



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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DA 06-941
Released: April 27, 2006

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF ASSETS OF UNITED TELEPHONE COMPANY OF KANSAS AND UNITED TELEPHONE COMPANY OF EASTERN KANSAS BY RURAL TELEPHONE SERVICE COMPANY, INC.

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 06-80

RURAL TELEPHONE SERVICE COMPANY, INC., NEX-TECH, 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 RURAL TELEPHONE SERVICE COMPANY, INC. SEEKS WAIVER OF PART 69.3(e)(11) OF THE COMMISSION'S RULES

PLEADING CYCLE ESTABLISHED

CC Docket No. 96-45

Comments Due: May 11, 2006
Reply Comments Due: May 18, 2006

On April 3, 2006, Rural Telephone Service Company, Inc. ("RuralTel"), and United Telephone Company of Kansas and United Telephone of Eastern Kansas (collectively, "United") (together, with RuralTel, referred to as "Applicants"), filed an application, pursuant to section 63.04 of the Commission's rules,¹ requesting authority for the sale of the Burr Oak, Courtland, Esbon, Ionia, Lebanon, Republic, and Webber exchanges from United Telephone Company of Eastern Kansas, and the Downs, Luray, Osborne, Paradise, and Russell exchanges in Kansas ("United Exchanges") from United Telephone Company of Kansas to RuralTel.² Applicants have also filed a joint petition for waiver of the study area boundary

¹47 C.F.R § 63.04; *see* 47 U.S.C. § 214.

²Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

freeze as codified in the Appendix-Glossary of Part 36 of the Commission's rules.³ RuralTel also seeks a related waiver of Part 69.3(e)(11) of the Commission's rules.⁴

Acquisition of Assets 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 the proposed transaction involves the transfer of certain local exchange assets of United by means other than an acquisition of corporate control.⁵ In this instance, non-streamlined treatment is appropriate because RuralTel's competitive local exchange carrier (LEC) subsidiary, Nex-Tech, Inc. provides service in United's Osborne exchange and the Applicants have filed associated waiver requests that are not likely to be resolved in the 31-day period provided under the Commission's streamlining rules.

United Telephone Company of Kansas, a Kansas corporation, and United Telephone Company of Eastern Kansas, a Delaware Corporation, are wholly-owned subsidiaries of Sprint Nextel Corporation, of which no person or entity holds more than a 10% interest. United is an incumbent LEC (LEC) serving approximately 118,000 access lines in Kansas, approximately 5,000 of which are in the United Exchanges. The United Exchanges are located in northwest and north central Kansas.

RuralTel is a Kansas corporation that is an incumbent independent telephone cooperative that provides local exchange telecommunications services in the Agra, Alton, Athol, Collyer, Damar, Edmond, Galatia, Gaylord, Gove, Grainfield, Hill City, Jennings, Kensington, Lenora, Logan, Long Island, Morland, Natoma, Olmitz, Palco, Prairie View, Quinter, Rexford, Selden, Victoria, WaKenney, Woodruff, Woodston, and Zurich exchanges. The RuralTel exchanges are located in northwest and north central Kansas. RuralTel serves approximately 10,728 access lines. Nex-Tech, Inc. (Nex-Tech), a competitive LEC subsidiary of RuralTel, services approximately 915 lines in the Osborne exchange, one of the United Exchanges. No person or entity owns more than a 10% interest in RuralTel.⁶

In this proposed transaction, United will transfer the United Exchanges to RuralTel. Upon consummation of this proposed transaction, RuralTel will begin providing telecommunications services to United's customers in the United Exchanges as the incumbent LEC. RuralTel will continue the provision of telecommunications services to both residential and business customers without interruption to United subscribers. Upon consummation of the proposed transaction, RuralTel will complete a *pro forma* transfer of Nex-Tech to its incumbent LEC operations.

Applicants state that the proposed transaction will serve the public interest. Applicants argue that although this proposed transaction, together with the planned incorporation of Nex-Tech's lines into RuralTel's ILEC operations in the Osborne exchange, will remove a competitor from that market, this will not have an adverse impact on competition. Applicants submit that excluding Nex-Tech, there are two other competitive LECs that are authorized to provide local exchange service in the Osborne exchange. Applicants claim that several carriers, including USCOC of Nebraska/Kansas LLC, and RCC

³47 C.F.R. § 36 App. (defining "study area").

⁴47 C.F.R. § 69.3(e)(11).

⁵47 C.F.R. § 63.03(b)(1)(iii).

⁶ Letter from Tony Lee, Counsel, McGuire, Woods, Battle & Booth to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 06-80 (filed April X, 2006).

Minnesota, Inc., have been designated as eligible telecommunications carriers in the Osborne exchange. Applicants state that alternative providers are aggressively seeking to replace traditional landline services with those based on wireless technology or voice over Internet protocol.

Applicants state that RuralTel will offer substantially identical telecommunications services, at similar rates, to those currently available to United's customers in the United Exchanges. Applicants maintain that no subscribers will lose their access to local exchange service as a result of the transfer. Applicants claim that RuralTel intends to make several improvements to the facilities serving the United Exchanges, including the installation of fiber throughout the United Exchanges, which they claim will enhance the redundancy and reliability of the network, as well as extend high-speed digital transmission capabilities to areas not currently served by the United network.

Study Area Waiver and Part 69 Waiver: The requested study area waiver would permit United to remove from its Kansas study areas the Burr Oak, Courtland, Esbon, Ionia, Lebanon, Republic, Webber, Downs, Luray, Osborne, Paradise, and Russell exchanges (approximately 5,000 access lines) and would permit RuralTel to add those exchanges to its Kansas study area. As noted above, RuralTel currently provides service, through its Nex-Tech competitive LEC subsidiary, in the Osborne exchange. According to its petition, Rural Tel intends to discontinue its competitive LEC operations and transfer those subscribers to its incumbent LEC operations. RuralTel also requests a waiver of 69.3(e)(11) of the Commission's rules in order that it may continue to use the National Exchange Carrier Association as its tariff pool administrator upon completion of the transfer of the exchanges.

GENERAL INFORMATION

The transfer of assets 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 assets 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 May 11, 2006** and **reply comments on or before May 18, 2006.**⁷ 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

⁷See 47 C.F.R. § 63.03(a).

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.

- 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, N.E., Suite 110, Washington, D.C. 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, S.W., Washington D.C. 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, S.W., Room CY-B402, Washington, D.C. 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-A103, Washington, D.C. 20554; email: tracey.wilson-parker@fcc.gov;
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B135, Washington, D.C. 20554; e-mail: dennis.johnson@fcc.gov;

- (4) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (5) Gary Seigel, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A633, Washington, D.C. 20554; e-mail: gary.seigel@fcc.gov;
- (6) Cathy Carpino, Telecommunications Access Policy Division, Wireline Competition Bureau, , 445 12th Street, S.W., Room 5-A441, Washington, D.C. 20554; e-mail: cathy.carpino@fcc.gov;
- (7) Makysa Moton, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5B-540, Washington, D.C. 20554; e-mail: makysa.moton@fcc.gov.; and
- (8) 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, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CYB402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Tracey Wilson-Parker at (202) 418-1394, or Dennis Johnson at (202) 418-0809. For further information regarding the Study Area Waiver and the Part 69 Waiver, please contact Gary Seigel at (202) 418-0879.

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