

**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. 14-SWBT-234-IAT
the Telecommunications Act of 1996 with)
Zayo Group, 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 May 15, 2020, Southwestern Bell Telephone Company d/b/a AT&T Kansas (SWBT)¹ filed an application for approval of an amendment to the negotiated interconnection agreement between itself and Zayo Group, LLC (Zayo), originally approved in this docket on January 9, 2014.² SWBT states that the amendment implements FCC Orders 19-66 and 19-72 in WC Docket No. 18-141, the FCC 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).

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

¹Southwestern 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.

²Last amended on February 27, 2018.

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 May 27, 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 May 15, 2020, between SWBT and Zayo 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).

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 06/02/2020



Lynn M. Retz
Executive Director

MRN

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: May 27, 2020

SUBJECT: 14-SWBT-234-IAT
In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 with Zayo Group, LLC

EXECUTIVE SUMMARY:

On May 15, 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 Zayo Group, LLC (Zayo). Staff recommends approval of the filing.

BACKGROUND:

On February 21, 2020, AT&T and Zayo 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, 2019¹. Additional 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

¹ 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>.

UDT forbearance under Order FCC 19-66² and Public Notice DA 19-733³, 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 Zayo. 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.

Zayo is headquartered in Boulder, Colorado, and is registered as a Limited Liability Corporation. Zayo received a Certificate of Convenience and Authority in Docket No. 11-ZAYC-561-COC, approved April 11, 2011, to provide CLEC services in the state of Kansas. Zayo holds an Interexchange Certificate in Kansas originally filed in Docket No. 11-ZAYC-562-COC, approved the same date. Zayo 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

² *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>.

³ *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>.

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 Zayo. Staff finds no evidence of discrimination against other parties and finds that approval is in the public interest.

CERTIFICATE OF SERVICE

14-SWBT-234-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 06/02/2020.

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