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DOCKET NO. 42741

SOUTHWESTERN BELL TELEPHONE	§	PUBLIC UTILITY COMMISSION
COMPANY d/b/a AT&T TEXAS'	§	
PETITION FOR A CERTIFICATE OF	§	OF TEXAS
OPERATING AUTHORITY AND TO	§	
RESCIND ITS CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	

ORDER

This Order addresses the petition filed by Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas) for a Certificate of Operating Authority and to rescind AT&T Texas' Certificate of Convenience and Necessity (Petition). Public Utility Commission of Texas (Commission) Staff recommended approval of the Petition. AT&T Texas' Petition is approved.

The Commission adopts the following findings of fact and conclusions of law.

I. Findings of Fact

Procedural History

1. On August 7, 2014, AT&T Texas filed a Petition (a) to reclassify AT&T Texas as a deregulated company pursuant to PURA¹ § 65.052(c), (b) for the issuance of a Certificate of Operating Authority (COA) consistent with PURA §§ 65.101(a) and (b), and (c) for the rescission of its Certificate of Convenience and Necessity (CCN) No. 40079.
2. Attached to AT&T Texas' Petition are Exhibits A, B, C, and D, which include PURA Chapter 65, copies of all prior Commission Orders granting deregulatory status to the 300 exchanges served pursuant to AT&T Texas' CCN, AT&T Texas' General Exchange Tariff listing the 300 exchange markets, and AT&T Texas' Certificate of Convenience and Necessity.

¹ Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2013) (PURA).

3. On August 12, 2014, the Commission entered Order No. 1, requiring a response from Commission Staff on the sufficiency of the Petition, the procedural schedule suggested in the Petition, and the proposed notice.
4. On August 15, 2014, Commission Staff responded to Order No. 1, recommending that the Petition and notice be determined to be sufficient and agreeing with the procedural schedule proposed by AT&T Texas.
5. On August 15, 2014, the Commission issued Order No. 2, finding AT&T Texas' Petition and notice sufficient, establishing an intervention deadline, and requiring AT&T Texas to clarify whether a new COA or an amendment to an existing COA was being requested.
6. On August 19, 2014, AT&T Texas responded to Order No. 2, clarifying that a new COA was being requested to replace and comprise the same service territory as AT&T Texas' existing CCN.
7. On August 20, 2014, the Commission issued Order No. 3, adopting a tentative procedural schedule and requiring further clarification regarding certain legal and procedural issues.
8. On August 29, 2014, AT&T Texas responded to Order No. 3, addressing the issues raised in Order No. 3 and indicating a separate filing from Commission Staff was not anticipated because Commission Staff supported the positions stated in AT&T Texas' response.
9. On September 2, 2014, the Commission issued Order No. 4, confirming the procedural schedule that had been tentatively approved in Order No. 3.
10. No party filed for intervention or submitted comments by the deadline of September 5, 2014. The only parties to this proceeding are AT&T Texas and Commission Staff.
11. On September 12, 2014, Commission Staff filed its recommendation on final disposition, stating that AT&T Texas qualified as a deregulated company pursuant to PURA § 65.002(1) and recommending this proceeding as eligible for informal disposition pursuant to P.U.C. PROC. R. 22.35. Commission Staff further recommended approval of AT&T Texas' Petition pursuant to PURA §§ 65.052(c) and 65.101(a), including the issuance of a COA for facilities-based and resale services to AT&T Texas and rescission of AT&T Texas' CCN.

12. On September 19, 2014, the parties filed a motion to admit evidence and joint proposed order.
13. On September 25, 2014, the Commission issued Order No. 5, requiring confirmation and adoption of facts by AT&T Texas.
14. On September 26, 2014, AT&T Texas responded to Order No. 5, addressing matters raised in the Order and confirming the accuracy of and adopting the facts contained in Commission Staff's recommendation, with exception to an affiliate's relinquishment of a Service Provider Certificate of Operating Authority (SPCOA) and providing affiliates' COA and/or Interexchange Carrier (IXC) registration.
15. On September 26, 2014, the Commission issued Order No. 6, admitting the following evidence into the record of this proceeding:
 - a. AT&T Texas' Petition, including attachments, filed August 7, 2014,
 - b. AT&T Texas' response to Order No. 2, filed August 19, 2014,
 - c. Commission Staff's recommendation on final disposition, including attachment, filed September 12, 2014; and
 - d. AT&T Texas' response to Order No. 5.

Deregulated Company Information

16. AT&T Texas is an incumbent local exchange carrier pursuant to PURA § 51.002(3).
17. All of the 300 exchanges served by AT&T Texas pursuant to AT&T Texas' existing CCN have been deregulated pursuant to Commission Orders entered in Docket Nos. 31831,² 32977,³ 39962,⁴ 41731,⁵ and 42451.⁶

² *Staff's Petition to Determine Whether Markets of Incumbent Local Exchange Carriers (ILECs) Should Remain Regulated*, Docket No. 31831, Order (Dec. 28, 2005) and Order Nunc Pro Tunc (Jan. 27, 2006).

³ *Petition of AT&T Texas to Determine Whether Markets of Incumbent Local Exchange Carriers (ILECs) with Populations Less than 30,000 Should Remain Regulated*, Docket No. 32977, Order (Oct. 17, 2006).

⁴ *Petition of AT&T Texas to Determine Whether Certain Markets with Populations Less than 100,000 Should Remain Regulated*, Docket No. 39962, Order (Feb. 24, 2012).

⁵ *Petition of AT&T Texas to Determine Whether Certain Markets with Populations Less than 100,000 Should Remain Regulated*, Docket No. 41731, Order (Nov. 4, 2013).

⁶ *Petition of AT&T Texas to Determine Whether Certain Markets with Populations Less Than 100,000 Should Remain Regulated*, Docket No. 42451 (Jul. 11, 2014).

18. Because all of the 300 exchanges served by AT&T Texas pursuant to AT&T Texas' existing CCN have been deregulated, AT&T Texas qualifies as a deregulated company as that term is defined in PURA § 65.002(1).

Notice

19. On August 29, 2014, notice of this proceeding was published in the *Texas Register*.

COA Information

20. AT&T Texas is a Delaware company with authorization to transact business in the State of Texas as a foreign for-profit corporation as of July 2, 2007.
21. AT&T Texas currently holds CCN No. 40079 comprising the exchanges addressed in the orders entered in the dockets described in Finding of Fact No. 17.
22. AT&T Texas does not hold an SPCOA or COA for any part of the service area covered by this application in Texas.
23. AT&T Texas and its affiliates do hold the following certificates and registrations in Texas: AT&T Texas (COA No. 50005), AT&T Communications of Texas, LLC (COA No. 50003), AT&T Corp. (COA No. 50026), Teleport Communications America LLC (COA No. 50037 and IXC No. IX120020), AT&T Communications of Texas LLC (IXC No. IX010159), AT&T Long Distance (IXC No. IX011185), AT&T Long Distance East (IXC No. IX011173) and BellSouth Long Distance Inc. (IXC No. IX010188).
24. AT&T Texas should be issued a COA that is data, facilities-based, and resale.
25. The same contact information that currently exists for AT&T Texas' CCN No. 40079 should be used for AT&T Texas as a COA holder.
26. All of the residential and business services currently provided, as listed in AT&T Texas' General and Local Exchange Tariffs, will continue to be provided by AT&T Texas as a COA holder.
27. AT&T Texas currently provides prepaid calling services as required by P.U.C. SUBST. R. 26.29 and may continue to similarly provide those services as a COA holder.
28. As a COA holder, AT&T Texas does not intend to allow municipal resale in accordance with current practices and the restrictions in PURA § 54.202.

Informal Disposition

29. There is no dispute among the parties regarding any legal issue or material fact in this proceeding; therefore, no hearing was necessary.
30. A decision in AT&T Texas' favor would not be adverse to the interests of any party to this proceeding.
31. Notice of this proceeding was completed at least 15 days prior to the issuance of this Order.
32. The requirements of P.U.C. PROC. R. 22.35(a) are satisfied in this proceeding.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to PURA §§ 14.001, 14.051, 65.002(1), 65.052(c), and 65.101.
2. AT&T Texas is an incumbent local exchange carrier pursuant to PURA § 51.002(3).
3. Pursuant to PURA §§ 65.052(c) and 65.002(1), it is appropriate to classify AT&T Texas as a deregulated company because all of the companies' markets have been deregulated.
4. Upon the request of a deregulated company, pursuant to PURA § 65.101 the Commission shall issue the deregulated company a COA and rescind the company's CCN.
5. AT&T Texas is entitled to the issuance of a COA and the rescission of its CCN No. 40079 having satisfied the requirements of PURA § 65.101(b).
6. Notice of the Petition was provided in compliance with P.U.C. PROC. R. 22.55.
7. This docket was processed in accordance with the requirements of PURA, the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.001-.902 (Vernon 2008 & Supp. 2013) (APA), and Commission rules.
8. The Order, taken as a whole, is a just and reasonable resolution of all the issues it addresses and is consistent with the relevant provisions of PURA and the Commission's rules.
9. The Commission's adoption of this Order satisfies the requirements of §§ 2001.051 and 2001.056 of the APA without the necessity of a decision on contested case issues resulting from a hearing on the merits.

10. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following order.

1. AT&T Texas' Petition is granted.
2. AT&T Texas is a deregulated company pursuant to PURA §§ 65.052(c) and 65.002(1).
3. COA No. 50038 is issued to AT&T Texas consistent with PURA § 65.101 covering the service territory for which AT&T Texas currently holds a CCN and as addressed in the orders entered in the dockets described in Finding of Fact No. 17.
4. AT&T Texas' CCN No. 40079 is rescinded.
5. All other motions, requests for specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted, are denied.

SIGNED AT AUSTIN, TEXAS the 23rd day of October 2014.

PUBLIC UTILITY COMMISSION OF TEXAS



DONNA L. NELSON, CHAIRMAN



KENNETH W. ANDERSON, JR., COMMISSIONER



BRANDY D. MARTY, COMMISSIONER