

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Regulation of Business Data Services)	WC Docket No. 17-144
For Rate-of-Return Local Exchange Carriers)	

**PETITION FOR WAIVER
MAY 1, 2019 BDS ELECTION NOTICE
TO THE WIRELINE COMPETITION BUREAU**

ICORE Consulting, on behalf of Magna5 RTC LLC d/b/a Richmond Telephone Company (Magna5 RTC) – SAC 110737, respectfully requests a waiver for the May 1, 2019 notice of its intent to elect incentive regulation for its Business Data Services (BDS) offerings. Magna5 RTC is a rate-of-return local exchange carrier authorized to receive ACAM support. The FCC adopted the May 1, 2019 deadline for rate-of-return local exchange carriers to notify the Wireline Competition Bureau (WCB) that they have elected the BDS incentive regulation in an Order, WC Docket No. 17-144, released on October 24, 2018. The notice date to the WCB was set as part of implementation of Section 61.50 of the Commission’s rules as adopted by the BDS Election Order.

Magna5 RTC elected to take the original FCC ACAM offer along with its deployment obligations and is currently receiving universal service payments. Let it be stated that Magna5 RTC had properly notified the National Exchange Carrier Association (NECA) by March 1, 2019 that they would be taking the BDS election and would not be

participating in the upcoming NECA traffic-sensitive tariff for their BDS offerings consistent with Section 69.3 of the Commission's rules. However, due to an oversight, Magna5 RTC inadvertently missed the May 1, 2019 notice to the WCB of their BDS election. Their CFO, Joseph O'Hara, was out of the office until Tuesday, April 30th and was not available to sign the BDS notification letter until May 3rd on which date the BDS notification was signed and shipment information sent to FedEx (See attached FedEx tracking notification). For unknown reasons, the letter was not picked up by FedEx until 6:55pm on May 8th. According to FedEx's proof of delivery tracking, it was delivered on May 9, 2019 (also attached). In conversations with the Wireline Competition Bureau, the letter still has not been located.

Magna5 RTC was not aware that the FCC had not received its BDS election notice until NECA notified Magna5 RTC on May 20, 2019 that the WCB had not received any notification from Magna5 RTC. ICORE re-confirmed with Magna5 RTC that they did send the election letter, albeit a few days late, but they did send it. After Magna5 RTC followed the tracking, it determined the letter was in fact delivered. Upon learning from NECA that the FCC did not receive Magna5 RTC's BDS election notice, ICORE and Magna5 RTC set up a call immediately with NECA and the WCB where discussions were started that the notice was definitely sent by Magna5 RTC and delivered. After the call, ICORE provided the FCC with a copy of the BDS notification letter to the WCB, the confirmation of election with NECA dated February 27th and the FedEx tracking information. WCB staff confirmed receipt of the attachments on May 21, 2019. Staff indicated that they were internally reviewing these documents. Unfortunately, to no avail, the letter still has not been located. Upon looking further at

the tracking record, ICORE discovered that the address the letter was sent to was either an old or incorrect FCC address and could be the reason the WCB cannot locate it as of yet. In the interim, Staff advised ICORE to begin preparing the Petition for Waiver. ICORE immediately began preparation of the Petition for Waiver for the May 1, 2019 BDS Election Notice.

ICORE, on behalf of Magna5 RTC, respectfully requests that the Commission grant a waiver for the May 1, 2019 notice date to the WCB as part of the implementation of Section 61.50 of the Commission's rules. A waiver of the May 1, 2019 notice date would allow Magna5 RTC to move toward the incentive regulation for BDS effective July 1, 2019. Magna5 RTC did notify NECA of its BDS election by March 1, 2019 (attached) and did intend on notifying the Wireline Competition Bureau in a timely manner, however the CFO was out of the office and was unable to provide his signature before May 1, 2019. In addition, the notice was sent via FedEx to an incorrect FCC address as can be seen on the attached tracking record. If the FCC would not grant the waiver, Magna5 RTC would have to wait until next year, July 1, 2020 for the incentive regulation of the BDS election.

In addition, Magna5 believes the Commission should grant its Petition for Waiver of the May 1, 2019 BDS notice date to the WCB. Magna5 RTC notified NECA of its BDS election by the required March 1, 2019 deadline. NECA, in turn, started preparing to remove Magna5 RTC from its NECA F.C.C. No. 5 tariff and is ready to finalize the filing. Magna5 RTC clearly intended to notify the WCB by the May 1, 2019 deadline, but fell short a few days due to the absence of the needed CFO's signature combined with

the incorrect FCC address. Time is of the essence in order for NECA to complete its tariff preparation. Magna5 RTC believes that electing the BDS incentive regulation is in the best interest of the public and that by waiving the May 1, 2019 BDS notice date, it will provide the public with more competitive pricing.

WHEREFORE, ICORE, on behalf of Magna5 RTC, respectfully requests that the Commission waive the May 1, 2019 deadline for the BDS election notice and allow Magna5 RTC's BDS incentive regulation to become effective July 1, 2019.

Respectfully Submitted,

Dated: May 23, 2019

By: Tina Bobbyn

Tina Bobbyn

ICORE, Senior Vice President