

**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 Interconnection,)
Collocation, and Resale Agreement by and)
Between Metropolitan Telecommunications of) Docket No. 10-UTDT-272-IAT
Kansas, Inc. d/b/a MetTel and United)
Telephone Company of Kansas d/b/a Embarq,)
United Telephone Company of Eastern Kansas)
d/b/a Embarq, United Telephone Company of)
Southcentral Kansas d/b/a Embarq, and)
Embarq Missouri, Inc. d/b/a Embarq.)

ORDER APPROVING AMENDED AGREEMENT

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 records and being duly advised in the premises, the Commission makes the following findings:

1. On October 28, 2022, Embarq Missouri, Inc. d/b/a CenturyLink, United Telephone Company of Kansas d/b/a CenturyLink, United Telephone Company of Southcentral Kansas d/b/a CenturyLink, and United Telephone Company of Eastern Kansas d/b/a CenturyLink (CenturyLink) filed an application for approval of a Resale Forbearance Amendment between itself and Metropolitan Telecommunications of Kansas Inc. d/b/a MetTel (Metropolitan) to implement the Federal Communications Commission’s (FCC) Order 19-72 in WC Docket No.

18-141 (Resale Forbearance Order).¹ On November 1, 2022, the Company filed an Amended Application to include the Amendment to the Interconnection Agreement with its Application.

2. 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 over which the Commission has control 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.”

3. Section 252(e)(2) of the Federal Telecommunications Act of 1996² 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.

4. Commission Staff submitted a Report and Recommendation, dated November 14, 2022, regarding the implementation of this Agreement, attached hereto and made a part hereof by reference. Staff has no concerns regarding the Application, affirming that this Agreement does not discriminate against a carrier not a party to the Agreement and stating that approval of this Agreement is consistent with the public interest. Staff recommended approval of the Amended Agreement.

¹ Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. 160 (c) to Accelerate Investment in Broadband and Next-Generation Networks, Report and Order, WC Docket No. 18-141, FCC 19-72 (rel. Aug 2, 2019).

²47 U.S.C. §252(e)(2).

5. The Commission finds Staff's findings and recommendation to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:


A. The Amended Agreement Embarq Missouri, Inc. d/b/a CenturyLink, United Telephone Company of Kansas d/b/a CenturyLink, United Telephone Company of Southcentral Kansas d/b/a CenturyLink, and United Telephone Company of Eastern Kansas d/b/a CenturyLink and Metropolitan Telecommunications of Kansas Inc. d/b/a MetTel, filed October 28, 2022, 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).³

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Duffy, Commissioner; French, Commissioner

Dated: 11/22/2022



Lynn M. Retz
Executive Director

AAL

³ K.S.A. 66-118b; K.S.A. 77-503(c); 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: November 14, 2022

SUBJECT: Docket No. 10-UTDT-272-IAT

In the Matter of the Interconnection, Collocation, and Resale Agreement by and Between Metropolitan Telecommunications of Kansas, Inc. d/b/a MetTel and United Telephone Company of Kansas d/b/a Embarq, United Telephone Company of Eastern Kansas d/b/a Embarq, United Telephone Company of Southcentral Kansas d/b/a Embarq, and Embarq Missouri, Inc. d/b/a Embarq.

EXECUTIVE SUMMARY:

On October 28, 2022, Embarq Missouri, Inc. d/b/a CenturyLink, United Telephone Company of Kansas d/b/a CenturyLink, United Telephone Company of Southcentral Kansas d/b/a CenturyLink, and United Telephone Company of Eastern Kansas d/b/a CenturyLink (CenturyLink) filed an Application for Approval of a Resale Forbearance Amendment between CenturyLink and Metropolitan Telecommunications of Kansas Inc. d/b/a MetTel (Metropolitan) to implement the Federal Communications Commission's (FCC) Order 19-72 in WC Docket No. 18-141 (Resale Forbearance Order).¹ On November 1, 2022, the Company filed an Amended Application to include the Amendment to the Interconnection Agreement with its Application.

Staff recommends approval of the Amendment to the Agreement.

The Commission action date is February 1, 2023.

BACKGROUND:

¹ Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. 160 (c) to Accelerate Investment in Broadband and Next-Generation Networks, Report and Order, WC Docket No. 18-141, FCC 19-72 (rel. Aug 2, 2019).

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 FCC Resale Forbearance Order removes 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. Incumbent carriers will no longer be required to make the copper “loops” that connect customer homes and small businesses to communications networks available at regulated rates to carriers providing voice competition. The original rules were imposed under the Telecommunications Act of 1996 and 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.

Pursuant to the Resale Forbearance Order, Metropolitan had the ability to order new services and retain existing services at a wholesale discount from CenturyLink for resale until February 2, 2020. Service procured for resale on or before February 2, 2020, continued to receive wholesale discount until August 2, 2022.

Per the Amended Agreement, after February 2, 2020, any service procured by Metropolitan for resale purposes from CenturyLink did not and will not qualify for a wholesale discount. CenturyLink may conduct quarterly internal review of Metropolitan’s resale order activity to accurately bill new resale services after February 20, 2020, reflecting the removal of wholesale discounts; and issue applicable credits or debits.

After August 2, 2022, CenturyLink will provide new resale services and existing resale services pursuant to the Amendment, however, such services will not receive the wholesale discount.

CenturyLink 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 CenturyLink and Metropolitan, Staff finds no evidence to conclude this Agreement discriminates against any telecommunications carrier, nor is it inconsistent with public interest, convenience, or necessity

The Companies are registered with the Kansas Secretary of State and are active and in good standing with that office.²

RECOMMENDATION:

Staff recommends the Commission grant approval of Amended Agreement between CenturyLink and Metropolitan.

² Kansas Secretary of State Web Site:
<https://www.kansas.gov/bess/flow/main;jsessionid=201EBC55867CB69843FF6555C8927D1C.aptc03-inst1?execution=e1s2>

CERTIFICATE OF SERVICE

10-UTDT-272-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 11/22/2022.

RALPH DICHY, VICE PRESIDENT
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/S/ KCC Docket Room
KCC Docket Room