

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

Before Commissioners: Thomas E. Wright, Chairman
 Michael C. Moffet
 Joseph F. Harkins

In the Matter of the Application of Southwestern)
Bell Telephone Company, for Price Deregulation)
of Residential Telecommunications Services)
in the Humboldt, Kansas Exchange and Business)
Telecommunications Services in the Seneca,) Docket No. 09-SWBT-434-PDR
Great Bend, Iola, Lyons, Pittsburg, and Winfield,)
Kansas, Exchanges Pursuant to)
K.S.A. 2007 Supp. 66-2205(q)(1).)

**ORDER APPROVING IN PART AND DENYING IN PART
AT&T'S APPLICATION FOR PRICE DEREGULATION**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for determination. Having examined its files and records, and being duly advised in the premises, the Commission grants the application of Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) for price deregulation of residential telecommunications services in the Humboldt exchange and for price deregulation of business telecommunication services in the Great Bend, Iola, Lyons, Pittsburgh, and Winfield exchanges in the state of Kansas pursuant to K.S.A. 2007 Supp. 66-2005(q)(1)(C) and (D). The Commission denies AT&T's request for price deregulation of business telecommunications services in the Seneca exchange.

1. AT&T filed its application on November 21, 2008, requesting price deregulation of residential telecommunications services in the Humboldt exchange and price deregulation of business telecommunications services in the Seneca, Great Bend, Iola, Lyons, Pittsburgh, and Winfield exchanges in the State of Kansas (Application).

2. On December 9, 2008, Commission staff (Staff) filed its Memorandum analyzing the Application.

3. Staff noted that K.S.A. 2007 Supp. 66-2005(1)(C) and (D) govern the price deregulation of telecommunications services of price cap carriers, such as AT&T, in exchanges in which there are fewer than 75,000 local exchange access lines served by all providers. AT&T must demonstrate that there are two or more nonaffiliated telecommunications carriers or other entities that are nonaffiliated with AT&T, providing local telecommunications service to business and/or residential customers, regardless of whether the entity provides local service in conjunction with other services in the 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 radio (wireless) services in that exchange.

4. Staff reported that all the exchanges identified in the Application had fewer than 75,000 local exchange access lines and that the Application identified two or more nonaffiliated carriers or entities, one of which was a facilities-based carrier or entity that provided residential telecommunications services in the Humboldt exchange.¹ Staff further reported that the Application identified two or more nonaffiliated carriers or entities, one of which was a facilities-based carrier or entity, which provided business telecommunication services in each of the exchanges for which AT&T sought price deregulation of business telecommunications services.

5. Staff contacted the carriers identified in the Application to determine whether they were unaffiliated competing carriers not affiliated with AT&T. Staff determined

¹ AT&T requested only price deregulation of residential telecommunications services in the Humboldt exchange.

that the Humboldt exchange had two or more nonaffiliated telecommunications carriers or other entities, one of which was facilities-based, nonaffiliated with AT&T as the local exchange provider, furnishing telecommunications services to residential customers in the Humboldt exchange.

6. Staff further determined that the other exchanges, except the Seneca exchange², had two or more nonaffiliated telecommunications carriers or other entities, one of which was facilities-based, not affiliated with AT&T as the local exchange provider, furnishing telecommunications services to one or more business customers in the Great Bend, Iola, Lyons, Pittsburg, and Winfield Kansas exchanges.

7. Based upon the responses of the carriers identified in the Application, Staff recommended that the Commission approve price deregulation for AT&T's residential telecommunications services in the Humboldt exchange and price deregulation for AT&T's telecommunications services to business customers for the Great Bend, Iola, Lyons, Pittsburg, and Winfield exchanges. Staff recommended that the Commission not approve that portion of the Application relating to price deregulation of telecommunications services provided to business customers in the Seneca exchange due to the absence of a facilities-based competing carrier or entity providing telecommunications services to business customers.

8. The Commission has reviewed Staff's Memorandum, finds it thorough and reasonable, and adopts it as if fully set forth herein.

9. The Commission concludes that the Application is granted for the exchanges of Humboldt, Great Bend, Iola, Lyons, Pittsburg, and Winfield exchanges in accordance

² CenturyTel, identified as the nonaffiliated facilities-based carrier, stated that it did not provide telecommunications services to customers in the Seneca exchange.

with K.S.A. 2007 Supp. 66-2005(q)(1)(D) for the Humboldt exchange and K.S.A. 2007 Supp. 66-2005(q)(1)(C) for the Great Bend, Iola, Lyons, Pittsburg, and Winfield exchanges. The Commission further concludes that the Application did not demonstrate that a nonaffiliated facilities-based carrier was providing telecommunications services to one or more business customers in the Seneca exchange.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The request by AT&T for price deregulation of residential telecommunications services in the Humboldt exchange is granted. The request by AT&T for price deregulation of telecommunications services provided to business customers in the Great Bend, Iola, Lyons, Pittsburg, and Winfield exchanges is also granted.

B. The request by AT&T for price deregulation of telecommunications services provided to business customers in the Seneca exchange is denied.

C. If AT&T intends to request reconsideration by the Commission of any final matter determined herein, it must file its petition for reconsideration within 15 days of service of this Order. If this Order is mailed, service is complete upon mailing and AT&T may add three days to the 15-day suspense period. All petitions for reconsideration must be served upon the Commission's executive director.

D. The Commission retains jurisdiction over AT&T and the subject matter of this docket for the purpose of issuing additional orders that it deems necessary.

BY THE COMMISSION, IT IS SO ORDERED.

Wright, Chmn.; Moffet, Com.; Harkins, Com.

Dated: **DEC 12 2008**

ORDERED MAILED

DEC 12 2008

 **EXECUTIVE
DIRECTOR**

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Susan K. Duffy, Executive Director