



Your business  
is our business.

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**VIA HAND DELIVERY**

REDACTED - FOR PUBLIC INSPECTION

17-252

**ACCEPTED/FILED**

SEP 22 2017

Federal Communications Commission  
Office of the Secretary

September 19, 2017

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Attention: Wireline Competition Bureau

**Re: Telapex, Inc. Petition for Waiver of Sections 51.909(a), 51.917(b)(1) and  
51.917(b)(7) of the Commission's Rules**

Dear Ms. Dortch:

On behalf of Telapex, Inc., please find enclosed the Petition for Waiver of Sections 51.909(a), 51.917(b)(1) and 51.917(b)(7) of the Commission's Rules to modify access rate bands and charges and 2011 Base Period Revenue in connection with merger of affiliated study areas in Mississippi.

Inquiries may be directed to the undersigned consultant for Telapex, Inc.

Sincerely,

John Kuykendall  
Vice President  
[jkuykendall@jsitel.com](mailto:jkuykendall@jsitel.com)

Enclosures

Echelon Building II, Suite 200  
9430 Research Blvd., Austin, TX 78759  
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Eagandale Corporate Center, Suite 310  
1380 Corporate Center Curve, Eagan, MN 55121  
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Federal Communications Commission  
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**By Hand Delivery**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

**Re: Request for Confidentiality  
Telapex, Inc. Petition for Waiver of Sections 51.909(a), 51.917(b)(1) and  
51.917(b)(7) of the Commission's Rules**

Dear Ms. Dortch:

JSI, on behalf of its client, Telapex, Inc. ("Company"), hereby requests, pursuant to Section 0.459 of the Commission's rules,<sup>1</sup> withholding from public inspection of the above referenced document. The Company provides the following in support of its request, numbered consistent with the subparagraphs of Section 0.459(b).<sup>2</sup>

1. The information for which the Company is seeking confidential treatment is switched access revenue information contained in the Petition for Waiver and switched access revenue, cost, demand, access line and eligible recovery details contained in Exhibits A and B of the Petition.
2. The Company is submitting the Petition for Waiver in order to implement the planned merger of two commonly-owned study areas. The Petition for Waiver is required to ensure compliance with FCC rules governing modification of access rate bands and charges and 2011 Base Period Revenue.<sup>3</sup>
3. The switched access revenue, cost, demand, access line and eligible recovery details in the Petition for Waiver for which the Company seeks the withholding from public inspection is confidential and proprietary financial data.
4. With respect to identifying the degree to which the Company's financial information concerns a service that is subject to competition, this type of information is highly sensitive and its public disclosure would place the Company at a competitive disadvantage in the telecommunications marketplace.

<sup>1</sup> 47 C.F.R. § 0.459.

<sup>2</sup> 47 C.F.R. § 0.459(b)(1) through (9).

<sup>3</sup> 47 C.F.R. § 51.909(a), § 51.917(b)(1) and (b)(7)

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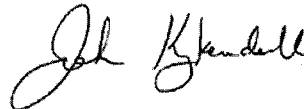
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5. With respect to identifying possible exposure to competitive harm, this information is provided on a study area-specific basis and could have economic value to potential competitors as it may provide competitors insight into the Company's market strategies and gain competitive advantage.
6. With respect to steps the Company has taken to ensure against unauthorized disclosure of its financial information, this information is maintained confidentially by the Company and is not available through any source other than the Company or its authorized agents.
7. The Company's financial information is not available to the public and has not been previously disclosed.
8. The Company requests the financial information be treated as confidential indefinitely. Because of the sensitive nature of the data, it would not be appropriate for public disclosure at any time in the foreseeable future.
9. The Commission has previously found that this type of information warrants protection under Protective Order for annual access tariff filings in which similar financial data is provided.<sup>4</sup>

Based on the preceding, JSI respectfully requests on behalf of the Company that the Commission grant confidential treatment under Section 0.459 to the financial data contained in the Company's Petition for Waiver and Exhibits. The Petition for Waiver is appropriately marked "Confidential-Not for Public Disclosure". Please contact the undersigned with any questions regarding this request.

Sincerely,



John Kuykendall  
Vice President  
301-459-7590  
[jkuykendall@jsitel.com](mailto:jkuykendall@jsitel.com)

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<sup>4</sup> See *Announcing Procedures for Obtaining Confidential Information for 2017 Annual Access Charge Tariff Filings and Corrections to TRP Spreadsheets*, WC Docket No. 17-65, Public Notice DA 17-550 rel. June 6, 2017.

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

In the Matter of )  
 )  
Telapex, Inc. )  
 )  
Petition for Waiver of Sections 51.909(a), )  
51.917(b)(1) and 51.917(b)(7) of the Commission's )  
Rules to modify access rate bands and charges, )  
and 2011 Base Period Revenue in connection with )  
merger of affiliated study areas in Mississippi. )

**PETITION FOR WAIVER  
OF PART 51 ACCESS CHARGE AND CONNECT AMERICA FUND-  
INTERCARRIER COMPENSATION CALCULATIONS**

Pursuant to Section 1.3 of the rules of the Federal Communications Commission ("FCC" or "Commission"),<sup>1</sup> Telapex, Inc., ("Telapex", or "Petitioner") hereby requests a waiver of the Commission's Section 51.909(a) rules to recalculate the rate bands and charges for local switching, tandem switching and dedicated transport services for two commonly-owned and merged study areas in the same state—Franklin Telephone Company, Inc. ("Franklin") and Delta Telephone Company, Inc. ("Delta").<sup>2</sup> Petitioner also seeks waiver of Sections 51.917(b)(1) and 51.917(b)(7) of the rules to recalculate for the same combined study areas the 2011 Interstate Switched Access Revenue Requirement and 2011 Rate-of-Return Carrier Base Period Revenue necessary to determine Connect America Fund-Intercarrier Compensation ("CAF-ICC") support.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> 47 C.F.R. § 51.909(a).

<sup>3</sup> 47 C.F.R. § 51.917(b)(1) and (b)(7).

Grant of the requested waiver will allow Petitioner to implement the merger of the Delta study area into the Franklin study area.

## **I. INTRODUCTION AND SUMMARY**

Delta is a rate-of-return cost incumbent local exchange carrier (“ILEC”) that owns and operates approximately 2,200 access lines in seven Mississippi exchanges, Study Area Code 280452. Franklin is a rate-of-return cost incumbent local exchange carrier (“ILEC”) that owns and operates approximately 5,600 access lines in ten Mississippi exchanges, Study Area Code 280454. Delta and Franklin are wholly-owned subsidiaries of Telapex, Inc., a telecommunications holding company that provides, through its subsidiaries, wireless, local telephone exchange, broadband, Internet, video and long distance services. Telapex accepted and is authorized to receive Alternative Connect America Cost Model (“ACAM”) support on a state-wide basis in the state of Mississippi for Delta and Franklin.<sup>4</sup>

Delta and Franklin will merge effective January 1, 2018, with Franklin as the surviving entity. Delta operates seven exchanges in predominantly rural parts of eight counties of Mississippi. The seven Delta exchanges are Ackerman, Chester, Merigold, Isola, Louise, Holly Bluff and Eagle Lake. Franklin operates ten exchanges in predominantly rural parts of nineteen counties of Mississippi. The ten Franklin exchanges are Artesia, Barlow, Benndale, Crosby, Eddiceton, Hermanville, Janice,

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<sup>4</sup> See Public Notice, *Wireline Competition Bureau Authorizes 182 Rate-of-Return Companies to Receive \$454 Million Annually in Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, DA 17-99, released January 24, 2017.

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Meadville, New Augusta, and New Hebron. The Delta and Franklin study areas are nonadjacent.

As stated above, Telapex receives ACAM support at the holding company level for the state of Mississippi. Accordingly, the combined Delta and Franklin study areas receive ACAM support and are subject to ACAM buildout requirements. Merger of the Delta and Franklin study areas will allow Telapex to more efficiently administer ACAM compliance.

It is Petitioner's understanding that the planned merger of the Delta and Franklin study areas may be implemented without a study area boundary waiver from the Commission as it represents a consolidation of commonly owned, existing study areas within the same state.<sup>5</sup> However, as shown below, Delta and Franklin are in differing rate bands for switched access services in the National Exchange Carrier Association ("NECA") Tariff F.C.C. No. 5.

	<b>Local Switching</b>	<b>Local Transport</b>	<b>Tandem Switched Transport</b>
<b>Delta SAC 280452</b>	Rate Band 1	Rate Band 7	Rate Band 2
<b>Franklin SAC 280454</b>	Rate Band 3	Rate Band 8	Rate Band 1

Therefore, Petitioner seeks waiver of Section 51.909(a) of FCC rules in order to establish consolidated rate bands and access rates for the merged study area. In addition,

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<sup>5</sup> See *Request for Clarification Filed by the National Exchange Carrier Association, Inc., and Petitions for Waivers Filed by Alaska Telephone Company, Ducor Telephone Company, and Kingsgate Telephone, Inc., Concerning the Definition of "Study Area" in the Part 36 Appendix-Glossary of the Commission's Rules*, AAD 95-173, AAD 96-29, AAD 96-51, Memorandum Opinion and Order. 11 FCC Red 8156, 8160 (Com. Carr. Bur. July 16, 1996). ("Study Area Waiver Exceptions Order").

Petitioner seeks waiver of Section 51.917(b)(1) to combine the 2011 Interstate Access Switched Access Revenue Requirements for the combined study areas into a consolidated 2011 Interstate Access Switched Access Revenue Requirement, and waiver of Section 51.917(b)(7) to combine the 2011 Rate-of-Return Base Period Revenues for the combined study areas into a single 2011 Rate-of-Return Base Period Revenue amount for the merged study area.

## **II. WAIVER STANDARD**

In general, the FCC's rules may be waived for good cause shown.<sup>6</sup> Waiver is appropriate where the "particular facts would make strict compliance inconsistent with the public interest."<sup>7</sup> 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.<sup>8</sup>

## **III. WAIVER IS JUSTIFIED**

### **A. Merger of Delta and Franklin Study Areas is in the Public Interest**

The planned merger of Delta and Franklin study areas is consistent with Commission policy encouraging consolidation of commonly owned study areas in the

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<sup>6</sup> 47 C.F.R. § 1.3.

<sup>7</sup> 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*").

<sup>8</sup> 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).

same state.<sup>9</sup> The public interest is served by the increased administrative and operational efficiencies gained by consolidating these study areas. Grant of the requested waiver prior to the planned January 1, 2018 merger will allow Telapex to benefit from the synergies achieved in consolidating to a single operating company.

**B. Impact of Switched Access Rate Band Consolidation is Minimal**

As indicated at Exhibit A, the consolidation would not result in significant rate band changes as proposed for switched access rate elements. While revenues will increase in some instances and decrease in others, the overall impact on switched access revenue is minimal. Based on the internal estimates, the company expects a net decrease of approximately [REDACTED] annually, which represents about 7% of total projected billed revenues of [REDACTED] shown on Exhibit B.

**C. Recalculation of 2011 Interstate Switched Access Revenue Requirement and Base Period Revenue Will Not Adversely Impact CAF-ICC**

Exhibit B provides a summary of the expected CAF-ICC support as calculated by NECA, and reflects combined data for the Delta and Franklin study areas. Access Recovery Charges will remain unchanged and therefore will have no impact on CAF-ICC or on end users. As described above, the company expects a reduction of switched access revenue of approximately [REDACTED] per year, which will be replaced with CAF-ICC support. NECA projections indicate that the combined entity would receive [REDACTED]

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<sup>9</sup> Study Area Waiver Exceptions Order, para. 6. See also *In the Matter of American Samoa Government and the American Samoa Telecommunications Authority Petition for Waivers and Declaratory Rulings to Enable American Samoa to Participate in the Universal Service High Cost Support Program and the National Exchange Carrier Association Pools and Tariffs*, CC Docket No. 96-45, AAD/USB File No. 98-41, Order DA 99-1131, rel. June 9, 1999, para. 10.



of CAF-ICC support, absent any changes to switched access rates, and as such, this change would represent a very small 2.3% increase in CAF-ICC for the test period.

**IV. Conclusion**

As demonstrated herein, "good cause" exists for grant of this waiver. Petitioners respectfully request the Commission act expeditiously to grant waiver of Section 51.909(a), 51.917(b)(1) and 51.917((b)(7) of the rules in order that the Delta and Franklin study area merger may be implemented January 1, 2018.

Respectfully Submitted,



By: H. Wesley Goings, President  
TELAPEX, INC.  
1018 Highland Colony Parkway  
Suite 700  
Ridgeland, Mississippi 39157

September 19, 2017

EXHIBIT A

LSRRQ	LS Cost per Minute	LS Band	Forecasted Minutes	TP 201718 Proposed Terminating End Office Rate	TP 201718 Proposed Originating End Office Rate
		1		\$0.003567	\$0.014645
		3		\$0.003567	\$0.024410
		3		\$0.003567	\$0.024410

an baseline) is from July 1, 2011 through June 30, 2012.

Minutes and Rate Band placements are from NECA's 2011 Annual Filing.

RRQ	Revenue	Retention Ratio	Band Placement	TP 201718 Proposed Tandem Switching Rate	TP 201718 Proposed Tandem Switched Termination Rate	TP 201718 Proposed Tandem Switched Transport Facility Rate
		0.3367	2	\$0.005731	\$0.002272	\$0.000438
		0.0000	1	\$0.002685	\$0.001065	\$0.000204
		0.1291	1	\$0.002685	\$0.001065	\$0.000204

RRQ	Revenue	Retention Ratio	Band Placement	TP 201718 Proposed Entrance Facility DS1 per Termination Rate
		0.6058	7	\$207.77
		0.742	8	\$232.97
		0.716	7	\$207.77

e same as the Special Access rate band for the test period July 1, 2011 through June 30, 2012

provided by company in the CAF ICC Data Collection)

	ProposedEO Rate	Current Composite Rate	ProjectedMin	ProCurentRev	TermLSMin	TermRevCurrent	TermRevProj	ProjectedRev	AllocatedR ev	InterER
00	\$0.003567	\$0.018418								
00	\$0.003567	\$0.019316								
00	\$0.003567	\$0.019014								

TPForecastedMi n	TPExpRev	TPIntrastateER

Co	RRQ	CMRS_ER

Co	RRQ	CMRS_ER

ne	NANPA_Increm ent	Total

MLB Lines	Res_ARC Rev	SLB_ARC Rev	MLB_ARC Rev	Total ARC Rev	RESARCRate	SLBARCRate	MLBARCRate
					\$3.00	\$3.00	\$3.00
					\$3.00	\$3.00	\$3.00
					\$3.00	\$3.00	\$3.00

SLBARC_pretrue up	MLBARC_pretr ueup	TotalARC_pretru eup	CAFICC_pretru eup	Netimpact_T rue Up	ER	RESARC	SLBARC	MLBARC	TotalARC Rev	CAFICC

Revenues on Broadband-only Lines

Imputed ARC Revenues	Revised CAF ICC Support