

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

In the Matter of the Application of Cebridge)
Telecom KS, LLC for a Certificate of)
Convenience and Authority to Provide Local) Docket No. 13-CKST-711-COC
Exchange and Exchange Access Service)
Within the State of Kansas.)

NOTICE OF FILING STAFF'S REPORT AND RECOMMENDATION

COMES NOW, the Staff of the State Corporation Commission of the State of Kansas (“Staff” and “Commission,” respectively), and files its Report and Recommendation regarding the Motion for Order Correcting Certificate of Convenience, filed by the intervenors¹ on December 6, 2023, and the Motion to Dismiss filed by Cebridge Telecom KS, LLC d/b/a Suddenlink Communications (“Cebridge”) on December 11, 2023.

Staff has reviewed all pleadings in this Docket as detailed in the Report and Recommendation. Staff recommends the Commission grant intervenors’ motion and issue an order correcting the original CLEC Certificate of Convenience limiting Cebridge to AT&T and Brightspeed areas in Kansas pursuant to K.S.A. 66-2004(c) and (d).

WHEREFORE, Staff submits its Report and Recommendation for Commission review and consideration and for such other relief as the Commission deems just and reasonable.

¹ The RLEC intervenors consist of Blue Valley Tele-Communications, Inc., Craw-Kan Telephone Cooperative, Inc., Golden Belt Telephone Association, Inc., Haviland Telephone Co., Inc., JBN Telephone Co., Inc., KanOkla Telephone Association, Madison Telephone, LLC, Mutual Telephone Company, Peoples Telecommunications, LLC, Pioneer Telephone Association, Inc., Rainbow Telecommunications Association, Inc., S&A Telephone Company, LLC, S&T Telephone Cooperative Association, Inc., South Central Telephone Association, Inc., Tri-County Telephone Association, Inc., United Telephone Association, Inc., Wheat State Telephone, Inc., d/b/a Wheat State Technologies, Columbus Communications Services, LLC, Cunningham Telephone Co., Inc., Gorham Telephone Co., Inc., H&B Communications, Inc., Home Telephone Co. Inc., LaHarpe Telephone Co., Inc., Southern Kansas Telephone Co., Inc., Totah Communications, Inc., Twin Valley Telephone, Inc., Wamego Telecommunications Co., Inc., Wilson Telephone Co., Inc., Zenda Telephone Co., Inc., and Rural Telephone Service Co., Inc.

Respectfully Submitted,

/s/ Brett W. Berry _____

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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Steve Garrett, Deputy Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: April 4, 2024

SUBJECT: Docket No. 13-CKST-711-COC

In the Matter of the Application of Cebridge Telecom KS, LLC for a Certificate of Convenience and Authority to Provide Local Exchange and Exchange Access Service Within the State of Kansas.

EXECUTIVE SUMMARY

On May 17, 2013, Cebridge Telecom Kansas, LLC d/b/a Suddenlink Communications (SuddenLink) applied under K.S.A. 66-2005(w) for a Certificate of Convenience and Authority (COC) to provide competitive local exchange and exchange access carrier (CLEC) services to all areas of Kansas. Staff's Report and Recommendation (R&R) and the Kansas Corporation Commission (Commission) Order did not specifically refer to a service territory limitation and instead granted Competitive Local Exchange and Exchange Access Telecommunications Services within the State of Kansas.¹ Staff recommends the Commission reopen Docket No. 13-CKST-711-COC (13-711 Docket) to correct the original CLEC Certificate of Convenience, pursuant to K.S.A. 66-2004(c) and (d).

BACKGROUND

The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 66-1,188 and K.S.A. 66-2005(z). The Commission derives its authority to certificate and decertificate public utilities from K.S.A. 66-131. Pursuant to K.S.A. 66-131, the Commission must review all certification and decertification Applications to determine whether the "public convenience" will be promoted by granting the request.

¹ Order and Certificate, p. 3, Docket 13-CKST-711-COC (August 29, 2013) (13-711 Docket).

K.S.A. 66-2004(b) provide that:

(b) On July 1, 1996, the commission shall initiate a rulemaking procedure to adopt guidelines to ensure that all telecommunications carriers and local exchange carriers preserve and enhance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers. The preservation and advancement of universal service shall be a primary concern. The commission shall issue the guidelines no later than December 31, 1996.

K.S.A. 66-2004(c) and (d) provide that:

(c) Pursuant to 47 U.S.C. § 253(f), any telecommunications carrier that seeks to provide telephone exchange service or local exchange access in a service area served by a rural telephone company shall meet the requirements of 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted by the commission to provide such service; however, the guidelines shall be consistent with the provisions of 47 U.S.C. § 253(f)(1) and (2).

(d) The commission may grant a certificate to provide local exchange or exchange access service in the service area of a rural telephone company if, among other issues to be considered by the commission, the application for such certificate complies with commission guidelines issued pursuant to subsection (b).

ANALYSIS

On September 15, 2023, a number of rural telephone companies (RLECs)² filed a Petition to Intervene in SuddenLink's application for an interconnection agreement with MoKan Dial in Docket No. 24-CKST-248-IAT (24-248 Docket) as well as in the 13-711 Docket. In their petition, the RLECs asked the Commission to limit SuddenLink's CLEC Certificate of Convenience to Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) and Brightspeed of Kansas,

² Petition to Intervene, Objection to Interconnection Agreement and Petition to Appropriately Limit CLEC Certificate of Convenience, Docket 24-CKST-248-IAT and Docket No. 13-CKST-711-COC (September 15, 2023) (Petition to Intervene). The RLEC intervenors consist of Blue Valley Tele-Communications, Inc., Craw-Kan Telephone Cooperative, Inc., Golden Belt Telephone Association, Inc., Haviland Telephone Co., Inc., JBN Telephone Co., Inc., KanOkla Telephone Association, Madison Telephone, LLC, Mutual Telephone Company, Peoples Telecommunications, LLC, Pioneer Telephone Association, Inc., Rainbow Telecommunications Association, Inc., S&A Telephone Company, LLC, S&T Telephone Cooperative Association, Inc., South Central Telephone Association, Inc., Tri-County Telephone Association, Inc., United Telephone Association, Inc., Wheat State Telephone, Inc., d/b/a Wheat State Technologies, Columbus Communications Services, LLC, Cunningham Telephone Co., Inc., Gorham Telephone Co., Inc., H&B Communications, Inc., Home Telephone Co. Inc., LaHarpe Telephone Co., Inc., Southern Kansas Telephone Co., Inc., Totah Communications, Inc., Twin Valley Telephone, Inc., Wamego Telecommunications Co., Inc., Wilson Telephone Co., Inc., Zenda Telephone Co., Inc., and Rural Telephone Service Co., Inc.

Inc. (Brightspeed)³ exchanges because SuddenLink has not been granted Eligible Telecommunications Carrier (ETC) designation in Kansas.

On November 21, 2023, the RLECs received an Order Granting Petition to Intervene in both dockets. Subsequently, on December 4, 2023, Suddenlink filed a Motion to Withdraw the Application for Approval of the Interconnection Agreement in the 24-248 Docket. Suddenlink's reason for the withdrawal request was because it had made a business decision regarding its network and the provision of service where it does not need an interconnection agreement with MoKan Dial, Inc. (MoKan).

On December 6, 2023, the RLECs filed a Motion for Order Correcting Certificate of Convenience in both dockets requesting the Commission take action on correcting the original CLEC Certificate of Convenience. As noted, Suddenlink previously took action to withdraw their Application for Approval of and Interconnection Agreement with MoKan in the 24-248 Docket, which the RLECs did not oppose. However, that action did not address the RLEC's pending Petition to Appropriately Limit CLEC Certificate of Convenience, pursuant to 66-2004 (c) and (d).

On December 11, 2023, Suddenlink filed a Motion to Dismiss the RLEC's petition in the 13-711 Docket. Suddenlink stated that for more than 10 years they have abided by the terms of the Certificate of Convenience and Authority as well as all applicable statutes and regulations governing its operations in Kansas, therefore, no change in its certificate is required.

K.S.A. 66-2004(c) provides that, before the Commission can authorize a CLEC to serve in a service area served by a rural telephone company, it must find that the CLEC meets the requirements of 47 U.S.C. § 214(e)(1) for designation as an ETC in such service area. The RLECs assert in their Petition to Intervene that SuddenLink has neither applied for nor received designation as an ETC from the Commission.⁴ Staff agrees that the record in the 13-711 indicates such.

Additionally, K.S.A. 66-2004(d) provides that the Commission may grant a CLEC a Certificate of Convenience in the service territory of a rural telephone company if the CLEC's Application complies with the Commission's guidelines adopted pursuant to K.S.A. 66-2004(b). The Commission adopted the guidelines, colloquially known as the "Rural Entry Guideline," in Docket No. 94-GIMT-478-GIT in an Order dated December 27, 1996. The Commission also clarified the Rural Entry Guidelines in the same Docket on February 3, 1997, in an Order on Reconsideration. SuddenLink neither applied for nor received any approval from the Commission indicating it met the Rural Entry Guidelines in the 13-711 Docket.

RECOMMENDATION:

Staff recommends the Commission issue an order correcting the original CLEC Certificate of Convenience limiting SuddenLink to AT&T and Brightspeed areas in Kansas, pursuant to K.S.A. 66-2004(c) and (d).

The Company is reminded to notify the Commission immediately of any change in address or

³ Order Approving Name Change to Brightspeed of Kansas, Inc., Docket 24-UTDT-204-CCN (October 12, 2023).

⁴ Petition to Intervene, ¶¶ 6-12.

contact information, file timely Annual Interrogatories, maintain current registration with the Kansas Secretary of State's Office, and pay all Commission and Kansas Universal Service Fund assessments in a timely manner.

CERTIFICATE OF SERVICE

13-CKST-711-COC

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing was served via electronic service this 11th day of April, 2024, to the following:

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