

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

Before Commissioners: Susan K. Duffy, Chair  
Shari Feist Albrecht  
Dwight D. Keen

In the Matter of the Application of )  
Southwestern Bell Telephone Company for )  
Approval of Interconnection Agreement Under ) Docket No. 11-SWBT-076-IAT  
the Telecommunications Act of 1996 With Big )  
River Telephone Company, LLC. )

**ORDER APPROVING INTERCONNECTION AGREEMENT AMENDMENT**

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 records and being duly advised in the premises, the Commission makes the following findings:

1. On June 11, 2020, Southwestern Bell Telephone Company d/b/a AT&T Kansas (SWBT)<sup>1</sup> filed an application for approval of an amendment to the interconnection agreement between itself and Big River Telephone Company, LLC (Big River), originally approved by the Commission in this docket on September 8, 2010, and last modified on June 15, 2017. According to SWBT, the amendment implements Federal Communications Commission's (FCC's) Orders 19-66 and 19-72 in WC Docket No. 18-141, the FCC Unbundled Network Element (UNE) and Resale Forbearance Orders, in the current agreement.

2. The Commission has jurisdiction to review negotiated interconnection agreements entered into by SWBT pursuant to K.S.A. 66-2005(z)(2)(A) and 47 U.S.C. §252(e).

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<sup>1</sup>Southwestern Bell Telephone Company d/b/a AT&T Kansas (SWBT) is an "electing carrier" referenced under K.S.A. 66-2005(x). See Docket No. 12-SWBT-797-MIS.

3. 47 U.S.C. §252(e)(2) provides that the Commission may reject a negotiated interconnection 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.

4. Commission Staff submitted a Report and Recommendation in regards to the interconnection agreement amendment on June 17, 2020, attached hereto and made a part hereof by reference. Staff explained that the FCC Orders referred to by SWBT in its application remove the requirements for Incumbent Local Exchange Carriers (ILECs) to provide Competitive Local Exchange Carriers (CLECs) access to certain analog facilities owned by the ILEC provided over copper facilities at wholesale rates. Staff found no evidence to conclude the interconnection agreement amendment discriminated against any telecommunications carrier, nor that it was inconsistent with the public interest, convenience, or necessity. Staff recommended approval.

5. 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 interconnection agreement amendment filed June 11, 2020, between SWBT and Big River 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).<sup>2</sup>

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<sup>2</sup>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, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 06/23/2020



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Lynn M. Retz  
Executive Director

MRN

Susan K. Duffy, Chair  
Shari Feist Albrecht, Commissioner  
Dwight D. Keen, Commissioner

Laura Kelly, Governor

**REPORT AND RECOMMENDATION**  
**UTILITIES DIVISION**

**TO:** Chair Susan K. Duffy  
Commissioner Shari Feist Albrecht  
Commissioner Dwight D. Keen

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

**DATE:** June 17, 2020

**SUBJECT:** 11-SWBT-076-IAT

In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Big River Telephone Company, LLC.

**EXECUTIVE SUMMARY:**

On June 11, 2020, 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 Big River Telephone Company, LLC (Big River). Staff recommends approval of the filing.

**BACKGROUND:**

On May 4, 2020, AT&T and Big River entered into an Amended Agreement for the removal of certain analog Unbundled Network Elements (UNE) (Analog Loops) and certain wholesale resale offerings from the original Agreement per the Federal Communications Commission (FCC) Order FCC 19-72, FCC UNE and resale forbearance Order dated August 2, 2019<sup>1</sup>. Additional

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<sup>1</sup> FCC 19-72, *Petition of US Telecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, Released August 2, 2019; <https://docs.fcc.gov/public/attachments/FCC-19-72A1.pdf>.

modifications were made to the Agreement to remove the requirement for DS1/DS3 Unbundled Dedicated Transport (DS1/DS3 UDT) between Tier 1 wire centers and/or wire centers subject to UDT forbearance under Order FCC 19-66<sup>2</sup> and Public Notice DA 19-733<sup>3</sup>, dated August 1, 2019. Any analog UNE qualifying service ordered before February 1, 2020, considered existing embedded base, is grandfathered until August 2, 2022. Any DS1/DS3 qualifying service considered UDT embedded base, ordered on or before January 11, 2020, is grandfathered until July 12, 2022. AT&T filed for approval of this Amended Agreement between AT&T and Big River. The Amendment expires concurrent with the existing Agreement.

The original FCC rules were imposed under the Telecommunications Act of 1996 and were written to require the Incumbent Local Exchange Company (ILEC) to lease the existing facilities to the Competitive Local Exchange Company (CLEC) at wholesale prices. The rules allowed the CLEC to compete in the telecommunications market against the ILEC without the upfront expense of constructing the CLEC's own telecommunications network. The current FCC Orders remove the requirement for the ILEC to provide CLEC access to certain analog facilities owned by the ILEC provided over copper. As telecommunications companies transition to newer Internet Protocol (IP) technologies with fiber facilities, the copper facilities are being replaced. The initial rules were written based on the Time Division Multiplexing (TDM) technology that was utilized at that time which worked with analog copper facilities. Telecommunications companies are updating their company infrastructure to remain competitive. The rules applying to TDM and copper facilities no longer apply.

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.

Big River is headquartered in Cape Girardeau, Missouri, and is registered as a Limited Liability Company. Big River received a Certificate of Convenience and Authority in Docket No. 06-BGRT-1221-COC, approved July 20, 2006, to provide CLEC services in the state of Kansas. Big River holds an Interexchange Certificate in Kansas filed in Docket No. 06-BGRT-1222-COC, approved July 13, 2006. Big River 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

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<sup>2</sup> FCC 19-66, *Report And Order On Remand* (WC Docket Nos. 05-25, 16-143; GN Docket No. 13-5) And *Memorandum Opinion And Order* (WC DOCKET NO. 18-141), Released July 12, 2019; <https://docs.fcc.gov/public/attachments/FCC-19-66A1.pdf>.

<sup>3</sup> FCC DA 19-733, *Wireline Competition Bureau Releases List Of Common Language Location Identification Codes For Price Cap Incumbent Local Exchange Carrier Wire Centers Subject To UNE Transport Forbearance*, Released August 1, 2019; <https://docs.fcc.gov/public/attachments/DA-19-733A1.pdf>.



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 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 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.

#### **RECOMMENDATION:**

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

## CERTIFICATE OF SERVICE

11-SWBT-076-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 06/23/2020.

MICHAEL NEELEY, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604  
Fax: 785-271-3167  
m.neeley@kcc.ks.gov

ZACK O'DELL, CEO  
S&T COMMUNICATIONS LLC  
320 KANSAS AVE  
PO BOX 99  
BREWSTER, KS 67732  
Fax: 785-694-2750  
zack.odell@sttelcom.com

BRUCE A. NEY, AVP SR LEGAL COUNSEL  
SOUTHWESTERN BELL TELEPHONE CO.  
D/B/A AT&T KANSAS  
816 CONGRESS AVE  
SUITE 1100  
AUSTIN, TX 78701-2471  
Fax: 512-870-3420  
bn7429@att.com

/S/ DeeAnn Shupe  
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DeeAnn Shupe