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PLEASE RESPOND TO WASHINGTON ADDRESS

July 13, 2015

Via Electronic Filing

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

Re: Notice of Ex Parte Presentation:
WC Docket No. 15-69, Petition for Limited, Expedited Waiver By Westelcom
Network, Inc. of Section 61.26(a)(6) of the Commission's Rules

Dear Ms. Dortch:

On July 9, 2015, Paul F. Barton, President of Westelcom Network, Inc. ("Westelcom"), along with the undersigned, met regarding the above-captioned matter with: Daniel Alvarez, Legal Advisor, Wireline, Public Safety, and Homeland Security, to the Chairman; Matthew DelNero, Chief of the Wireline Competition Bureau ("WCB"); Deena Shetler, Associate Bureau Chief of the WCB; Pamela Arluk, Division Chief of the WCB's Pricing Policy Division; Victoria Goldberg, Deputy Division Chief of the WCB's Pricing Policy Division; and Belinda Nixon also of the WCB's Pricing Policy Division. At this meeting, we summarized Westelcom's positions regarding the need for prompt grant of Westelcom's Petition for Limited Expedited Waiver filed in this proceeding for the reasons set forth in the attached document and the Petition and Reply Comments filed by Westelcom in this proceeding. The attached document was distributed at the meeting.

This letter is being filed pursuant to Section 1.1206 of the Commission's rules. Please direct any inquiries regarding this matter to the undersigned.

Sincerely,


Thomas J. Moorman
Counsel to the Westelcom Network, Inc.

Attachment

cc: Daniel Alvarez (via email)
Matthew DelNero (via email)
Deena Shetler (via email)
Pamela Arluk (via email)
Victoria Goldberg (via email)
Belinda Nixon (via email)



Westelcom Family of Companies

Ex Parte Presentation
July 9, 2015
Westelcom Network, Inc.
Pending Waiver Request

- History of Proceeding and Status
- Waiver Standards & Commission Discretion
- Effective Implementation of Policy is Advanced by a Grant of Westelcom's Waiver
- The Facts at Issue Stand Unrebutted
- Issues for Resolution
- Conclusion



History of Proceeding and Status

- Westelcom filed a Petition for Limited, Expedited Waiver of Section 61.26(a)(6) of the Commission's Rules on February 23, 2015 ("Petition").
- Public Notice of the Petition was issued on March 25, 2015 (WC Docket No. 15-69, DA 15-372) and was established as a "permit-but-disclose" proceeding for *ex parte* purposes.
- Westelcom filed an updated Petition on March 30, 2015, pursuant to the March 25, 2015, Joint Protective Order issued in this proceeding (DA 15-373).
- The only comments on the Petition were filed on April 24, 2015 by AT&T Services, Inc.; CTL's reply comments supported AT&T.
- Westelcom filed its reply comments on May 11, 2015.



Waiver Standard & Commission Discretion

- The Commission, in its discretion, may grant a waiver when good cause is shown.

- Good cause has been explained by the Commission to allow the following:
 - The Commission may exercise its discretion to waive a rule where the particular facts/special circumstances make strict compliance inconsistent with the public interest.

 - The Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.



Effective Implementation of Policy is Advanced by a Grant of the Waiver

- The policies at issue in this proceeding include the following:
 - Establishment of “just and reasonable” rates and avoidance of flash-cuts.
 - Establishment for all carriers of standardized glide paths aimed at providing a reasonable transition to bill and keep.
 - Companion policy to increase access to broad band by rural health care providers and foster “development and deployment of broadband health care networks, particularly networks that include HCPs that serve rural areas.”



The Facts at Issue Stand Unrebutted

- There are no facts in controversy; the facts set forth by Westelcom are unrebutted on the record.
- Among the facts presented are the following:
 - Westelcom began operation in 1981 and operated as a “Rural CLEC” under Section 61.26(a)(6) of the Commission’s rules since their adoption in 2001.
 - Westelcom has relied on all sources of revenue to replace leased network with its own fiber-based network that provides advanced telecommunications services.
 - Westelcom’s operations provide a considerable number of fiber-based connections and advanced service capability to multiple rural health care providers in the Adirondack North Country area of New York.
 - In August 2011 the Census Bureau (“CB”) altered significantly its prior standards for determining an “urbanized area,” and used these new criteria in March, 2012 to reclassify Watertown, NY (an area served by Westelcom).
 - Fort Drum was included in the Watertown urbanized area, but facilities-based service to the Fort’s housing is not available to local carriers like Westelcom.
 - The CB identified the need for other agencies that use the CB classifications to review such classifications in light of those agencies’ particular programs.
 - In October 2014, Westelcom first became aware of the CB’s action which changed Westelcom’s prior status as a Rural CLEC under Section 61.26(a)(6).
 - The change in status from a Rural CLEC to a non-Rural CLEC resulted in a 96% flash-cut reduction in interstate exchange access revenues.



Issues for Resolution

- The record confirms that each of the following issues should be answered in the affirmative:
 - Will consumers in the Adirondack North Country area of New York benefit from a grant of Westelcom’s waiver request?
 - Will consumers in the Adirondack North Country area of New York be harmed if Westelcom’s waiver request is denied?
 - Does the record support the position that grant of Westelcom’s waiver request will advance the Commission’s 2011 *USF/ICC Transformation Order* policy and its 2012 *Healthcare Connect Order* policy and also preserve the underlying policy of the *CLEC Access Charge Reform Order*?
 - Will a grant of the waiver allow Westelcom:
 - n a reasonable transition to bill and keep?
 - n to continue its investment in fiber-based networks which are utilized to provide advanced telecommunications services to rural health care providers?
 - n to continue Commission-established “just and reasonable” Rural CLEC access rates and avoid flash cuts?
 - Will a denial of Westelcom’s waiver request:
 - n frustrate these same policies?
 - n create flash cuts on CLEC access rates?
 - n prevent further network investment?



Conclusion

- Based on undisputed facts in the record associated with Westelcom's specific operations and network deployment, the policies of the *USF/ICC Transformation Order*, *Healthcare Connect Order*, and the *CLEC Access Charge Reform Order* are frustrated by rote application of Section 61.26(a)(6).
- The Westelcom Petition for waiver should be granted expeditiously.