



PUBLIC NOTICE

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DOMESTIC SECTION 214 APPLICATION GRANTED SUBJECT TO CONDITION

WC Docket No. 20-373

By this Public Notice, the Wireline Competition Bureau (Bureau) grants, as conditioned, an application filed by Webster-Calhoun Cooperative Telephone Association (Webster-Calhoun), Schaller Telephone Company (Schaller), and Communications 1 Network, Inc. (Communications 1) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent to transfer control of Goldfield Telephone Company, LLC f/k/a Goldfield Telephone Co., Inc. (GTC) and Goldfield Access Network, L.C. (GAN) from Webster-Calhoun and Schaller to Communications 1.² On November 17, 2020, the Bureau released a Public Notice seeking comment on the Application.³ The Bureau received no comments in opposition to a grant of the Application.

GTC, an Iowa limited liability company, provides service as an incumbent local exchange carrier (LEC) to less than 500 access lines in the Goldfield exchange in Wright County in north central Iowa.⁴ GAN, also an Iowa limited liability company, provides service as a competitive LEC in the Clarion, Eagle Grove, Humboldt, and Renwick exchanges in Wright and Humboldt Counties in north central Iowa.⁵ GTC did not elect to receive fixed support and receives cost-based universal service support for voice and broadband services.⁶

Communications 1 provides service as an incumbent LEC to less than 1,200 access lines in the Corwith, Kanawha, and Klemme exchanges in Hancock County in north central Iowa.⁷ Communications 1 owns a 100% interest in Comm 1 Connects, Inc., an Iowa corporation that provides competitive LEC services in Britt, Garner, Belmond, and Duncan, Iowa.⁸ Communications 1 also owns a 10% interest in

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² Application for Transfer of Control of Domestic Section 214 Authorizations, WC Docket No. 20-373 (filed Nov. 4, 2020) (Application). Applicants also filed an application for the transfer of authorizations associated with international authorizations. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ *Domestic Section 214 Application Filed for the Transfer of Control of Goldfield Telephone Company, LLC and Goldfield Access Network, L.C. to Communications 1 Network, Inc.*, WC Docket No. 20-373, Public Notice, DA 20-1366 (WCB Nov. 17, 2020).

⁴ Application at 8.

⁵ *Id.*

⁶ Universal Service Administrative Co., Tools, <https://www.usac.org/high-cost/resources/tools/>.

⁷ Application at 8. Communications 1's Kanawha incumbent LEC exchange is adjacent to GTC's Goldfield incumbent LEC exchange. *Id.* at 2-3, 9.

Southern Minnesota Broadband LLC, a Minnesota limited liability company that plans to provide ethernet services to residents in Southern Minnesota.⁹ Communications 1 elected to receive fixed universal service support under the Alternative Connect America Cost Model (A-CAM II) to deploy broadband services.¹⁰ Communications 1 is held by the following Iowa trusts: William R. Johnson 2012 Exempt Trust, Mary L. Johnson 2009 Marital Trust, Mary L. Johnson 2013 Exempt Trust, and William R. Johnson 2009 Revocable Trust.¹¹ The beneficiaries of those trusts are all U.S. citizens.¹²

Pursuant to the terms of the proposed transaction, Webster-Calhoun and Schaller have each agreed to sell their 1/3 member shares in Goldfield Holdings to Communications 1, thereby giving Communications 1 ownership and control of 100% of the member shares of Goldfield Holdings.¹³ As a result, Communications 1 will obtain 100% ownership and control of GTC and GAN.¹⁴

Discussion. The Applicants request approval to consummate a transaction involving companies that receive high-cost universal service support under the different mechanisms of fixed support and cost-based support. The Commission has found that this type of mixed support transaction could result in potential harm to its goal of ensuring that limited universal service funding is distributed efficiently and effectively.¹⁵ When a company receiving a fixed level of support acquires or is acquired by a company receiving support based on its costs, the combined companies could, and in some instances might have an economic incentive to, shift certain shared or common costs from the fixed support company to the cost-based support company.¹⁶ If cost shifting were to occur, the combined company, post-transaction, could obtain more high cost universal service support than the two companies did as separate entities, not because of any new investment, expense, or buildout, but rather solely because of the application of accounting procedures.¹⁷ Such an outcome is inconsistent with the Commission’s general expectation that transactions generate efficiencies that reduce the combined company’s costs.¹⁸ Moreover, providing additional universal service support to a company as a result of cost shifting solely because it acquired or merged with another company is not an efficient use of limited universal service resources.¹⁹

In the *Hargray/ComSouth Order*, in which the Commission approved a mixed support transaction, it sought to prevent cost shifting and to protect the finite resources of the high-cost universal

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⁸ *Id.* at 9.

⁹ *Id.*

¹⁰ Universal Service Administrative Co., Tools, “ACAM, ACAM II and CAF-BLS Buildout Requirements,” <https://www.usac.org/high-cost/resources/tools/>.

¹¹ Application at 6.

¹² The beneficiaries of the trusts are William R. Johnson and Mary L. Johnson’s three children: Susan Weigenant, Melanie Steinkamp, and Sally Manzano. *Id.*

¹³ *Id.* at 8

¹⁴ *Id.*

¹⁵ *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc. for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket 18-52, Memorandum Opinion and Order, 33 FCC Rcd 4780, 4784, para. 19 (2018) (*Hargray/ComSouth Order*).

¹⁶ *Id.* at 4785-86, para. 20.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 4786, para. 21.

service fund by imposing a limited condition that capped high-cost universal service support based on the operating expenses of the entity receiving cost-based support.²⁰ The Commission also directed the Bureau to impose the same limited condition on future transactions between parties receiving different types of high-cost universal service support.²¹

Communications 1, a fixed based support company, seeks to acquire the operations of GTC, a cost-based support company. Therefore, the potential for harm caused by cost-shifting is a transaction-specific harm. Accordingly, to mitigate the potential for cost shifting, we grant the Application subject to the condition adopted in the *Hargray/ComSouth Order*.²² The combined operating expenses of the post-consummation company's rate-of-return affiliates²³ shall be capped at the averaged combined operating expenses of the three calendar years preceding the transaction's closing date for which the operating expense data are available.²⁴

The cap will apply to cost recovery under both HCLS and CAF-BLS and will be applied proportionately to each affiliate's accounts used to determine the affiliate's eligible operating expense for HCLS and CAF-BLS.²⁵ For example, if the cap requires that a post-consummation company's eligible operating expense be reduced by 10%, then each account used to determine each rate-of-return affiliate's eligible operating expenses shall be reduced by 10%.²⁶ For purposes of this cap, operating expenses shall include maintenance, network support/network operations/general, benefits, rent expenses, and corporate operations, while depreciation, return on investment, and taxes shall be excluded.²⁷

For all covered entities, the new cap shall also include an annual adjustment for inflation based on the Gross Domestic Product-Channel Price Index (GDP-CPI) for the years in which the new cap remains in effect.²⁸ This cap shall remain in effect for seven years from the consummation of the transaction.²⁹

²⁰ *Id.* at 4788-90, paras. 26-31.

²¹ *Id.* at 4789, para. 27, n.72.

²² *Id.* at 4788-90, paras. 26-31.

²³ *See* 47 U.S.C. § 153(1).

²⁴ *Hargray/ComSouth Order* at 4788-89, para. 27. The cap will apply to the combined operating expenses of the post-consummation company and any other existing rate-of-return affiliates acquired during the time in which the condition is in effect (together, covered entities). To monitor compliance with the condition adopted herein, to the extent it does not already do so, we direct the covered entities to submit their relevant cost data to the National Exchange Carrier Association (NECA). We direct NECA to provide the dollar amount of the operating expense costs that will be capped pursuant to this Public Notice to the Universal Service Administrative Company (USAC) within 30 days following submission of any covered entity's cost data. We further direct NECA to provide USAC with the reductions in High-Cost Loop Support (HCLS) and Connect America Fund-Broadband Loop Support (CAF-BLS) for any covered entity pursuant to this Public Notice for each year following the effective date of this Public Notice. USAC shall validate all calculations received from NECA before making disbursements subject to any such support reductions. We also direct all covered entities to provide USAC with an annual certification of compliance on or before December 31 of each year for the duration of the condition. With the certification, each covered entity must also submit its latest audited financial statements to USAC, including all notes and consolidating statements, on an annual basis, by December 31 of each year. *Id.* at 4790, para. 31.

²⁵ *Id.* at 4789, para. 28.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 4790, para. 30.

²⁹ The Commission has found seven years to be an appropriate period over which to monitor enforcement of the condition and to ensure that the combined entity, which will continue to receive support, does not shift costs from

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The condition will also sunset if all of a post-consummation company's rate-of-return affiliates become fixed support companies at any point during the seven-year period.³⁰

We find, upon consideration of the record, that grant of the Application listed above, subject to compliance with the condition, will serve the public interest, convenience, and necessity.³¹ Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants the Application discussed in this Public Notice subject to compliance with the condition described above.³²

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice. For further information, please contact Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

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year-to-year. *Id.* at 4789-90, para. 29, fn.78. The cap will not apply if the parties do not consummate the proposed transaction.

³⁰ *Id.* at 4789-90, para. 29.

³¹ See 47 U.S.C. § 214(a); 47 CFR § 63.03. See *Joint Applications of Global Crossing Ltd. and Citizens Communications Company for Authority to Transfer Control of Corporations Holding Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 20, 22, 63, 78, 90, and 101 of the Commission's Rules*, File Nos. ITC-T/C-20000828-00530, CCBPol No. 00-1 20001005AD-09 0000209675, et al., Memorandum Opinion and Order, 16 FCC Rcd 8507, 8510-11, paras. 7-9 (CCB, IB, CSB, WTB 2001) (granting transfer of control involving incumbent LECs with adjacent exchanges where merger would provide service efficiencies).

³² The Applicants receive high-cost support to provide services in their respective study areas. Within 30 days of closing the proposed transaction, they must notify USAC so that it can make any appropriate changes to the High Cost Universal Broadband (HUBB) on-line location reporting portal for universal service recipients.