

3. K.S.A. 66-131 states: “No common carrier or public utility...shall transact business in the state of Kansas until it shall have obtained a certificate from the corporation commission that public convenience will be promoted by the transaction of said business and

permitting said applicants to transact the business of a common carrier or public utility in this state.”

4. In determining whether the public convenience will be promoted by the transaction of said business, Staff points out that the Commission looks at a number of factors. The factors may include, but are not limited to, the provider's commitment to meet all requirements of the existing statutes and orders and modifications specified in recent House Bill 2201. Regarding such factors, Staff cites K.S.A. 2016 Supp. 66-2005(w) which provides in part that:

... telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996 ... must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission.

5. WTC is a close corporation registered in Kansas and is properly registered with the Kansas Secretary of State's Office with a status of “active and in good standing.” WTC is a wholly-owned subsidiary of Wamego Telecommunications Company, Inc. (“Wamego Telecommunications”). Wamego Telecommunications is, in turn, a wholly-owned subsidiary of Wamego Telephone Company, Inc. (“Wamego Telephone”), a rural Kansas ILEC.

6. Based on the information submitted and the investigation Staff has performed, Staff believes the Company has the managerial, technical and financial ability to provide Interexchange Services in Kansas.

7. The Company indicates WTC Technologies, Inc. is currently operating as an Interconnected Voice over Internet Provider (“I-VoIP”) in Manhattan, Kansas. Applicant currently has approximately twenty-seven (27) I-VoIP customers.

8. Staff states that some Companies do prefer the existence of a Certificate of Convenience on file with the Commission in order to enter into an Interconnection Agreement with another provider. Staff further recognizes that the Federal Communications Commission (FCC) encourages VOIP providers to enter into interconnection agreements with carriers. Therefore, Staff agrees with the issuance of a Certificate for that portion of the request.

9. Staff also stated that due to the pending decisions before Congress and the FCC regarding the classification of internet as either a communications service or an information service, Staff cannot agree that filing for a Certificate of Convenience would resolve all issues that may arise in the future concerning the classification of internet services.

10. Staff also states that upon approval of the Certificate, WTC is required to file Interrogatory Reports, remain current with the Kansas Secretary of State's office, pay all Commission and Kansas Universal Service Fund ("KUSF") assessments, and follow the Telecommunications Carrier Code of Conduct.

11. Staff also states that upon approval of the Certificate, WTC is required to notify the Commission of any changes of contact personnel, address and/or phone numbers. Failure to meet these filing requirements could result in the revocation of the Certificate of Convenience and Authority.

12. Staff found that the applicant has shown the technical, managerial and financial ability to provide CLEC service in Kansas and recommends the Commission approve WTC's request for Certification as a CLEC in the state of Kansas.

13. The Commission finds that Staff's analysis and recommendations of November 2, 2017, as stated in its Report and Recommendation, are reasonable and hereby adopts the same.

THEREFORE, THE COMMISSION ORDERS:

A. WTC Technologies, Inc.'s request for Certification to provide CLEC services in the state of Kansas is approved.

B. WTC Technologies, Inc. is reminded of its obligations to make the required filings, stay current with the Kansas Secretary of State's office, register with the KUSF Administrator, pay all Commission and KUSF assessments, and follow the Telecommunications Carrier Code of Conduct. Failure to meet these requirements could result in revocation of the company's Certificate.

C. WTC Technologies, Inc. is also reminded that it is required to notify the Commission of any changes of contact personnel, address and/or phone numbers. Failure to meet these filing requirements could result in the revocation of the Certificate of Convenience and Authority.

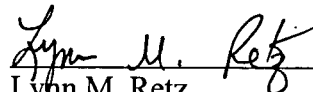
D. The parties have 15 days from the date of electronic service of this Order to petition for reconsideration.¹

E. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: NOV 09 2017


Lynn M. Retz
Secretary to the Commission

AAL

¹ K.S.A. 66-118b; K.S.A. 77-529(a)(1).

EMAILED

NOV 09 2017

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Emler

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: November 2, 2017

SUBJECT: 18-WTIT-157-COC
In the Matter of the Application of WTC Technologies, Inc. for a Certificate of Convenience and Authority to Provide Local Exchange Services within the State of Kansas

EXECUTIVE SUMMARY:

WTC Technologies, Inc. (WTC) has submitted an Application for Authority to provide Competitive Local Exchange (CLEC) service in the state of Kansas. Staff has researched the Application as part of its normal approval process and recommends approval of the Application.

BACKGROUND:

On October 6, 2017, WTC filed an Application requesting a Certificate to provide Competitive Local Exchange Carrier (CLEC) service in Kansas. In this Application, WTC requests authority to provide Competitive Local Exchange service throughout Kansas in Southwestern Bell Telephone d/b/a AT&T Kansas and United Telephone Companies of Kansas d/b/a CenturyLink territories. The Applicant has not yet consummated interconnection agreements with the Incumbent Local Exchange Carriers (ILEC). The Applicant is required to receive Commission approval of the interconnection agreement(s) prior to operating in the state of Kansas.

WTC is a close corporation registered in Kansas and is properly registered with the Kansas Secretary of State's Office and its status is "active and in good standing". WTC is a wholly-owned subsidiary of Wamego Telecommunications Company, Inc. ("Wamego Telecommunications"). Wamego Telecommunications is, in turn, a wholly-owned subsidiary of Wamego Telephone Company, Inc. ("Wamego Telephone"), a rural Kansas ILEC.

ANALYSIS:

Pursuant to K.S.A. 66-131, no common carrier or public utility shall transact business in the state of Kansas until it shall have obtained a Certificate from the Commission that public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in the state.

In making the determination as to whether the public convenience will be promoted by the transaction of said business, the Commission determined that it would look at a number of factors when determining whether a particular Application is consistent with the public interest. The factors may include, but are not limited to, the provider's commitment to meet all requirements of the existing Statutes and Orders and modifications specified in House Bill 2201.

K.S.A. 2012 Supp. 66-2005 (w) states:

“...telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996...must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission”.

WTC indicates it does not have its own employees but will instead utilize the employees of its parent company, Wamego Telecommunications, Inc., to manage the day to day operations of WTC. The President and General Manager is Jeffrey Wick. The Company is headquartered in Wamego, Kansas. The Company indicates WTC Technologies, Inc. is currently operating as an Interconnected Voice over Internet Provider (“I-VoIP”) in Manhattan, Kansas. Applicant currently has approximately twenty-seven (27) I-VoIP customers.

Staff issued Information Request #1 asking the Company to clarify the area it intended to serve. The Application indicated it wished to exclude the areas served by carriers served by the rural exemption of K.S.A. 66-2004, but in the attachments provided with the Application, the Company indicated it wished to serve areas including those served by the rural exemption of K.S.A. 66-2004. The Company responded to Information Request #1 by stating:

WTC Technologies regrets a drafting error in its Attachment A. The company seeks authorization, like that afforded to many Kansas CLECs, to provide local service throughout the State of Kansas *excluding*, not including, those areas served by carriers subject to the rural exemption of K.S.A. 66-2004 as set forth in the body of the application at ¶ 6.

Staff recognizes that VOIP providers are not limited by the rural exemption in K.S.A. 66-2004 as other carriers are due to K.S.A. 66-2017.

WTC indicates they provide I-VOIP. Staff issued Information Request #2 inquiring if the Company is providing I-VOIP currently in Manhattan and I-VOIP does not require a provider to

file for Certification, why the Company was now requesting a Certificate from the Commission. The Company responded:

WTC Technologies began provision of limited local service via interconnected VOIP technology pursuant to K.S.A. 66-2017, for which certification is not required. The company intends to expand the extent of its service and anticipates the need to achieve interconnection agreements with other carriers; certification as a CLEC telecommunications carrier (employing VOIP technology) will resolve potentially contested issues regarding the classification of interconnected VOIP as either a communications service or an information service.

Staff recognizes that some Companies do prefer the existence of a Certificate of Convenience on file with the Commission in order to enter into an Interconnection Agreement with another provider. Staff further recognizes that the Federal Communications Commission (FCC) encourages VOIP providers to enter into interconnection agreements with carriers. Therefore, Staff agrees with the issuance of a Certificate for that portion of the request. However, due to the pending decisions before Congress and the FCC regarding the classification of internet as either a communications service or an information service, Staff cannot agree that filing for a Certificate of Convenience would resolve any issues that may arise in the future questioning the classification of internet services.

The financial records provided for the parent company, Wamego Telephone Company, Inc., support the Applicant's financial ability to operate a business. Based on the information submitted and the investigation Staff has performed; the Company appears to have the managerial, technical and financial ability to provide CLEC services in Kansas.

RECOMMENDATION:

Staff recommends the Commission approve WTC's request for Certification as a CLEC in the state of Kansas. The Applicant has shown the technical, managerial and financial ability to provide CLEC service in Kansas.

Upon Commission approval, WTC is to be reminded that all telecommunications companies in Kansas are required by law to file Annual Interrogatory Reports; remain current with the Kansas Secretary of State's office; pay all Commission and KUSF assessments; and follow the Telecommunications Carrier Code of Conduct.

Staff also recommends the Applicant be reminded of the need to notify the Commission of any changes of contact personnel, address and/or phone numbers. Failure to meet these filing requirements could result in the revocation of the Certificate of Convenience and Authority.

CERTIFICATE OF SERVICE

18-WTIT-157-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on NOV 09 2017.

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/s/ DeeAnn Shupe

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EMAILED

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