



PUBLIC NOTICE

Federal Communications Commission
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DA 20-381

Released: April 3, 2020

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON SIYEH COMMUNICATIONS PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND THE JOINT PETITION OF SIYEH COMMUNICATIONS AND 3 RIVERS TELEPHONE COOPERATIVE, INC. TO WAIVE THE DEFINITION OF “STUDY AREA” CONTAINED IN PART 36 OF THE COMMISSION’S RULES

CC Docket No. 96-45, WC Docket No. 09-197, WC Docket No. 10-90, WC Docket No. 05-337

Comment Date: May 5, 2020

Reply Comment Date: May 20, 2020

The Wireline Competition Bureau (Bureau) seeks comment on a petition filed by Siyeh Communications (SiyCom), a federally-chartered Tribal corporation of the Blackfeet Tribe of the Blackfeet Indian Reservation (Reservation), seeking designation as an eligible telecommunications carrier (ETC) for the purpose of becoming eligible to receive high cost support.¹ The ETC designation will encompass the Browning Montana Exchange (Browning Exchange), which includes certain lands located within the Reservation and a small portion of contiguous non-Tribal lands previously ceded by the Tribe to the United States and exclusively occupied by Tribal members.²

In addition to seeking an ETC designation, SiyCom and 3 Rivers Telephone Cooperative, Inc. (3 Rivers) (together, Petitioners) jointly seek waiver of the definition of “study area” contained in part 36 of the Commission’s rules.³ Petitioners state that the purpose of the waiver is to remove the Browning Exchange from the 3 Rivers study area and to add that exchange to the study area of SiyCom.⁴ SiyCom and 3 Rivers add that they have entered into an asset purchase agreement whereby SiyCom will purchase substantially all of the assets of the Browning Exchange from 3 Rivers in order to provide local exchange

¹ Petition of Siyeh Communications for Designation as an Eligible Telecommunications Carrier, WC Docket 09-197 (filed Mar. 23, 2020) (ETC Petition).

² *Id.* at 1-2

³ Joint Petition for Waiver of Siyeh Communications and 3 Rivers Telephone Cooperative, Inc. 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 Mar. 23, 2020) (Study Area Petition). 47 CFR Part. 36 App. (defining “study area”). 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. 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). 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.

⁴ See Study Area Petition at 1-2.

service, and interstate and international services, to customers located within the Browning Exchange.⁵ Petitioners emphasize that granting the study area waiver petition (and the section 214 application for the transfer of assets) would result in significant benefits to customers residing and working in the Browning Exchange because SiyCom would build out a modern network that will deliver high quality voice and broadband services to residential and business customers.⁶ In addition, post-waiver and transfer, SiyCom will serve all customers within the Reservation. Petitioners state that grant of the Study Area Petition complies with the standards set forth in the *USF/ICC Transformation Order*,⁷ and that the public interest will be served by granting the waiver.⁸ SiyCom states that, “[i]n accordance with Section 54.902(c) of the Commission’s rules, as a non rate-of-return entity acquiring rate-of-return lines,”⁹ SiyCom expects to receive model-based universal service support.

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 because of the policy issues raised by the Petition, it is inappropriate for streamlined treatment and should be subject to further analysis and review. Accordingly, the Bureau will issue an order either granting or denying the Study Area Petition after considering the record, including the record received in response to this public notice.¹²

Interested parties may file comments on or before the dates indicated above and must be submitted in the following dockets: CC Docket No. 96-45; WC Docket Nos. 05-337, 09-197, 10-90.¹³ All pleadings must reference **CC Docket No. 96-45**. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS), or by filing paper copies.

⁵ See *id.* at 2; see also Application for Assignment of Assets Pursuant to Section 214 of the Communications Act of 1934, as Amended, 3 Rivers Telephone Cooperative, Inc., Assignor and Siyeh Communications, Assignee, WC Docket No. 20-85 (filed Mar.23, 2020), as supplemented, Letter from Gregory J. Vogt, Counsel for Siyeh Communications to Marlene H. Dortch, Secretary, FCC (Mar. 30, 2020). Pursuant to section 63.03 of the Commission’s rules, the Bureau is accepting the section 214 application for filing in WC Docket No. 20-85 with applicable comment filing dates. 47 CFR § 63.03.

⁶ Study Area Petition at 3.

⁷ See *Connect America Fund et al.*, WC Docket No. 10-90, et al., 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 Study Area Petition at 4-5.

⁹ Study Area Petition at 3-4.

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.

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 commercial overnight courier or by first-class or overnight U.S. Postal Service mail.¹⁴ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- 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.

Permit but Disclose Ex Parte Communications. For the purposes of the Commission's *ex parte* rules, each petition addressed within this public notice initiates will be treated as initiating a permit-but-disclose proceeding under the Commission's 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).¹⁷ 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.¹⁸ If the presentation consisted in whole or in part of the presentation of data or arguments

¹⁴ In response to the COVID-19 pandemic, the FCC has closed its current hand-delivery filing location at FCC Headquarters. We encourage outside parties to take full advantage of the Commission's electronic filing system. Any party that is unable to meet the filing deadline due to the building closure may request a waiver of the comment or reply comment deadline, to the extent permitted by law. *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand Delivery Filing*, Public Notice, DA 20-304 (rel. Mar. 19, 2020).

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

¹⁶ See 47 CFR § 1.1206.

¹⁷ *Id.* § 1.2016(b)(2)(iii).

¹⁸ *Id.* § 1.206(b)(1).

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.¹⁹ 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).²⁰ 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).²¹ 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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¹⁹ *Id.*

²⁰ *Id.* § 1.1206(b)(2).

²¹ *Id.* § 1.1206(b)(2)(i); *see also id.* § 1.49(f).