



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 21-1437
November 16, 2021

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CERTAIN
AUTHORIZATIONS OF CHEROKEE TELEPHONE COMPANY
TO ATLINK SERVICES, LLC**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 21-423

Comments Due: November 30, 2021
Reply Comments Due: December 7, 2021

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application,¹ filed by Cherokee Telephone Company (Cherokee) and AtLink Services, LLC (AtLink) (together, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules, requesting consent to transfer Cherokee's Connect America Fund (CAF) Phase II support obligations for certain census blocks in Oklahoma (Assigned Census Blocks)² to AtLink.³

Cherokee, an Oklahoma corporation, provides voice and broadband service and is an eligible telecommunications carrier (ETC) in Oklahoma.⁴ During the CAF Phase II Auction (Auction 903), Cherokee won the rights to service the Assigned Census Blocks.⁵ Applicants state

¹ See Domestic Section 214 Application of Cherokee Telephone Company, Assignor, and AtLink Services, LLC, Assignee, For Consent for the Assignment of Certain Assets of Cherokee Telephone Company to AtLink Services, LLC; Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 21-423 (filed Oct. 27, 2021), <https://ecfsapi.fcc.gov/file/102742244794/AtLink%20Services%20Transfer%20Application.pdf> (Application).

² Applicants state that there are 249 eligible census blocks comprising of 1,166 locations in Oklahoma that make up the Assigned Census Blocks. Application at Exhibit A (Census Blocks Assigned).

³ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. On November 15, 2021, Applicants filed a supplement to the Application. Letter from Stephen E. Coran, Counsel to Applicants, to Marlene H. Dortch, Secretary, FCC (Nov. 15, 2021) (on file in WC Docket No. 21-423) (Supplement). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

⁴ Application at 2-3 (citing Oklahoma Corporation Commission, Cause No. 201800108, Order No. 690983 (Feb. 6, 2019) (designating Cherokee as an ETC)).

that “to date, Cherokee has not expended any CAF support with respect to the Assigned Census Blocks.”⁶

AtLink, an Oklahoma limited liability company, is an Internet service provider and ETC in Oklahoma.⁷ During the CAF Phase II Auction, AtLink won the rights to service 1,938 census blocks in Oklahoma.⁸ Applicants state that “AtLink has expended CAF support funds in connection with deployment in its CAF-supported area, and expects to meet the 40 percent buildout milestone well ahead of the three year milestone deadline.”⁹ The following U.S. citizen and Oklahoma corporations own AtLink: Samuel T. Curtis (12.53%); the Hinton C A T V Company, Inc. (Hinton C A T V) (54.39%); and Communications Equipment Corporation (33.08%).¹⁰

Pursuant to the terms of the proposed transaction, AtLink will acquire the interests of and assume Cherokee’s CAF obligations for the Assigned Census Blocks.¹¹

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.¹² Following the consummation of the proposed transaction, Applicants state that “no carrier change charges will result from the transaction, and no customer service or billing contact information will change as a result of the transaction.”¹³ Applicants maintain that

⁵ Application at 2-3 (citing *Connect America Fund Phase II Auction Support for 566 Winning Bids Ready to be Authorized*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 8663, Attach. A (Ready to Authorize Long-Form Applicants and Bids) (WCB/OEA 2019). See *Connect America Fund Phase II Auction Support Authorized for 77 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 4869, 4875 and Attach. A (Authorized Long Form Applicants and Winning Bids) (WCB/OEA 2020) (stating that ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act, or to engage in the sale of assets under section 214 must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission’s rules governing the procedures for domestic transfer of control/asset applications).

⁶ Application at 3. Applicants state that Cherokee’s assigned CAF II support amount over 10 years is \$594,975.50.

⁷ *Id.* at 3 (citing Oklahoma Corporation Commission, Cause No. 201800107, Order No. 690248 (Jan. 24, 2019) (designating AtLink as an ETC)).

⁸ Application at 3. See *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 5966, Attach. A (Authorized Long Form Applicants and Winning Bids) (WCB/OEA 2019). AtLink’s assigned CAF II support amount over 10 years is \$4,762,674.20 for 12,501 locations. Application at 3.

⁹ Application at 3.

¹⁰ *Id.* at 9-10. Applicants list four U.S. trusts, and their beneficiaries, each a U.S. citizen, which hold interests in Hinton C A T V, as well as four shareholders of Communications Equipment Corporation, each also a U.S. citizen. *Id.* at 10. Applicants state that Hinton C A T V holds a 25% interest in Terral Telephone Company, a rural incumbent local exchange carrier serving a single exchange in Terral, Oklahoma which is not adjacent to the service area of Cherokee. Supplement at 2 (Certification of Samuel T. Curtis).

¹¹ Application at 4. Applicants state that AtLink will retain its current CAF obligations in addition to assuming Cherokee’s CAF obligations in the Assigned Census Blocks and that AtLink is not acquiring any of Cherokee’s telecommunications assets, services, or customers outside the CAF-supported areas. *Id.* at 2 and 12. Applicants further state that, as a condition to each receiving CAF support, both Cherokee and AtLink have been designated as ETCs and that, “[i]n connection with this proposed transaction, the Applicants are filing for OCC [Oklahoma Corporation Commission] approval for Cherokee to relinquish its Oklahoma ETC designation for the Assigned Census Blocks and for AtLink to expand its ETC designation to cover the Assigned Census Blocks.” *Id.* at 4.

¹² *Id.* at 5-7.

¹³ *Id.* at 5.

“AtLink has both the necessary industry experience and requisite financial means to take on the responsibility of deploying CAF-supported voice and broadband service in the Assigned Census Blocks it proposes to assume from Cherokee,”¹⁴ Applicants assert that “since becoming authorized to receive CAF support, Cherokee realized that the Assigned Census Blocks might be served in a more expeditious and cost-effective manner by AtLink given its proximity to Cherokee’s CAF-supported areas, its existing operations, resources and infrastructure, and its ahead-of-schedule deployment of its own CAF obligations.”¹⁵ They further state that “because Cherokee’s CAF areas are adjacent to or nearby AtLink’s existing operations and AtLink’s CAF-supported areas, AtLink can achieve economies of scale and leverage its labor force, infrastructure and operational capabilities to rapidly and cost-effectively build out the Cherokee CAF areas as it expands its broadband operations.”¹⁶ According to the Applicants, since “AtLink is not taking on any debt repayment obligations or otherwise increasing substantially its costs to deploy service . . . the transaction will not compromise AtLink’s ability to meet the buildout milestones or performance obligations for either its CAF deployment or the deployment in Cherokee’s CAF supported areas.”¹⁷

Because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, in order to sufficiently analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.¹⁸

Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Cherokee Telephone Company by AtLink Services, LLC, WC Docket No. 21-423 (filed Oct. 27, 2021).

GENERAL INFORMATION

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission’s rules and policies.

Interested parties may file comments **on or before November 30, 2021**, and reply comments **on or before December 7, 2021**. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by paper.

- Electronic Filers: Comments may be filed electronically by accessing ECFS at <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.¹⁹ All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

¹⁴ *Id.* at 5-6.

¹⁵ *Id.* at 6.

¹⁶ *Id.*

¹⁷ *Id.* at 7. *See id.* at Attach. (Certification of Samuel T. Curtis, President of AtLink, at paras. 3-5).

¹⁸ 47 CFR § 63.03(c)(1)(v).

- 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 45 L Street, NE, Washington, DC 20554.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov

The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. 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), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.²⁰ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

¹⁹ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Red 2788 (Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

²⁰ *See* 47 CFR § 1.45(c).

For further information, please contact Tracey Wilson at (202) 418-1394 or Gregory Kwan at (202) 418-1191, Wireline Competition Bureau.

-FCC-