

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Complaint of Ideatek )  
Telcom, LLC, (Complainant) Against )  
Wamego Telecommunications Company, Inc. ) Docket No. 19-WTCT-393-COM  
(Respondent) to Require Wamego to (1) Port )  
Customers and (2) Refrain from Taking Any )  
Action that Could Result in the Blocking of )  
Customer Calls. )

**OBJECTION OF IDEATEK TO THE PETITION TO INTERVENE OF STATE  
INDEPENDENT ALLIANCE**

COMES NOW Ideatek Telcom, LLC (“Ideatek”), and objects to the Petition to Intervene filed by the State Independent Alliance (“SIA”) on the basis that SIA has failed to state an interest in this proceeding sufficient to support its intervention, because SIA’s intervention would negatively impact the orderly conduct of this proceeding, and because granting SIA intervention is not in the interests of justice. In support of this objection, Ideatek states the following:

1. On March 26, 2019, Ideatek filed its complaint against Wamego Telecommunications Company, Inc. (“Wamego”) seeking a Commission order requiring Wamego to port Ideatek’s customers and to prevent Wamego from taking any action intended to, or that could, block or otherwise prevent calls between Wamego and Ideatek customers (“Complaint”).

2. On March 29, 2019, SIA filed a Petition to Intervene (“Petition”) on behalf of sixteen (16) individual Rural Local Exchange Carriers (“RLEC”s), arguing that SIA, as an

association of rural telephone companies, should be allowed to intervene in this case as a matter of right and be granted the ability to participate fully in the proceeding.<sup>1</sup>

3. K.S.A. 77-521(a) and K.A.R. 82-1-225(a) provide that a petition for intervention as a matter of right shall be granted if three conditions are met: (1) the petition is submitted in writing and provided to the parties at least three days before hearing; (2) the petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervener under any provision of law; and (3) the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention. SIA's Petition fails to state facts demonstrating that its legal interests may be substantially affected by this proceeding. Further, the orderly and prompt conduct of the proceeding will be impaired by allowing SIA to intervene and participate and granting SIA intervention is not in the interests of justice.

4. In Docket No. 13-MKEE-447-MIS, the Commission expressed its standards for intervention, stating,

Intervention in Commission proceedings is not automatic. In the future, the Commission will require petitions to include a more detailed demonstration of their interests and an explanation of why those interests are not properly represented by other parties. In keeping with the requirements of K.S.A. 77-521, prospective intervenors should provide specific facts demonstrating their rights, duties, privileges, immunities, or other legal interests affected by the proceeding and the relief they seek from the Commission. The Commission notes in proceedings with multiple parties asserting an attenuated or speculative nexus about the possible impact of a Commission decision on their interests can impair the orderly and prompt conduct of the proceedings and may not add materially to the record upon which the Commission must base its decisions.<sup>2</sup>

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<sup>1</sup> SIA Petition, pp. 1-2.

<sup>2</sup> Docket No. 13-MKEE-447-MIS, "Order on Jurisdiction and Standing" issued April 26, 2013, ¶ 9.

5. SIA's intervention is based upon a list of general issues identified in a separate docket involving Ideatek and a different rural telephone company. SIA claims that it will be impacted by a Commission decision on issues listed in Docket No. 19-RRLT-277-COM, which concerned a complaint filed by Ideatek against Rural Telephone/Nex-Tech. The list of general issues in the Rural Telephone docket that SIA relies on for intervention is not part of this docket. The matters involved in Ideatek's complaint against Wamego are much more limited and are based upon facts unique to the dispute between Ideatek and Wamego. Ideatek's Complaint against Wamego requires the Commission to determine *if Wamego* has the ability to port Ideatek's customers and complete calls from Wamego's customers to Ideatek's customers based upon *Wamego's existing facilities, contracts and technology*. This question is limited to the circumstances involved in this case and is specific to the facts underlying the Complaint. It will not "substantially" affect SIA's members.

6. If allowed to intervene, it is clear that SIA intends to inject into this docket issues that will result in a major expansion of the case, thus hindering the orderly and prompt conduct of the proceeding. Ideatek is the complainant and has carefully framed its Complaint to address the specific factual situation and issues Ideatek now faces with Wamego. SIA should not be allowed to intervene and turn this limited Complaint into an industry-wide free for all. If the Commission wishes to generally investigate broadly the list of issues identified by SIA on interconnection, exchange of traffic and porting of numbers<sup>3</sup>, the Commission should do so in a generic proceeding, as recommended by Ideatek in its Complaint.<sup>4</sup>

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<sup>3</sup> SIA Petition, ¶ 5.

<sup>4</sup> Complaint, ¶ 26.

7. Adding to the disruption SIA's intervention would cause is the fact that SIA has not represented that its sixteen different companies are completely aligned for purposes of this proceeding. At least two of SIA's member companies already ports and trades traffic with Ideatek without cost or negotiated agreement today. Hopefully SIA is not pursuing this intervention with the intent of injecting disagreement between Ideatek and an RLEC that has, up to now, worked cooperatively with Ideatek without the need for litigation.

8. Allowing SIA to intervene and broaden this docket would also undermine Ideatek's desire to obtain a quick resolution, and, therefore, it is not in the interests of justice as required by K.S.A. 77-521. Ideatek has requested this docket proceed under an expedited process because Wamego's refusal to port customers is harming Ideatek's business and operations. Allowing SIA to intervene and expand this proceeding into what would essentially be a generic investigation would make expedited resolution of the immediate threat – Wamego not porting customers and completing calls – virtually impossible. As Wamego pointed out in its response to this Complaint filed on March 29, 2019, the generic issues list suggested by the Hearing Officer in the 19-RRLT-277-COM docket caused the Hearing Examiner to conclude that “expedited proceedings were inappropriate ... the Hearing Examiner noted particularly ‘the nature of the dispute and the complexity of the issues, making an expedited resolution impractical.’”<sup>5</sup>

9. There continues to be no basis in fact that future costs to the RLECs are a driving factor behind their petition to intervene. In contrast, Ideatek's costs in this proceeding will be substantially impacted if the RLECs are allowed to expand the docket beyond the limited issues presented for consideration in the Complaint. This would discourage Ideatek and other competitors from seeking resolution of a complaint at the Commission in the future if groups of RLECs with extensive resources can hijack such complaints and overwhelm a smaller competitor.

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<sup>5</sup> Wamego's response, ¶¶ 46, 47.

Based upon the very limited facts SIA chose to present in its Petition, SIA's intervention appears to have more to do with ganging up on and beating down a competitive threat than it has to do with any specific legal interests in the matter.<sup>6</sup> Ideatek seeks the proper balance of interests in this proceeding, including those of rural consumers who have long lacked access to competitive offerings.

10. For the foregoing reasons, SIA has failed to show that it should be allowed to intervene in this proceeding as a matter of right. Further, SIA has failed to show it should be allowed permissive intervention under K.S.A. 77-521(b) and K.A.R. 82-1-225(b).<sup>7</sup> As such its Petition should be denied.

WHEREFORE, Ideatek respectfully request the Commission issue an Order denying the Petition to Intervene of SIA.

Respectfully submitted,

/s/ Glenda Cafer

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<sup>6</sup> Especially considering that the Columbus group of 11 rural incumbents have also filed for intervention, making it 27 rural telephone companies asking to be allowed to join in this proceeding.

<sup>7</sup> Permissive intervention is allowed if the Commission finds only that that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

/s/ Mark P. Johnson

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## CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above pleading was electronically served this 8<sup>th</sup> day of April, 2019 to:

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