


BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

In the Matter of the Application of)
Southwestern Bell Telephone Company for)
Price Deregulation of Residential)
Telecommunications Services in the)
Abilene, Chanute, Clay Center, Ellsworth,)
Emporia, Independence, Minneapolis,)
Neodesha, and Parsons, Kansas, Exchanges)
Pursuant to K.S.A. 2008 Supp. 66-)
2005(q)(1).)

AUG 19 2009



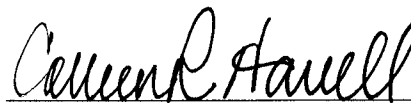
Docket No. 10-SWBT-019-PDR

NOTICE OF FILING OF STAFF 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 on Southwestern Bell Telephone Company's request for price deregulation of residential telecommunications in certain enumerated exchanges in Kansas.

WHEREFORE Staff requests the Commission consider its report and recommendation and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,



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VERIFICATION

STATE OF KANSAS)
)
COUNTY OF SHAWNEE)

SS:

Colleen R. Harrell, of lawful age being first duly sworn upon oath states:

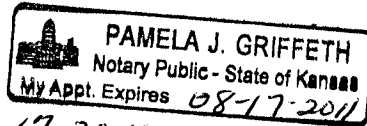
That she is the attorney for the Corporation Commission Staff in this matter; that she has read and is familiar with the foregoing Notice and that the statements made therein are true and correct to the best of her information, knowledge and belief.



Colleen R. Harrell

Subscribed and sworn to before me Wednesday, August 19, 2009.


Notary Public



My appointment expires: *August 17, 2011*

**MEMORANDUM
UTILITIES DIVISION**

TO: Chairman Wright
Commissioner Moffet
Commissioner Harkins

FROM: Christine Aarnes

DATE: August 17, 2009

DATE SUBMITTED TO LEGAL: 8/18/09

DATE SUBMITTED TO COMMISSIONERS: 8/19/09

RE: Docket No. 10-SWBT-019-PDR

In the Matter of the Application of Southwestern Bell Telephone Company for Price Deregulation of Residential Telecommunications Services in the Abilene, Chanute, Clay Center, Ellsworth, Emporia, Independence, Minneapolis, Neodesha and Parsons, Kansas Exchanges Pursuant to K.S.A. 2008 Supp 66-2005(q) (1).

BACKGROUND:

This application was filed on July 6, 2009 by Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T), and requests price deregulation of residential telecommunications services in the Abilene, Chanute, Clay Center, Ellsworth, Emporia, Independence, Minneapolis, Neodesha and Parsons exchanges in the state of Kansas pursuant to K.S.A. 2008 Supp. 66-2005(q)(1)(D).

On July 8, 2009, Citizens' Utilities Ratepayer Board (CURB) filed a request for intervention. The Commission granted CURB's request for intervention in an order dated July 10, 2009.

This application was filed pursuant to K.S.A. 66-2005(q)(1)(D). According to K.S.A. 66-2005(q)(4), "the commission shall act upon a petition filed pursuant to subsection (q)(1)(C) and (D) within 21 days, subject to an extension period of an additional 30 days, and upon a good cause showing of the commission in the extension order, or within shorter time as the commission shall approve. The commission shall issue a final order within the 21-day period or within a 51-day period if an extension order has been issued." The Commission issued an order on July 17, 2009 suspending the application for 30 days at Staff's request. The new Commission action date is August 26, 2009.

ANALYSIS:

K.S.A. 66-2005 was amended in 2006 to include provisions that establish procedures for price deregulation of price cap regulated services. K.S.A. 66-2005(q)(1) governs price regulation for the residential and single-line business service basket and the miscellaneous services basket for local exchange carriers subject to price cap regulation. Specifically, K.S.A. 66-2005(q)(1)(C) and (D) address the price deregulation of telecommunications services of price cap carriers in exchanges in which there are fewer than 75,000 local exchange access lines served by all providers.

When considering deregulation of residential lines, K.S.A. 66-2005(q)(1)(D) states:

In any exchange in which there are fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all residential telecommunication services upon a demonstration by the requesting local telecommunications carrier that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to residential customers, regardless of whether the entity provides local service in conjunction with other services in that 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 services in that exchange.

Abilene

The Abilene exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Big River Telephone Company, LLC (Big River) is a facilities-based carrier providing telecommunications service to residential access lines in the Abilene exchange. In addition to service provided by Big River, AT&T claims USCOC of Kansas/Nebraska, LLC (US Cellular), Alltel Kansas Limited Partnership (ALLTEL), Sprint Communications, LP, T-Mobile, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide telecommunications service as providers of Commercial Mobile Radio Service (CMRS) in the Abilene exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.¹

¹ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Abilene, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

The request for information asked each carrier if it provides a residential access line to more than one customer in the Abilene exchange. The request further inquired how the service is provisioned (e.g., own facilities, resale, etc.).

Big River responded in the affirmative, that it provides a residential access line to more than one customer in the Abilene, Kansas exchange via its own facilities.

Sprint Spectrum L.P (Sprint), when asked the same questions responded affirmatively, indicating that it provides a residential access line to more than one customer in the Abilene exchange via its own facilities. US Cellular responded that it does not distinguish between single line residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Abilene exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Abilene exchange. T-Mobile indicated that it does not have numbering resources assigned by the North American Numbering Administrator nor the Pooling Administrator from the Abilene exchange. However, pursuant to the Federal Communication Commission's local number portability rules, more than one customer has ported in their telephone number from another carrier and the Abilene exchange to T-Mobile. T-Mobile provisions service through its own facilities.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(D), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Abilene exchange. As required by Kansas law, one nonaffiliated carrier, Big River, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint would qualify as the second provider of telecommunications service.

Chanute

The Chanute exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Level 3 Communications (Level 3) and Frontier Communications are facilities-based carriers providing residential service to access lines in the Chanute exchange. Although AT&T named Level 3 as a nonaffiliated facilities-based carrier, it clarified in footnote three that it believes Level 3 has a business relationship with Cable One and that Cable One may be the underlying company offering digital telephone service to those listings.

In addition to the facilities-based carriers, AT&T claims ALLTEL, Nexus Communications, Sprint, US Cellular, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Chanute exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.² The request for information asked each carrier if it provides a residential access line to more than one customer in the Chanute exchange. The request further inquired how the service is provisioned.

Level 3, as a nonaffiliated facilities-based carrier responded in the negative, that it does not provide a residential access line to more than one customer in the Chanute, Kansas exchange using its own facilities. As stated previously, AT&T identified Cable One as the possible underlying carrier for Level 3 in this exchange; therefore, Staff sent Cable One the same data request. Cable One's response indicated that it does provide a residential access line to more than one customer in the Chanute exchange. Cable One indicates provisioning is a combination of Cable One and Level 3. Cable One takes care of provisioning the phone line and features in its softswitch, voice mail system and EMTAs, and Level 3 takes care of all CLEC provisioning such as; E911, directories, calling name, local exchange routing guide, etc.

Although AT&T identified Frontier as a facilities-based carrier, Staff could not locate a carrier by the name of Frontier Communications that has been certificated as a competitive local exchange carrier by this Commission. In addition, AT&T did not provide information that would demonstrate that Frontier provides residential access service to more than one customer in the Chanute exchange; therefore, there was no need for Staff to validate such claim.

Sprint Spectrum L.P, when asked the same questions, responded that it does provide a residential access line to more than one customer in the Chanute exchange via its own facilities. Nexus' response indicated that it does not provide residential service to more than one customer in the Chanute exchange. US Cellular responded that it does not distinguish between single line residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Chanute exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Chanute exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(D), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Chanute exchange. As required by Kansas law, one nonaffiliated carrier, Cable One, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint would qualify as the second provider of telecommunications service.

² Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Chanute, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

Clay Center

The Clay Center exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Big River is a facilities-based carrier providing residential service to access lines in the Clay Center exchange. In addition to Big River, AT&T claims ALLTEL, US Cellular, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Clay Center exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.³ The request for information asked each carrier if it provides a residential access line to more than one customer in the Clay Center exchange. The request further inquired how the service is provisioned.

Big River, as a nonaffiliated facilities-based carrier responded in the affirmative, that it does provide a residential access line to more than one customer in the Clay Center, Kansas exchange using its own facilities.

US Cellular responded that it does not distinguish between single line residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Chanute exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Chanute exchange.

Wireless carriers typically do not differentiate between residential or business customers – the rate and service are the same regardless of the type of customer subscribing to the service – and the service is available and provided to residential and business customers alike. This is a customary practice for carriers in the wireless industry and not something AT&T could control or change. However, Staff understands the statute requires the requesting telecommunications carrier to demonstrate that the requirements of the statute have been met and in this case AT&T has not sufficiently demonstrated that more than one carrier provides telecommunications services to residential customers in the Clay Center exchange.

As required by K.S.A. 66-2005(q)(1)(D), there is not a sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Clay Center exchange. As required by Kansas law, one nonaffiliated carrier, Big River, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-

³ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Clay Center, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. Both US Cellular and ALLTEL indicate that they provide telecommunications service to more than one customer in the Clay Center exchange, but neither carrier distinguishes between residential and business service. AT&T provided number porting and E911 information, but neither demonstrates that either carrier is providing residential service to more than one customer in the exchange. AT&T further provided advertisements demonstrating that US Cellular and ALLTEL offer service in the Clay Center exchange, but the advertisements do not demonstrate that US Cellular and ALLTEL are actually providing service to residential customers in the Clay Center exchange. Therefore, AT&T has not sufficiently demonstrated that there is a second provider providing telecommunications services in the Clay Center exchange to residential customers. As stated previously, wireless carriers do not typically distinguish between residential and business service, but Staff understands the statute requires the requesting telecommunications carrier to demonstrate that the requirements of the statute have been met, and this has not occurred.

Ellsworth

The Ellsworth exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Big River is a facilities-based carrier providing residential service to access lines in the Ellsworth exchange. In addition to the facilities-based carriers, AT&T claims ALLTEL, Nex-Tech Wireless, Sprint, US Cellular, Verizon Wireless, and WestLink, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Ellsworth exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.⁴ The request for information asked each carrier if it provides a residential access line to more than one customer in the Ellsworth exchange. The request further inquired how the service is provisioned.

Big River, as the nonaffiliated facilities-based carrier responded in the affirmative, that it does provide a residential access line to more than one customer in the Ellsworth, Kansas exchange using its own facilities.

Sprint Spectrum L.P, when asked the same questions, responded that it does provide a residential access line to more than one customer in the Ellsworth exchange via its own facilities. WestLink responded that it does have 4 active subscribers in the Ellsworth exchange, but that it does not differentiate between residential and business subscribers. Nex-Tech Wireless responded in the affirmative, that it does provide a residential access line to more than one customer in the Ellsworth

⁴ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Ellsworth, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

exchange using its own facilities. US Cellular responded that it does not distinguish between single line residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Ellsworth exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Ellsworth exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(D), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Ellsworth exchange. As required by Kansas law, one nonaffiliated carrier, Big River, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint and Nex-Tech Wireless would both qualify as the second provider of telecommunications service.

Emporia

The Emporia exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Level 3 Communications (Level 3) is a facilities-based carrier providing residential service to access lines in the Emporia exchange. Although AT&T named Level 3 a nonaffiliated facilities-based carrier, it clarified in footnote three that it believes Level 3 has a business relationship with Cable One and that Cable One may be the underlying company offering digital telephone service to those listings.

In addition to Level 3, AT&T claims ALLTEL, Sprint, US Cellular, T-Mobile, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Emporia exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.⁵ The request for information asked each carrier if it provides a residential access line to more than one customer in the Emporia exchange. The request further inquired how the service is provisioned.

Level 3, as a nonaffiliated facilities-based carrier responded in the negative, that it does not provide a residential access line to more than one customer in the Emporia, Kansas exchange using its own facilities. As stated previously, AT&T identified Cable One as the possible underlying carrier for Level 3 in this exchange; therefore, Staff sent Cable One the same data

⁵ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Emporia, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

request. Cable One's response indicated that it does provide a residential access line to more than one customer in the Emporia exchange. Cable One indicates provisioning is a combination of Cable One and Level 3. Cable One takes care of provisioning the phone line and features in its softswitch, voice mail system and EMTAs, and Level 3 takes care of all CLEC provisioning such as; E911, directories, calling name, local exchange routing guide, etc.

Sprint Spectrum L.P, when asked the same questions, responded that it does provide a residential access line to more than one customer in the Emporia exchange via its own facilities. US Cellular responded that it does not distinguish between single line residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Emporia exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Emporia exchange. T-Mobile indicates it provides CMRS service to more than one end user numbering resource rated out of the Emporia exchange via its own facilities.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(D), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Emporia exchange. As required by Kansas law, one nonaffiliated carrier, Cable One, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint would qualify as the second provider of telecommunications service.

Independence

The Independence exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Level 3 is a facilities-based carriers providing residential service to access lines in the Independence exchange. Although AT&T named Level 3 a nonaffiliated facilities-based carrier, it clarified in footnote three that it believes Level 3 has a business relationship with Cable One and that Cable One may be the underlying company offering digital telephone service to those listings.

In addition to the facilities-based carriers, AT&T claims ALLTEL, Pioneer Cellular, Sprint, US Cellular, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Independence exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.⁶ The

⁶ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Independence, KS customers formerly served by ALLTEL are now part of the Verizon Wireless

request for information asked each carrier if it provides a residential access line to more than one customer in the Independence exchange. The request further inquired how the service is provisioned.

Level 3, as a nonaffiliated facilities-based carrier responded in the negative, that it does not provide a residential access line to more than one customer in the Independence, Kansas exchange using its own facilities. As stated previously, AT&T identified Cable One as the possible underlying carrier for Level 3 in this exchange; therefore, Staff sent Cable One the same data request. Cable One's response indicated that it does provide a residential access line to more than one customer in the Independence exchange. Cable One indicates provisioning is a combination of Cable One and Level 3. Cable One takes care of provisioning the phone line and features in its softswitch, voice mail system and EMTAs, and Level 3 takes care of all CLEC provisioning such as; E911, directories, calling name, local exchange routing guide, etc.

Sprint Spectrum L.P, when asked the same questions, responded that it does provide a residential access line to more than one customer in the Independence exchange via its own facilities. US Cellular and Pioneer Cellular both responded that the carriers do not distinguish between single line residential or single line business wireless services, but that each carrier provides single line wireless service to more than one customer in the Independence exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Independence exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(D), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Independence exchange. As required by Kansas law, one nonaffiliated carrier, Cable One, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint would qualify as the second provider of telecommunications service.

Minneapolis

The Minneapolis exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Big River is a facilities-based carriers providing residential service to access lines in the Minneapolis exchange. In addition to Big River, AT&T claims ALLTEL, WestLink Communications, US Cellular, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Minneapolis exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or

wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.⁷ The request for information asked each carrier if it provides a residential access line to more than one customer in the Minneapolis exchange. The request further inquired how the service is provisioned.

Big River, as the nonaffiliated facilities-based carrier responded in the affirmative, that it does provide a residential access line to more than one customer in the Minneapolis, Kansas exchange using its own facilities.

WestLink responded that it does provide wireless service via its own facilities to more than one active subscriber in the Minneapolis exchange; however, WestLink does not differentiate between residential and business subscribers. US Cellular, similarly, responded that it does not distinguish between single line residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Minneapolis exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Minneapolis exchange.

Wireless carriers typically do not differentiate between residential or business customers – the rate and service are the same regardless of the type of customer subscribing to the service – and the service is available and provided to residential and business customers alike. This is a customary practice for carriers in the wireless industry and not something AT&T could control or change. However, Staff understands the statute requires the requesting telecommunications carrier to demonstrate that the requirements of the statute have been met and in this case AT&T has not sufficiently demonstrated that more than one carrier provides telecommunications services to residential customers in the Clay Center exchange.

As required by K.S.A. 66-2005(q)(1)(D), there is not a sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Minneapolis exchange. As required by Kansas law, one nonaffiliated carrier, Big River, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. WestLink, US Cellular, and ALLTEL all indicate that they provide telecommunications service to more than one customer in the Minneapolis exchange, but the carriers do not distinguish between residential and business service. AT&T provided number porting and E911 information, but neither demonstrates that either carrier is providing residential service to more than one customer in the exchange. AT&T further provided advertisements demonstrating that US Cellular and ALLTEL offer service in the Minneapolis exchange, but the advertisements do not demonstrate that US Cellular and ALLTEL are actually providing service to residential customers in

⁷ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Minneapolis, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

the Minneapolis exchange. Therefore, AT&T has not sufficiently demonstrated that there is a second provider providing telecommunications services in the Minneapolis exchange to residential customers. As stated previously, wireless carriers do not typically distinguish between residential and business service, but Staff understands the statute requires the requesting telecommunications carrier to demonstrate that the requirements of the statute have been met, and this has not occurred.

Neodesha

The Neodesha exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Level 3 is a facilities-based carrier providing residential service to access lines in the Neodesha exchange. Although AT&T named Level 3 a nonaffiliated facilities-based carrier, it clarified in footnote three that it believes Level 3 has a business relationship with Cable One and that Cable One may be the underlying company offering digital telephone service to those listings.

In addition to the facilities-based carriers, AT&T claims ALLTEL, Pioneer Cellular, Sprint, US Cellular, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Neodesha exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.⁸ The request for information asked each carrier if it provides a residential access line to more than one customer in the Neodesha exchange. The request further inquired how the service is provisioned.

Level 3, as a nonaffiliated facilities-based carrier responded in the negative, that it does not provide a residential access line to more than one customer in the Neodesha, Kansas exchange using its own facilities. As stated previously, AT&T identified Cable One as the possible underlying carrier for Level 3 in this exchange; therefore, Staff sent Cable One the same data request. Cable One's response indicated that it does provide a residential access line to more than one customer in the Neodesha exchange. Cable One indicates provisioning is a combination of Cable One and Level 3. Cable One takes care of provisioning the phone line and features in its softswitch, voice mail system and EMTAs, and Level 3 takes care of all CLEC provisioning such as; E911, directories, calling name, local exchange routing guide, etc.

Sprint Spectrum L.P, when asked the same questions, responded that it does provide a residential access line to more than one customer in the Neodesha exchange via its own facilities. Pioneer Cellular's response indicated that it does not provide residential service to more than one customer in the Neodesha exchange. US Cellular responded that it does not distinguish between single line

⁸ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Neodesha, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Neodesha exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Neodesha exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(D), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Neodesha exchange. As required by Kansas law, one nonaffiliated carrier, Cable One, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint would qualify as the second provider of telecommunications service.

Parsons

The Parsons exchange has fewer than 75,000 local exchange access lines; therefore, this application was correctly filed pursuant to K.S.A. 66-2005(q)(1)(D). In the application, AT&T indicates that Level 3 Communications (Level 3) is a facilities-based carriers providing residential service to access lines in the Parsons exchange. Although AT&T named Level 3 a nonaffiliated facilities-based carrier, it clarified in footnote three that it believes Level 3 has a business relationship with Cable One and that Cable One may be the underlying company offering digital telephone service to those listings.

In addition to the facilities-based carriers, AT&T claims ALLTEL, Sprint, US Cellular, and Verizon Wireless, which are not affiliated with the local exchange carrier, also provide residential service as providers of CMRS in the Parsons exchange. In support of its claims, AT&T cites number porting information that indicates number porting data as of April 30, 2009; E911 data as of March 31, 2009; and, documented service offerings by nonaffiliated CMRS providers. According to the number porting information, numbers were ported from AT&T as the local exchange carrier to a competitive local exchange carrier or wireless carrier.

Staff additionally queried the companies named as competitive carriers in AT&T's application.⁹ The request for information asked each carrier if it provides a residential access line to more than one customer in the Parsons exchange. The request further inquired how the service is provisioned.

Level 3, as a nonaffiliated facilities-based carrier responded in the negative, that it does not provide a residential access line to more than one customer in the Parsons, Kansas exchange using its own facilities. As stated previously, AT&T identified Cable One as the possible underlying carrier for Level 3 in this exchange; therefore, Staff sent Cable One the same data request. Cable One's response indicated that it does provide a residential access line to more

⁹ Staff did not send a separate data request to Verizon Wireless as Verizon Wireless and Alltel completed their merger on January 9, 2009. Thus, Alltel and Verizon are now one company and not separate carriers. Furthermore, Staff verified that Parsons, KS customers formerly served by ALLTEL are now part of the Verizon Wireless network. <http://solutions.vzwshop.com/alltel/>

than one customer in the Parsons exchange. Cable One indicates provisioning is a combination of Cable One and Level 3. Cable One takes care of provisioning the phone line and features in its softswitch, voice mail system and EMTAs, and Level 3 takes care of all CLEC provisioning such as; E911, directories, calling name, local exchange routing guide, etc.

Sprint Spectrum L.P, when asked the same questions, responded that it does provide a residential access line to more than one customer in the Parsons exchange via its own facilities. US Cellular responded that it does not distinguish between single line residential or single line business wireless services, but that it does provide single line wireless service to more than one customer in the Parsons exchange via its own facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Parsons exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(D), there is sufficient demonstration that there are two or more nonaffiliated telecommunications carriers or other entities, not affiliated with AT&T as the local exchange provider, providing telecommunications services to residential customers in the Parsons exchange. As required by Kansas law, one nonaffiliated carrier, Cable One, is a facilities-based carrier. The law requires one other carrier that is not affiliated with AT&T or the facilities-based carrier, which can be a provider of commercial mobile radio services, be providing service in the requested exchange. In this case, Sprint would qualify as the second provider of telecommunications service.

RECOMMENDATION:

Staff believes AT&T has demonstrated that the requirements of K.S.A. 66-2005(q)(1)(D) have been satisfied in the Abilene, Chanute, Ellsworth, Emporia, Independence, Neodesha and Parsons exchanges, but not in the Clay Center and Minneapolis exchanges. Thus, Staff recommends the Commission grant AT&T's requests for price deregulation of residential service in the Abilene, Chanute, Ellsworth, Emporia, Independence, Neodesha and Parsons exchanges pursuant to K.S.A. 66-2005(q)(1)(D). Staff recommends the Commission deny AT&T's request for residential price deregulation in the Clay Center and Minneapolis exchanges pursuant to K.S.A. 66-2005(q)(1)(D).

cc: Don Low Susan Duffy Pat Shurtz
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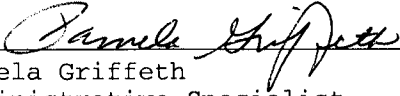
CERTIFICATE OF SERVICE

10-SWBT-019-PDR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing Notice of Filing of Staff Report and Recommendation was placed in the United States mail, postage prepaid, or hand-delivered this 19th day of August, 2009, to the following:

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