



PUBLIC NOTICE

Federal Communications Commission
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DA 05-3114

Released: November 29, 2005

**DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF THE
LOCAL EXCHANGE ASSETS OF UNITED TELEPHONE COMPANY OF KANSAS AND
UNITED TELEPHONE COMPANY OF EASTERN KANSAS TO TWIN VALLEY TELEPHONE,
INC.**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 05-308

**TWIN VALLEY TELEPHONE, INC., UNITED TELEPHONE COMPANY OF KANSAS AND
UNITED TELEPHONE COMPANY OF EASTERN KANSAS SEEK WAIVER OF THE STUDY
AREA BOUNDARY FREEZE AS CODIFIED IN PART 36 AND WAIVER OF SECTION
69.3(e)(11)**

CC Docket No. 96-45

**TWIN VALLEY PETITIONS FOR CLARIFICATION OR SEEKS WAIVER OF SECTION
54.305 OF THE COMMISSION'S RULES**

CC Docket No. 96-45

Comments Due: December 13, 2005

Reply Comments Due: December 20, 2005

On October 3, 2005, The United Telephone Company of Kansas and the United Telephone Company of Eastern Kansas (together "United") and Twin Valley Telephone, Inc. ("Twin Valley") (collectively, "Applicants") filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ seeking approval to transfer control of the assets used to provide local exchange telecommunications services in United's Aurora, Clifton, Clyde, Delphos, Galsco, Green, Leonardville, Longford, Milford, Morganville, Olsburg, Riley, and Wakefield exchanges in Kansas. On October 26, 2005, Twin Valley and United filed a joint petition for waiver of the study area boundary freeze as codified in the Appendix-Glossary of Part 36 of the Commission's rules and, in the same filing, Twin Valley also seeks a waiver of section 69.3(e)(11) of the Commission's rules in order to allow it to continue to use the National Exchange Carrier Association (NECA) as its tariff pool administrator

¹ 47 C.F.R. §§ 63.03, 63.04; *see also* 47 U.S.C. § 214.

(Petition).² Also, on October 26, 2005, Twin Valley filed a separate petition for clarification or a waiver of section 54.305 of the Commission's rules regarding the determination of the level of universal service support after completion of the transaction with United (Section 54.305 Petition).³

Transfer of Control Application. Applicants assert that this transaction is entitled to presumptive streamlined treatment under section 63.03(b)(1)(iii) of the Commission's rules because it involves only the transfer of local exchange assets of an incumbent LEC by means other than an acquisition of corporate control.⁴ Since, however, the domestic 214 application is associated with a non-routine request for waiver of the Commission's rules, it is not subject to streamlined treatment.⁵

The United companies, organized under Kansas law, provide local exchange, exchange access and intraLATA toll telecommunications services to approximately 5,200 customers in the thirteen exchange areas that are the subject of this proposed transaction and to nearly 117,000 customers throughout Kansas. United's affiliates provide various telecommunications services to over 40 million customers worldwide. The United companies are wholly-owned subsidiaries of Sprint Nextel Corporation ("Sprint Nextel"). Sprint Nextel is a publicly traded holding company, organized under Kansas law, for the purpose of engaging in telecommunications and other related businesses through its subsidiaries. No person or corporate entity owns more than a 10 percent share of Sprint Nextel.

Twin Valley Telephone, Inc, organized under Kansas law, is a wholly-owned subsidiary of Twin Valley Management Inc. Twin Valley currently provides local exchange, exchange access, interexchange service, DSL, ISP and video services to approximately 2,200 subscribers in Kansas. The owners of 10% or more of the equity of Twin Valley Management Inc. are as follows: Peggy S. Foster, a U.S. citizen, 25.3%⁶; Michael J. Foster, a U.S. citizen, 18.0%; Penny L. Gisselbeck, a U.S. citizen, 18.0%; and John G. Foster Trust #2, 23.5%. The trustees of the John G. Foster Trust #2 are Michael J. Foster, Penny L. Gisselbeck, and Dale A. Bradley, all U.S. citizens.

The Applicants have entered into an agreement under which United will sell to Twin Valley the local exchange assets and customer base in the thirteen exchanges listed above.⁷ The Applicants assert that the proposed transaction will serve the public interest. Twin Valley states that it provides telecommunications services to residents in the exchanges adjacent to, or in close proximity to, the thirteen United exchanges to be transferred in this proposed transaction. By acquiring United's exchanges, Twin Valley states that it should be able to achieve better economies of scale, thereby allowing it to realize significant cost savings in the provision of telecommunications services to the residents in its own exchanges as well as those in the thirteen United exchanges to be acquired.

² 47 C.F.R. §§ 36, App. (defining "study area"), 69.3(e)(11).

³ 47 C.F.R. § 54.305.

⁴ 47 C.F.R. § 63.03(b)(1)(iii).

⁵ See 47 C.F.R. § 63.03(c)(1)(i).

⁶ The interest of Peggy S. Foster, Michael J. Foster, and Penny Gisselbeck will each increase by less than 1% before the end of 2005.

⁷ United has notified its subscribers in the affected exchanges of the sale and pending transfer.

Moreover, Twin Valley intends to provide quality basic services to the exchanges it is acquiring and to improve the existing network where necessary. Furthermore, Twin Valley states that it will install new outside plant, including fiber-to-the-home and packet switching capability and re-home its new exchanges to its existing exchanges. Finally, Twin Valley asserts that the new facilities will enable it to offer a full menu of basic and advanced services including high-speed Internet access and video services.

Petition: The requested study area waiver would permit United to remove from its Kansas study areas the Aurora, Clifton, Clyde, Delphos, Glasco, Green, Leonardville, Longford, Milford, Morganville, Olsburg, Riley and Wakefield exchanges (approximately 5,300 access lines) and would permit Twin Valley to add those exchanges to its existing Kansas study area. Twin Valley's requested waiver of section 69.3(e)(11) would allow it to continue to use NECA as its tariff pool administrator upon completion of the transfer of the exchanges.

Section 54.305 Petition: In conjunction with its petition to acquire 13 exchanges from United, Twin Valley separately petitions for clarification or waiver of section 54.305 of the Commission's rules. Specifically, Twin Valley requests that its per-line high-cost support for the acquired exchanges be determined with reference to the role of the exchanges in generating the current level of support to United.

GENERAL INFORMATION

The acquisition of assets and waiver requests identified herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before December 13, 2005** and **reply comments on or before December 20, 2005**.⁸ Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

⁸ See 47 C.F.R. § 63.03(a).

- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

You may submit comments, identified by the above noted docket number, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C212, Washington, D.C. 20554; email: tracey.wilson-parker@fcc.gov;
- (3) Kimberly Jackson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C142, Washington, D.C. 20554; e-mail: kimberly.jackson@fcc.gov;
- (4) Gary Seigel, Telecommunications Access Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C408, Washington, D.C. 20554; email: gary.seigel@fcc.gov;
- (5) Sheryl Todd, Telecommunications Access Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B540, Washington, D.C. 20554; email: sheryl.todd@fcc.gov;

(6) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpiweb.com.

For further information regarding the transfer of control application, please contact Tracey Wilson-Parker, at (202) 418-1394, or Kimberly Jackson at (202) 418-7393. For information regarding the study area waiver, the Part 69 waiver, or the Section 54.305 Petition, please contact Gary Seigel at (202) 418-0879.

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