

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

Before Commissioners: Pat Apple, Chairman  
Shari Feist Albrecht  
Jay Scott Emler

In the Matter of the Application of Southwestern )  
Bell Telephone Company for Approval of )  
Interconnection Agreement Under the ) Docket No. 11-SWBT-413-IAT  
Telecommunications Act of 1996 With Broadview )  
Networks, Inc. )

**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 November 10, 2016, Southwestern Bell Telephone Company d/b/a AT&T Kansas (SWBT) filed an Application requesting Commission approval of a modification to the Interconnection Agreement between SWBT and Broadview Networks, Inc. (Broadview). Supplementing its Application, SWBT included as Attachments I and II, a copy of the subject Amendment to the Interconnection Agreement and the Affidavit of Richard T. Howell, SWBT's Area Manager-Regulatory Relations.

2. SWBT states that the Amendment to Interconnection Agreement entered into between SWBT and Broadview on October 10, 2016, amends the Interconnection Agreement between the two parties, which was approved by the Commission on December 30, 2010. The subject Interconnection Agreement and Amendment to Interconnection Agreement are collectively referred to herein as "amended Agreement". SWBT further states that the amended Agreement implements the changes resulting from the Federal Communications Commission's (FCC) USF/ICC, Lifeline and Link Up Reform and Modernization, and USTelecom Forbearance

Orders; adds rates and provisions related to Transit Traffic Services; modifies certain provisions related to Termination of Agreement After Initial Term Expiration; and modifies certain provisions related to Customer Information Services and Notices in the current Agreement.<sup>1</sup> SWBT maintains that 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.<sup>2</sup>

3. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2015 Supp. 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.

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 portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (2) the implementation of such an agreement or portion is not consistent with the public interest, convenience, and necessity.

4. On January 17, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated January 11, 2017, recommending the Commission approve the amended Agreement between SWBT and Broadview. Citing Section 252(e) of the Federal Act, Staff confirms that the amended Agreement fully complies with Section 252(e) of the Federal Act and

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<sup>1</sup> Application, page 1.

<sup>2</sup> Id., page 2.

believes that approval of the Agreement is consistent with the public interest, convenience, and necessity. Staff confirms that the subject modification implements the FCC's US/ICC, Lifeline and Link Up Reform and Modernization, and USTelecom Forbearance Orders; adds rates and provisions related to Transit Traffic Services; modifies certain provisions related to Termination of Agreement After Initial Term Expiration; and modifies certain provisions related to Customer Information Services and Notices in the current Agreement. Staff, having reviewed the amended Agreement between SWBT and Neutral Tandem-Kansas, finds no evidence to conclude that the amended Agreement discriminates against any telecommunications carrier, nor is it inconsistent with the public interest, convenience, and necessity. Concluding, Staff recommends the Commission grant SWBT's Application and approve the amended Agreement.<sup>3</sup>

5. The Commission adopts Staff's recommendation of January 11, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that SWBT's Application should be granted and that the amended Agreement between SWBT and Broadview Networks, Inc. should be approved.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Southwestern Bell Telephone Company d/b/a AT&T Kansas' Application is hereby granted and the amended Interconnection Agreement between SWBT and Broadview Networks, Inc. is hereby approved.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2015 Supp. 77-529(a)(1).

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<sup>3</sup> Report and Recommendation, page 2.

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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JAN 24 2017

  
Amy L. Green  
Secretary to the Commission

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Order Mailed Date

JAN 25 2017

**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

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

**FROM:** Kelly Mabon, Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** January 11, 2017

**SUBJECT:** Docket No. 11-SWBT-413-IAT  
In the Matter of the Application of Southwestern Bell Telephone  
Company for Approval of Interconnection Agreement Under the  
Telecommunications Act of 1996 With Broadview Networks, Inc.

**EXECUTIVE SUMMARY:**

On November 10, 2016, Southwestern Bell Telephone (SWBT) filed a Modification to an Interconnection Agreement (Agreement) between SWBT and Broadview Networks, Inc. (Broadview). Staff recommends approval of the filing.

The Commission action date is **Wednesday, February 8, 2017.**

**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 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."

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:**

This modification implements the FCC's US/ICC, Lifeline and Link Up Reform and Modernization, and USTelecom Forbearance Orders; adds rates and provisions related to Transit Traffic Services; modifies certain provisions related to Termination of Agreement After Initial Term Expiration; and modifies certain provisions related to Customer Information Services and Notices in the current Agreement.

The Applicant is seeking review and approval of an Amendment to this Agreement under Section 252(e) of the Federal Telecommunications Act. Section 252(e) of the Federal Act 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. Staff has reviewed the proposed Amendment to the Agreement and finds no such cause for concern with this filing.

### **RECOMMENDATION:**

Staff recommends the Commission grant approval of the Amendment to the Agreement between SWBT and Broadview.

**CERTIFICATE OF SERVICE**

11-SWBT-413-IAT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on JAN 24 2017.

JARROD HARPER, MANAGER, REGULATORY &  
COMPLIANCE  
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/s/ DeeAnn Shupe  
DeeAnn Shupe

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Order Mailed Date

JAN 25 2017