

**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. 15-SWBT-420-IAT
Telecommunications Act of 1996 with New)
Horizons Communications Corp.)

ORDER APPROVING AMENDED INTERCONNECTION AGREEMENT

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On February 14, 2017, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application seeking Commission approval of an amendment to the Interconnection Agreement between AT&T Kansas and New Horizons Communications Corp. (New Horizons) previously approved by the Commission's Order of April 14, 2015. Supplementing its Application, AT&T Kansas included a copy of the Amendment to the Interconnection Agreement executed by AT&T Kansas and New Horizons on January 3, 2017. The Interconnection Agreement and Amendment are collectively referred to herein as "Amended Agreement".

2. AT&T Kansas states that the requested modification implements the Federal Communication Commission's (FCC) Lifeline and Link Up Reform and Modernization, and USTelecom Forbearance Orders; modifies certain provisions related to Termination of Agreement After Initial Term Expiration; modifies certain provisions related to Customer Information Services; replaces the Notices contact information section; and expands the current

Agreement to the State of Tennessee. AT&T Kansas maintains that implementation of the requested modification to the Interconnection Agreement fully complies with Section 252(e) of the Federal Telecommunications Act of 1996, that the Amended Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier.¹

3. On March 7, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated March 6, 2017, recommending the Commission grant AT&T Kansas' Application and approve the Amended Agreement between AT&T Kansas and New Horizons. According to Staff, New Horizons is a foreign for profit corporation properly registered with the Kansas Secretary of State's office where its status is shown to be *active and in good standing*. New Horizons was issued a Certificate of Convenience and Authority to provide Interexchange (IXC) telecommunications services in Kansas pursuant to the Commission's Order of May 24, 2007, issued in Docket No. 07-NHCC-1189-COC. New Horizons was issued a second Certificate of Convenience and Authority to provide local exchange and exchange access Services in Kansas, within the exchanges of AT&T Kansas and CenturyLink, pursuant to the Commission's Order of December 16, 2014, issued in Docket No. 15-NHCC-085-COC.²

4. 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.

¹ Application, pages 1 and 2.

² Report and Recommendation, page 2.

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:

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

5. Concluding its review and analysis of AT&T Kansas' Application and the Amended Agreement, Staff states that it does not have any concerns regarding AT&T Kansas' filing. Staff states that in the review process it found no language that discriminates against other telecommunications carriers not a party to the Agreement. Staff determines that implementation of the Agreement is in the public interest because it provides additional telecommunications carrier options for the consumer. Staff recommends the Commission grant AT&T Kansas' Application and approve the Amended Agreement between AT&T Kansas and New Horizons.³

6. The Commission adopts Staff's analysis and recommendation of March 6, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that AT&T Kansas' Application should be granted and the Amended Interconnection Agreement between AT&T Kansas and New Horizons should be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Southwestern Bell Telephone Company d/b/a AT&T Kansas is hereby granted and the Amended Interconnection Agreement between AT&T Kansas and New Horizons Communications Corp., executed by the parties on January 3, 2017, is hereby approved.

³ Id., page 3.

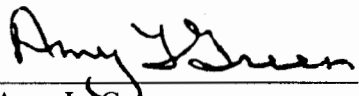
B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2015 Supp. 77-529(a)(1).

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: MAR 14 2017



Amy L. Green
Secretary to the Commission

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Order Mailed Date

MAR 15 2017

REPORT AND RECOMMENDATION

UTILITIES DIVISION

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

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

DATE: March 06, 2017

SUBJECT: 15-SWBT-420-IAT
In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 with New Horizons Communications Corp.

EXECUTIVE SUMMARY:

On February 14, 2017, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) filed an Application for approval of an Interconnection Agreement Amendment (Amendment) between AT&T and New Horizons Communications Corporation, (New Horizons). Staff recommends approval of the filing.

BACKGROUND:

On January 3, 2017, AT&T and New Horizons entered into an Amendment for the removal of Lifeline and Link Up resale offerings from the original Agreement per the Federal Communications Commission (FCC) June 22, 2015, Lifeline and Link Up Reform and Modernization Order¹. Modifications were also made to the Agreement due to the US Telecom

¹ *Lifeline and Link Up Reform and Modernization* WC Docket 11-42 et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order FCC 15-71, rel. June 22, 2015, ¶244.

Forbearance Order²; modifies certain provisions related to Termination of Agreement After Initial Term Expiration; modifies certain provisions related to Customer Information Services; replaces the Notices contact information section; and expands the current Agreement to the State of Tennessee. AT&T filed for approval of this Amended Agreement between AT&T and New Horizons. The Amendment expires concurrent with the existing Agreement or with 180 days prior notification.

AT&T is the largest local exchange carrier (LEC) operating in Kansas. The Company's largest service areas are Kansas City, Topeka, and Wichita. AT&T is headquartered in Topeka, Kansas.

New Horizons is headquartered in Lexington, Massachusetts, and is registered as a corporation. The President is Stephan Gibbs. New Horizons received Certificates of Convenience and Authority on May 24, 2007, in Docket 07-NHEC-1189-COC to provide Interexchange (IXC) service and December 16, 2014, in Docket 15-NHCC-085-COC to provide Competitive Local Exchange (CLEC) service in the State of Kansas. New Horizons is registered with the Kansas Secretary of State's office and is "active and in good standing" with that office.

ANALYSIS:

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.

AT&T affirms that implementation of this Amendment to the Agreement complies fully with Section 252(e) of the Federal Act because the Amendment to the Agreement is consistent with

² *Petition of US Telecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next Generation Networks*, WC Docket No. 14-192, Released December 28, 2015.

the public interest, convenience and necessity and does not discriminate against any telecommunications carrier.

Staff does not have any concerns regarding this Application. Staff reviewed the Amendment to the Agreement and did not find any language that discriminates against other telecommunications carriers not a party to the Agreement or language that is inconsistent with the public interest, convenience, and necessity. Partial changes made to the Agreement are in compliance with FCC Orders.

RECOMMENDATION:

Staff recommends the Commission grant approval of this Amendment to the Interconnection Agreement between AT&T Kansas and New Horizons. Staff finds no evidence of discrimination against other parties and finds that approval is in the public interest.

CERTIFICATE OF SERVICE

15-SWBT-420-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 MAR 14 2017.

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/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date
MAR 15 2017