



BOULT ■ CUMMINGS[®]
CONNERS ■ BERRY^{PLC}

September 2, 2008

Via Hand Delivery

Hon. Tre Hargett, Chairman
c/o Sharla Dillon
Tennessee Regulatory Authority
460 James Robinson Parkway
Nashville, TN 37238

electronically filed 9/2/08

Re: Docket No. 08-00149: Tennessee Regulatory Authority Approval of the Interconnection Agreement between Southwestern Bell Telephone Company d/b/a AT&T Kansas ("AT&T Kansas") and CoreTel Kansas, Inc. in the State of Kansas, filed with the Kansas Corporation Commission on July 25, 2008 ("Kansas Agreement")

Dear Chairman Hargett,

I am writing on behalf of CoreTel Tennessee, Inc. ("CoreTel") in response to the AT&T letter dated August 26, 2008 ("AT&T Letter"). CoreTel would like to take this opportunity to correct some of the statements in the AT&T Letter and to request that the Tennessee Regulatory Authority ("TRA") demand a detailed Tennessee-specific explanation why AT&T cannot immediately port the Kansas Agreement to Tennessee.

In the AT&T Letter, AT&T argues that CoreTel is not certificated in Tennessee and therefore the TRA should not act on this matter. In fact, there is no reason the TRA could not approve the Kansas Agreement at this time, particularly given that CoreTel fully understands that it must be certificated before it can begin to operate in Tennessee. Certification is a relatively routine matter for an experienced carrier. For example, CoreTel filed for certification in Wisconsin on August 15 and the certification was approved a little over a week later on August 25.

By contrast, the process of enforcing AT&T's Merger Conditions is, unfortunately, a very lengthy one. After two months, CoreTel still has not received from AT&T any detailed justification for the extensive changes AT&T would like to make to the Kansas Agreement CoreTel is attempting to port to Tennessee. Given that the length of time it takes to port an AT&T agreement is considerably longer than the time it takes to get certificated, it made sense for CoreTel to bring the interconnection issue to the TRA first. CoreTel has every intention of filing for certification in Tennessee in a timely manner. AT&T's request that the Commission require certification first and only then hear interconnection disputes after that appears to be designed to delay CoreTel's entry into Tennessee.

CoreTel has been attempting to port the Kansas Agreement under the AT&T Merger Conditions aimed at "reducing transaction costs associated with interconnection agreements." However, the process established by AT&T – which has yet to produce even one CoreTel ported agreement – seems designed to increase transaction costs.

On June 23, CorTel asked to port the AT&T Kansas Agreement to all the other 21 states in the AT&T region. Based on the merger conditions, if AT&T believes that there is a legal or technical obstacle in a "port-to" state which would prevent porting a section of the Kansas Agreement to that state, AT&T has an obligation to raise that issue and describe specifically the legal or technical issue. Instead AT&T takes the position that the parties must transform the Kansas Agreement into one, AT&T generic agreement which can be adopted in all the states.

AT&T, in other words, wants to transform the porting process into a lengthy, state-by-state renegotiation of the Kansas Agreement, which is not consistent with the language or the intent of the FCC's order.

AT&T also complains in its letter that it has inadequate resources to port agreements on a timely basis. AT&T had \$118B in total revenues last year and net income of \$11.95B. AT&T cannot be heard to complain that it lacks resources. This is particularly true where it is only being asked to fulfill an obligation that it *voluntarily* committed to in order to conclude its merger.¹

The only reason that AT&T takes over two months to turn around even one state redline is because of its own expansive interpretation of the task at hand and its deliberately laborious process for accomplishing it. The Merger Commitment requires a wholesale porting of an agreement except where there are particular arrangements that would violate requirements of the port-to state. As discussed further below, AT&T has used this safety valve as a springboard to conduct a time-consuming, wholesale renegotiation of the ported agreement.

In addition, the redlining approach taken by AT&T is inconsistent with the more streamlined approach taken by other carriers, such as Valor (purchasing GTE exchanges) and Bell Atlantic (complying with its own merger conditions). In those instances, the ILEC merely attached a brief amendment to the ported agreement and filed it in the port-to state. This represents a more streamlined process and does not require the unwieldy process of reviewing 22 sections of an agreement. For example, the literally hundreds of name replacements (Cox changed to CoreTel) inserted by AT&T could have been accomplished by a simple line in an amendment that all references to Cox shall now be CoreTel.

Most importantly, the overarching tone of the AT&T Letter -- that somehow the porting process is going very smoothly but we just need more time -- is disingenuous. It took over two months for AT&T to produce even a single agreement for porting. And now AT&T wants to sit down and go line by line through a series of vaguely worded redlines for another undetermined period of time, all the while keeping CoreTel from doing business in Tennessee.

It is particularly surprising that AT&T does not see a need for TRA intervention in the discussions between AT&T and CoreTel. In fact, the parties have reached an impasse. While AT&T wanted to conduct a lengthy series of meetings on a vague 21-state document, CoreTel wanted AT&T first to identify in writing specific changes to the Agreement with detailed Tennessee-specific explanations tied back to the AT&T Merger Conditions. During a conference call on August 21, it soon became clear that the parties were at loggerheads. The call was concluded and no future meetings are

¹This was not any ordinary merger but one that combined the assets of the companies formerly known as AT&T, BellSouth, Southwestern Bell, Ameritech, Pacific Bell, SNET, AT&T Wireless, Cingular, Cellular One, and BellSouth Mobility, among others.

scheduled. It is therefore surprising that AT&T would one week later claim that the parties are in the midst of negotiations and that no TRA action is necessary at this time.

The AT&T Letter suggests that CoreTel is not satisfied because AT&T has made changes to the Agreement. In fact, CoreTel is unwilling to review AT&T's extensive markup because of what AT&T has *failed* to provide: detailed explanations of how the proposed changes are *legitimate* changes tied back to the AT&T Merger Conditions. In several cases, AT&T has made sweeping changes without any effort at all to tie them back to the Merger Conditions. In other cases, the explanations are so vague as to be meaningless. Here are a few examples:

- In its first redline on July 29, AT&T struck the entire 14-page Appendix Collocation with the following explanation: "For ease of provisioning and to provide one consistent position for each of the port to states, AT&T is striking the Appendix Collocation from the port from state and replacing with the 22-state generic Collocation Appendix. . . . If CoreTel would like to avail itself of the individual state rulings, we will be happy to prepare the contract in that way." Note that there is no reference to the Merger Conditions, nor to any state ruling that would preclude AT&T from offering the Kansas collocation arrangements in Tennessee (or any other state). CoreTel objected to this change in writing on August 6.
- In another July 29 redline of the General Terms and Conditions, AT&T altered the Kansas Agreement based upon changes in AT&T "company policy": "Company policy now includes rating of A- or better." The self-insurance provisions were also marked up unilaterally by AT&T "for clarity." And the escrow provisions were matched to AT&T standard provisions in 6 states with no explanation whatsoever. Because of these and a number of other "out-of-bounds" redlines, CoreTel is not inclined to spend additional time, beyond AT&T's initial two-month delay, parsing through AT&T's wish list of things it wishes were not included in the Kansas Agreement that it has committed to the FCC to port.
- Common throughout the redline are vague comments such as "state specific provisions which do not port." Such comments are often used to change critical portions of the Kansas Agreement. Another common comment used to make sweeping changes: "State specific network attributes and limitations: language added to address specific network configurations in Southeast 9states [sic]." These comments make no reference to state-specific orders or regulations that would preclude AT&T from offering the Kansas Agreement interconnection agreements in Tennessee (or other states).

Given AT&T's approach to the Merger Condition porting process and the vague redlines it took two months to produce, it is understandable that AT&T would ask the TRA to take "no further action" at this time. But in order to shed more light on this matter, CoreTel respectfully requests the TRA seek additional information from AT&T concerning AT&T's compliance with the porting requirement. Specifically, the TRA should do as the Wisconsin Commission has done (see attached letter from the Wisconsin PSC) and give AT&T until September 12 to respond to the following request:

- 1) provide the TRA with a list of all proposed changes to the Kansas Agreement which must be made before the agreement can be ported to Tennessee; and
- 2) provide a detailed and specific rationale for those changes tied back to the AT&T Merger Conditions, including specific reference to TRA requirements and orders that would preclude the porting of the arrangements in question.

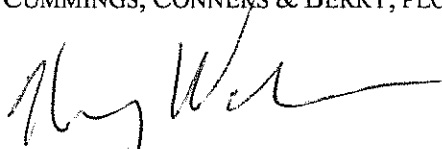
Hon. Tre Hargett, Chairman
Page 4
September 2, 2008

Thank you for your attention to this matter and please do not hesitate to contact me with any questions or concerns.

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker

cc: Guy Hicks, Attorney for AT&T



Public Service Commission of Wisconsin

Eric Callisto, Chairperson
Mark Meyer, Commissioner
Lauren Azar, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

August 19, 2008

Mr. James Jermain
Director-Regulatory
AT&T Wisconsin
316 W. Washington Ave
Madison, WI 53703

Re: Application for Approval of the Interconnection Agreement
Between Southwestern Bell Telephone Company d/b/a AT&T
Kansas ("AT&T Kansas") and CoreTel Kansas, Inc.

5-TI-1875

Staff request to AT&T for ICA porting information

Dear Mr. Jermain:

On August 14, 2008, CoreTel Wisconsin, Inc. (CoreTel) filed an application for approval of an interconnection agreement (ICA) that it wants to "port" into Wisconsin from Kansas pursuant to merger conditions as set forth in the FCC's AT&T Merger Order. A copy of that application was sent to AT&T (Jim Tamplin). Please advise us on or before August 29, 2008, whether AT&T concurs in CoreTel's request to port this agreement. If AT&T does not concur unconditionally, please explain precisely why this agreement does not qualify for porting pursuant to the merger conditions.

Regardless of your answer to the above questions, please inform us of how many competitor requests to AT&T have sought to port ICAs into Wisconsin based on merger conditions as discussed above, and the number of such ICAs actually ported by AT&T.

Questions on this matter may be addressed to Nick Linden at (608) 266-8950.

Sincerely,

Gary A. Evenson
Administrator
Telecommunications Division

GAE:NAL:jrm\DL\5-TI-1875\Correspondence\5-TI-1875 Data Request to AT&T.doc.