

Law Offices
BLOOSTON, MORDKOFKY, DICKENS, DUFFY & PRENDERGAST, LLP
2120 L Street, NW, SUITE 300
WASHINGTON, DC 20037

BENJAMIN H. DICKENS, JR.*
JOHN A. PRENDERGAST
GERARD J. DUFFY
RICHARD D. RUBINO
MARY J. SISAK
D. CARY MITCHELL
SALVATORE TAILLEFER, JR.

ARTHUR BLOOSTON
1914 – 1999

*ALSO ADMITTED IN FLORIDA

(202) 659-0830
FACSIMILE: (202) 828-5568

AFFILIATED SOUTH AMERICAN OFFICES

ESTUDIO JAUREGUI & ASSOCIATES
BUENOS AIRES, ARGENTINA

HAROLD MORDKOFKY
OF COUNSEL

EUGENE MALISZEWSKYJ
ENGINEERING CONSULTANT

WRITER'S CONTACT INFORMATION

mjs@bloostonlaw.com
202-828-5554

May 2, 2018

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Presentation in CC Docket No. 80-286
Petition of Terral Telephone Company, Inc. For Waiver of 47 C.F.R. Sections 36.3,
36.123-126, 36.141, 36.152-157, 36.191 and 36.372-382 to Unfreeze Part 36
Category Relationships**

Dear Ms. Dortch:

On April 30, 2018, Terral Telephone Company, Inc. (Terral) met with Lisa Hone, Pam Arluk, John Hunter, Edward Krachmer, William Kehoe and Arielle Roth of the Wireline Competition Bureau in connection with Terral's pending waiver request in the above-referenced docket. Dick Segress and Chad Segress of Terral, Charles Curtis of Aegis Consulting Group and the undersigned participated in the meeting for Terral.

During the meeting, Terral discussed its status as a carrier serving Tribal land that has been identified by the Commission as a carrier "with the greatest need to accelerate broadband deployment,"¹ and additional unique circumstances that justify grant of Terral's waiver. Terral explained that the frozen category relationships are the primary obstacle to Terral's deployment of broadband on Tribal land, to the detriment of Tribal members and all its subscribers.

¹ See, *In the Matter of Connect America Fund, Report and Order*, WC Docket No.10-90, at ¶7 (rel. April 5, 2018). (CAF OPEX Order).

Terral's service territory is 100% within the Chickasaw Nation tribal land, which includes 7,648 square miles of south-central Oklahoma in southern Jefferson County. Terral's service territory is 125 miles from the Chickasaw Nation tribal headquarters in Ada, Oklahoma, 65 miles from the nearest Indian Health Clinic in Ardmore, and 66 miles to the nearest Tribal police substation. Tribal members in Terral's service territory require voice and broadband service to access Tribal Headquarters, hospitals, clinics, schools and police.

Terral's study area is remote, isolated, and includes only one small town. Terral serves 2.42 access lines per square mile and approximately 1.8 customers per route mile. There are no CLEC's or other broadband carriers serving Terral's territory. Cell service in the area is spotty at best and does not provide adequate broadband capability. The nearest town of over 5,300 population is approximately 50 miles away. There are no nearby malls for shopping, there are no stores to sell your products. Terral's subscribers, including farmers, ranchers and cottage industries, need access to voice and broadband service to market their products and conduct business.

The freeze on Terral's separations category relationships is a major impediment to the deployment of broadband by Terral on Tribal land. Because of the separations freeze, facility costs that are not related to last-mile loop costs are treated as last-mile loop cost. Allocating such costs to last-mile loop artificially creates unusually high per line costs. With a grant of the waiver, only last-mile loop costs would be assigned to subscriber loop. This would significantly reduce last mile costs, allow Terral to reduce broadband rates, make broadband more affordable, create a market for this service and, thereby, remove a major barrier to Terral's ability to deploy broadband. Terral notes that it has not sought an increase in universal service support and, as shown in this docket, it will not receive a net increase in universal service support if its waiver is granted.

In the CAF OPEX Order, the Commission provided universal service relief to carriers serving Tribal lands and limited this relief to carriers that have not deployed broadband service of 10 Mbps download/1 Mbps upload to 90 percent or more of the housing units on the Tribal lands in their study area and where unsubsidized competitors have not deployed broadband service of 10 Mbps download/1 Mbps upload to 85 percent or more of the housing units on the Tribal lands in the study area. The Commission imposed these conditions to limit relief to "those carriers with the greatest need to accelerate broadband deployment."² Terral is one of five companies identified by the Commission as meeting the criteria and, therefore, in the "greatest need to accelerate broadband deployment."³ Thus, Terral is unique among those carriers that currently are subject to the frozen category relationships.⁴

Although Terral recognizes the Commission's efforts to remove obstacles to broadband deployment on Tribal land with the CAF OPEX Order, this new rule will not benefit Terral and, therefore, will not remove obstacles to broadband deployment in Terral's service territory.

² Id.

³ Id.

⁴ One of the five companies, Gila River Telecommunications, Inc., received a waiver to unfreeze its category relationships in 2010. Terral believes that none of the remaining three companies are subject to the frozen category relationships.

However, obstacles to broadband deployment will be removed if the waiver is granted and Terral is able to allocate costs to the appropriate category and jurisdiction. This will position Terral to be able to expand its broadband deployment and its broadband customer base. Accordingly, Terral requests that the Commission grant its waiver.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Mary J. Sisak

cc: Lisa Hone
Pam Arluk
John Hunter
Edward Krachmer
William Kehoe
Arielle Roth