

RON COMINGDEER & ASSOCIATES

An Association of Professional Corporations

6011 N. Robinson Avenue
Oklahoma City, Oklahoma 73118
Telephone: (405) 848-5534

VIAECFS

July 30, 2019

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
Attention: Wireline Competition Bureau

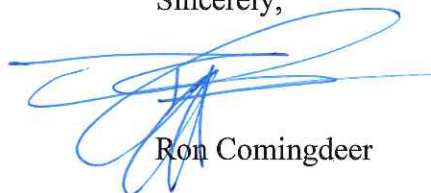
Re: Chickasaw Telephone Company
Petition for Study Area Waiver CC Docket No. 96- 45

Dear Ms. Dortch:

On behalf of Chickasaw Telephone Company ("Chickasaw"), please find enclosed the Petition for Waiver of the Definition of "Study Area" of the Appendix-Glossary of Part 36 of the Commission's Rules.

Inquiries may be directed to the undersigned consultant for Chickasaw.

Sincerely,



Ron Comingdeer

Enclosures

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Chickasaw Telephone Company)	CC Docket No. 96-45
)	
Petition for Waiver of the Definition of)	
"Study Area" of the Appendix-Glossary of)	
Part 36 of the Commission's Rules)	

PETITION FOR WAIVER

Pursuant to Section 1.3 of the rules of the Federal Communications Commission ("FCC" or "Commission"),¹ Chickasaw Telephone Company ("Chickasaw") hereby requests a waiver of the Commission's study area boundary freeze codified in the Appendix-Glossary of Part 36 of FCC rules.² Chickasaw seeks a waiver of the study area boundary freeze in order to redefine its study area to include previously unassigned area territory within the State of Oklahoma where no other carrier is authorized to provide telecommunications service and which the Company has been serving as a part of its Sulphur exchange. The redefinition will reflect Chickasaw's expansion of facilities and service offerings into previously unassigned area within the State of Oklahoma.

I. INTRODUCTION AND SUMMARY

Chickasaw is an incumbent local exchange carrier providing supported services within its current study area located in a rural part of Carter, Garvin and Murray County's in Oklahoma. The Company serves a total of approximately 4,066 access lines within its existing study area.

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. Part 36 Appendix ("Study Area. Study area boundaries shall be frozen as they are on November 15, 1984.")

In 2018, Chickasaw identified an area within the State of Oklahoma that is contiguous to its existing study area and that Chickasaw has been serving for over thirty years but was not included in its study area. No other provider has been providing service within the unassigned territory which is currently being served by Chickasaw. On May 18, 2018, Chickasaw filed an application with the Oklahoma Corporation Commission (“OCC”) seeking a Certificate of Convenience and Necessity (“CCN”) and designation as an eligible telecommunications carrier (“ETC”) from the Oklahoma Corporation Commission applicable to the unassigned area, which Chickasaw is currently providing service to as a part of its Sulphur exchange. Due to a lack of a certificated local exchange carrier or any other facilities based carrier in this unassigned territory, Chickasaw has been providing service to ninety-seven (97) requesting customers in this unassigned territory for over thirty years, and, to the best of Chickasaw’s knowledge, there are no unserved customers in the unassigned territory. No entities or customers, including the carriers serving the bordering exchanges of the unassigned territory, had objection to Chickasaw’s request for authority to provide service in the unassigned territory. In the same application Chickasaw requested the internal boundary between its Dougherty exchange and its Sulphur exchange be moved, such that a portion of its Dougherty exchange would be included in its Sulphur exchange. This would not result in a change to the study area covered by Chickasaw’s existing service territory. On July 11, 2019 the OCC granted a CCN to Chickasaw to serve the unassigned territory and include it in the its Sulphur exchange and ordered that it be included in Chickasaw’s Sulphur exchange by Order No. 698986, in Cause No. PUD 201800053.

Regarding Chickasaw’s request for ETC designation expansion to include the specific unassigned territory, the OCC, in Order Number 698986, found that Chickasaw met all state and

federal requirements for designation as an ETC throughout its Sulphur exchange after the inclusion of the unassigned territory, and therefore designated Chickasaw an ETC throughout the unassigned territory.

II. WAIVER STANDARD

In general, the FCC's rules may be waived for good cause shown.³ Waiver is appropriate where the "particular facts would make strict compliance inconsistent with the public interest."⁴ The FCC may grant a waiver of its rules where the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁵

Part 36 of the Commission's rules which freezes study area boundaries effective November 15, 1984, was intended to prevent ILECs from establishing separate study areas made up only of high-cost exchanges to maximize their receipt of high-cost universal service support. The Commission adopted a two-prong standard for evaluating petitions for study area waiver: (1) the state commission having regulatory authority over the transferred exchanges does not object to the transfer and (2) the transfer must be in the public interest.⁶

III. WAIVER IS JUSTIFIED

A. The Oklahoma Corporation Commission Does Not Object to the Expansion of Chickasaw's Study Area.

³ 47 C.F.R. § 1.3.

⁴ See *AT&T Wireless Services, Inc. et al. v. Federal Communications Commission*, No. 00-1304 (D.C. Cir. 2001), citing *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

⁵ See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); see also *Northeast Cellular* (D.C. Cir. 1990).

⁶ See *Connect America Fund et al.; WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking*, 26 FCC Rcd 17663 (2011) *aff'd sub nom., In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) at 265.

In the proceeding in which the Oklahoma Corporation Commission (“OCC”) granted Chickasaw a CCN to provide telecommunications service in the unassigned territory included in its Sulphur exchange and designated Chickasaw as an ETC, throughout the unassigned territory that is now included in its Sulphur exchange, the OCC considered the need for Chickasaw to seek a waiver of its existing study area boundary and concluded that only the FCC has the authority to modify Chickasaw’s study area boundary. The required Notice of this Petition is being filed with the OCC concurrent with this Petition.

B. Modification of the Chickasaw Study Area is in the Public Interest

1. Number of Lines at Issue

Since Chickasaw was strategically located to efficiently and effectively provide advanced telecommunications voice and robust broadband services to the unassigned area it began providing telecommunications service to customers in the unassigned area from its Sulphur exchange and now is positioned and will be providing broadband services to the customers in the unassigned area. The OCC found that it is in the public interest to grant Chickasaw a CCN and designate it as an ETC in throughout the unassigned area.⁷

2. Projected Universal Service Fund Cost Per Line

Chickasaw does not anticipate any significant effect on the universal service fund cost per line.

C. Interstate Access Tariffs

Chickasaw is an issuing carrier in the National Exchange Carrier Association, Inc. (“NECA”) Tariff F.C.C. No. 5 and will remain so following grant of the Petition.

IV. CONCLUSION

⁷ Oklahoma Corporation Order Number 698986 at page 4.

As demonstrated herein, "good cause" exists for grant of this waiver. The unassigned area to be incorporated into Chickasaw's existing study area is located contiguous to Chickasaw's existing study area. Chickasaw has been providing telecommunications services to the customers located in the unassigned area, currently Chickasaw is providing telecommunications services to ninety-seven (97) customers. Chickasaw has a history of investing in its existing service area as well as the unassigned area and has a strong tradition of local community involvement, all of which has and will continue to benefit the customers located in the unassigned area. Accordingly, grant of this petition will allow the unassigned area to continue to be operated as a part of Chickasaw's Sulphur exchange which has and will continue to benefit the customers not only located within the unassigned area but other customers in its Sulphur exchange and allow Chickasaw to efficiently and effectively continue serve customers in throughout its study area, including the unassigned area.

Further, the Chickasaw's requested modification of the Chickasaw study area boundary is not likely to materially burden the universal service fund or cause a shift in USF cost recovery.

Chickasaw respectfully requests the Commission's expeditious consideration of this Petition in order that Chickasaw may continue to provide telecommunications services to customers located in the unassigned area.

Respectfully Submitted,

By: 

RON COMINGDEER, OBA #1835

RON COMINGDEER & ASSOCIATES, PC

6011 N. Robinson Ave.

Oklahoma City, OK 73118

Telephone: (405) 848-5534

Fax: (405) 843-5688

hunter@comingdeerlaw.com

DECLARATION OF BILLY F STAGGS

CHICKASAW TELEPHONE COMPANY

I, Billy F. Staggs, of Chickasaw Telephone Company, do hereby declare under penalty of perjury that the statements made in the foregoing Petition for Waiver are true and accurate to the best of my knowledge, information and belief.

Dated this 30th day of July, 2019.

Chickasaw Telephone Company



Billy F. Staggs President