

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

JUN 24 2009

In the Matter of the Application of)
Southwestern Bell Telephone Company for)
Price Deregulation of Residential and)
Business Telecommunications Services in)
the Kinsley and Erie, Kansas Exchanges)
Pursuant to K.S.A. 2008 Supp 66-2005(q))
(1).)

 Docket Room

Docket No. 09-SWBT-936-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 in certain named exchanges.

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:

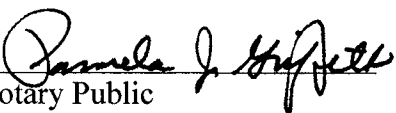
Colleen R. Harrell, of lawful age being first duly sworn upon oath states:

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.

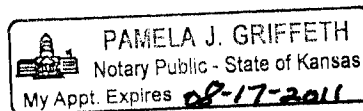


Colleen R. Harrell

Subscribed and sworn to before me Wednesday, June 24, 2009.



Notary Public



My appointment expires: *August 17, 2011*

**MEMORANDUM
UTILITIES DIVISION**

TO: Chairman Wright
Commissioner Moffet
Commissioner Harkins

FROM: Christine Aarnes

DATE: June 24, 2009

DATE SUBMITTED TO LEGAL: 6/24/09

DATE SUBMITTED TO COMMISSIONERS: 06/24/09

RE: Docket No. 09-SWBT-936-PDR

In the Matter of the Application of Southwestern Bell Telephone Company for Price Deregulation of Residential and Business Telecommunications Services in the Kinsley and Erie, Kansas Exchanges Pursuant to K.S.A. 2008 Supp 66-2005(q) (1).

BACKGROUND:

This application was filed on June 5, 2009, by Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T"), and requests price deregulation of residential and business telecommunications services in the Kinsley and Erie exchanges in the state of Kansas pursuant to K.S.A. 2006 Supp. 66-2005(q)(1)(C) and (D).

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 business lines, for exchanges with fewer than 75,000, K.S.A. 66-2005(q)(1)(C) 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 business 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 business 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.

When considering deregulation of residential access 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.

Kinsley

The Kinsley 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)(C) and (D). In the application, AT&T indicates that Cox Kansas Telecom, LLC (“Cox”) is a facilities-based carrier providing telecommunications service to residential and business access lines in the Kinsley exchange. In addition to service provided by Cox, AT&T claims Alltel Kansas Limited Partnership (“ALLTEL”) and United Wireless Communications, Inc. (“United Wireless”), which are not affiliated with the local exchange carrier, also provide telecommunications service as providers of Commercial Mobile Radio Service (“CMRS”) in the Kinsley 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. The request for information asked carriers if they provide a residential access line to more than one

customer in the Kinsley exchange and if the carriers provide a single-line business line to more than one customer in the Kinsley exchange. The request further inquired how the service is provisioned (e.g., own facilities, resale, etc.).

Cox, as the nonaffiliated facilities-based carrier responded in the affirmative, that it provides a residential access line to more than one customer and a single-line business access line to more than one customer in the Kinsley, Kansas exchange using its own facilities.

United Wireless, when asked the same questions responded affirmatively, indicating that a residential access line and a single-line business line are each provided to more than one customer in the Kinsley exchange via United Wireless' facilities. ALLTEL indicated that it uses its own facilities to provide wireless service to more than one customer with a billing address in the Kinsley exchange.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(C) and 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 both residential and business customers in the Kinsley exchange. As required by Kansas law, one nonaffiliated carrier, Cox, 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, ALLTEL and United Wireless would both qualify as the second provider of telecommunications service.

Erie

The Erie 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)(C) and (D). In the application, AT&T indicates that Cox is a facilities-based carrier providing residential and single-line business service to access lines in the Erie exchange. In addition to Cox, AT&T claims ALLTEL, which is not affiliated with the local exchange carrier, also provides residential and single-line business service as a provider of CMRS in the Erie 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. The request for information asked carriers if they provide a residential access line to more than one customer in the Erie exchange and if the carriers provide a single-line business line to more than one customer in the Erie exchange. The request further inquired how the service is provisioned.

Cox, as the nonaffiliated facilities-based carrier responded in the affirmative, that it provides a residential access line to more than one customer and a single-line business access line to more than one customer in the Erie, Kansas exchange using its own facilities.

ALLTEL, when asked the same questions responded affirmatively, that it provides wireless service via its own facilities to more than one customer with a billing address in the Erie 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.

That said, since ALLTEL and Cox are the only two carriers identified by AT&T as competitors in the Erie exchange, Staff sent a follow-up data request to ALLTEL on June 23, 2009, to be confident that ALLTEL's level of service would be sufficient to satisfy the requirements of K.S.A. 66-2005(q)(1)(C) and (D) as the second nonaffiliated telecommunications carrier. In Staff's follow-up data request, Staff asked ALLTEL if it provides an access line to more than four customers in the Erie exchange, and how the service is provisioned. ALLTEL responded in the affirmative, that it does provide wireless service via its own facilities to more than four customers with a billing address in the Erie, Kansas exchange. Therefore, Staff feels confident that one or more lines could be residential lines and one or more lines could also be business lines. As stated previously, the telecommunications service is available to residential and business customers alike; therefore, there is no reason for Staff to believe that ALLTEL's service does not satisfy the second provider requirement of the statute.

With that information, it appears that as required by K.S.A. 66-2005(q)(1)(C) and 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 both residential and business customers in the Erie exchange. As required by Kansas law, one nonaffiliated carrier, Cox, 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, ALLTEL 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)(C) and (D) have been satisfied in the Kinsley and Erie exchanges. Thus, Staff recommends the Commission grant AT&T's requests for price deregulation of residential service in the Kinsley and Erie exchanges pursuant to K.S.A. 66-2005(q)(1)(D), and for single-line business service in the Kinsley and Erie exchanges pursuant to K.S.A. 66-2005(q)(1)(C).

cc: Don Low Susan Duffy Pat Shurtz
Tom Stratton Colleen Harrell

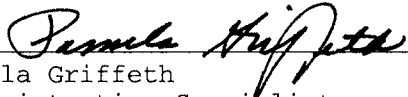
CERTIFICATE OF SERVICE

09-SWBT-936-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 24th day of June, 2009, to the following:

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