

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

Before Commissioners: Pat Apple, Chairman
Shari Feist Albrecht
Jay Scott Emler

In the Matter of the Application of Southwestern)
Bell Telephone Company for Approval of)
Interconnection Agreement Under the) Docket No. 08-SWBT-940-IAT
Telecommunications Act of 1996 With)
Bandwidth.com CLEC, LLC.)

ORDER APPROVING AMENDED INTERCONNECTION AGREEMENT

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On September 12, 2017, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) filed an Application seeking Commission approval of modifications to an Interconnection Agreement between AT&T and Bandwidth.com CLEC, LLC (Bandwidth). Supplementing its Application, AT&T included a copy of the Amendment to Interconnection Agreement (Amendment) executed by the parties on August 8, 2017, and the Affidavit of Richard T. Howell, AT&T's Area Manager-Regulatory Relations. AT&T states that the requested modification implements the FCC's USF/ICC Order in the current Agreement.¹ The Interconnection Agreement and proposed Amendment are collectively referred to as "amended Agreement".

¹Application, page 1.

2. On September 25, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated September 19, 2017, recommending the Commission grant AT&T's Application and approve the amended Agreement between AT&T and Bandwidth.

3. According to Staff, Bandwidth is a foreign limited liability company properly registered with the Kansas Secretary of State's office, whose status with that office is *active and in good standing*. Pursuant to the Commission's Order of January 22, 2008, in Docket Nos. 08-BDWT-404-COC and 08-BDWT-405-COC, Bandwidth, received Certificates of Convenience and Authority authorizing the company to provide Interexchange Services and Competitive Local Exchange (CLEC) service, respectively.

4. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2016 Supp. 66-1,188. K.S.A. 66-1,190 requires all telecommunications public utilities doing business in Kansas 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 regulations and contracts between such telecommunications public utilities pertaining to any and all jurisdictional services to be rendered by such telecommunications public utilities.

Section 252(e)(2) of the Federal Telecommunications Act of 1996 (Federal Act) [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:

- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- (ii) the implementation of such agreement (or portion) is not consistent with the public interest, convenience, and necessity.

AT&T Kansas affirms that implementation of the requested Amendment fully complies with Section 252(e) of the Federal Act, and that approval of the Agreement is consistent with the

public interest, convenience, and necessity, and does not discriminate against any telecommunications carrier.²

6. Concluding its review and analysis of AT&T's Application and the proposed Amendment, Staff states that it does not have any concerns regarding this filing. Staff states that in the review process it found no 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. Concluding, Staff recommends the Commission grant AT&T's Application and approve the Amendment to the parties' Interconnection Agreement.³

7. The Commission adopts Staff's analysis and recommendation of September 19, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that AT&T's Application should be granted and the Interconnection Agreement between AT&T and Bandwidth should be approved.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Southwestern Bell Telephone Company d/b/a AT&T Kansas is hereby granted and the amended Interconnection Agreement between AT&T and Bandwidth.com CLEC, LLC, executed by the parties on August 8, 2017, is hereby approved.

B. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2016 Supp. 77-529(a)(1).

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

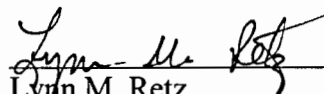
²Application, pages 2 and 3.

³Report and Recommendation , page 2.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: 'SEP 28 2017


Lynn M. Retz
Secretary to the Commission

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Order Mailed Date

SEP 29 2017

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Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

REPORT AND RECOMMENDATION

UTILITIES DIVISION

TO: Chairman Pat Apple
Commissioner Shari Feist Albrecht
Commissioner Jay Scott Emler

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

DATE: September 19, 2017

SUBJECT: 08-SWBT-940-IAT
In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Bandwidth.com CLEC

EXECUTIVE SUMMARY:

On September 12, 2017, 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 Bandwidth.com CLEC, LLC (Bandwidth). Staff recommends approval of the filing.

BACKGROUND:

On August 8, 2017, AT&T and Bandwidth entered into an Amendment for modifications to the Agreement due to the Carrier Compensation rate requirements per the Connect America Fund Order¹. AT&T filed for approval of this Amendment between AT&T and Bandwidth. The Amendment is coterminous with the expiration of the current Agreement.

¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al, Report and Order issued by the Federal Communications Commission ("FCC") on November 18, 2011 (FCC 11-161), and as amended by the FCC on December 23, 2011 (FCC 11-189) ("FCC ICC Reform Order").

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.

Bandwidth is headquartered in Raleigh, North Carolina, and is registered as a Foreign Limited Liability Corporation. Bandwidth received Certificates of Convenience and Authority on January 22, 2008, in Docket 08-BDWT-404-COC to provide Interexchange Services and 08-BDWT-405-COC to provide Competitive Local Exchange (CLEC) service in the State of Kansas. Bandwidth 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 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 Federal Communications Commission (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 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 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. Partial changes made to the Agreement by this Amendment are in compliance with FCC Orders.

RECOMMENDATION:

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

CERTIFICATE OF SERVICE

08-SWBT-940-IAT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 'SEP 28 2017.

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/S/ DeeAnn Shupe
DeeAnn Shupe

Order Mailed Date
SEP 29 2017