

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

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

In the Matter of the Application for Approval)
of an Interconnection, Collocation and Resale)
Agreement Between United Telephone) Docket No. 17-UTDT-077-IAT
Company of Eastern Kansas d/b/a)
CenturyLink; United Telephone Company of)
Kansas d/b/a CenturyLink; United Telephone)
Company of Southcentral Kansas d/b/a)
CenturyLink; Embarq Missouri, Inc. d/b/a)
CenturyLink and Comcast Phone of Kansas,)
LLC d/b/a Comcast Digital Phone Pursuant to)
the Telecommunications Act of 1996)

ORDER APPROVING INTERCONNECTION AGREEMENT MODIFICATIONS

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 September 2, 2021, United Telephone Company of Eastern Kansas, United Telephone Company of Kansas, United Telephone Company of Southcentral Kansas, and Embarq Missouri, Inc., all d/b/a CenturyLink (CenturyLink), filed an application for modification of an Interconnection Agreement (Agreement) between CenturyLink and Comcast Phone of Kansas, LLC (Comcast), entered into on August 16, 2016.

2. Section 252(e)(2) of the Federal Telecommunications Act of 1996¹ states that State commissions may reject a negotiated agreement only if it finds that the agreement (or portions

¹47 U.S.C. §252(e)(2).

thereof) discriminates against a telecommunications carrier that is 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.

3. Commission Staff submitted a Report and Recommendation in regards to the Interconnection Agreement on September 30, 2021, 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 that is not a party to the Agreement and stating that approval of this Agreement is in the public interest. Staff recommended approval of the Interconnection Agreement.

4. 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 Application for modification of the Interconnection Agreement between United Telephone Company of Eastern Kansas, United Telephone Company of Kansas, United Telephone Company of Southcentral Kansas, and Embarq Missouri, Inc., all d/b/a CenturyLink and Comcast Phone of Kansas, LLC, filed September 2, 2021, 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).²

² K.S.A. 66-118b; K.S.A. 77-503(c); K.S.A. 77-531(b).

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chairman; Keen, Commissioner; French, Commissioner

Dated: 10/12/2021



Lynn M. Retz
Executive Director

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REPORT AND RECOMMENDATION UTILITIES DIVISION

TO: Chairperson Andrew J. French
Commissioner Dwight D. Keen
Commissioner Susan Duffy

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

DATE: September 30, 2021

SUBJECT: Docket No. 17-UTDT-077-IAT

In the Matter of the Application of Embarq Missouri, Inc. d/b/a CenturyLink for Approval of an FCC Modernizing Unbundling and Resale Requirements Amendment Agreement Under the Telecommunications Act of 1996 With Comcast Phone of Kansas, LLC.

EXECUTIVE SUMMARY

On September 2, 2021, CenturyLink filed an Application for modification of the Interconnection Agreement with Comcast Phone of Kansas, LLC (Comcast). Staff recommends approval of this Application.

The Commission action date is **Wednesday, December 1, 2021.**

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 Amendment removes certain Unbundled Network Elements (UNE) (Loops) and UNE Dark Fiber Transport offerings from the original Agreement based on the FCC's Report and Order issued in Docket No. 19-308, FCC 20-152 (Report and Order).¹ Specifically, the Report and Order: (1) eliminated unbundling requirements, subject to reasonable transition periods, for enterprise DS1 and DS3 loops in areas with sufficient evidence of competition, broadband-capable DS0 loops and subloops in the most densely populated areas, voice-grade narrowband loops nationwide, network interface devices nationwide, and operations support systems nationwide except for the purposes of managing other unbundled network elements, number portability, and interconnection; (2) preserved the unbundling requirements for DS0 loops in less densely populated areas and DS1 and DS3 loops in areas without sufficient evidence of competition; and (3) eliminated unbundling requirements for dark fiber transport provisioned from wire centers within a half-mile of competitive fiber networks, but provided an eight-year transition period for existing circuits so as to avoid stranding investment and last-mile deployment by competitive LECs that may harm consumers.

Modifications were made to the Agreement to remove the requirement to offer DS0 loops and associated copper subloops in urban area census blocks. New DS0 loops will be offered until February 7, 2024, at the current price. After February 8, 2024, a 25% rate increase will be imposed on embedded loops and copper subloops and, after February 8, 2025, market rate pricing may be implemented.

DS1 UNE Loops (DS1 Loops) in Wire Centers in counties deemed to be competitive will no longer be offered after February 7, 2023. Embedded base of DS1 loops as of February 7, 2023, will be grandfathered at Total Element Long Run Incremental Cost (TELRIC) rates until August 8, 2024. After August 8, 2024, the embedded base of DS1 loops will be transitioned to market rate.

DS3 UNE Loops (DS3 Loops) in Wire Centers in counties deemed to be competitive are no longer required to be offered. Existing DS3 Loops (DS3 Loop Embedded Base) are grandfathered at TELRIC rates until February 8, 2024. After February 8, 2024, DS3 loops in these wire centers will be transitioned to market rates or will be offered under the applicable state tariff.

New UNE Subloops or UNE Network Interface Devices (NIDs) can no longer be ordered as of February 8, 2021. CLECs may retain its embedded base of these UNEs until February 8, 2024, after which market rate pricing will be implemented.

¹ *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services*, Report and Order, WC Docket No. 19-308, FCC 20-152 (rel. Oct. 28, 2020).

New UNE Dark Fiber Transport (DFT) can no longer be ordered where the dark fiber transport is connected to a Tier 1 or 2 wire center located within ½ mile of competitive fiber, as described in the FCC UNE Relief Order and designated by the FCC. Existing UNE Dark Fiber Transport facility is grandfathered for about eight years until February 8, 2029, after which market rate pricing will be implemented.

Operations Support Systems will no longer be offered as an independent UNE nationwide, except for the purposes of managing other UNEs, interconnection, or for the local number port orders.

The communications marketplace has seen rapid technological change. The copper-to-fiber and Time Division Multiplexing (TDM)-to-Internet Protocol (IP) transitions have increasingly reached residential consumers, as Incumbent Local Exchange Carriers (ILECs) have been retiring last-mile copper and replacing it with fiber or fixed wireless technologies.² Consumers are increasingly moving from fixed legacy voice to fixed or nomadic voice over Internet protocol (VoIP) and mobile voice services, and from DSL to broadband provided over fiber and fixed and mobile wireless.³

CenturyLink filed for approval of this Amended Agreement between CenturyLink and Comcast. The Amendment expires *concurrent* with the existing Agreement.

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 Comcast, 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 this Application for a Modification to the Interconnection Agreement between CenturyLink and Comcast.

² See <https://www.fcc.gov/wireline-competition/general/section-251-wireline-network-changes> (listing carrier network change notices, many of which involve the retirement of copper to be replaced with fiber).

³ See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All American in a Reasonable and Timely Fashion*, GN Docket No. 19-285, 2020 Broadband Deployment Report, 35 FCC Rcd 8986, 9031-32, paras. 91-92 (2020) (*2020 Broadband Deployment Report*); *2018 Communications Marketplace Report*, 33 FCC Rcd at 12668-69, paras. 205-07.

CERTIFICATE OF SERVICE

17-UTDT-077-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 10/12/2021.

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