

**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, L.P. for Approval of)
Interconnection Agreement Under the) Docket No. 06-SWBT-234-IAT
Telecommunications Act of 1996 with Xspedius)
Communications, 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 February 14, 2017, Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) filed an Application seeking Commission approval of an amendment to the Interconnection Agreement between AT&T Kansas and Level 3 Telecom of Kansas City, LLC f/k/a tw telecom of kansas city llc f/k/a Time Warner Telecom of Kansas City LLC f/k/a Xspedius Management Co. of Kansas City, LLC negotiated, executed, and filed with the Commission on September 7, 2005, and approved by the Commission's Order of September 14, 2005. The Interconnection Agreement was subsequently modified pursuant to Commission Orders issued May 31, 2006 and March 3, 2009. Supplementing its Application, AT&T Kansas included a copy of the Amendment to the Interconnection Agreement (Amendment) executed by AT&T Kansas and Level 3 Telecom of Kansas City, LLC on January 9, 2017. The Interconnection Agreement and Amendment are collectively referred to herein as "Amended Agreement".

2. AT&T Kansas states that the requested modification implements a name change to Level 3 Telecom of Kansas City, LLC (Level 3) from tw telecom of kansas city llc; implements the Federal Communications Commission's (FCC) USF/ICC, Lifeline and Link Up reform and Modernization Orders; modifies certain provisions related to Customer Information Services; adds Joint and Several Liability language to the General Terms and Conditions; and modifies the Notices provisions in the current Agreement. AT&T Kansas maintains that implementation of the requested modification to the Interconnection Agreement fully complies with Section 252(e) of the Federal Telecommunications Act of 1996, that the Amended Agreement is consistent with the public interest, convenience and necessity and does not discriminate against any telecommunications carrier.¹

3. On March 6, 2017, the Commission Staff (Staff) submitted its Report and Recommendation dated March 01, 2017, recommending the Commission grant AT&T Kansas' Application and approve the Amended Agreement between AT&T Kansas and Level 3. According to Staff, Level 3 is a foreign limited liability company properly registered with the Kansas Secretary of State's office where its status is shown to be *active and in good standing*. Level 3 was issued a Certificate of Convenience and Authority to provide Competitive Local Exchange (CLEC) service in Kansas in Docket No. 99-L3CT-318-COC and a Certificate to provide Interexchange (IXC) service in Kansas in Docket No. 99-L3CC-319-COC, both Orders being issued May 14, 1999.²

4. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2015 Supp. 66-1,188. K.S.A. 66-1,190 requires all telecommunications public utilities doing business in Kansas to:

¹ Application, pages 1 and 2.

² Report and Recommendation, page 2.

...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 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.

5. Concluding its review and analysis of AT&T Kansas' Application and the Amended Agreement, Staff states that it has no concerns regarding AT&T Kansas' Application. Staff further states that in the review process it found no language that discriminates against other telecommunications carriers not a party to the Agreement, nor any language that is inconsistent with the public interest, convenience, and necessity. Concluding, Staff recommends the Commission grant AT&T Kansas' Application and approve the Amended Agreement.³

6. The Commission adopts Staff's analysis and recommendation of March 1, 2017, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that AT&T Kansas' Application should be granted and the Amended Interconnection Agreement between AT&T Kansas and Level 3 should be approved.

³ Id. Page 3.

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 Kansas and Level 3 Telecom of Kansas City, LLC, executed by the parties on January 9, 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. 2015 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.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: MAR 09 2017


Amy L. Green
Secretary to the Commission

oan

Order Mailed Date

MAR 10 2017

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: March 01, 2017

SUBJECT: 06-SWBT-234-IAT
In the Matter of Application of Southwestern Bell Telephone, L.P. for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 with Xspedius Communications, LLC.

EXECUTIVE SUMMARY:

On February 14, 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 Level 3 Telecom of Kansas City, LLC f/k/a tw telecom of kansas city, llc f/k/a Time Warner Telecom of Kansas City, LLC f/k/a Xspedius Management Co. of Kansas City, LLC (Xspedius). Staff recommends approval of the filing.

BACKGROUND:

On September 07, 2005, AT&T and Xspedius submitted an Interconnection Agreement to this Commission that was approved on September 14, 2005. The new Amendment modification implements a name change to Level 3 Telecom of Kansas City, LLC from tw telecom of kansas city LLC; implements the FCC's USF/ICC, Lifeline and Link Up Reform and Modernization Orders; modifies certain provisions related to Customer Information Services; adds Joint and Several Liability language to the General Terms and Conditions; and modifies the Notices provisions in the current Agreement. This modification provides for the removal of Lifeline and Link Up resale offerings from the original Agreement per the Federal Communications

Commission (FCC) June 22, 2015, Lifeline and Link Up Reform and Modernization Order¹. AT&T requested the name on the Agreement be changed from Xspedius to tw telecom of kansas city, llc in this Docket approved March 3, 2009. The Amendment expires concurrent with the existing Agreement, or with 180 days prior notice.

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.

Level 3 is headquartered in Broomfield, Colorado. Level 3 received a Certificate of Convenience and Authority in Docket No. 99-L3CT-318-COC to provide Competitive Local Exchange (CLEC) in the State of Kansas, and 99-L3CC-319-COC to provide Interexchange Service in Kansas; both Dockets were approved May 14, 1999. Level 3 is registered with the Kansas Secretary of State's office and has a filing status of "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 to the Agreement 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.

¹ *Lifeline and Link Up Reform and Modernization* WC Docket 11-42 et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order FCC 15-71, rel. June 22, 2015, ¶244.

Staff does not have any concerns regarding this Application. Staff reviewed the Amendment to the Agreement 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 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 Level 3. Staff finds no evidence of discrimination against other parties and finds that approval is in the public interest.

CERTIFICATE OF SERVICE

06-SWBT-234-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 MAR 09 2017.

TAMMY L CHATFIELD, REGULATORY AFFAIRS MANAGER
LEVEL 3 TELECOM OF KANSAS CITY, LLC
TIME WARNER TELECOM
10475 PARK MEADOWS DR
LITTLETON, CO 80124
Fax: 303-542-4403
tammy.chatfield@level3.com

MICHAEL MOONEY, GENERAL COUNSEL REGULATORY
LEVEL 3 COMMUNICATIONS, LLC
1025 ELDORADO BLVD
BROOMFIELD, CO 80021
Fax: 720-567-2209
michael.mooney@level3.com

OTTO NEWTON, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604
Fax: 785-271-3167
o.newton@kcc.ks.gov
Hand Delivered

BRUCE A. NEY, ATTORNEY
SOUTHWESTERN BELL TELEPHONE CO.
D/B/A AT&T KANSAS
816 CONGRESS AVE
SUITE 1100
AUSTIN, TX 78701-2471
Fax: 512-870-3420
bn7429@att.com

/S/ DeeAnn Shupe
DeeAnn Shupe

Order Mailed Date

MAR 10 2017