



PUBLIC NOTICE

Federal Communications Commission
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DA 12-1416

Release Date: August 30, 2012

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON TDS TELECOMMUNICATIONS CORPORATION PETITION FOR LIMITED WAIVER OF THE COMMISSION'S RULES

**WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45;
WT Docket No. 10-208**

Comment Date: October 1, 2012

Reply Comment Date: October 16, 2012

On August 9, 2012, TDS Telecommunications Corporation (TDS) filed a petition seeking limited waiver of the requirements set forth in 51.917 of the Commission's rules.¹ Section § 51.917(b) requires that 2011 Rate-of-Return Carrier Base Period Revenue consist of, among other things, Fiscal Year 2011 revenues from Transitional Intrastate Access Service received by March 31, 2012.² TDS seeks a waiver of this rule "to include within its Base Period Revenues unpaid amounts billed to Halo Wireless, Inc. . . . for intrastate usage during Fiscal Year 2011 . . . thereby rendering those amounts eligible for recovery pursuant to the Commission's eligible recovery mechanism."³ TDS explains that Halo Wireless "has sought bankruptcy protection and plans to cease operation."⁴ As a consequence, TDS maintains that it is "unable to collect payments owed by Halo" and "do[es] not ever expect to collect such payment."⁵ TDS contends that if it is unable to include amounts owed to it from Halo Wireless in its Carrier Base Period Revenue due to Halo Wireless' bankruptcy, TDS' "recovery mechanism funding will decline materially," which will "limit [its] ability to deploy additional network and improve its existing network"⁶

¹ TDS Telecommunications Corp. Petition for Limited Waiver of Section 51.917(c) of the Commission's Rules, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208 (filed Aug. 09, 2012) (*TDS Waiver Petition*).

² 47 C.F.R. § 51.917(b)(7)(ii). On February 3, 2012, the Wireline Competition Bureau released an Order which, among other things, adopted rule changes which modified section 51.917 of the Commission's rules and changed the internal numbering within that rule. *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Order, 27 FCC Rcd 605 (2012). The rule to which TDS refers in its waiver petition, 47 C.F.R. § 51.917(c), is now numbered as 47 C.F.R. § 51.917(b)(7)(ii).

³ TDS Waiver Petition at 2.

⁴ *Id.* at ii.

⁵ *Id.* at 3.

⁶ *Id.* at ii-iii.

TDS filed a confidential and a redacted version of its waiver petition. Parties seeking access to the confidential version of TDS' waiver petition shall request access pursuant to the terms of the *Third Protective Order* adopted August 30, 2012.⁷

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document.⁸ All pleadings are to reference **WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).⁹

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy 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. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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 must be addressed to 445 12th Street, SW, 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 email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

In addition, one copy of each pleading must be sent to Rhonda Lien, Federal Communications Commission, Wireline Competition Bureau, Pricing Policy Division, 445 12th Street, SW, Room 5-A333, Washington, DC 20554, or via email at rhonda.lien@fcc.gov.

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁰ Persons making *ex parte* presentations must file a

⁷ *Connect America Fund et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, Protective Order, DA 12-1418 (Wireline Comp. Bur., rel. August 30, 2012) (*Third Protective Order*).

⁸ 47 C.F.R. §§ 1.415, 1.419.

⁹ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

¹⁰ 47 C.F.R. §§ 1.1200 *et seq.*

copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, contact Rhonda Lien, Wireline Competition Bureau, Pricing Policy Division, at (202) 418-1520 or via email at rhonda.lien@fcc.gov.

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