



PUBLIC NOTICE

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

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Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 15-1245

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**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON
THE JOINT PETITION OF NORTH DAKOTA TELEPHONE COMPANY AND
MIDSTATE COMMUNICATIONS, 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: December 4, 2015

Reply Comment Date: December 21, 2015

The Wireline Competition Bureau (Bureau) seeks comment on the joint petition of North Dakota Telephone Company (NDTC) and Midstate Communications, Inc. (Midstate) (together, Petitioners) for waiver of the definition of “study area.”¹ Petitioners state that the purpose of the waiver is to reconfigure their respective study areas by allowing Midstate to eliminate the York exchange and associated customer base from its study area, and NDTC to expand its study area to include those York exchange customers by incorporating them into its existing Leeds exchange.² Petitioners state that grant of the petition is in compliance with the standards set forth in the *USF/ICC Transformation Order*³ and that the transfer of 12 customers with 20 access lines will not have an impact on the universal service fund.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

¹ North Dakota Telephone Company and Midstate Communications, Inc. Joint Petition for Waiver, CC Docket No. 96-45 (filed Oct. 30, 2015) (Petition). 47 C.F.R. pt. 36 App. (defining “study area”).

² See Petition at 1. The transaction does not involve purchase or acquisition of assets between the two study areas involved. *Id.* Petitioners also request waiver of Sections 69.3(e)(11) and Section 69.605(c) and (d) of the Commission’s rules, if applicable. See Petition at 1-2. However, no waiver of the Commission’s rules is necessary for NDTC to operate the acquired average schedule York exchange access lines under a cost regime in the expanded NDTC Leeds exchange.

³ 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 In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014); 47 C.F.R. § 36.4.

⁴ See Petition at 5-6.

exchanges to maximize their receipt of high-cost universal service support.⁵ 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.⁶ 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.⁷ 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.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before the dates indicated above.⁸ All pleadings are to reference **WC Docket No. 96-45**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.⁹

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- 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 St., 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.

⁵ 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).

⁶ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17763, paras. 266-67.

⁷ See *id.*; 47 C.F.R. § 36.4.

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).

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

In addition, we request that one copy of each pleading be sent to each of the following:

- (1) Abdel Eqab, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B431, Washington, D.C. 20554; e-mail: Abdel-Hamid.Eqab@fcc.gov; and
- (2) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-A452, Washington, D.C. 20554; e-mail: Charles.Tyler@fcc.gov.

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).

Availability of Documents. Comments, reply comments, and *ex parte* submissions will be publically available online via ECFS.¹⁰ These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY-A257 at FCC Headquarters, 445 12th Street, SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

The proceeding this Notice initiates 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.

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¹⁰ Documents will generally be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

¹¹ 47 C.F.R. §§ 1.1200 *et seq.*