

**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)
Business Telecommunications)
Services in the Dodge City, Garden)
City, Humboldt, Larned and Lindsborg,)
Kansas Exchanges pursuant to K.S.A.)
2008 Supp. 66-2005(q)(1).)

JUL 09 2009

 Docket Room

Docket No. 09-SWBT-937-PDR

**SOUTHWESTERN BELL TELEPHONE COMPANY'S RESPONSE TO THE
COMMISSION'S ORDER APPROVING APPLICATION FOR PRICE DERGULATION
OF BUSINESS TELECOMUNNICATIONS SERVICE IN THE DODGE CITY, GARDEN
CITY, HUMBOLDT AND LARNED, KANSAS EXCHANGES AND SUSPENDING
APPLICATION WITH RESPECT TO THE LINDSBORG, KANSAS EXCHANGE**

COMES NOW Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T"), in response to the Commission's June 26, 2009 Order Approving Application of Southwestern Bell Telephone Company for Price Deregulation of Business Telecommunications Service in the Dodge City, Garden City, Humboldt and Larned, Kansas Exchanges and Suspending Application With Respect to the Lindsborg, Kansas Exchange in the above captioned matter. AT&T's response is limited to addressing that part of the Commission's Order suspending the application for price deregulation of business telecommunications services in the Lindsborg, Kansas exchange. For its response, SWBT states as follows:

Background

1. On June 5, 2009, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) filed its application requesting price deregulation of business telecommunications services in the Dodge City, Garden City, Humboldt, Larned and Lindsborg, Kansas exchanges.

2. On June 24, 2009, the Commission Staff ("Staff") filed a memorandum presenting Staff's research and recommendation to the Commission. Staff's memorandum affirmatively reflected Staff's belief that AT&T had demonstrated, pursuant to K.S.A. 2008 Supp. 66-2005(q)(1)(C), that there were two or more nonaffiliated telecommunications carriers providing services to business customers in all of the subject exchanges.

3. On June 25, 2009, the Citizen's Utility Ratepayer Board ("CURB") filed a response to Staff's memorandum and recommendation. Specifically, CURB stated its opposition to the price deregulation of business telecommunication services in the Lindsborg, Kansas exchange. CURB voiced concern that they could not identify with specificity any entity other than Cox providing single line business service in Lindsborg.

4. On June 26, 2009, the Commission approved AT&T's application for price deregulation of business telecommunications services in the Dodge City, Garden City, Humboldt and Larned, Kansas exchanges and suspended for 30 days that portion of the application pertaining to the Lindsborg, Kansas exchange to allow additional time for investigation.

AT&T's Response

5. AT&T agrees with Staff that through its application AT&T has sufficiently demonstrated that all of the identified exchanges have two or more nonaffiliated telecommunications carriers providing service to business customers. More specifically, Staff's review and ultimate recommendation for approval of price deregulation of business telecommunication services in the Lindsborg, Kansas exchange is based upon a reasonable interpretation of K.S.A. 66-2005 (q)(1)(C) and is a rational and logical

method for determining the existence of competition. This is especially true in the case of CMRS providers, where wireless carriers such as Alltel and US Cellular do not differentiate between residential or business customers but clearly market to both.

6. AT&T submits to the Commission that Alltel and US Cellular are significant service providers who own wireless transmission facilities in the Lindsborg area and who market to business customers, as well as residential consumers. Considering that competitors are, understandably, unwilling to provide AT&T with their specific customer information; and, customers who have a competitor's service similarly may not wish to share this information with another competing provider, the approach used by Staff to confirm that wireless providers do provide business service in Lindsborg is a very reasonable, logical and common sense approach to the intent, application and implementation of the statutory standard.¹ CURB's position and approach is none of those things.

7. Confirming the appropriateness and correctness of Staff's approach to this issue, attached to this response is information further evidencing the fact that end user

¹ AT&T recognizes that the market is such that wireless competitors may not always differentiate billing between business and residence accounts. Nevertheless, if a national carrier confirms that it offers service generally in an area, it is both reasonable and logical to assume that the carrier serves both business and residential customers in that area. Unfortunately, if the Commission believes that further confirmation is needed to determine whether a wireless carrier serves business customers, the Commission will have to request that information directly from the wireless carriers as it is very unlikely AT&T would ever be able to obtain that information from a competing carrier. It is likely that some wireless carriers do have access to some information that could confirm business customers do use the carrier's service. For example, many wireless providers enter into specific contracts with businesses to provide special pricing. In addition, a review of billing names within a specific city located in an AT&T exchange for which price deregulation is sought could allow a wireless carrier to identify accounts billed to a business name.

business customers in the Lindsborg exchange are receiving service from Alltel and US Cellular as indicated in AT&T's application.² Specifically, AT&T provides:

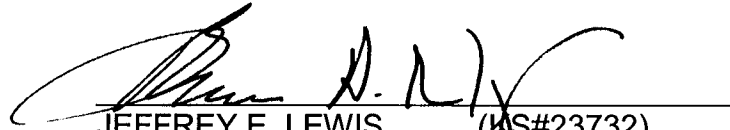
- Attachment A: Copy of e-mail correspondence from USD 400 confirming they have contract with US Cellular for service.
- Attachment B: Copy of e-mail correspondence from The City of Lindsborg confirming they have a contract with US Cellular for service.
- Attachment C: Copy of e-mail correspondence from Kansas State Senator Jay Scott Emler confirming his personal knowledge of several Alltel business customers.

8. Accordingly, AT&T requests the Commission endorse the methodology employed by the Staff in this proceeding concerning CMRS (wireless) providers that do not distinguish between residential and business consumers; favorably consider the additional, confirming information provided by AT&T in its attachments to this response; reject the arguments of CURB; and, approve AT&T's application for price deregulation of business services in the Lindsborg, Kansas exchange.

² The attached information was collected by AT&T following the issuance of the Commission's June 26, 2009 Order in this proceeding. AT&T's application in this proceeding attempted to provide the Commission with objective data and publicly available information to support its application. CURB's unreasonable position seeks to require AT&T to somehow identify and contact non-AT&T wireless customers in an attempt to secure their cooperation in proceedings such as this. Forcing AT&T to directly contact the customers of other carriers in order to secure their participation on its behalf in price deregulation proceedings was certainly never the intent of the Kansas legislature when it rewrote the statute in 2005 to simplify and bring more definition and regulatory certainty to the price deregulation process.

WHEREFORE, AT&T respectfully requests an order of the Commission granting its application for price deregulation of business telecommunication services in the Lindsborg, Kansas exchange.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce A. Ney", is written over a horizontal line.

JEFFREY E. LEWIS (KS#23732)

BRUCE A. NEY (KS#15554) ✓

220 E. Sixth Street, Room 515

Topeka, Kansas 66603-3596

(785) 276-8413

(785) 276-1948 (facsimile)

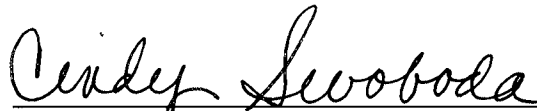
bruce.ney@att.com

Attorneys for
Southwestern Bell Telephone Company

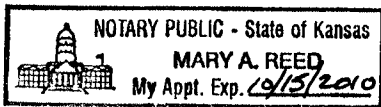
VERIFICATION

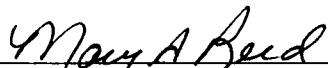
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

I, Cindy Swoboda, of lawful age, and being first duly sworn, now state: I am Area Manager – Regulatory Relations for Southwestern Bell Telephone Company. I have read Southwestern Bell Telephone Company’s Response to the Commission’s Order Approving Application for Price Deregulation of Business Telecommunications Service in the Dodge City, Garden City, Humboldt and Larned, Kansas Exchanges and Suspending Application with Respect to the Lindsborg, Kansas Exchange, and verify the statements contained herein to be true and correct to the best of my knowledge and belief.


Cindy Swoboda

Subscribed and sworn to before me this 9th day of July, 2009.




Notary Public

My appointment expires: October 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that a correct copy of Southwestern Bell Telephone Company's Response to the Commission's Order Approving Application for Price Deregulation of Business Telecommunications Service in the Dodge City, Garden City, Humboldt and Larned, Kansas Exchanges and Suspending Application with Respect to the Lindsborg, Kansas Exchange was sent via U.S. Mail or hand-delivered on this 9th day of July, 2009, to:

Colleen Harrell
Litigation Counsel, Telecommunications
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604-4027
HAND DELIVER

James T. Meister
Alltel
1269-B5F11-C
One Allied Drive
Little Rock, AR 72202-2177

Mark Argenbright
Cox Communications
6301 Waterford Blvd., Ste 200
Oklahoma City, OK 73118

Jeff Wick
Nex-Tech Wireless
2418 Vine Street
P.O. Box 339
Hays, KS 67601

Diane C. Browning
Sprint Communications Co., LP
6450 Sprint Pkwy
Overland Park, KS 66251

John C. Gockley
U S Cellular
8410 W. Byrn Mawr
Chicago, IL 60631-3486

Richard Veatch
Westlink Communications
120 W. Kansas Avenue
Ulysses, KS 67880

Steve Rarrick
CURB
1500 SW Arrowhead Road
Topeka, KS 66604-4027
HAND DELIVER

Ron Johnson
Century Tel Solutions, LLC
100 CenturyTel Drive 5S
Monroe, LA 71203

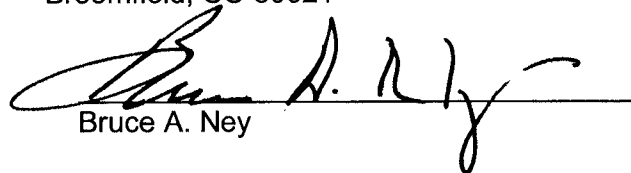
Greg Rogers
Level 3 Communications, LLC
1025 El Dorado Blvd.
Broomfield, CO 80021

Dean Polkow
RCC Holding, Inc. (Unicel)
3905 Dakota Street, SW
P.O. Box 2000
Alexandria, MN 56308

Dave Miller
T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006

Don Howell
United Wireless
1107 McArtor Road
Dodge City, KS 67801

James E. Means
Adelphia Business Solutions (Telcove)
1025 El Dorado Blvd.
Broomfield, CO 80021


Bruce A. Ney

ATTACHMENT A

From: Julie Martin [mailto:jmartin@smokyvalley.org]
Sent: Monday, June 29, 2009 10:31 AM
To: ZAPLETAL, CYNTHIA L (ATTSI)
Subject: Cell Phone Service

Cindy,

Smoky Valley USD #400 currently has a contract with U.S. Cellular for cell phone service.

Have a great week!

Julie Martin
Director of Finance
Smoky Valley USD #400
126 S Main
Lindsborg, KS 67456
785-227-2981
785-227-2982 (fax)

ATTACHMENT B

From: Greg DuMars [mailto:gregd@lindsborgcity.org]
Sent: Tuesday, June 30, 2009 12:25 PM
To: ZAPLETAL, CYNTHIA L (ATTSI)
Subject: City of Lindsborg Cellular Service

Dear Ms. Zapletal:

The City of Lindsborg has a 2-year contract for cellular phone service with US Cellular.

Sincerely,

Gregory A. DuMars
City Administrator
City of Lindsborg
P.O. Box 70
101 S Main
Lindsborg, KS 67456-0070
(785) 227-3355 Phone
(785) 227-4128 Fax
gregd@lindsborgcity.org

ATTACHMENT C

From: Jay Emler [mailto:Jay.Emler@senate.ks.gov]
Sent: Monday, June 29, 2009 9:18 AM
To: dan.jacobsen@att.com
Subject: Alltel service in Lindsborg

Good morning, Dan,

In response to your question whether or not I know anyone using Alltel service in Lindsborg, the answer is yes. There are so many customers in Lindsborg, Alltel put a cell site on the city water tower. I am aware of both individual and business users of Alltel's service in Lindsborg.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Senator Jay Scott Emler
Kansas 35th District
State Capitol Building, Room 537-N
Topeka, Kansas 66612
785-296-7354



Bruce A. Ney
General Attorney

AT&T Kansas
220 SE Sixth Street
Room 515
Topeka, Kansas 66603-3596

T: 785.276.8413
F: 785.276.1948
bruce.ney@att.com

June 9, 2009

Susan K. Duffy
Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604-4027

STATE CORPORATION COMMISSION

JUL 09 2009

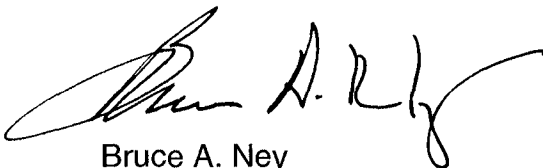
 Docket Room

Re: KCC Docket No. 09-SWBT-937-PDR

Dear Ms. Duffy:

Enclosed you will find an original and seven copies of Southwestern Bell Telephone Company's Response to the Commission's Order Approving Application for Price Deregulation of Business Telecommunications Service in the Dodge City, Garden City, Humboldt and Larned, Kansas Exchanges and Suspending Application with Respect to the Lindsborg, Kansas Exchange, for filing in the above referenced docket.

Sincerely,



Bruce A. Ney
General Attorney

BAN:mr
Enclosures

cc: Parties of Record