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REDACTED FOR PUBLIC INSPECTION

VIA HAND DELIVERY

November 1, 2019

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

Attention: Wireline Competition Bureau

**Re: Inter-Community Telephone Company, L.L.C. 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 Inter-Community Telephone Company, L.L.C., 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 North Dakota.

Inquiries may be directed to the undersigned consultant for Inter-Community Telephone
Company, L.L.C.

Sincerely,

John Kuykendall
Vice President
jkuykendall@jsitel.com

Enclosures

**FILE
STAMP
COPY**

Accepted / Filed

NOV - 1 2019

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Office of the Secretary

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November 1, 2019

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
Inter-Community Telephone Company, L.L.C. 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, Inter-Community Telephone Company, L.L.C. ("Company"), hereby requests, pursuant to Section 0.459 of the Commission's rules,¹ 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).²

1. The information for which the Company is seeking confidential treatment is switched access revenue, cost, demand, access line and eligible recovery details contained in the Petition and the accompanying Exhibits A and B.
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.³
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.

¹ 47 C.F.R. § 0.459.

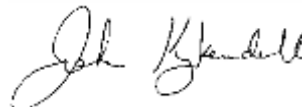
² 47 C.F.R. § 0.459(b)(1) through (9).

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

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.⁴

Based on the preceding, JSI respectfully requests on behalf of the Company that the Commission grant confidential treatment under Section 0.459 to the switched access revenue, cost, demand, access line and eligible recovery 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

⁴ See *Announcing Procedures for Obtaining Confidential Information for 2019 Annual Access Charge Tariff Filings*, WC Docket No. 19-47, Public Notice DA 19-509, rel. June 4, 2019.

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

In the Matter of)
)
Inter-Community Telephone Company, L.L.C.)
)
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 North Dakota.)

**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"),¹ Inter-Community Telephone Company, L.L.C., ("ICTC" or the "Petitioner") hereby requests a waiver of the Commission's Section 51.909(a) rules² to recalculate the rate bands and charges for local switching, tandem switching and dedicated transport services for two commonly-owned study areas in the same state—ICTC Study Area Code 381616 ("ICTC SAC") and Absaraka Cooperative Telephone Company, Inc. ("Absaraka") Study Area Code 381601 ("Absaraka SAC").³ ICTC 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.⁴ Expedient grant of

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 51.909(a).

³ As explained herein, the Absaraka study area will merge with the ICTC study area effective August 1, 2020.

⁴ 47 C.F.R. § 51.917(b)(1) and (b)(7).

this waiver will allow Petitioner to consolidate the ICTC SAC and the Absaraka SAC on the planned effective date of August 1, 2020.

I. INTRODUCTION AND SUMMARY

ICTC is an authorized Alternative Connect America Cost Model (“A-CAM”) incumbent local exchange carrier (“ILEC”)⁵ serving nine (9) exchanges in Barnes, Griggs, Steele, Cass and Ransom Counties, North Dakota. ICTC operates approximately 1,351 voice access lines and 381 Consumer Broadband-Only Loop (“CBOL”) access lines. ICTC is a wholly-owned subsidiary of BEK Communications Cooperative. Absaraka is also an authorized A-CAM ILEC⁶ serving the Absaraka exchange and operates approximately 34 voice access lines.

ICTC has acquired the local exchange assets of Absaraka and now serves customers in the Absaraka exchange.⁷ As an authorized A-CAM carrier, ICTC elected to convert to incentive regulation for Business Data Services (“BDS”) effective July 2, 2019.⁸ ICTC is an issuing carrier for JSI Interstate Access Tariff F.C.C. No. 1 for Common Line and BDS rates. However, ICTC remains in the National Exchange Carrier Association (“NECA”) Tariff F.C.C. No. 5 (“NECA Tariff”) for Switched Access service.

⁵ *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, FCC Public Notice DA 17-99, rel. Jan 24, 2017.

⁶ *Id.*

⁷ *Domestic 214 Application Granted for the Acquisition of Certain Assets of Absaraka Telephone Company, Inc. by Inter-Community Telephone Company, L.L.C.*, WC Docket No. 19-164, FCC Public Notice DA-19-871, rel. Sept. 4, 2019.

⁸ *See* Letter from Brandon Vaughan, Secretary/Treasurer, BEK, to Kris Monteith, Chief, Wireline Competition Bureau, FCC, WC Docket No. 17-144 et al., filed April 8, 2019.

Petitioner plans to notify NECA by March 1, 2020, of its election to convert to incentive regulation for BDS effective July 1, 2020, for the Absaraka SAC, and will also elect to remain in the NECA Tariff for Absaraka SAC Switched Access Service, consistent with the currently effective elections for the ICTC SAC.

To allow ICTC the efficiency of managing switched access and CAF-ICC compliance for a single study area, the Petitioner plans to merge the ICTC SAC and the Absaraka SAC into a single study area—ICTC SAC 381616—effective August 1, 2020.⁹ However, as explained below, grant of this petition prior to that date is required in order for the consolidation to occur.

As shown below, the ICTC SAC and Absaraka SAC are in differing rate bands for local switching services in the NECA Tariff. Accordingly, 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.

	Local Switching	Local Transport	Tandem Switched Transport
ICTC SAC 381616	Rate Band 5	Rate Band 10	Rate Band 2
Absaraka SAC 381601	Rate Band 8	Rate Band 10	Rate Band 2

In addition, 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

⁹ The Company will file with the FCC Wireline Competition Bureau a letter notification of the planned merger of commonly-owned study areas within the state of North Dakota pursuant to FCC precedent.

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.¹⁰ Waiver is appropriate where the "particular facts would make strict compliance inconsistent with the public interest."¹¹ 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.¹²

III. WAIVER IS JUSTIFIED

A. Merger of ICTC SAC and Absaraka SAC is in the Public Interest

The planned merger of the ICTC SAC and Absaraka SAC is consistent with Commission policy encouraging consolidation of commonly owned study areas in the same state.¹³ Further, Commission precedent supports grant of petitions seeking waiver of Sections 51.909(a), 51.917(b)(1) and 51.917(b)(7) in the context of merging

¹⁰ 47 C.F.R. § 1.3.

¹¹ 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*").

¹² 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).

¹³ See *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.

commonly-owned study areas within a state.¹⁴ Based upon this policy and precedent, the public interest indeed would be served with expeditious grant of this petition.

Additionally, 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 August 1, 2020, study area merger will allow ICTC to avoid the inefficiencies of maintaining separate books of account, separate switch partition, and separate tandem toll connection for a study area serving a mere 34 lines. Moreover, the efficiencies of administering operations and regulatory compliance for a single study area is consistent with the Commission's efforts to encourage efficiency and reduce regulatory burdens.

B. Minimal Impact of Switched Access Rate Band Consolidation

As indicated at Exhibit A, the consolidation would not result in significant rate band changes as proposed for switched access rate elements. The overall impact on switched access revenue is minimal. Based on the internal estimates, the company expects a net increase of approximately [REDACTED] annually.

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

¹⁴ See *In the Matter of Connect America Fund*, WC Docket No. 10-90, *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, *Titonka Telephone Company and The Burt Telephone Company Petition for Waiver of Sections 51.917(b)(1) and 51.917(b)(7) of the Communications Rules to modify 2011 Base Period Revenue in connection with the merger of affiliated study areas in Iowa*, WC Docket No. 18-69; *Interstate Telecommunications Cooperative, 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 South Dakota*, WC Docket No. 18-331; *Northeast Nebraska Telephone Company 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 Nebraska*, WC Docket No. 19-31, Order, DA 19-542, rel. June 10, 2019.

Exhibit B provides a summary of the expected CAF-ICC support as calculated by NECA, and reflects combined data for the ICTC SAC and Absaraka SAC. 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 an increase of switched access revenue of approximately [REDACTED] per year, which would result in a corresponding reduction of CAF-ICC support. NECA projections indicate that the combined entity would receive [REDACTED] of CAF-ICC support, absent any changes to switched access rates, and as such, this change would represent a very small 1.4% decrease in CAF-ICC for the test period.

IV. Conclusion

As demonstrated herein, “good cause” exists for grant of this waiver. The minimal impact to carrier billing and CAF ICC support combined with the operational efficiencies of managing switched access and CAF ICC compliance for a single, consolidated study area provide the Commission with a clear path to grant the requested waiver. The Company respectfully requests 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 ICTC SAC and Absaraka SAC consolidation may be implemented August 1, 2020.

Respectfully Submitted,



By: Derrick F. Bulawa, Chief Executive Officer
BEK Communications Cooperative and Affiliates
P.O. Box 230, 200 East Broadway
Steele North Dakota 58482

November 1, 2019

Rate Band Placement

Local Switching

sar_id	sar_abbr	LSRRQ2011-2012	LS Cost per Minute	LS Band	Forecasted Minutes
381601	ABSARAKA COOP TEL CO			8	
381616	INTER-COMMUNITY TEL			5	
Merged				8	

Test Period 2011-2012 (interstate frozen baseline) is from July 1, 2011 through June 30, 2012.
All Local Switching RRQ, Forecasted Minutes and Rate Band placements are from NECA's 2011 Annual Filing.

Tandem Switching

sar_id	sar_abbr	RRQ	Revenue	Retention Ratio	TST Band
381601	ABSARAKA COOP TEL CO			31.02745	2
381616	INTER-COMMUNITY TEL			2.36596	2
Merged				2.76006	2

Dedicated Transport 201112

sar_id	sar_abbr	SP_RRQ	SP_Revenue	Retention Ratio	SP Band
381601	ABSARAKA COOP TEL CO			0.00000	10
381616	INTER-COMMUNITY TEL			3.99630	10
Merged				3.99630	10

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

EXHIBIT B

Test Period 2019/2020 (Data are based on input provided by company in the CAF ICC Data Collection)

Interstate												
sarid	RRQ	CurrentEORate	Proposed EORate	CurrentCompRate	ProjectedMin	ProCurentRev	TermLSMin	TermRevCurrent	TermRevProj	ProjectedRev	AllocatedRev	InterER
381601		\$0.002133	\$0.000700	\$0.037372								
381616		\$0.002133	\$0.000700	\$0.023217								
Merged		\$0.002133	\$0.000700	\$0.023538								

Intrastate					
sarid	YR1ActualRev	RRQ	TPForecastedMin	TPExpRev	TPIntrastateER
381601					
381616					
Merged					

CMRS				
sarid	YR1_NetRecipCompRev	TP_NetExpRecipCompRev	RRQ	CMRS_ER
381601				
381616				
Merged				

Non_CMRS				
sarid	YR1_NetRecipCompRev	TP_NetExpRecipCompRev	RRQ	CMRS_ER
381601				
381616				
Merged				

Exogenous Costs				
sarid	TRS_Increment	Reg_Fees_Increment	NANPA_Increment	Total
381601				
381616				
Merged				

Residential ARC					
sarid	SAR_ABBR	ExchangeName	Res Lines	Res_ARC Rev	ResARCRate
381601	ABSARAKA COOP TEL CO	Absaraka			\$3.00
381616	INTER-COMMUNITY TEL	Alice			\$0.00
381616	INTER-COMMUNITY TEL	Buffalo			\$0.00
381616	INTER-COMMUNITY TEL	Dazey			\$0.00
381616	INTER-COMMUNITY TEL	Hannaford			\$0.00
381616	INTER-COMMUNITY TEL	Hope			\$0.00
381616	INTER-COMMUNITY TEL	Nome/Fingal			\$0.00
381616	INTER-COMMUNITY TEL	Page			\$0.00
381616	INTER-COMMUNITY TEL	Sanborn			\$0.00
381616	INTER-COMMUNITY TEL	Tower City			\$0.00

ARC Rate and Revenue										
sarid	SAR_ABBR	Res Lines	SLB Lines	MLB Lines	Res_ARC Rev	SLB_ARC Rev	MLB_ARC Rev	Total ARC Rev	SLBARCRate	MLBARCRate
381601	ABSARAKA COOP TEL CO								\$3	\$3
381616	INTER-COMMUNITY TEL								\$3	\$3
Merged									\$3	\$3

Net Impact of True-Up, Pre and Post Eligible Recovery and CAF ICC Support													
sarid	ER_pretrueup	RESARC_pretrueup	SLBARC_pretrueup	MLBARC_pretrueup	TotalARC_pretrueup	CAFICC_pretrueup	NetImpact_trueup	ER	RESARC	SLBARC	MLBARC	TotalARC Rev	CAFICC
381601													
381616													
Merged													

Revised CAF ICC Support Reduced by Imputed ARC Revenues on Broadband-only Lines					
sarid	CAFICC	Broadband-only Lines	Imputed ARC Revenues	Limited Imputed ARC Revenues	Revised CAF ICC Support
381601					
381616					
Merged					