

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

Before Commissioners: Dwight D. Keen, Chair
 Susan K. Duffy
 Andrew J. French

In the Matter of the Application of Southwestern)
Bell Telephone Company for Approval of)
Interconnection Agreement Under the) Docket No. 11-SWBT-414-IAT
Telecommunications Act of 1996 With)
Granite Telecommunications, L.L.C.)

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 February 10, 2022, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application requesting Commission approval of an Amended Interconnection Agreement between Southwestern Bell Telephone Company and Granite Telecommunications, L.L.C. (Granite). AT&T Kansas filed an additional Amended Interconnection Agreement between itself and Granite on March 11, 2022. The initial Amended Interconnection Agreement made modifications to certain provisions relating to Operation Support Systems and Data Connection Security Requirements. The additional Amended Interconnection Agreement incorporates changes ordered by the Federal Telecommunications Commission (FCC) with regard to certain loop and transport unbundling and resale obligations. The FCC determined that forbearance from unbundling obligations was appropriate for certain DS1/DS3 dedicated interoffice transport between price cap incumbent LEC wire centers; two-wire and four-wire analog voice grade cooper loops; and avoided-cost resale obligations in price cap incumbent LECs

service areas.¹ The FCC also continued the process of changing unbundling and resale regulations by eliminating requirements, subject to reasonable transition periods, for enterprise-grade DS1 and DS3 loops with evidence of actual and potential competition, for broadband-capable DS0 loops in densely populated areas and voice-grade narrowband loops nationwide.² The FCC further eliminated certain unbundled dark fiber transport within a half-mile of competitive fiber networks, subject to a transition period.³

2. AT&T is the largest telecommunication carrier operating in Kansas and maintains the status of an “electing carrier,” with major service areas in Kansas City, Topeka and Wichita. It is headquartered in Topeka, Kansas. Granite has its principal office in Quincy, Massachusetts, and is registered to do business with the Kansas Secretary of State foreign limited liability company. Granite was granted authority as a competitive local exchange service provider in Docket No. 04-GRTT-281-COC.

3. AT&T Kansas states that the Amendments to Interconnection Agreement entered into and between AT&T Kansas and Granite change the Interconnection Agreement by modifying provisions related to Operation Support Systems and Data Security Requirements, as well as incorporating the implementation of FCC Orders 19-66 and 19-72 in WC Docket No. 18-141, UNE and Resale Forbearance Orders as well as FCC Order 20-152 in WC Docket No. 19-308, the UNE Relief Order. The subject Interconnection Agreement and Amendments to the Interconnection Agreement are collectively referred to herein as “amended Agreement”. AT&T

¹ See, *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160 (c) to Accelerate Investment in Broadband and Next-Generation Networks*, WC Docket No. 18-141 et al., Report and Order on Remand and Memorandum Opinion and Order, 34 FCC Rcd 5767 (2019); and *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160 (c) to Accelerate Investment in Broadband and Next-Generation Networks*, WC Docket No. 18-141, Memorandum Opinion and Order, 34 FCC Rcd 6503 (2019).

² *In the Matter of Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, WC Docket No. 19-308, Memorandum and Opinion FCC 20-152, 35 FCC Rcd 12425.

³ *Id.*

Kansas indicates 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.⁴

4. The Commission derives its authority and jurisdiction of telecommunications public utilities from K.S.A. 66-2005 (z).

5. 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.

6. On March 16, 2022, the Commission Staff (Staff) submitted its Report and Recommendation, advising the Commission to approve the amended Agreement between AT&T Kansas and Granite. Citing Section 252(e) of the Federal Act, Staff acknowledges the amended Agreement fully complies with Section 252(e) of the Federal Act and supports approval of the Agreement as being consistent with the public interest and convenience and necessity. Staff highlights the changes made by the FCC to its loop and transport unbundling and resale requirements, noting extensive modifications for analog and digital Unbundled Network Elements (UNE), DS1/DS3 Unbundled Dedicated Transport, DS1 and DS3 UNE loops, UNE dark fiber transport, and UNE Subloops, or UNE Network Interface Devices, that have been incorporated into the Agreement. The Staff describes certain transition periods established for the FCC's evolving timeframe for implementing the unbundling, transport and resale requirements. Staff

⁴ Application at 2.

further identifies the effect of the FCC Orders removing requirements to provide Competitive Local Exchange Company access to certain analog facilities provided over cooper facilities at wholesale rates in view of technological advances in the deployment of digital and fiber networks.

7. The Commission adopts Staff's recommendation of March 16, 2022, as stated in its Report and Recommendation, which is attached and made a part of this Order, and finds that AT&T Kansas' Application should be granted, and the amended Agreement between AT&T Kansas and Granite be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Southwestern Bell Telephone Company d/b/a AT&T Kansas' Applications filed February 10, 2022 and March 11, 2022, are hereby granted and the amended Interconnection Agreement between AT&T Kansas and Granite Telecommunications, LLC is approved.

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).⁵

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.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 03/22/2022



Lynn M. Retz
Executive Director

wah

⁵ K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Dwight D. Keen, Chair
Susan K. Duffy, Commissioner
Andrew J. French, Commissioner

FROM: Hemant Bhagat, Senior Telecommunications Analyst
Sandy Reams, Assistant Chief of Telecommunications
Bryan Seamans, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: March 16, 2022

SUBJECT: Docket No. 11-SWBT-414-IAT

In the Matter of the Application Southwestern Bell Telephone Company for
Approval of Interconnection Agreement Under the Telecommunications Act of
1996 with Granite Telecommunications, LLC.

EXECUTIVE SUMMARY:

On February 10, 2022, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application for Approval of Amendment to Interconnection Agreement under the Telecommunications Act of 1996 between AT&T Kansas and Granite Telecommunications LLC. (Granite) to amend the Operations Support Systems (OSS) and/or Data Connection Security requirements (February Amendment). On March 11, 2022, AT&T Kansas filed another Application for Approval of Amendment to Interconnection Agreement with Granite to implement the Federal Communications Commission's (FCC) Orders 19-66 and 19-72 in WC Docket No. 18-141 (UNE and Resale Forbearance Orders) and FCC Order 20-152 in WC Docket No. 19-308 (UNE Relief Order) (March Amendment).

Staff recommends approval of the February 10 and March 11, 2022, Amendments to the Agreement.

The Commission action date is May 11, 2022.

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 pre-empted 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:

The February Amendment modifies certain provisions relating to OSS and/or Data Connection Security requirements. The Amendment foregoes recitals and the terms and conditions in the original Agreement and replaces them with the Data Connection Security Procedures as set forth on the AT&T CLEC Online website. The Data Connection Security Procedures relate to procedures on joint security requirements, information security, user identification and authentication, network monitoring, and software integrity. The OSS modification will also bring those into compliance with AT&T's CLEC OSS Interconnection Procedures set forth on AT&T's CLEC Online website.

The March Amendment removes certain analog and digital Unbundled Network Elements (UNE Loops) and certain wholesale resale offerings from the original Agreement per the UNE and Resale Forbearance Order.^[1] Additional modifications were made to the Agreement to remove the requirement for DS1/DS3 Unbundled Dedicated Transport (DS1/DS3 UDT) between Tier 1 wire centers and/or wire centers subject to UDT forbearance under FCC 19-66^[2] and Public Notice DA 19-733,^[3] dated August 1, 2019. The Amendment also removes DS1 and DS3 UNE loops, UNE Dark Fiber Transport (DFT), and UNE Subloops or UNE Network Interface Devices (NIDs) per the UNE Relief Order. The Amendment further restricts conversion of existing Special Access

^[1] FCC 19-72, *Petition of US Telecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*; <https://docs.fcc.gov/public/attachments/FCC-19-72A1.pdf>.

^[2] FCC 19-66, *Report And Order On Remand (WC Docket Nos. 05-25, 16-143; GN Docket No. 13-5) and Memorandum Opinion And Order (WC DOCKET NO. 18-141)*, Released July 12, 2019; <https://docs.fcc.gov/public/attachments/FCC-19-66A1.pdf>.

^[3] FCC DA 19-733, *Wireline Competition Bureau Releases List Of Common Language Location Identification Codes For Price Cap Incumbent Local Exchange Carrier Wire Centers Subject To UNE Transport Forbearance*, Released August 1, 2019; <https://docs.fcc.gov/public/attachments/DA-19-733A1.pdf>.

circuits to Unbundled Network Elements and requires Granite to provide AT&T Kansas with a forecast of the total number of Unbundled Loops that it plans to migrate to an alternate product or service.

Any 2-wire and 4-wire Analog UNE loops qualifying service considered existing embedded base, ordered on or before February 1, 2020, is grandfathered until August 2, 2022. Existing 2-wire Digital UNE Loops ordered on or before February 8, 2023, are grandfathered until February 8, 2025. DS1/DS3 qualifying service considered UDT embedded base, ordered on or before January 11, 2020, are grandfathered until July 12, 2022. In addition, DS1 UNE Loops ordered on or before February 8, 2023, are grandfathered until July 8, 2024; DS3 UNE Loops ordered on or before February 8, 2021, are grandfathered until February 8, 2024; and any Existing UNE DFT facility ordered before February 8, 2021, is grandfathered until February 8, 2029. The Amendment expires concurrent with the existing Agreement.

The current FCC Orders remove the requirement for the Incumbent Local Exchange Company (ILEC) to provide a Competitive Local Exchange Company (CLEC) access to certain analog facilities owned by the ILEC, provided over copper facilities at wholesale rates. The original rules were imposed under the Telecommunications Act of 1996 and were written to require ILECs to lease the existing facilities to CLECs at wholesale prices. This allowed the CLEC to compete in the telecommunications market against the ILEC without the upfront expense of constructing its own telecommunications network. The initial rules were written based on the technology at that time, which was analog copper facilities. As telecommunications companies transition to newer Internet Protocol (IP) technologies with fiber, the copper facilities are being replaced by updated technology and facilities.

AT&T Kansas contends that implementation of this Agreement complies fully with Section 252(e) of the Federal Act and believes approval is consistent with the public interest, convenience, and necessity and does not discriminate against any telecommunications carrier.

Having reviewed the modification to the Agreement between AT&T Kansas and Granite, Staff finds no evidence to conclude this Agreement discriminates against any telecommunications carrier, nor is it inconsistent with public interest, convenience, or necessity. Staff believes the public will generally benefit from KCC approval of this Application.

The Companies are registered with the Kansas Secretary of State and are active and in good standing with that office.

RECOMMENDATION:

Staff recommends the Commission grant approval of the February 10, 2022, and March 11, 2022, Amended Agreements between AT&T Kansas and Granite.

CERTIFICATE OF SERVICE

11-SWBT-414-IAT

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of electronic service on 03/22/2022.

GEOFFREY COOKMAN, DIRECTOR--REGULATORY
AFFAIRS
GRANITE TELECOMMUNICATIONS, LLC
100 NEWPORT AVE EXT #1
QUINCY, MA 02171-1734
gcookman@granitenet.com

WALKER HENDRIX, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
w.hendrix@kcc.ks.gov

BRUCE NEY, ATTORNEY FOR AT&T KANSAS
SOUTHWESTERN BELL TELEPHONE CO.
D/B/A AT&T KANSAS
816 CONGRESS AVENUE, STE 1100
AUSTIN, TX 78701
bruce.ney@att.com

/S/ DeeAnn Shupe

DeeAnn Shupe