2009.06.05 15:38:19 Kansas Corporation Commission 787 Susan K. Duffy

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

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In the Matter of the Application of Southwestern Bell Telephone Company for Price Deregulation of **Business Telecommunications** Services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas Exchanges pursuant to K.S.A. 2008 Supp. 66-2005(q)(1).

Docket No. 09-SWBT-937 -PDR

APPLICATION OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR PRICE DEREGULATION OF BUSINESS TELECOMMUNICATIONS SERVICES IN THE DODGE CITY, GARDEN CITY, HUMBOLDT, LARNED AND LINDSBORG, KANSAS EXCHANGES AND REQUEST FOR PROTECTIVE ORDER

COMES NOW Southwestern Bell Telephone Company ("SWBT") d/b/a AT&T

Kansas, pursuant to K.S.A. 2008 Supp. 66-2005(g)(1)(C),¹ and hereby submits its

Application for price deregulation of business telecommunications services in the Dodge

City, Garden City, Humboldt, Larned and Lindsborg, Kansas, exchanges. In support of

its Application, SWBT shows the Commission as follows:

1. SWBT is an incumbent local exchange carrier authorized by the

Commission to do business and to engage in the provisioning of telecommunications

and other switched access local exchange services to the public in the state of Kansas

and, specifically, the Dodge City, Garden City, Humboldt, Larned and Lindsborg,

Kansas, exchanges.

Pursuant to K.S.A. 2008 Supp. 66-2005(q)(1)(C), in any Kansas exchange 2. in which there are fewer than 75,000 local exchange access lines served by all providers, the Commission shall price deregulate all business telecommunication

¹ Vol. 28, No. 23 Kan. Reg. 872, 890 (June 4, 2009).

services upon a demonstration by SWBT that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with SWBT, providing local telecommunications service to residential and business customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services ("CMRS") in that exchange. K.S.A. 2008 Supp. 66-2005(q)(1)(C).²

Request for Price Deregulation

3. SWBT's Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas exchanges each have fewer than 75,000 local exchange access lines respectively.³

4. SWBT's Dodge City, Garden City, Humboldt, Larned and Lindsborg,

Kansas exchanges each, respectively, have two or more nonaffiliated

telecommunications carriers or other entities that are nonaffiliated with SWBT, providing

local telecommunications service to business customers in the exchanges. In each

² See, *supra* fn. 1.

³ SWBT Proprietary and Confidential Attachment 1 – Dodge City Exchange Demographic; SWBT Proprietary and Confidential Attachment 2 – Garden City Exchange Demographic; SWBT Proprietary and Confidential Attachment 3 – Humboldt Exchange Demographic; SWBT Proprietary and Confidential Attachment 4 – Larned Exchange Demographic; and, SWBT Proprietary and Confidential Attachment 5 – Lindsborg Exchange Demographic.

exchange, at least one of the nonaffiliated carriers serving business customers is a facilities-based carrier or entity that is not CMRS a provider.⁴

6. Sufficient evidence exists, as presented through SWBT's Application and attached exhibits, affirmatively demonstrating and satisfying the statutory competition standards for price deregulation of business telecommunications services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas exchanges. SWBT believes the Commission properly can and should determine that all business telecommunications services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas exchanges are price deregulated.

7. Residential telecommunications services in the Dodge City, Garden City, Larned and Lindsborg, Kansas exchanges were price deregulated by order of the Commission dated June 26, 2008, in Docket No. 08-SWBT-1081-PDR.

Residential telecommunications services in the Humboldt, Kansas
 exchange were price deregulated by order of the Commission dated December 12,
 2008, in Docket No. 09-SWBT-434-PDR.

9. Pursuant to K.S.A. 2008 Supp. 66-2005(q)(4), the Commission shall act upon a petition for price deregulation filed pursuant to K.S.A. 2008 Supp. 66-2005(q)(1)(C) within 21 days of filing, subject to an extension period of an additional 30 days upon a good cause showing by the Commission in any order extending the initial

⁴ SWBT Proprietary and Confidential Attachment 1 – Dodge City Exchange Demographic; SWBT Proprietary and Confidential Attachment 2 – Garden City Exchange Demographic; SWBT Proprietary and Confidential Attachment 3 – Humboldt Exchange Demographic; SWBT Proprietary and Confidential Attachment 4 – Larned Exchange Demographic; and, SWBT Proprietary and Confidential Attachment 5 – Lindsborg Exchange Demographic. *See also* SWBT Attachment 6 – Documented Service Offerings by Nonaffiliated Telecommunications Carriers or Entities.

time frame.⁵ SWBT requests approval of this Application within the statutorily provided time frame.

10. SWBT requests the Commission's approval of the Application find that price deregulation of the subject business services shall become effective upon SWBT's filing of tariff provisions noting the deregulated status of business services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas exchanges.

11. In the unlikely event the Commission concludes that not all of the statutory requirements for the deregulation of business telecommunication services has been met in one or more of the subject exchanges, SWBT requests the Commission treat the application as severable and grant SWBT's request as to those remaining exchanges for which price deregulation is sought that satisfy the statutory standards of K.S.A. 2008 Supp. 66-2005(q)(1)(C).⁶

Request for Protective Order

12. Certain of the exhibits being filed as part of SWBT's Application herein contain carrier specific data that SWBT considers to be proprietary and confidential. Said exhibits are being filed as proprietary and confidential information pursuant to the provisions of K.S.A. 66-1220a pending the issuance of a protective order by the Commission in this proceeding. Accordingly, SWBT requests the Commission issue a Protective Order in this proceeding to protect the proprietary and confidential nature of the information contained in SWBT's attachments.

⁵ Vol. 28, No. 22, Kan. Reg. 872, 890 (June 4, 2009).

⁶ See, *supra,* fn. 1.

Notice of Application Filing

13. Pursuant to the Commission's August 31, 2007 Order approving SWBT's application for price deregulation in its Smith Center and Colby-Gem, Kansas exchanges, SWBT has served a redacted version of its Application in the above captioned proceeding on those "competing carriers" named in the Application at the addresses shown on the Application's Certificate of Service.⁷

WHEREFORE, SWBT respectfully requests an Order of the Commission, pursuant to K.S.A. 2008 Supp. 66-2005(q)(1)(C),⁸ granting and approving its Application in this proceeding and price deregulating all business telecommunication services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas exchanges, effective upon SWBT's filing of tariff provisions noting the deregulated status of business services in the subject exchanges.

FURTHER, SWBT requests the Commission issue a Protective Order in this proceeding.

Respectfully submitted,

JEFFREY E. LEWIS 23732)

JEFFREY E. LEWIS (K6#23732) BRUCE A. NEY (K6#15554) 220 E. Sixth Street, Room 515 Topeka, Kansas 66603-3596 (785) 276-8413 (785) 276-1948 (facsimile) bruce.ney@att.com

Attorneys for Southwestern Bell Telephone Company

⁷ Order Approving Application of Southwestern Bell Telephone company for Price Deregulation of Residential and Business Telecommunications Services in the Smith Center And Colby-Gem Kansas Exchanges, Docket No. 08-SWBT-173-PRD, dated Aug. 31, 2007, at ¶ 12

⁸ See, *supra*, fn 1.

VERIFICATION

STATE OF KANSAS)) ss: COUNTY OF SHAWNEE)

I, Cyndi Gallagher, of lawful age, and being first duly sworn, now state: I am Director – Kansas Regulatory, for Southwestern Bell Telephone Company. I have read the above and foregoing Application for Price Deregulation of Business Telecommunications Services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas exchanges, on behalf of Southwestern Bell Telephone Company, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.

<u>Curdi Gallagher</u>

Subscribed and sworn to before me this 5th day of June, 2009.

NOTARY PUBLIC - State of Kansas

Mary A Reed Notary Public

My appointment expires: October 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that a correct copy of the above Application of Southwestern Bell Telephone for Price Deregulation of Business Telecommunications Services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas Exchanges and Request for Protective Order was sent via U.S. Mail or hand-delivered on this 5th day of June, 2009, to:

Colleen Harrell Litigation Counsel, Telecommunications Kansas Corporation Commission 1500 SW Arrowhead Road Topeka, KS 66604-4027 ****HAND DELIVER***

James T. Meister Alltel 1269-B5F11-C One Allied Drive Little Rock, AR 72202-2177

Linda Langston CoxCom, Inc. 931 SW Henderson Rd Topeka, KS 66615

Jeff Wick Nex-Tech Wireless 2418 Vine Street P.O. Box 339 Hays, KS 67601

Diane C. Browning Sprint Communications Co., LP 6450 Sprint Pkwy Overland Park, KS 66251

John C. Gockley U S Cellular 8410 W. Byrn Mawr Chicago, IL 60631-3486

Richard Veatch Westlink Communications 120 W. Kansas Avenue Ulysses, KS 67880 James E. Means Adelphia Business Solutions (Telcove) 1025 El Dorado Blvd. Broomfield, CO 80021

Ron Johnson Century Tel Solutions, LLC 100 CenturyTel Drive 5S Monroe, LA 71203

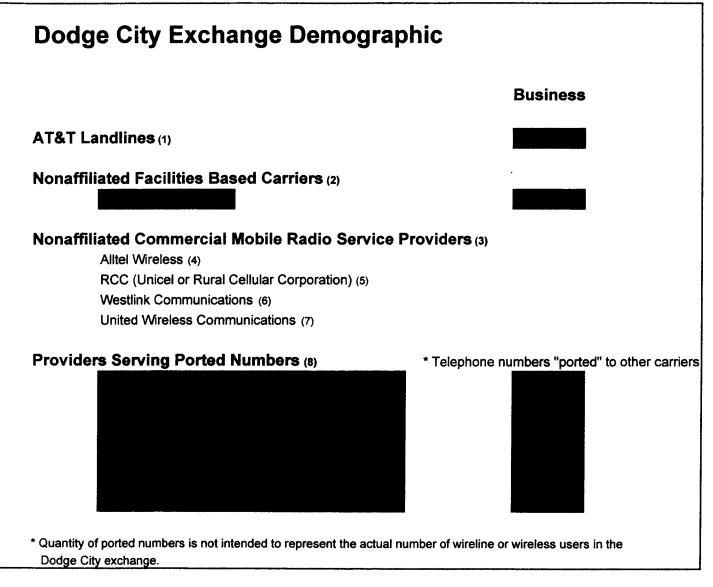
Greg Rogers Level 3 Communications, LLC 1025 El Dorado Blvd. Broomfield, CO 80021

Dean Polkow RCC Holding, Inc. (Unicel) 3905 Dakota Street, SW P.O. Box 2000 Alexandria, MN 56308

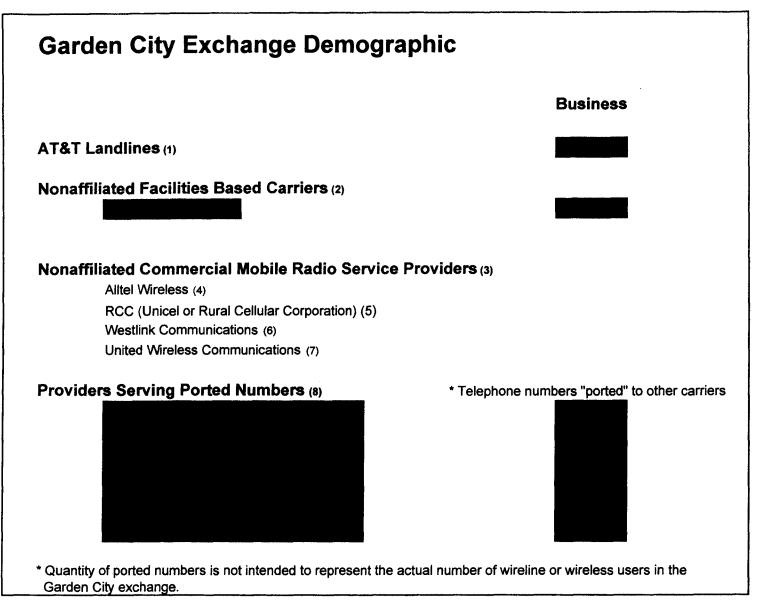
Dave Miller T-Mobile USA, Inc. 12920 SE 38th Street Bellevue, WA 98006

Don Howell United Wireless 1107 McArtor Road Dodge City, KS 67801

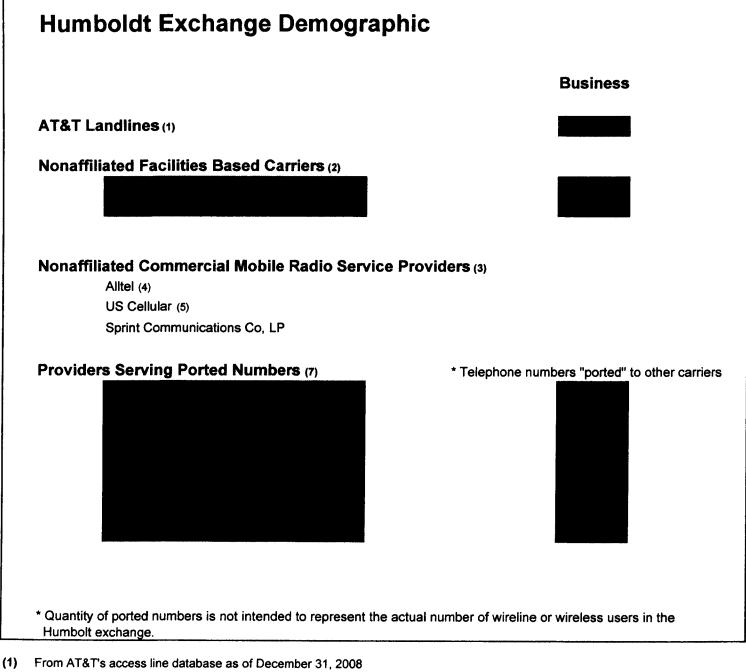
A.L Bruce A. Ney



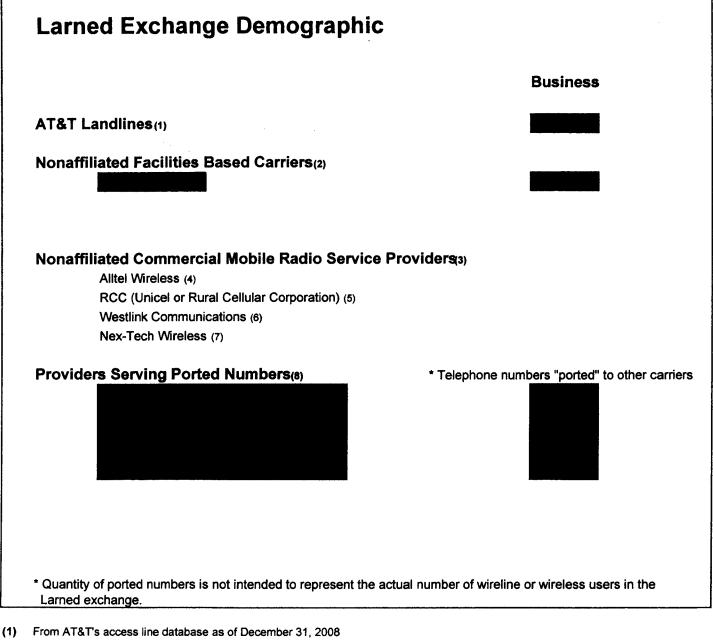
- (1) From AT&T's access line database as of December 31, 2008
- (2) From E911 data as of March 31, 2009
- (3) See SWBT Attachment 12 Documented Service Offerings by Nonaffiliated Commercial Mobile Radio Service Providers.
- (4) See Docket No.04-ALKT-283-ETC, KCC Order granting ETC designation dated September 24, 2004 in the matter of the Application of ALLTEL Kansas Limited Partnership For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934.
- (5) See Docket No.04-RCCT-338-ETC, Filed October 10, 2003, In the Matter of Petition of RCC Minnesota, Inc. for Designation as an Eligible Telecommunications Carrier Under §47 U.S.C. 214(e)(2), Exhibit B.
- (6) See Docket 07-WLCT-1439-ETC, Filed June 28, 2007, Application of Westlink Communications, L.L.C. for Designation as an Eligible Telecommunications Carrier in the State of Kansas, Exhibit C; Staff Recommendation for Approval of request dated Oct. 29, 2007; and, Order Approving Application dated Nov. 21, 2007.
- (7) See Docket 06-UWCC-243-ETC, KCC Order granting ETC designation dated Jan.17, 2006 in the matter of the Application of United Wireless Communications, Inc. For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934.
- (8) On April 30, 2009, AT&T conducted a query of its LNP database for the 620 NPA. The query captured actively ported telephone numbers that occurred between two carriers (i.e. AT&T Kansas to a CLEC or wireless carrier). NeuStar operates Number Portability Administrative Centers (NPAC) to support Local Number Portability (LNP). NPAC maintain a record of all ported numbers in a database which is continually updated as numbers are ported. AT&T maintains a copy of the NPAC LNP database as the information contained in the database is needed for AT&T to properly record, bill and route (translate) calls. The LNP database only contains ported numbers that are active.



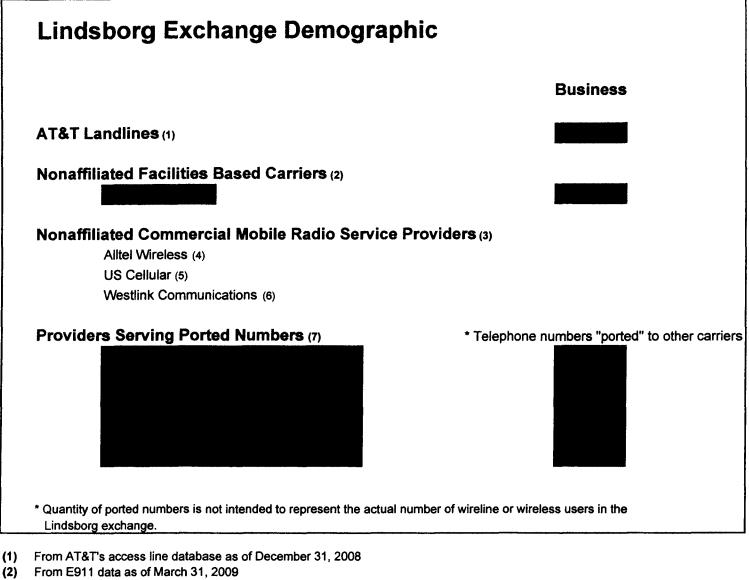
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- (3) See SWBT Attachment 12 Documented Service Offerings by Nonaffiliated Commercial Mobile Radio Service Providers
- (4) See Docket No.04-ALKT-283-ETC, KCC Order granting ETC designation dated September 24, 2004 in the matter of the Application of ALLTEL Kansas Limited Partnership For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934.
- (5) See Docket 06-USCZ-519-ETC, KCC Order granting in part ETC designation dated February 10, 2006 in the matter of the Application of USCOC of Nebraska/Kansas LLC (US Cellular) for Transfer of the Designation of Western Wireless Corporation as an Eligible Telecommunications Carrier.
- (6) See Docket 07-WLCT-1439-ETC, Filed June 28, 2007, Application of Westlink Communications, L.L.C. for Designation as an Eligible Telecommunications Carrier in the State of Kansas, Exhibit C, and Staff Recommendation for Approval of request dated October 29, 2007.
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- (7) See Docket No.06-NTHT-061-ETC, Filed July 15, 2005, Application of Nex-Tech Wireless, LLC For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934, Exhibit B.
- (8) On April 30, 2009, AT&T conducted a query of its LNP database for the 620 NPA. The query captured actively ported telephone numbers that occurred between two carriers (i.e. AT&T Kansas to a CLEC or wireless carrier). NeuStar operates Number Portability Administrative Centers (NPAC) to support Local Number Portability (LNP). NPAC maintain a record of all ported numbers in a database which is continually updated as numbers are ported. AT&T maintains a copy of the NPAC LNP database as the information contained in the database is needed for AT&T to properly record, bill and route (translate) calls. The LNP database only contains ported numbers that are active.



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- (4) See Docket No.04-ALKT-283-ETC, KCC Order granting ETC designation dated September 24, 2004 in the matter of the Application of ALLTEL Kansas Limited Partnership For Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934.
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- (6) See Docket 07-WLCT-1439-ETC, Filed June 28, 2007, Application of Westlink Communications, L.L.C. for Designation as an Eligible Telecommunications Carrier in the State of Kansas, Exhibit C; Staff Recommendation for Approval of request dated Oct. 29, 2007; and, Order Approving Application dated Nov. 21, 2007.
- (7) On April 30, 2009, AT&T conducted a query of its LNP database for the 785 NPA. The query captured actively ported telephone numbers that occurred between two carriers (i.e. AT&T Kansas to a CLEC or wireless carrier). NeuStar operates Number Portability Administrative Centers (NPAC) to support Local Number Portability (LNP). NPAC maintain a record of all ported numbers in a database which is continually updated as numbers are ported. AT&T maintains a copy of the NPAC LNP database as the information contained in the database is needed for AT&T to properly record, bill and route (translate) calls. The LNP database only contains ported numbers that are active.

SWBT ATTACHMENT 6

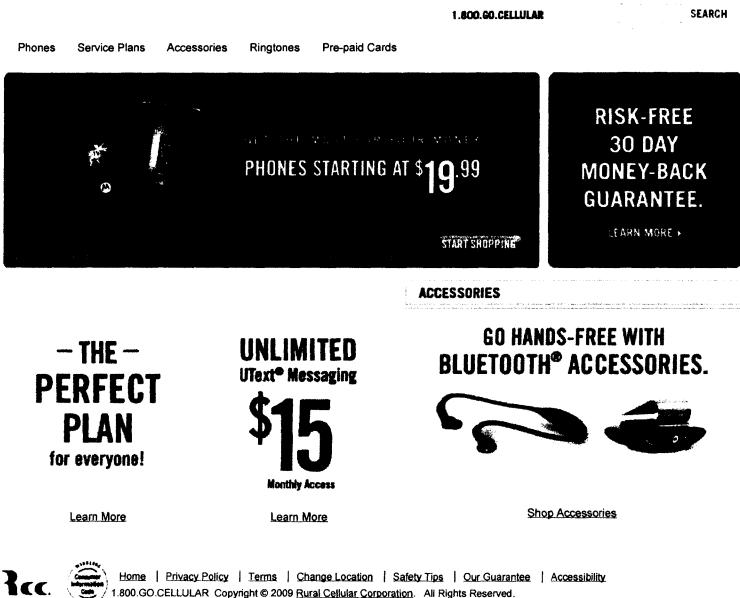
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RCC Holding, Inc (Unicel)

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5/14/2009

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personal	\$42.00	200	Yes	Yes	My Circle ¹⁰	25¢
,	\$52.00	750	Yes	Yes	My Circle ¹⁰	25¢
my account log in	\$63.00	006	Yes	Yes	My Circle ¹⁰	25¢
Not a member? Register now.	\$64.00	1400	Yes	Yes	My Circle ¹⁰	25¢
	\$106.00	2100	Yes	Yes	My Circle ¹⁰	25¢
	\$155.00	4000	Yes	Yes	My Circle ¹⁰	25¢
	\$210.00	6000	Yes	Yes	My Circle ¹⁰	25¢

RCC Holding, Inc (Unicel)

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5/14/2009

United Wireless

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Nights & Weekends

Call Forwarding - \$1.99 Detailed Billing - \$1.99 3 Way Calling - \$1.99 Call Waiting - \$1.99 Caller ID - \$1.99

on rate plans \$59.99 & above \$9.99 per line

on rate plans \$49.99 & below \$19.99 per line

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* Current coverage area depicted in graphical representation shows approximate licensed coverage area of United Wireless and roaming partners. Actual coverage may vary due to terrain, weather, signal strength, customer equipment, and other factors. Clarity and reception may be diminished by obstructions such as buildings and foliage. No guarantee of coverage is available.

CONTACT US ABOUT US HOME

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1ttp://www.unitedwireless.com/index.php?option=com_content&view=article&id=61&Itemid=81

HUMBOLDT EXCHANGE

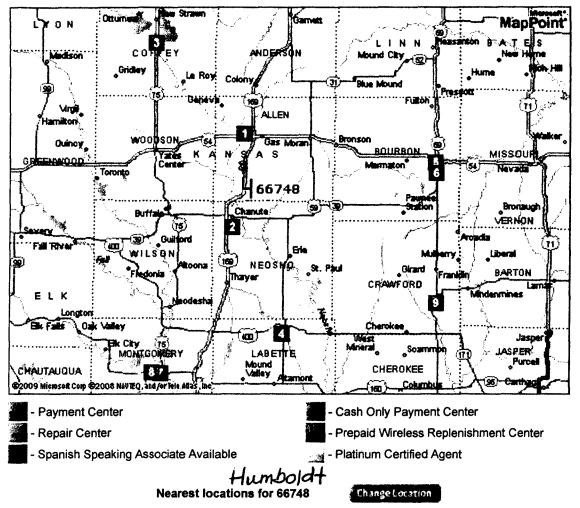
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support	Plans	Included Anytime Minutes	Night and Weekend Minutes	Mobile-to-Mobile Minutes	Included My Circle Numbers	Add'l Minute Rate
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	\$52.00	750	Yes Y	Yes	My Circle ¹⁰	25¢
mv account log in	\$63.00	006	Yes	Yes	My Circle ¹⁰	25¢
Not a member? Register now.	\$84.00	1400	Yes	Yes	My Circle ¹⁰	25¢
	\$105.00	2100	Yes	Yes	My Circle ¹⁰	25ę
Personal User ID	\$155.00	4000	Yes	Yes	My Circle ¹⁰	25ę
	\$210.00	6000	Yes	Yes	My Circle ¹⁰	25¢

U S Cellular



U.S. Cellular[®] Retail Locations



NOTE: Distance shown is calculated from the center of the location above.

U.S. Cellular - Iola @ Country Mart Distance: 8.2 miles 700 N. State, Suite 1 Iola, KS 66749

Tel: 620-365-7899

Fax: 620-365-5483

Store Hours: 10:00-7:00 M-S 12:00-5:00 Sundays

Driving Directions

2 Global Communications, Inc Distance: 10.9 miles 2510 South Santa Fe Chanute, KS 66720

Tel: 620-431-7866

Fax: 620-431-7798

Store Hours: M-F 9am-6pm Sat 10am-3pm

Driving Directions

3

Wireless Concepts Distance: 31.8 miles 316 Neosho Burlington, KS 66839

Tel: 620-364-8055

Fax: 620-364-8001

Store Hours: 9:00 AM to 5:00 PM Monday-



Ö

Driving Directions

CP Communications

Distance: 39 miles

Global Communications, Inc. Distance: 33.5 miles

Central Communications Distance: 38.8 miles

http://www.uscc.com/uscellular/SilverStream/Pages/x_nage_html?n=storeFinder

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http://nextelonline.nextel.com/NASApp/onlinestore/en/Action/SubmitRegionAction

LARNED EXCHANGE

Alltel

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personal	\$42.00	500	Yes	Yes	My Circle ¹⁰	25¢
	\$52.00	750	Yes	Yes	My Circle ¹⁰	25¢
my account log in	\$63.00	906	Yes	Yes	My Circle ¹⁰	25¢
Not a member? Register how.	\$84.00	1400	Yes	Yes	My Circle ¹⁰	25¢
	\$106.00	2100	Yes	Yes	My Circle ¹⁰	25¢
Personal User ID	\$155.00	4000	Yes	Yes	My Circle ¹⁰	25¢
(\$210.00	6000	Yes	Yes	Mv Circle ¹⁰	25¢

RCC Holding, Inc (Unicel)

UNICEL: The way wireless should be

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- <u>Contact Us</u>
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- Business
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Take photos with your phone and share them with your friends.

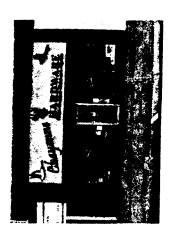
Learn More

Westlink Communications



http://www.westlinkcom.com/images/Kansas%20Map%2010-07.jpg

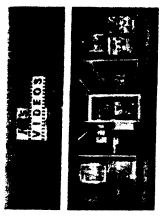
Nex-Tech Wireless



Wireless

Cheyenne Hardware 102 North Main Hoisington, KS 67544 620-653-4228 Monday - Friday 8:00 a.m. to 6 p.m. Saturdays 8:00 a.m. to 2:00 p.m.

Carr Auto-Electric 812 Broadway Larned, KS 67550 620-285-6951



Cowboyz Video 1018 Main Goodland, KS 67735 785-890-0200 ©Copyright 2009 All Rights Reserved.

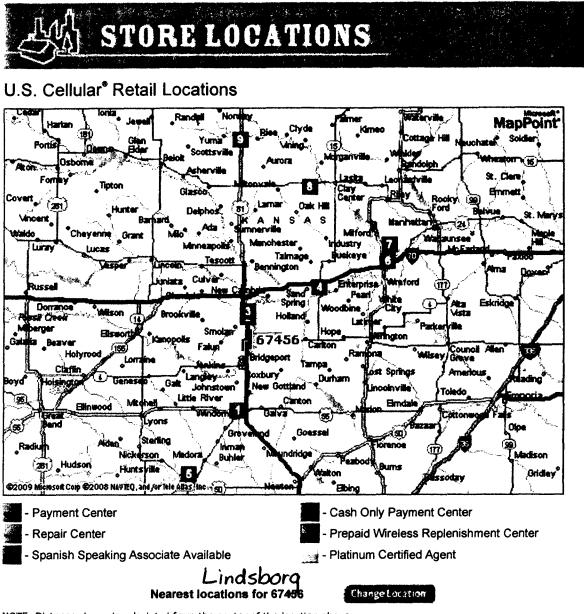
http://www.nex-techwireless.com/document.aspx?id=37

LINDSBORG EXCHANGE

Alltel

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	\$105.00	2100	Yes	Yes	My Circle ¹⁰	25¢
	\$155.00	000+	Yes	Yes	My Circle ¹⁰	25¢
G Business password	\$240.00	5000			07	

U S Cellular



NOTE: Distance shown is calculated from the center of the location above.

1 Cell Zone Distance: 12.7 miles 104 N. Main McPherson, KS 67420

Tel: 620-241-5673

Fax: 620-241-5673

Store Hours: 9-7 M-F 9-5 Sat 26,

Driving Directions

Kansas Wireless

Distance: 34.5 miles

2 U.S. Cellular - Salina Distance: 16.3 miles 2851 S. Market Place Salina, KS 67401

Tel: 785-823-1414

Fax: 785-823-1810

Store Hours: 10:00-8:00 M-F 10:00-7:00 Sat. 12:00-5:00 Sundays



U.S. Cellular Hutchinson - R237 Distance: 35.7 miles

http://www.uscc.com/uscellular/SilverStream/Pages/v_nage.html?n=storeFinder

3

Kansas Wireless Distance: 17.9 miles 2000 S. 9th Salina, KS 67401

Tel: 785-827-3383

Fax: 785-827-0695

Store Hours: 9:00-7:00 M-F 9:00-4:00 Saturdays $\mathbf{J}_{i} = \mathbf{I}$

Driving Directions

G

Kansas Wireless Distance: 55 miles

Westlink Communications



CONFIDENTIAL INFORMATION

(Located in Docket Room)

In the Matter of the Application of Southwestern Bell Telephone Company for Price Deregulation of Business Telecommunications Services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas Exchanges Pursuant to K.S.A. 2008 Supp. 66-2005 (q) (1).

09-SWBT-937-PDR

Confidential Attachments 1, 2, 3, 4, and 5 to the Application.

File Date: June 5, 2009