

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

In the Matter of the Application of Nex-Tech,)
LLC for an Order Confirming Relinquishment)
of its Eligible Telecommunications Carrier) Docket No. 24-NTHT-589-ETC
Designation In Specified Census Blocks.)

**NOTICE OF FILING OF STAFF'S
REPORT AND RECOMMENDATION**

COMES NOW, the Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively), and files the instant Report and Recommendation in response to the Application of Nex-Tech, LLC (“Nex-Tech”) requesting approval to relinquish the Company’s designation as a high-cost Eligible Telecommunications Carrier (“ETC”) in Kansas. Staff believes Nex-Tech has met the requirements for relinquishment as identified in § 214(e)(4). For the reasons detailed herein, Staff recommends the Commission find (1) that the census blocks in question are indeed served by at least one other ETC; and (2) that all customers currently served by Nex-Tech will continue to be served. Staff recommends the Commission grant Nex-Tech’s request to relinquish its ETC designation for high-cost purposes in the 240 census blocks listed in Nex-Tech’s Exhibit A.

WHEREFORE, Staff submits its Report and Recommendation for Commission review and consideration and for such other relief as the Commission deems just and reasonable.

Respectfully submitted,
/s/ Carly R. Masenthin
Carly R. Masenthin, #27944
Senior Litigation Counsel
1500 SW Arrowhead Rd
Topeka, KS 66604
Phone (785) 271-3265
Email: Carly.Masenthin@ks.gov

144	200410844004019	Kansas	Dickinson	AT&T Kansas	Abilene
145	200410844004023	Kansas	Dickinson	AT&T Kansas	Abilene
146	200410844004024	Kansas	Dickinson	AT&T Kansas	Abilene
147	200410844004031	Kansas	Dickinson	AT&T Kansas	Abilene
148	200410845001112	Kansas	Dickinson	AT&T Kansas	Abilene
149	200410845001114	Kansas	Dickinson	AT&T Kansas	Abilene
150	200410845001115	Kansas	Dickinson	AT&T Kansas	Abilene
151	200410845001116	Kansas	Dickinson	AT&T Kansas	Abilene
152	200410845001120	Kansas	Dickinson	AT&T Kansas	Abilene
153	200410845001122	Kansas	Dickinson	AT&T Kansas	Abilene
154	200410845001124	Kansas	Dickinson	AT&T Kansas	Abilene
155	200410845001125	Kansas	Dickinson	AT&T Kansas	Abilene
156	200410845001126	Kansas	Dickinson	AT&T Kansas	Abilene
157	200410845001127	Kansas	Dickinson	AT&T Kansas	Abilene
158	200410845001129	Kansas	Dickinson	AT&T Kansas	Abilene
159	200410845001130	Kansas	Dickinson	AT&T Kansas	Abilene
160	200410845001131	Kansas	Dickinson	AT&T Kansas	Abilene
161	200410845001133	Kansas	Dickinson	AT&T Kansas	Abilene
162	200410845001135	Kansas	Dickinson	AT&T Kansas	Abilene
163	200410845001136	Kansas	Dickinson	AT&T Kansas	Abilene
164	200410845001138	Kansas	Dickinson	AT&T Kansas	Abilene
165	200410845001139	Kansas	Dickinson	AT&T Kansas	Abilene
166	200410845001148	Kansas	Dickinson	AT&T Kansas	Abilene
167	200410845001167	Kansas	Dickinson	AT&T Kansas	Abilene
168	200410845001171	Kansas	Dickinson	AT&T Kansas	Abilene

Docket No. 21-MWKT-258-ETC
Order Dated: 3/11/2021
Mercury Wireless Kansas, LLC
d/b/a Mercury Broadband

	Census Block ID	State	County	ILEC	Exchange
1	200410845003012	Kansas	Dickinson	AT&T Kansas	Abilene
2	200410845003021	Kansas	Dickinson	AT&T Kansas	Abilene
3	200410845003023	Kansas	Dickinson	AT&T Kansas	Abilene
4	200410845003028	Kansas	Dickinson	AT&T Kansas	Abilene
5	200410845003031	Kansas	Dickinson	AT&T Kansas	Abilene
6	200410845003034	Kansas	Dickinson	AT&T Kansas	Abilene
7	200410845003037	Kansas	Dickinson	AT&T Kansas	Abilene
8	200410845003040	Kansas	Dickinson	AT&T Kansas	Abilene
9	200410845003043	Kansas	Dickinson	AT&T Kansas	Abilene
10	200410845003047	Kansas	Dickinson	AT&T Kansas	Abilene
11	200410845003048	Kansas	Dickinson	AT&T Kansas	Abilene
12	200410845003049	Kansas	Dickinson	AT&T Kansas	Abilene
13	200410845003051	Kansas	Dickinson	AT&T Kansas	Abilene
14	200410845003053	Kansas	Dickinson	AT&T Kansas	Abilene
15	200410845003055	Kansas	Dickinson	AT&T Kansas	Abilene
16	200410845003058	Kansas	Dickinson	AT&T Kansas	Abilene
17	200410845003060	Kansas	Dickinson	AT&T Kansas	Abilene
18	200410845003062	Kansas	Dickinson	AT&T Kansas	Abilene
19	200410845003063	Kansas	Dickinson	AT&T Kansas	Abilene
20	200410845003065	Kansas	Dickinson	AT&T Kansas	Abilene
21	200410845003071	Kansas	Dickinson	AT&T Kansas	Abilene
22	200410845003076	Kansas	Dickinson	AT&T Kansas	Abilene
23	200410845003077	Kansas	Dickinson	AT&T Kansas	Abilene
24	200410845003078	Kansas	Dickinson	AT&T Kansas	Abilene
25	200410845003079	Kansas	Dickinson	AT&T Kansas	Abilene
26	200410845003080	Kansas	Dickinson	AT&T Kansas	Abilene
27	200410845003081	Kansas	Dickinson	AT&T Kansas	Abilene
28	200410845003082	Kansas	Dickinson	AT&T Kansas	Abilene
29	200410845003084	Kansas	Dickinson	AT&T Kansas	Abilene
30	200410845003094	Kansas	Dickinson	AT&T Kansas	Abilene
31	200410845003096	Kansas	Dickinson	AT&T Kansas	Abilene
32	200410845003097	Kansas	Dickinson	AT&T Kansas	Abilene
33	200410845003101	Kansas	Dickinson	AT&T Kansas	Abilene
34	200410845003102	Kansas	Dickinson	AT&T Kansas	Abilene
35	200410845003104	Kansas	Dickinson	AT&T Kansas	Abilene
36	200410845003109	Kansas	Dickinson	AT&T Kansas	Abilene
37	200410845003111	Kansas	Dickinson	AT&T Kansas	Abilene
38	200410845003113	Kansas	Dickinson	AT&T Kansas	Abilene
39	200410845003114	Kansas	Dickinson	AT&T Kansas	Abilene
40	200410845003115	Kansas	Dickinson	AT&T Kansas	Abilene
41	200410845003117	Kansas	Dickinson	AT&T Kansas	Abilene

42	200410845003118	Kansas	Dickinson	AT&T Kansas	Abilene
43	200410845003120	Kansas	Dickinson	AT&T Kansas	Abilene
44	200410845003122	Kansas	Dickinson	AT&T Kansas	Abilene
45	200410845003123	Kansas	Dickinson	AT&T Kansas	Abilene
46	200410845003124	Kansas	Dickinson	AT&T Kansas	Abilene
47	200410845003126	Kansas	Dickinson	AT&T Kansas	Abilene
48	200410845003128	Kansas	Dickinson	AT&T Kansas	Abilene
49	200410845003134	Kansas	Dickinson	AT&T Kansas	Abilene
50	200410845003142	Kansas	Dickinson	AT&T Kansas	Abilene
51	200410845003144	Kansas	Dickinson	AT&T Kansas	Abilene
52	200410845003145	Kansas	Dickinson	AT&T Kansas	Abilene
53	200410845003148	Kansas	Dickinson	AT&T Kansas	Abilene
54	200410845003149	Kansas	Dickinson	AT&T Kansas	Abilene
55	200410845003150	Kansas	Dickinson	AT&T Kansas	Abilene
56	200410845003151	Kansas	Dickinson	AT&T Kansas	Abilene
57	200410845003154	Kansas	Dickinson	AT&T Kansas	Abilene
58	200410845003155	Kansas	Dickinson	AT&T Kansas	Abilene
59	200410845003156	Kansas	Dickinson	AT&T Kansas	Abilene
60	200410845003158	Kansas	Dickinson	AT&T Kansas	Abilene
61	200410845003159	Kansas	Dickinson	AT&T Kansas	Abilene
62	200410845003160	Kansas	Dickinson	AT&T Kansas	Abilene
63	200410845003163	Kansas	Dickinson	AT&T Kansas	Abilene
64	200410845003164	Kansas	Dickinson	AT&T Kansas	Abilene
65	200410845003165	Kansas	Dickinson	AT&T Kansas	Abilene
66	200410845003167	Kansas	Dickinson	AT&T Kansas	Abilene
67	200410845003169	Kansas	Dickinson	AT&T Kansas	Abilene
68	200410845003172	Kansas	Dickinson	AT&T Kansas	Abilene
69	200410845003174	Kansas	Dickinson	AT&T Kansas	Abilene
70	200410845003175	Kansas	Dickinson	AT&T Kansas	Abilene
71	200410845003176	Kansas	Dickinson	AT&T Kansas	Abilene
72	200410845003177	Kansas	Dickinson	AT&T Kansas	Abilene

144	200410844004019	Kansas	Dickinson	AT&T Kansas	Abilene
145	200410844004023	Kansas	Dickinson	AT&T Kansas	Abilene
146	200410844004024	Kansas	Dickinson	AT&T Kansas	Abilene
147	200410844004031	Kansas	Dickinson	AT&T Kansas	Abilene
148	200410845001112	Kansas	Dickinson	AT&T Kansas	Abilene
149	200410845001114	Kansas	Dickinson	AT&T Kansas	Abilene
150	200410845001115	Kansas	Dickinson	AT&T Kansas	Abilene
151	200410845001116	Kansas	Dickinson	AT&T Kansas	Abilene
152	200410845001120	Kansas	Dickinson	AT&T Kansas	Abilene
153	200410845001122	Kansas	Dickinson	AT&T Kansas	Abilene
154	200410845001124	Kansas	Dickinson	AT&T Kansas	Abilene
155	200410845001125	Kansas	Dickinson	AT&T Kansas	Abilene
156	200410845001126	Kansas	Dickinson	AT&T Kansas	Abilene
157	200410845001127	Kansas	Dickinson	AT&T Kansas	Abilene
158	200410845001129	Kansas	Dickinson	AT&T Kansas	Abilene
159	200410845001130	Kansas	Dickinson	AT&T Kansas	Abilene
160	200410845001131	Kansas	Dickinson	AT&T Kansas	Abilene
161	200410845001133	Kansas	Dickinson	AT&T Kansas	Abilene
162	200410845001135	Kansas	Dickinson	AT&T Kansas	Abilene
163	200410845001136	Kansas	Dickinson	AT&T Kansas	Abilene
164	200410845001138	Kansas	Dickinson	AT&T Kansas	Abilene
165	200410845001139	Kansas	Dickinson	AT&T Kansas	Abilene
166	200410845001148	Kansas	Dickinson	AT&T Kansas	Abilene
167	200410845001167	Kansas	Dickinson	AT&T Kansas	Abilene
168	200410845001171	Kansas	Dickinson	AT&T Kansas	Abilene

Docket No. 21-MWKT-258-ETC
Order Dated: 3/11/2021
Mercury Wireless Kansas, LLC
d/b/a Mercury Broadband

	Census Block ID	State	County	ILEC	Exchange
1	200410845003012	Kansas	Dickinson	AT&T Kansas	Abilene
2	200410845003021	Kansas	Dickinson	AT&T Kansas	Abilene
3	200410845003023	Kansas	Dickinson	AT&T Kansas	Abilene
4	200410845003028	Kansas	Dickinson	AT&T Kansas	Abilene
5	200410845003031	Kansas	Dickinson	AT&T Kansas	Abilene
6	200410845003034	Kansas	Dickinson	AT&T Kansas	Abilene
7	200410845003037	Kansas	Dickinson	AT&T Kansas	Abilene
8	200410845003040	Kansas	Dickinson	AT&T Kansas	Abilene
9	200410845003043	Kansas	Dickinson	AT&T Kansas	Abilene
10	200410845003047	Kansas	Dickinson	AT&T Kansas	Abilene
11	200410845003048	Kansas	Dickinson	AT&T Kansas	Abilene
12	200410845003049	Kansas	Dickinson	AT&T Kansas	Abilene
13	200410845003051	Kansas	Dickinson	AT&T Kansas	Abilene
14	200410845003053	Kansas	Dickinson	AT&T Kansas	Abilene
15	200410845003055	Kansas	Dickinson	AT&T Kansas	Abilene
16	200410845003058	Kansas	Dickinson	AT&T Kansas	Abilene
17	200410845003060	Kansas	Dickinson	AT&T Kansas	Abilene
18	200410845003062	Kansas	Dickinson	AT&T Kansas	Abilene
19	200410845003063	Kansas	Dickinson	AT&T Kansas	Abilene
20	200410845003065	Kansas	Dickinson	AT&T Kansas	Abilene
21	200410845003071	Kansas	Dickinson	AT&T Kansas	Abilene
22	200410845003076	Kansas	Dickinson	AT&T Kansas	Abilene
23	200410845003077	Kansas	Dickinson	AT&T Kansas	Abilene
24	200410845003078	Kansas	Dickinson	AT&T Kansas	Abilene
25	200410845003079	Kansas	Dickinson	AT&T Kansas	Abilene
26	200410845003080	Kansas	Dickinson	AT&T Kansas	Abilene
27	200410845003081	Kansas	Dickinson	AT&T Kansas	Abilene
28	200410845003082	Kansas	Dickinson	AT&T Kansas	Abilene
29	200410845003084	Kansas	Dickinson	AT&T Kansas	Abilene
30	200410845003094	Kansas	Dickinson	AT&T Kansas	Abilene
31	200410845003096	Kansas	Dickinson	AT&T Kansas	Abilene
32	200410845003097	Kansas	Dickinson	AT&T Kansas	Abilene
33	200410845003101	Kansas	Dickinson	AT&T Kansas	Abilene
34	200410845003102	Kansas	Dickinson	AT&T Kansas	Abilene
35	200410845003104	Kansas	Dickinson	AT&T Kansas	Abilene
36	200410845003109	Kansas	Dickinson	AT&T Kansas	Abilene
37	200410845003111	Kansas	Dickinson	AT&T Kansas	Abilene
38	200410845003113	Kansas	Dickinson	AT&T Kansas	Abilene
39	200410845003114	Kansas	Dickinson	AT&T Kansas	Abilene
40	200410845003115	Kansas	Dickinson	AT&T Kansas	Abilene
41	200410845003117	Kansas	Dickinson	AT&T Kansas	Abilene

42	200410845003118	Kansas	Dickinson	AT&T Kansas	Abilene
43	200410845003120	Kansas	Dickinson	AT&T Kansas	Abilene
44	200410845003122	Kansas	Dickinson	AT&T Kansas	Abilene
45	200410845003123	Kansas	Dickinson	AT&T Kansas	Abilene
46	200410845003124	Kansas	Dickinson	AT&T Kansas	Abilene
47	200410845003126	Kansas	Dickinson	AT&T Kansas	Abilene
48	200410845003128	Kansas	Dickinson	AT&T Kansas	Abilene
49	200410845003134	Kansas	Dickinson	AT&T Kansas	Abilene
50	200410845003142	Kansas	Dickinson	AT&T Kansas	Abilene
51	200410845003144	Kansas	Dickinson	AT&T Kansas	Abilene
52	200410845003145	Kansas	Dickinson	AT&T Kansas	Abilene
53	200410845003148	Kansas	Dickinson	AT&T Kansas	Abilene
54	200410845003149	Kansas	Dickinson	AT&T Kansas	Abilene
55	200410845003150	Kansas	Dickinson	AT&T Kansas	Abilene
56	200410845003151	Kansas	Dickinson	AT&T Kansas	Abilene
57	200410845003154	Kansas	Dickinson	AT&T Kansas	Abilene
58	200410845003155	Kansas	Dickinson	AT&T Kansas	Abilene
59	200410845003156	Kansas	Dickinson	AT&T Kansas	Abilene
60	200410845003158	Kansas	Dickinson	AT&T Kansas	Abilene
61	200410845003159	Kansas	Dickinson	AT&T Kansas	Abilene
62	200410845003160	Kansas	Dickinson	AT&T Kansas	Abilene
63	200410845003163	Kansas	Dickinson	AT&T Kansas	Abilene
64	200410845003164	Kansas	Dickinson	AT&T Kansas	Abilene
65	200410845003165	Kansas	Dickinson	AT&T Kansas	Abilene
66	200410845003167	Kansas	Dickinson	AT&T Kansas	Abilene
67	200410845003169	Kansas	Dickinson	AT&T Kansas	Abilene
68	200410845003172	Kansas	Dickinson	AT&T Kansas	Abilene
69	200410845003174	Kansas	Dickinson	AT&T Kansas	Abilene
70	200410845003175	Kansas	Dickinson	AT&T Kansas	Abilene
71	200410845003176	Kansas	Dickinson	AT&T Kansas	Abilene
72	200410845003177	Kansas	Dickinson	AT&T Kansas	Abilene

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Steve Garrett, Deputy Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: March 3, 2025

SUBJECT: Docket No. 24-NTHT-589-ETC

In the Matter of the Application of Nex-Tech, LLC for an Order Confirming Relinquishment of its Eligible Telecommunications Carrier Designation in Specified Census Blocks.

EXECUTIVE SUMMARY:

On February 23, 2024, Nex-Tech, LLC (Nex-Tech) filed an Application with the Kansas Corporation Commission (Commission) requesting approval to relinquish the Company's designation as a high-cost Eligible Telecommunications Carrier (ETC) in Kansas. Nex-Tech seeks relinquishment of ETC status in the Abilene exchange census blocks listed in Nex-Tech's Exhibit A that also includes details of Staff's census block analysis, attached to this Report and Recommendation (R&R). Staff recommends the Commission issue an Order approving Nex-Tech's request to relinquish the Company's ETC designation and require the remaining ETCs to ensure that all customers served by Nex-Tech will continue to be served in the Abilene exchange.

Although all ETCs should know and understand the obligations they committed to when they applied to become an ETC, Staff recommends the Commission serve the Order on all competitive ETCs designated in the exchanges approved for relinquishment so that they fully understand their ongoing ETC obligations and requirement to serve Nex-Tech's remaining customers.

BACKGROUND:

Both the Federal and Kansas Telecommunications Acts contain provisions to develop universal service funds to maintain and advance universal service, which led to the establishment of the Federal Universal Service Fund (FUSF) and the Kansas Universal Service Fund (KUSF), respectively. The FUSF provides support through four programs, including the high-cost program, which provides funding to carriers to ensure that residents in high-cost areas have access to reasonably comparable service at rates reasonably comparable to urban areas, and the Lifeline

program, which assists low-income consumers by providing a discount on their monthly local telephone charges so that telephone service is more affordable.

To be eligible to receive support from the FUSF, a carrier is required to be designated an ETC. A state commission may designate a carrier as an ETC in accordance with 47 U.S.C. § 214(e)(1), which requires:

A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received:

- (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
- (B) advertise the availability of such services and the charges therefor using media of general distribution.

The Commission derives its authority to designate ETCs pursuant to 47 U.S.C. § 214(e)(2), which requires:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

The Commission derives its authority to order carrier or carriers to provide service to unserved community or portion thereof pursuant to 47 U.S.C. § 214(e)(3), which requires:

If no common carrier will provide the services that are supported by Federal universal service support mechanisms under section 254(c) of this title to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services or an area served by a common carrier to which paragraph (6) applies, **or a State commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.** Any carrier or carriers ordered to provide such service under this paragraph shall meet the requirements of paragraph (1) and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

The Commission derives its authority to permit an eligible telecommunications carrier to relinquish its designation pursuant to 47 U.S.C. § 214(e)(4), which requires:

A State commission...shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the State commission...of such relinquishment. **Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission ... shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.** The State commission ... shall establish a time, not to exceed one year after the State commission ... approves such relinquishment under this paragraph, within which such purchase or construction shall be completed. (Emphasis added)

Nex-Tech certified in Docket No. 24-GIMT-612-GIT that all federal high-cost dollars for 2023 were in compliance with 47 U.S.C. § 254(e) of the Federal Telecommunications Act of 1996.¹ This certification indicates that all federal high-cost support provided to such carriers within the State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

ANALYSIS:

Nex-Tech has filed four Applications with this Commission seeking ETC authority for both FUSF and KUSF purposes in Docket Nos. 03-NTHT-1051-ETC, 04-NTHT-498-ETC, 05-NTHT-140-ETC, and 06-NTHT-1022-ETC. The Commission granted the Applications as follows:

- On November 14, 2003, in Docket No. 03-NTHT-1051-ETC, the Commission granted Nex-Tech's Application for ETC authority in the Almena exchange in the Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) service area.
- On June 8, 2004, in Docket No. 04-NTHT-498-ETC, the Commission granted Nex-Tech's Application for ETC authority in the Brightspeed Companies of Kansas (BrightSpeed) formerly United Telephone Companies of Kansas (now d/b/a CenturyLink) entire United Study Area.² The approved Brightspeed Study Area exchanges are as follows: Alma, Altamont, Baldwin, Buhler, Burlingame, Burlington, Burrton, Clifton, Clyde, Delphos, Downs, Ellinwood, Eskridge, Fredonia, Garnett, Glasco, Haven, Hiawatha, Highland, Hillsboro, Holton, Horton, Junction City, Kincaid, Leonardville, Longford, Luray, Lyndon, Melvern, Milford, Moran, Morrill, Mound Valley, Olsburg, Onaga, Osawatomie, Osborne,

¹ *Order Directing Submission of Certification Letters to the FCC and USAC*, Docket No. 24-GIMT-612-GIT, September 24, 2024.

² *Order Approving Name Change*, Docket No. 24-UTDT-476-CCN, May 7, 2024

Oskaloosa, Oswego, Paradise, Pomona, Powhattan, Quenemo, Riley, Russell, Troy, Valley Falls, Wakefield, Wathena, Waverly, Westmoreland, Westphalia, and White Cloud.³

- On October 18, 2004, in Docket No. 05-NTHT-140-ETC, the Commission granted Nex-Tech's Application for ETC authority in the Norton exchange in the AT&T service area.
- On June 15, 2006, in Docket No. 06-NTHT-1022-ETC, the Commission granted Nex-Tech's Application for ETC authority in the Abilene, Atwood, Bird City, Great Bend, Hays, Hoxie, McDonald, McPherson, Oakley, Oberlin, Phillipsburg, Plainville, Salina, Smith Center, St. Francis, and Stockton exchanges, which are all in AT&T's service area.

The Commission granted Nex-Tech's request to relinquish its ETC authority as follows:

- The Commission issued an Order on November 5, 2008, granting Nex-Tech's request to relinquish its ETC authority for federal and state high-cost support purposes in the Oakley exchange in Docket No. 09-NTHT-196-ETC;
- The Commission issued an Order on March 14, 2007, granting Nex-Tech's request to relinquish its ETC authority for federal and state high-cost support purposes in the entire United Study Area in Docket No. 07-NTTH-773-ETC; and
- The Commission issued an Order on April 23, 2019, granting Nex-Tech's request to relinquish its ETC authority for federal and state high-cost support purposes in the Atwood, Bird City, Great Bend, Hays, Hoxie, McDonald, McPherson, Norton, Oberlin, Phillipsburg-Kirwin, Plainville, Salina, Smith Center, St. Francis, and Stockton exchanges; but denying Nex-Tech's request to relinquish its ETC authority in the Abilene exchange in Docket No. 19-NTHT-244-ETC.⁴

In this Application, Nex-Tech requests ETC relinquishment for certain census blocks in the Abilene exchange identified in Nex-Tech's Exhibit A. Nex-Tech states that its relinquishment request is prompted by the Commission's designation of other telecommunications carriers as ETCs for the purpose of being eligible to receive federal high-cost universal service fund ("USF") support in the Abilene exchange census blocks. As was the case in the previous relinquishment request in Docket No. 19-NTHT-244-ETC, this application is based on changes in both federal and state high-cost support. Furthermore, Nex-Tech states that the ETC designation creates increased regulatory obligations and believes maintaining its ETC designation in the Abilene exchange is no longer justified.⁵

Nex-Tech's relinquishment request will not adversely affect any existing customers, as it will continue to offer services to customers in the relinquished areas in the Abilene exchange. Furthermore, Nex-Tech relinquishment will not result in the removal of any telecommunications facilities in the relinquished areas.⁶

³ The Downs, Luray, Paradise, and Russell exchanges were sold by CenturyLink to Rural Telephone Service Company, effective October 1, 2006. The sale of the exchanges did not affect Nex-Tech's ETC authority or obligations.

⁴ Nex-Tech filed a Petition for Reconsideration (PFR) of the Commission's April 23, 2019 Order on May 8, 2019. The Commission issued an Order Denying Nex-Tech's PFR on June 4, 2019. The Commission's April 23, 2019 Order also recognized Nex-Tech's desire to cease participation in the KLSP, effective May 31, 2019.

⁵ Application ¶ 6.

⁶ *Id.* ¶ 8.

Thus, in order to grant relinquishment, the Commission must: (1) find that the area is served by at least one other ETC; and (2) that all customers served by the relinquishing carrier will continue to be served. As is evident in the statute and further articulated by the FCC,

...the section 214(e)(4) relinquishment process allows for the states (or the [FCC], if applicable) to conduct an inquiry at a sufficiently granular level to ensure that the customers in that area ‘will continue to be served.’ The relinquishment process not only entails an evaluation of what service providers are present in an area at a given point in time, but of the practical ability of those providers to take on additional consumers as might be needed once the relinquishing carrier is no longer an ETC subject to associated obligations in that area. Indeed, section 214(e)(4) not only involves an inquiry regarding the capabilities of other service providers, but, to the extent needed, includes a grant of authority to obligate remaining ETCs to acquire adequate facilities within a defined time period.⁷ (emphasis added).

In its analysis of Nex-Tech’s Application, Staff first looked into whether the subject census blocks were served by at least one other ETC; then, Staff analyzed whether the customers served currently by Nex-Tech will continue to be adequately served if Nex-Tech’s relinquishment were granted.

Whether Requested Relinquishment Census Blocks are Served by Another ETC

For the 240 census blocks in the Nex-Tech relinquishment area, the Commission first needs to determine whether there is at least one other ETC that would be able to provide USF support to consumers. High-cost Eligible Telecommunications Carriers are required to offer services to consumers in their designated service area, which means the Commission needs to determine whether there is at least one high-cost ETC in the relinquished census blocks. Nex-Tech has indicated in their Application and Staff has confirmed in the analysis in Exhibit A, other designated ETCs in the relinquishment area exist for high-cost purposes.⁸

Resound Networks, LLC (Resound) and Mercury Wireless Kansas, LLC d/b/a Mercury Broadband (Mercury Broadband) were granted ETC authority by using 2010 census block data. Staff compared Nex-Tech’s Exhibit A also using 2010 census block data to census block data from Resounds Docket No. 21-RNWT-254-ETC (Docket 21-254) and Mercury Broadband Docket No. 21-MWKT-258-ETC (Docket 21-258) to determine if another ETC serves the census block.⁹ Per Staff’s review, there is at least one high-cost ETC that is able to provide high-cost support to consumers in all of the census blocks for which Nex-Tech is relinquishing.

Therefore, for high-cost purposes, Staff believes this step of the relinquishment process has been met.

⁷ *USTelecom Forbearance Order*, FCC 15 166, ¶ 111.

⁸ See Staff Exhibit A.

⁹ See *Id.*

Whether Relinquished Customers will Continue to be Adequately Served by Remaining ETCs

High-Cost ETCs

Although Staff believes the statutory requirement for ETC relinquishment has been met for the requested relinquishment areas in all 240 census blocks, some concerns still exist about the remaining ETCs' practical ability to ensure that all remaining customers will continue to be served. However, Staff believes the second requirement has also been met because the remaining high-cost ETCs have an obligation to ensure that the remaining customers will continue to be served in each census block for which each ETC has received high-cost ETC authority.

Some high-cost ETCs have built their facilities in more densely populated parts of an exchange. It appears that the only occasion in which a high-cost ETC could be required to build out new facilities to a customer would be for a "reasonable request for service" for which another high-cost ETC does not currently have facilities (i.e., new construction).

As an ETC, Nex-Tech is required to offer universal service throughout its designated service area to all reasonable requests for service. Nex-Tech has historically been eligible to receive state and federal funding to assist with the cost to provide universal service in high-cost areas. To date, Nex-Tech has received \$877,216 in federal high-cost support.¹⁰

If the relinquishment request is granted, Nex-Tech would no longer be required to serve all requesting customers in accordance with 47 U.S.C. § 214(e)(4) in the Abilene exchange.

Nex-Tech is current with regard to Commission assessments. The Company is also current with regard to KUSF assessments.

RECOMMENDATION:

Staff believes Nex-Tech has met the requirements for relinquishment as identified in § 214(e)(4). Staff recommends the Commission find (1) that the census blocks in question are indeed served by at least one other ETC; and (2) that all customers currently served by Nex-Tech will continue to be served. Thus, Staff recommends the Commission grant Nex-Tech's request to relinquish its ETC designation for high-cost purposes in the 240 census blocks listed in Nex-Tech's Exhibit A.

Staff recommends the Commission issue an Order granting Nex-Tech's request to relinquish its ETC designation in 240 census blocks, effective upon Commission Order.

Although all ETCs should know and understand the ETC obligations that they committed to when they applied to become an ETC, Staff recommends the Commission serve the Order on all ETCs designated in the Abilene exchange so that they fully understand their ongoing obligations.

¹⁰ <https://opendata.usac.org/High-Cost/High-Cost-Funding-Disbursement-Search/cegz-dzzi> , last viewed February 13, 2025.

CERTIFICATE OF SERVICE

24-NTHT-589-ETC

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing was served via electronic service this 3rd day of March, 2025, to the following:

CARLY MASENTHIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
carly.masenthin@ks.gov

ANTHONY VEACH
NEX-TECH, LLC
145 N. MAIN
LENORA, KS 67645
anthonyveach@anthonyveachlaw.com

Ann Murphy
