



PUBLIC NOTICE

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

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 14-776

Released: June 4, 2014

**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON
THE JOINT PETITION OF PENASCO VALLEY TELEPHONE COOPERATIVE, INC. AND
MESCALERO APACHE TELECOM, INC.
TO WAIVE THE DEFINITION OF “STUDY AREA” AS CODIFIED IN PART 36 OF THE
COMMISSION’S RULES**

CC Docket No. 96-45

Comment Date: July 7, 2014

Reply Comment Date: July 23, 2014

The Wireline Competition Bureau (Bureau) seeks comment on the Penasco Valley Telephone Cooperative, Inc. (PVT) and Mescalero Apache Telecom, Inc. (MATI) (together, Petitioners) joint petition for waiver of the Commission’s study area boundary freeze.¹ Petitioners state that the purpose of the waiver is to allow PVT to remove approximately 450 acres of land from its Mayhill, New Mexico exchange and for MATI to add the same approximately 450 acres of land to its New Mexico study area.² Petitioners claim that the land at issue is within the boundary of the Mescalero Apache Reservation and that the proposed waiver would allow MATI to provide service throughout the Reservation.³ On April 28, 2014, Petitioners filed an erratum stating that both companies receive settlements from the National Exchange Carriers Association on a cost basis.⁴ Petitioners state that granting the petition is in compliance with the standards set forth in the *USF/ICC Transformation Order*⁵ and that there will be no effect on the universal service fund since no access lines are in the area subject to the study area waiver.⁶

¹ Penasco Valley Telephone Cooperative, Inc. and Mescalero Apache Telecom, Inc. Joint Petition for Expedited Waiver, CC Docket No. 96-45 (filed Feb. 24, 2014) (Petition); 47 C.F.R. pt. 36 App. (defining “study area”).

² See Petition at 1-2. There are no subscriber access lines in the 450 acres at issue. *Id.*

³ See *id.*

⁴ Penasco Valley Telephone Cooperative, Inc. and Mescalero Apache Telecom, Inc., Erratum to Joint Petition for Expedited Waiver, CC Docket No. 96-45, at 1 (filed Apr. 28, 2014).

⁵ See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Inter-carrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17763, paras. 266-67 (2011) (*USF/ICC Transformation Order*); *aff’d sub nom. In re: FCC 11-161*, ___ F.3d ___, 2014 WL 2142106 (10th Cir. May 23, 2014); 47 C.F.R. § 36.4.

⁶ See Petition at 4.

Effective November 15, 1984, the Commission froze all study area boundaries to prevent incumbent local exchange carriers from establishing separate study areas made up only of high-cost exchanges to maximize their receipt of high-cost universal service support.⁷ A carrier must therefore apply to the Commission for a waiver of the study area boundary freeze if it wishes to transfer or acquire additional exchanges.

In the *USF/ICC Transformation Order*, the Commission streamlined its rules governing study area waiver requests, creating a method similar to the Bureau's processing of routine section 214 transfer of control applications.⁸ In the past, the procedures for addressing petitions for study area waiver required the Bureau to issue an order either granting or denying the request after issuing a public notice. Under the revised process, upon determination that a petitioner has filed a complete petition and that the petition is appropriate for streamlined treatment, the Bureau will issue a public notice seeking comment on the petition, and the petition will be deemed granted 60 days after the reply comment due date absent further action by the Bureau.⁹ Based on an initial review, the Bureau finds that the Petition is complete and is appropriate for streamlined treatment, and it therefore seeks comment on the Petition.

Interested parties may file **comments on or before July 7, 2014**, and **reply comments on or before July 23, 2014**. All pleadings are to reference **CC Docket No. 96-45**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.¹⁰

- 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. 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 St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m. 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 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).

⁷ See *MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, Decision and Order, 50 Fed. Reg. 939 (1985).

⁸ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17763, paras. 266-67.

⁹ See *id.*; 47 C.F.R. § 36.4.

¹⁰ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

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) Abdel Eqab, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-B431, Washington, DC 20554; e-mail: Abdel-Hamid.Eqab@fcc.gov;
- (3) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A452, Washington, DC 20554; e-mail: Charles.Tyler@fcc.gov.

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹¹ Persons making *ex parte* presentations must file a 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, please contact Abdel Eqab, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

- FCC -

¹¹ 47 C.F.R. §§ 1.1200 *et seq.*