



PUBLIC NOTICE

Federal Communications Commission
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DA 17-1042
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**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON
THE JOINT PETITION OF CENTURYLINK QC AND NUNN TELEPHONE COMPANY TO
WAIVE THE DEFINITION OF “STUDY AREA” AS CODIFIED IN PART 36 OF THE
COMMISSION’S RULES**

CC Docket No. 96-45

Comment Date: November 23, 2017
Reply Comment Date: December 8, 2017

The Wireline Competition Bureau (Bureau) seeks comment on the joint petition of CenturyLink QC (CenturyLink) and Nunn Telephone Company (Nunn) (together, Petitioners) for waiver of the definition of “study area.”¹ Petitioners state that the purpose of the waiver is to permit CenturyLink to transfer a portion of its Eaton-Ault Exchange with four subscriber lines and four other non-active end-user locations from CenturyLink to Nunn.² Currently, CenturyLink does not provide service to any of the locations that are at issue in the petition, and no facilities will be transferred from CenturyLink to Nunn.³ We also note that CenturyLink is not receiving Connect America Fund Phase II funding for these census blocks.⁴

Nunn estimates that it will cost approximately \$20,000 in total to build out to all four locations seeking service and that the total annual increase in universal service support will be \$648 annually.⁵ Nunn also recognizes that for purposes of any recovery related to intercarrier compensation, Nunn

¹ Joint Petition for Waiver of CenturyLink QC’s for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix-Glossary of the Commission’s Rules, CC Docket No. 96-45 (filed June 5, 2017) (Petition). 47 CFR Part. 36 App. (defining “study area”).

² See Petition at 1.

³ Letter from Lori Sherwood, VantagePoint, to Marlene H. Dortch, FCC Secretary, CC Docket No. 96-45 (filed Aug. 22, 2017) (Aug. 22, 2017 Letter).

⁴ On July 13, 2017, CenturyLink filed a letter with the Commission listing the census blocks in the area of the two locations. We note that CenturyLink is not receiving Connect America Fund Phase II funding for these census blocks. See Letter from Thomas Dethlefs, CenturyLink, to Marlene H. Dortch, FCC Secretary, CC Docket No. 96-45 (filed July 13, 2017); see also *Connect America Fund et al.*, Report and Order, 29 FCC Rcd 15644, 15659, para. 39 (2014) (*December 2014 Connect America Order*).

⁵ Aug. 22, 2017 Letter.

proposes to treat the relevant locations as new customers.⁶ Petitioners state that grant of the petition is in compliance with the standards set forth in the *USF/ICC Transformation Order*⁷ and the public interest will be served by granting the waiver because very few lines are at issue, the impact on the universal service fund will be small, and Nunn can more efficiently serve the area than CenturyLink.⁸

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 in order to maximize their receipt of high-cost universal service support.⁹ 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.¹⁰ 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.¹¹ 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.¹²

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.¹³ 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.¹⁴

⁶ Letter from Lori Sherwood, VantagePoint, to Marlene H. Dortch, FCC Secretary, CC Docket No. 96-45 (filed Aug. 16, 2017).

⁷ 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 Intercarrier 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 CFR § 36.4.

⁸ Petition at 5-6.

⁹ 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).

¹⁰ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17763, paras. 266-67.

¹¹ See *id.*; 47 CFR § 36.4.

¹² Consistent with the Commission's decision in June 2014, the fee associated with the application to transfer lines below the exchange level is waived. See *Connect America Fund, et al.*, Report and Order, et al., WC Docket No 10-90, et al., 29 FCC Rcd 7051, 7082-83, para. 89 (2014).

¹³ 47 CFR §§ 1.415, 1.419.

¹⁴ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- 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 9050 Junction Drive, Annapolis Junction, MD 20701.
- 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 publicly available online via ECFS.¹⁵ 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.¹⁶ 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

¹⁵ Documents will generally be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

¹⁶ 47 CFR §§ 1.1200 *et seq.*

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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