 13, 2017.

1. AT&T Kansas' Comments on the R&R explained why the Commission should not adopt Staff's proposal for soliciting comments on AT&T Kansas' Application from competitive Eligible Telecommunications Carriers ("ETCs"). The test for AT&T Kansas to relinquish its ETC designation is whether other ETCs serve the relinquishment area. 47 U.S.C. § 214(e)(4). There is no doubt that they do. Indeed, there are seven to 14 designated ETCs for each wire center in the relinquishment area. Application, ¶ 14. Moreover, the Commission itself issued orders designating the ETCs on which AT&T Kansas relies, and determined their service areas.¹ The law therefore requires the Commission to allow relinquishment.

¹ These ETCs are listed in Amended Exhibit C to AT&T Kansas' Application, filed on December 21, 2016. A table listing these ETCs and the docket(s) in which the Commission designated them as ETCs in AT&T Kansas' service area is attached as Exhibit A to this pleading. The specific AT&T Kansas exchanges for which each ETC is designated are listed in the relevant order, the Staff Report attached to the order, and/or the carrier's application for ETC status.

2. Despite these facts, Staff's response is that it has not yet fully investigated the matter and that the Commission, in order to fulfill its duties under 47 U.S.C. § 214(e)(4), must issue a formal notice of AT&T Kansas' Application to the competitive ETCs. Staff Comments, ¶¶ 10-12. Those arguments do not support Staff's proposal.²

3. More than four months have passed since AT&T Kansas' October 27, 2016 filing. In that time, Staff has issued four sets of data requests to AT&T Kansas (for a total of 11 requests, not counting sub-parts) and AT&T Kansas has answered them all. During this same time Staff did not apparently query the Commission-designated competitive ETCs, on which AT&T Kansas now relies, concerning either the Application or the Section 214(e)(4) issue Staff now believes to be of primary importance. At this point, in light of all the facts and the law, further factual investigation should not be needed.

4. The language in Section 214(e)(4), which has become Staff's basis for proposing its intervention and comment period for the Commission-designated competitive ETCs, provides that a state commission "shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier" Staff Reply, ¶¶ 7-11. As AT&T Kansas explained, in this case there will be no need to require any competitive ETCs to purchase or construct facilities in order to ensure that customers in the relinquishment area will continue to be served. AT&T Comments, ¶ 17. That is because AT&T Kansas will continue to offer and provide all the same services it offers today, throughout the relinquishment area. *Id.*, ¶¶ 17-18. All customers will have the same service options they have today, albeit with no Lifeline discount on AT&T Kansas' services. This is entirely different from a situation

² As detailed in a separate pleading, AT&T Kansas is proposing a different procedural path to more efficiently and effectively address any concerns Staff may have.

where an ETC is both relinquishing its ETC designation and going out of business, where there might be a question whether the relinquishing ETC's customers would continue to be served.

5. Staff responds by arguing that AT&T Kansas' continuance of all services is a "red herring," because all that matters is whether the remaining ETCs will ensure that customers will continue to be served. Staff Reply, ¶ 14. But it is difficult to see how AT&T Kansas' continued provision and offer of voice service to all customers in the relinquishment area could be irrelevant. If Congress's goal is to "ensure that all customers served by the relinquishing carrier will continue to be served," the fact that the relinquishing carrier itself will continue to provide and offer voice service to all those customers is highly significant.

6. Staff next contends that AT&T Kansas' references to 47 U.S.C. § 214(a), which would require AT&T Kansas to obtain FCC approval before discontinuing legacy voice services, are irrelevant. Staff Reply, ¶ 16. AT&T Kansas agrees that Section 214(a) is irrelevant here, both because (i) the *only* test for ETC relinquishment under Section 214(e)(4) is whether another ETC serves the relinquishment area, as several do here; and (ii) AT&T Kansas is not discontinuing any service. The reason AT&T Kansas discussed Section 214(a), however, is to address Staff's stated concern in the R&R that AT&T Kansas would not be required to provide legacy voice service after relinquishment and that, as a result, customers might someday be left with no option for voice service. As AT&T Kansas explained, the concern is misplaced because AT&T Kansas cannot discontinue legacy voice service without permission from the FCC (which the Commission could challenge in court) or without the Commission having notice and an opportunity to be heard in the FCC proceeding.

For these reasons, the Commission should reject Staff's proposal. Instead, the Commission should follow the path proposed by AT&T Kansas in a separate pleading filed today.

Respectfully submitted,

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

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Attorney for Southwestern Bell Telephone
Company d/b/a AT&T Kansas

Exhibit A

ETCs in AT&T Kansas' Service Area Where AT&T Kansas is Relinquishing ETC Status (per Amended Ex. C to Application)	Docket(s) Where KCC Approved ETC Designation in AT&T Kansas Exchanges
Nex-Tech, Inc.	03-NTHT-1051-ETC (11/14/03) 05-NTHT-140-ETC (10/18/04) 06-NTHT-1022-ETC (6/16/06) See 09-NTHT-1196-ETC (11/5/08) (cancelling ETC designation in AT&T's Oakley exchange)
H & B Cable Service, Inc.	04-HBCT-1107-ETC (10/25/04)
Nex-Tech Wireless, LLC	06-NTHT-061-ETC (11/12/05) 08-NTWZ-827-ETC (6/25/08) 11-NTWZ-077-ETC (2/17/11)
United Wireless Communications, Inc.	06-UWCC-243-ETC (1/17/06)
USCOC Nebraska/Kansas, LLC	06-USCZ-519-ETC (2/10/06)
NE Colorado Cellular, Inc.	09-NECZ-747-ETC (9/10/10)
Cox Kansas Telcom, LLC	10-COXT-174-ETC (5/5/10)
YourTel America, Inc.	09-TPCT-596-ETC (6/10/09) 12-TPCT-768-ETC (8/8/12)
S & T Communications LLC	10-S&CT-564-ETC (10/13/10)
Virgin Mobile USA, L.P.	10-VMBZ-657-ETC (11/2/11)
Global Connection Inc. of America	12-GCAT-713-ETC (8/31/12)
i-wireless, LLC	12-IWRZ-848-ETC (6/6/12)
TracFone Wireless, Inc.	09-TFWZ-945-ETC (12/14/10) 13-TFWZ-207-ETC (1/2/13) 14-TFWZ-325-ETC (4/10/14) 15-TFWZ-312-ETC (5/14/15)
Boomerang Wireless, LLC	13-BOWZ-121-ETC (3/13/13) 16-BOWZ-437-ETC (9/27/16)
Q Link Wireless LLC	13-QLWZ-174-ETC (3/13/13)
Telrite Corporation	13-RITC-181-ETC (3/13/13)
Sage Telecom Communications, LLC	03-SAGT-867-ETC (10/9/03) 13-SAGT-407-ETC (6/5/13)
Tempo Telecom, LLC	13-TEMT-403-ETC (6/5/13 and 10/8/13) 14-TEMT-051-ETC (9/10/13 and 10/8/13)
Cellular Network Partnership	06-CNPZ-1028-ETC (11/21/06)

Note: Budget Prepay and TAG Mobile also have been designated as ETCs in AT&T Kansas wire centers. See Docket Nos. 12-BGPT-752-ETC (8/22/12) (Budget Prepay) and 12-TAGC-843-ETC (11/15/12) (TAG Mobile). Out of an abundance of caution, AT&T Kansas did not list those ETCs in Amended Exhibit C to the Application.

VERIFICATION

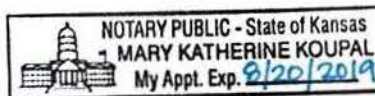
I, Janet L. Arnold, of lawful age, and being first duly sworn, now state: I am Area Manager-External Affairs, and have read AT&T Kansas' Reply Comments on Staff Report and Recommendations, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.


Janet L. Arnold

Subscribed and sworn to before me this 17th day of March, 2017.


Notary Public

My appointment expires:



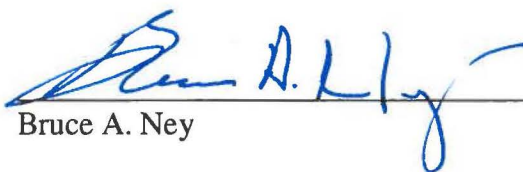
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing AT&T Kansas' Reply Comments on Staff Report and Recommendations was electronically served this 17th day of March, 2017 to:

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