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PUBLIC SERVICE
COMMISSION

September 3, 2008

VIA HAND DELIVERY

Ms. Stephanie Stumbo
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

Re: CoreTel Kentucky, Inc.'s Request for Kentucky Commission Approval of the Interconnection Agreement between Southwestern Bell Telephone Company d/b/a AT&T Kansas and CoreTel Kansas, Inc., filed with the Kansas Corporation Commission on July 23, 2008
KPSC 2008-00351

Dear Ms. Stumbo:

I write on behalf of AT&T Kentucky in response to the August 13, 2008, letter of Henry S. Alford and Scot A. Duvall on behalf of CoreTel Kentucky, Inc. ("CoreTel"). Based on the circumstances described in CoreTel's letter, no Commission action is appropriate at this time – and at no time can the Commission properly entertain CoreTel's request that it approve the Kansas-specific interconnection agreement attached to CoreTel's letter. Contrary to the impression CoreTel seeks to create, AT&T has timely provided CoreTel with revisions that must be made to the Kansas Agreement in order for it to be ported to Kentucky consistent with the merger commitment upon which CoreTel relies. Accordingly, the Commission should take no action in response to CoreTel's letter.

CoreTel states that it notified AT&T that it wanted to port its Kansas Agreement¹ to Kentucky on June 23, 2008, that AT&T has "not been willing to execute and file the entire effective Kansas Agreement," and that AT&T has instead informed CoreTel of changes that must be made to the Kansas Agreement in order for it to be ported to Kentucky. None of that is a ground for Commission involvement or a basis for Commission action. There is nothing untoward about the fact that AT&T has identified changes that must be made to the Kansas Agreement in order for it to be ported to

¹ In fact, CoreTel actually notified AT&T that it wanted to port the agreement between AT&T Kansas and Cox Kansas Telecom, L.L.C., and that is the agreement that AT&T has prepared for porting. The parties treated the request to port such agreement within Kansas as a request for adoption pursuant to Section 252(i) of the Act and filed that adopted agreement for approval in Kansas on July 25, 2008. Thus, the agreement CoreTel attached to its letter is not the agreement CoreTel requested to port, but the adopted agreement.

Kentucky, and the fact that the porting process has not yet been completed is neither remarkable nor inappropriate.

CoreTel is not, of course, entitled to port the Kansas Agreement to Kentucky without modification. Rather, the merger commitment that allows CoreTel to port the Kansas Agreement ("Merger Commitment 7.1") expressly provides that the port is:

subject to state-specific pricing and performance plans and technical feasibility and provided, further, that an AT&T/BellSouth ILEC shall not be obligated to provide pursuant to this commitment any interconnection arrangement or UNE unless it is feasible to provide, given the technical, network, and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.

Accordingly, when AT&T receives a porting request – and it has received approximately 290 such requests – AT&T must review the requested interconnection agreement ("ICA") against the pricing and performance plans of the "port-to" state, for technical feasibility in the port-to state, for feasibility given the network, technical and OSS attributes and limitations in the port-to state, and for consistency with the laws and regulatory requirements of the port-to state to determine what modifications must be made in order for the ICA to be ported. To communicate to the requesting carrier the modifications it has identified, AT&T sends the requesting carrier a "redline" of the requested agreement to show the modifications.

AT&T is unable to take a "cookie-cutter" approach to processing porting requests. Each porting request is unique and must be processed individually. To accomplish this, AT&T has a full-time porting team. This porting team reviews each requested ICA, provision by provision, in order to ensure that every provision is appropriately modified in accordance with Merger Commitment 7.1. When it performs this review, the porting team consults as appropriate with product managers, network and OSS experts and attorneys with knowledge of the technical, network and OSS capabilities and with the laws and regulatory requirements of the port-to states. This is an arduous and time-consuming process. Also, AT&T is not typically able to start substantive work on a porting request immediately upon receiving the request. AT&T processes requests on a first-in, first-out basis, in order to ensure that each carrier gets a fair and equal opportunity to take advantage of the merger commitment.

The CoreTel porting request was particularly demanding, because it was a request to port the Kansas Agreement to all 21 other AT&T ILEC states. Because the various regions within the AT&T ILEC footprint have developed different networks and OSS, a port of an agreement to a state outside the region for which it was intended often requires substantial modification simply to ensure that the agreement, from a

practical perspective, can be operationalized in the port-to states.² Regardless, AT&T sent CoreTel redlines of various portions of the approximately 395-page Kansas Agreement in installments, starting on July 29, 2008 – just a bit more than one month after CoreTel made its request. Subsequent installments were transmitted on August 8, August 15 and, completing the ICA redlines, August 21, 2008. Attached to this letter is a copy of AT&T's July 29 transmittal to CoreTel. The transmittal explicitly contemplates that CoreTel will review the redlines, including the rationale that AT&T provided for each of the modifications, and will provide AT&T with questions and/or concerns about the redlines.³ It has been AT&T's experience that requesting carriers, after hearing the explanations for the modifications AT&T identifies, accept the vast majority of them – including most of those that the requesting carrier initially questioned.

Simply put, CoreTel may or may not have a grievance in the future – depending on how the parties' discussions evolve – but it has no legitimate grievance now. CoreTel indisputably is not entitled to port the entire Kansas Agreement "as is"; the merger commitment clearly contemplates modifications of the sort described above. Thus, it is perfectly appropriate that AT&T has apprised CoreTel of modifications that must be made to the Kansas Agreement in order for it to be ported to Kentucky and the other requested 20 states. And the fact that the porting process has not yet been completed is no justification for Commission intervention.⁴

Separate and apart from the fact that CoreTel has no legitimate grievance, the means by which CoreTel has requested the Commission's intervention – a request for approval of the Kansas Agreement under Section 252(e) of the Telecommunications Act of 1996 – is patently improper. Section 252(e) provides for state commission approval or rejection of final interconnection agreements that parties have adopted through

² Merger Commitment 7.1 contemplates such changes to ensure that the arrangements are "feasible to provide, given the technical, network and OSS attributes and limitations" of the port-to state(s).

³ In its transmittal to CoreTel, AT&T stated, "To assist CoreTel in the review process, AT&T has attempted to provide a brief rationale in 'balloon' comments for each of the modifications (excluding the universal changes). Such rationale, provided in the margin of the documents, is not intended to identify all the reasons for any particular change." CoreTel asserts in its letter that AT&T has not provided "meaningful explanation" for the changes, but AT&T invited CoreTel's questions and concerns and is ready, willing and able to discuss all the changes with CoreTel.

⁴ The Illinois Commerce Commission ("ICC"), in a case in which Sprint requested a port under Merger Commitment 7.1 on November 20, 2007, found that there was "nothing remarkable about the fact that it took from then until February, 2008, for AT&T Illinois to provide the redlines showing the changes it determined were necessary in order for the Kentucky ICA to be ported to Illinois and twelve other states." Order, Docket No. 07-0629, *Sprint Comm'n's L.P. et al. v. Illinois Bell Tel Co. Complaint and Request for Declaratory Ruling Pursuant to Sections 13-514, 13-515, 13-801 and 10-108 of the Illinois Public Utilities Act* (Ill. Comm. Comm'n July 30, 2008), at 37. As the ICC explained, "Apart from the mechanics of preparing the necessary documentation, it is certainly to be expected that AT&T will examine the requested ICA to determine which of its provisions must, in AT&T's opinion, be modified in order for the ICA to be ported to Illinois and twelve other states." *Id.* Here, it took AT&T about a month less to redline an agreement for Kentucky and 20 other states.

negotiation under Section 252(a) of the 1996 Act or arbitration under Section 252(b) of the 1996 Act. Here, the parties have not arrived at an interconnection agreement at all – there is no agreement for the Commission to approve. Indeed, CoreTel acknowledges that the pricing and the performance plans in the Kansas Agreement have to be changed for Kentucky, and recognizes that other changes "clearly within the ambit of the AT&T Merger Conditions" are also appropriate – changes that CoreTel does not purport to identify, but states that it "will work with the Commission to make." *Thus, CoreTel admits that the agreement it has submitted for approval cannot be approved.* For that matter, even if the Commission could properly consider approving the agreement CoreTel has filed, any approval would be meaningless. The agreement is, on its face, between Southwestern Bell Telephone Company d/b/a AT&T Kansas and CoreTel Kansas, Inc., and pertains to the provisioning of services in AT&T Kansas' service territory in the State of Kansas; thus, any "approval" of this document – whatever such an approval might mean – would have no effect in Kentucky.

In sum, CoreTel has no cognizable grievance and, separate and apart from that, it has tried to invoke the Commission's assistance in a manner that is patently improper. Accordingly, the Commission should inform CoreTel that it will not entertain CoreTel's request, and should take no further action.

The original and ten (10) copies of this letter are enclosed for filing.

Sincerely,



Mary K. Keyer
General Counsel/Kentucky

Attachment

cc: Parties of Record

From: Tamplin, James [jt9576@att.com]
Sent: Tuesday, July 29, 2008 8:04 AM
To: Jim Falvey
Subject: CoreTel Port
Follow Up Flag: Follow up
Flag Status: Flagged
Attachments: 00GTCCox090705.doc; 13aColloCoreTel22StADDED.doc; 13aColloCox090705OMIT.doc; 28bAR_Collo_Pricing_SchedADDED.xls; 28cCA_Collo_Pricing_SchedADDED.xls; 28dCT_Collo_Pricing_SchedADDED.xls; 28eIL_Collo_Pricing_SchedADDED.xls; 28fIN_Collo_Pricing_SchedADDED.xls; 28gMI_Collo_Pricing_SchedADDED.xls; 28hMO_Collo_Pricing_SchedADDED.xls; 28iNV_Collo_Pricing_SchedADDED.xls; 28jOH_Collo_Pricing_SchedADDED.xls; 28kOK_Collo_Pricing_SchedADDED.xls; 28ITX_Collo_Pricing_SchedADDED.xls; 28mWI_Collo_Pricing_SchedADDED.xls; Att4-CollocationRates-ExhibitB SE Region.xls; Att4-ExhibitC-Rates.xls

Mr. Falvey:

As you are aware, CoreTel Communications, Inc. the parent company of subsidiary corporations CoreTel Kansas, Inc. Kansas CoreTel Alabama, Inc. Alabama, CoreTel Florida Inc. ,CoreTel Georgia. Inc., CoreTel Kentucky.Inc., CoreTel Louisiana, Inc., CoreTel Mississippi, Inc., CoreTel North Carolina, Inc., CoreTel South Carolina. Inc., CoreTel Tennessee, Inc., CoreTel Missouri, Inc., CoreTel Oklahoma, Inc., CoreTel Arkansas, Inc., CoreTel Texas, Inc., CoreTel Illinois Inc., CoreTel Indiana, Inc., CoreTel Ohio, Inc., CoreTel Wisconsin, Inc., CoreTel Michigan Inc., CoreTel California, Inc., CoreTel Connecticut, Inc., CoreTel Nevada, Inc. ("CoreTel") has requested to port the Interconnection Agreement between Southwestern Bell Telephone. L.P. ("AT&T") and Cox Kansas Telcom.,L.L.C. in the state of Kansas to the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Missouri, Oklahoma, Arkansas, Texas, Illinois, Indiana, Ohio, Wisconsin, Michigan, California, Connecticut, Nevada pursuant to Merger Commitment 7.1 under the caption entitled "Reducing Transaction Costs Associated with Interconnection Agreements of the AT&T/BellSouth Merger Commitments. Enclosed for your review are the following Appendices/Attachments of the Kansas ICA redlined to reflect changes necessary to port the agreement to the above mentioned states:

- General Terms and Conditions
- Appendix Collocation
- Collocation Pricing Documents

AT&T is providing you the above listed Appendices/Attachments in an effort to start the review process of the documents. Please note that for ease of application, AT&T proposed its current offering for certain provisions (as noted in the comment balloons) applicable in all the port to state(s), but is agreeable to the insertion of any state specific Commission ordered language for the applicable state.

In reviewing the documents, you will notice that there are several items that we have made universal changes to:

- All SBC Kansas references have been changed to AT&T.
- All references to SBC Kansas pricing documents or tariffs have either been removed completely or struck and replaced with the applicable term for the port-to states.
- All references to the SBC Kansas CLEC website/links have been updated with the AT&T CLEC Online website.

To assist CoreTel in the review process, AT&T has attempted to provide a brief rationale in "balloon" comments for each of the modifications (excluding the universal changes). Such rationale, provided in the margin of the documents, is not intended to identify all the reasons for any particular change. Helpful Hint: To view the provided rationale in Word, make sure that your "View" is set to the Print Layout and the "Tools," "Options," "Track Changes," "Use Balloons in Print and Layout" is checked.

Please note, portions of the Kansas ICA that are not relevant to the port to state have been omitted and are not contained in the

enclosed files. They will be replaced with the appropriate documents relevant to the port to state. These items include the following:

- o All state specific pricing documents:

As mentioned above, the documents provided are in draft format for CoreTel's review and do not constitute the final signature ready documents between the Parties. AT&T reserves its rights to make changes to the documents as may be necessary throughout the port review process. AT&T is requesting that you review these documents and provide a list of any questions or concerns and/or acceptance of the language within ninety (90) calendar days of the date provided or on a schedule as mutually agreed to by the Parties.

AT&T will be sending CoreTel the remainder of redlines by August, 21 2008 for CoreTel's review.

If you have any questions, please feel free to contact me at your earliest convenience.

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 <<28ITX_Collo_Pricing_SchedADDED.xls>> <<28mWI_Collo_Pricing_SchedADDED.xls>> <<Att4-CollocationRates-ExhibitB SE Region.xls>> <<Att4-ExhibitC-Rates.xls>>

Jim Tamplin

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