PUBLIC NOTICE

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DOMESTIC 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF PRAIRIEBURG TELEPHONE COMPANY, INCORPORATED

WC Docket No. 21-30

By this Public Notice, the Wireline Competition Bureau (Bureau) grants, as conditioned, the application filed by Prairieburg Telephone Company, Incorporated (PTCI) and Hilliary Acquisition Iowa, LLC (Hilliary) (collectively, 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 control of PTCI to Hilliary.[1] On February 5, 2021, the Bureau released a public notice seeking comment on the Application.[2] We did not receive comments or petitions in opposition to the Application.

PTCI, a privately held Iowa corporation, is an incumbent local exchange carrier (LEC) serving approximately 240 access lines in the Prairieburg, Iowa Exchange in Linn County, Iowa.[3] PTCI receives cost-based universal service support as an average schedule company.[4]

Hilliary, an Oklahoma holding company, directly or indirectly holds ownership interests in the following entities that provide local exchange and interexchange services in Oklahoma: (1) Medicine Park Telephone Company, Inc. (Medicine Park), an incumbent LEC; (2) Oklahoma Western Telephone Company, Inc. (Oklahoma Western), an incumbent LEC; (3) Phoenix Long Distance, Inc., an interexchange carrier; (4) Wichita Online, LLC, a competitive LEC; (5) Southern Plains Cable, LLC, a competitive LEC; and (6) Texhoma Fiber, LLC, an interexchange carrier.[5] Hilliary and its owners directly or indirectly hold ownership interests in the following entities that provide local exchange and interexchange services in Texas: (1) Tatum Telephone Company, Inc. (Tatum), an incumbent LEC; (2)

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[1] *See* 47 U.S.C. § 214; 47 CFR §§ 63.03-04; Prairieburg Telephone Company, Incorporated and Hilliary Acquisition Iowa, LLC Application for Transfer of Control of Domestic Blanket Section 214 Authorizations, WC Docket No. 21-30 (filed Jan. 26, 2021) (Application). Applicants also filed applications for the transfer of control of international and wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[2] *Domestic Section 214 Application Filed for the Transfer of Control of Prairieburg Telephone Company, Incorporated to Hilliary Acquisition Iowa, LLC*, WC Docket No. 21-30, Public Notice, DA 21-128 (WCB 2021).

[3] Application at 2, 6.

[4] Universal Service Administrative Co., Tools, https://www.usac.org/high-cost/resources/tools/ (ACAM, ACAM II and CAF BLS Buildout Requirements). Average schedule companies receive support based on formulas that use the reported costs of the companies. *See, e.g.*, *National Exchange Carrier Association, Inc. 2018 Modification of Average Schedule Universal Service Support Formula, High-Cost Universal Service Support,* Order, 32 FCC Rcd 7654 (WCB 2017). An incumbent LEC may convert from an average schedule company to a cost company, but a carrier must obtain a waiver of the definition of "average schedule company" in section 69.605(c) to change from a cost company to an average schedule company. *See* 47 CFR § 69.605(c).

[5] Application at 6-7.

Electra Telephone Company, Inc. (Electra), an incumbent LEC, and (3) Border to Border Communications, Inc., an incumbent LEC.[6] Hilliary's operating subsidiaries receive high-cost support through different mechanisms of cost-based support and fixed model-based support.[7] Applicants state that the service territories of Hilliary's incumbent LEC affiliates do not overlap, and are not adjacent to, the territories served by PTCI.[8]

Pursuant to the terms of the proposed transaction, Hilliary's wholly owned subsidiary, PTCI Acquisition Corp., an Iowa Corporation, will merge with and into PTCI with PTCI being the surviving corporation in the merger.[9]

Similar to Hilliary's prior acquisitions, Applicants request approval to consummate a transaction involving companies that receive high-cost universal service support under the different support mechanisms of fixed model-based support and cost-based support (a mixed support transaction). Specifically, because Hilliary's affiliate, Oklahoma Western, is a fixed model-based support company, the potential for a transaction-specific harm exists if PTCI converts from an average schedule company to a cost company, thereby triggering an incentive to shift costs from Hilliary's model based support affiliates to PTCI.[10] The Commission has directed the Bureau to apply the *Hargray/ComSouth* condition where necessary to remedy a potential public interest harm caused by a mixed support transaction, including for mergers between an average schedule company and a model-based support company where the average schedule company converts to a cost company.[11] Accordingly, to mitigate the potential for cost shifting, we grant the Application subject to the following condition: if PTCI converts to a non-average schedule cost company, that conversion will trigger application of the condition established in the

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[6] Application at 7-8.

[7] Universal Service Administrative Co., Tools, https://www.usac.org/high-cost/resources/tools/ (ACAM, ACAM II and CAF BLS Buildout Requirements). Based on the Bureau's findings in Hilliary's prior domestic section 214 proceedings, Hilliary is currently subject to the condition the Commission adopted in the *Hargray/ComSouth Order* under which "the combined operating expense of Tatum, Electra, Medicine Park, and any other rate-of-return affiliates shall be capped at the averaged combined operating expense of the three calendar years preceding the transactions' closing date for which the operating expense data are available." *Domestic Section 214 Applications Granted Subject to Condition*, WC Docket Nos. 18-301, 18-302, Public Notice, 33 FCC Rcd 12236, 12238 (WCB 2018) (citing *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*) (directing the Bureau to impose a limited condition on transactions between parties receiving different types of support to cap high-cost universal service support based on the operating expenses of the cost-based companies)); *see also Domestic Section 214 Application Granted Subject to Condition*, WC Docket No. 18-343, Public Notice, 34 FCC Rcd 1353, 1356 (WCB 2019) (granting, subject to the *Hargray/ComSouth* condition, an application for the transfer of control of Border to Border Communications, Inc. to Hilliary Acquisition B2B, LLC).

[8] Application at 8.

[9] *Id*. at 6.

[10] *See Hargray/ComSouth Order*, 33 FCC Rcd at 4785-86, para. 20.

[11] *Hargray/ComSouth Order*, 33 FCC Rcd 4789, n.72 ("We direct the Bureau to apply the condition where necessary to remedy a potential public interest harm caused by a mixed support transaction. We also direct the Bureau to apply the same condition to a merger between an average schedule company and a model-based support company, and in such cases the condition would be triggered if the average schedule company converts to a cost company. Under the condition, we permit "average schedule companies" to estimate universal service support pursuant to a formula developed by the National Exchange Carrier Association (NECA). *See, e.g., National Exchange Carrier Association, Inc. 2018 Modification of Average Schedule Universal Service Support Formula, High-Cost Universal Service Support,* WC Docket No. 05-337, Order, 32 FCC Rcd 7654 (WCB 2017)").

Hargray/ComSouth Order and discussed in the *Average Schedule Grant Public Notice*.[12] If PTCI converts, the newly converted cost company's operating expense would be capped at the average of the three previous years' operating expense and combined with the inflation-adjusted operating expense data of any other affiliated cost companies.[13]

We find, upon consideration of the record, that grant of the Application, subject to compliance with the condition, will serve the public interest, convenience, and necessity.[14] 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.[15]

Pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 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 C.F.R. §§ 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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[12] *Hargray/ComSouth Order*, 33 FCC Rcd 4789, n.72; *Domestic Section 214 Applications Granted Subject to Condition*, WC Docket Nos. 17-101, 17-365, 18-68, 18-94, 18-95, 18-177, Public Notice, 33 FCC Rcd 6784 (WCB 2018) (*Average Schedule Grant Public Notice*) (granting, subject to the *Hargray/ComSouth* condition, transfers of control involving average schedule companies and model-based support companies).

[13] If it has not previously done so, PTCI, if it becomes a newly converted cost company, must submit its prior three years of operating expense data to the National Exchange Carrier Association (NECA). NECA will then (1) validate and calculate that company's average operating expense for those three years and (2) combine this three-year averaged capped operating expense with the current year's inflation-adjusted operating expense data of any other affiliated cost companies to calculate the new total combined operating expense at which the newly converted and other cost-company affiliates will be capped. The new combined, capped operating expense will then be applied to determine High-Cost Loop Support (HCLS) and CAF-Broadband Loop Support (CAF-BLS). If the actual three-year operating expense average cannot be calculated for the newly converted cost company, NECA, in consultation with the Bureau, will use estimates based on NECA's average schedule support formula. *See Average Schedule Grant Public Notice*, 33 FCC Rcd at 6788, n.31; *Domestic Section 214 Application Granted Subject to Condition*, WC Docket No. 18-129, Public Notice, 33 FCC Rcd 8087, 8089, n.15 (WCB 2018) (*Hospers Grant PN*) (granting, subject to the *Hargray/ComSouth* condition, the transfer of Hospers Telephone Exchange, Inc. d/b/a HTC Communications, an average schedule company, to Mutual Telephone Company of Sioux Center Iowa d/b/a Premier Communications, which owns both cost-based and fixed model-based support companies). The cap will not apply if the parties do not consummate the proposed transaction or if PTCI does not covert to a cost company. *See Hospers Grant PN*, 33 FCC Rcd at 8090, n.20.

[14] *See* 47 U.S.C. § 214(a); 47 CFR § 63.03.

[15] The Applicants provide incumbent LEC services in their respective study areas. Within 30 days of closing the proposed transactions, 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.