BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Accepted / Filed

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Federal Communications Commission
Office of the Secretary

In the Matter	)	
	)	
MIDVALE TELEPHONE COMPANY, INC.	)	
	)	
and	)	CC Docket No. 96-45
	)	
QWEST CORPORATION d/b/a CENTURYLINK QC	)	
	)	
Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules	)	

JOINT PETITION FOR WAIVER

Pursuant to Section 1.3 of the Federal Communication Commission's ("FCC" or "Commission") rules, Midvale Telephone Company, Inc. ("Midvale") and Qwest Corporation d/b/a CenturyLink QC ("CenturyLink"), by and through their counsel, request a waiver of the definition of "Study Area" contained in the Appendix-Glossary of Part 36 of the Commission's rules. The purpose of this waiver is to allow CenturyLink to remove a portion of its Prescott Exchange immediately contiguous to the Long Meadows portion of Midvale's Mill Site Exchange (the "Transfer Area"), with zero (0) subscribers, from CenturyLink's Arizona Study Area and for Midvale to add the Transfer Area to its Arizona Study Area. Exhibit 1 sets forth the legal description of the Transfer Area.

Petitioners respectfully request that the Commission find that Petitioners have filed a complete petition for Study Area Waiver, that the petition is appropriate for streamlined treatment, and that the Commission expeditiously issue a public notice seeking comment on this joint petition for waiver so that it can go into effect in accordance with Section 36.4(a) of the

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Commission's rules.[1] No new issues of law are raised by the Petition and the facts and circumstances supporting grant comply with the standard for waiver set out in the *USF/ICC Transformation Order.*[2]

Background

CenturyLink is an incumbent local exchange carrier (ILEC) serving in Arizona. Together with its affiliates, CenturyLink is the largest ILEC operating in Arizona. CenturyLink's study area is referred to by the Universal Service Administrative Company ("USAC") as Study Area Code 455101. CenturyLink will continue to provide local telephone service within the other Arizona areas it serves and will retain its Study Area for those exchanges.

Midvale is a rural incumbent telephone company providing service within the Mill Site exchange in the state of Arizona. It has a Study Area which is referred to by the USAC as Study Area code 452226. As of December 2, 2013, Midvale was providing services to approximately 1,142 rural residential customers and 98 rural business customers in its service area in the state of Arizona. Midvale is classified as an Eligible Telecommunications Carrier under the Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the "Act"). Midvale receives federal Universal Service Fund ("USF") support as a "Cost Company," not a "Price Cap Company."

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[1] 47 C.F.R. §36.4(a)

[2] *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-0135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, ¶¶260-267 (rel. Nov. 18, 2011)("*USF/ICC Transformation Order*") (subsequent history omitted).

Waiver of the Study Area Definition is Warranted and in the Public Interest

Petitioners seek a waiver of the Frozen Study Area definition. Part 36 of the Commission's Rules "freezes" the definition of Study Area to the boundaries that were in existence on November 15, 1984.[3] This "freeze" was due, in part, to the Commission's concern over the level of interstate cost recovery by LECs from the Universal Service Fund ("USF"). "The Commission took that action, in part, to ensure that LECs do not set up high cost exchanges within their existing service territories as separate study areas to maximize high cost support."[4]

The Commission has recognized that changes "that result from the purchase or sale of exchanges in arms-length transactions" do not necessarily raise the concerns which prompted the freeze.[5] The failure to waive the rule in the case of the sale of exchanges would produce an absurd result, forcing the seller to continue to include exchanges in its Study Area for which it has no costs, and preventing the buyer from including in its Study Area exchanges it actually serves.[6] Such a result would not serve the Commission's policy objective of ensuring that carriers' actual costs are reflected in their accounting so that they can accurately set just, reasonable, and nondiscriminatory rates.

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[3] *See* 47 CFR Part 36, Appendix—Glossary.

[4] *In the Matter of US West Communications, Inc. and Eagle Telecommunications, Inc. Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules and Eagle Telecommunications, Inc. Petition for Waiver of Section 61.41(c) of the Commission's Rules*, Memorandum Opinion and Order, 10 FCC Rcd 1771, 1773, ¶10 (Rel. January 5, 1995)(citations omitted).

[5] *See, e.g., Alltel Corporation Petition for Waiver of Section 36.125(f), Sections 36.154(e)(1) and (2), and the Definition of "Study Area" contained in Part 36, Appendix-Glossary of the Commission's Rules*, Memorandum Opinion and Order, 5 FCC Rcd 7505, ¶7 (Com. Car. Bur. 1990).

[6] *Amendment to Part 36 to the Commission's rules and Establishment of a Joint Board*, Notice of Proposed Rulemaking, 5 FCC Rcd 5974, 5975-76, ¶17 (Rel. Oct. 10, 1990)("Part 36 NPRM").

In the *USF/ICC Transformation Order*, the Commission established a two-prong test for deciding whether Study Area Waivers should be granted. According to the Commission, the standards for evaluating petitions for Study Area Waiver are:

> (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.[7]

The Commission further stated that the evaluation of the public interest benefits of the proposed waiver will include" "(1) the number of lines at issue; (2) the projected universal service fund cost per line; and (3) whether such a grant would result in consolidation of study areas that facilitates reductions in cost by taking advantage of the economies of scale, *i.e.*, reduction in cost per line due to the increased number of lines.[8] The Commission states, however, that these are guidelines "and not rigid measures for evaluating a petition for study area waiver."[9]

A. <u>State Commission Approval</u>

On April 15, 2014, the Arizona Corporation Commission ("ACC") conducted a hearing to determine whether Midvale's Certificate of Convenience and Necessity should be amended to allow the transfer of the Transfer Area from CenturyLink to Midvale. In an order dated May 23, 2014, the ACC approved the transfer of the Transfer Area. In its order, the ACC stated that it does not object to the Federal Communications Commission's granting a waiver of the Study Area boundary freeze to allow Midvale and CenturyLink to modify their respective Study Areas

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[7] *USF/ICC Transformation Order* at ¶265.
[8] *Id.*
[9] *Id.*

to reflect the transfer of the Transfer Area.[10] A copy of the ACC's Order is attached as Exhibit 2.

The Public Interest Will Be Served By Grant Of The "Study Area" Waiver

As stated in the *USF/ICC Transformation Order*, the first two factors to be considered in determining whether a waiver is in the public interest are the number of lines at issue and the projected universal service fund cost per line. Here, there are fewer than ten lines at issue. CenturyLink does not currently receive any Universal Service support for lines in the Transfer Area. There are no customers currently served by CenturyLink in the Transfer Area. Pursuant to prior agreements with CenturyLink, Midvale is currently serving two residential customers in the Transfer Area. Midvale anticipates that there are six to eight customers in the Transfer Area, most of them residential, that it would serve after the transfer. If this Study Area Waiver is granted, Midvale will at most receive $117.39 per line per month for high-cost support for 1,307 lines of support. Given that the high-cost fund is frozen, there will be very little impact on overall support mechanism levels.

The third factor to consider in determining whether a waiver is in the public interest is whether such a grant would result in consolidation of Study Areas that facilitates reductions in cost by taking advantage of the economies of scale, *i.e.*, reduction in cost per line due to the increased number of lines. In this case granting the waiver will lead to a reduction in the cost of serving customers. If CenturyLink were to serve the customers in the Transfer Area, the cost for CenturyLink to provide that service would likely be viewed as prohibitive because the customers would be expected to pay applicable Line Extension charges under CenturyLink's tariffs.

[10] Decision No. 74487, *In the Matter of Midvale Telephone Company, Inc.'s Application for Extension of its Certificate of Convenience and Necessity*, Docket No. T-02532A-08-0542 (Arizona Corporation Commission, May 23, 2014).

CenturyLink's facilities construction costs would be higher than Midvale's costs because CenturyLink does not have any nearby facilities, while Midvale does.

Midvale has existing fiber cable running through the Transfer Area. Consequently, the incremental cost for Midvale to provide service to the customers within the Transfer Area would be the cost of running drops to the homes, for which Midvale would charge a $35 installation fee per customer. As a result, allowing Midvale to serve customers in the Transfer Area enables the customers to receive a broad range of services including broadband service, Extended Area Service and vertical services such as Caller ID, Call Forwarding, Call Waiting and 3-way Calling, at a much lower cost.

Conclusion

For the reasons above, Petitioners respectfully request that the Commission find that Petitioners have filed a complete petition for Study Area Waiver, that the petition is appropriate for streamlined treatment, and that the Commission expeditiously issue a public notice seeking comment on this Joint Petition for Waiver so that it can go into effect in accordance with Section 36.4(a) of the Commission's rules.

Dated this 20th of November 2015

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CERTIFICATE OF SERVICE

I, Marjorie Herlth, do hereby certify that I have caused the foregoing **JOINT PETITION FOR WAIVER** to be:

1) Filed with the Secretary of the FCC via courier (original and five copies plus one for stamp and return);

2) Served one copy with the Commission's copy contractor, Best Copy and Printing, Inc. via e-mail to fcc@bcpiweb.com.

Marjorie Herlth

Marjorie Herlth

November 20, 2015

EXHIBIT 1

DOCKET NO. T-02532A-08-0542

MIDVALE TELEPHONE EXCHANGE, INC.
DOCKET NO. T-02532A-08-0542
SERVICE AREA TO BE TRANSFERRED FROM CENTURYLINK (QWEST) TO MIDVALE
THIRD AMENDED LEGAL DESCRIPTION

Township 16 North, Range 4 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona:

All of Sections 1, 2, 11, 12 and 13;

The North Half and the Southwest Quarter of Section 14;

The South Half and the Northwest Quarter of Section 15;

The West Half of Section 22;

The South Half and the Northwest Quarter of Section 23.

Township 16 North, Range 3 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona:

The West Half of Section 20;

That portion of Section 17 lying south of Williamson Valley Road (as it exists today) and west of the west boundary of the "Hootenanny Holler Subdivision" said subdivision boundary further described as follows:

Beginning at a point on the south line of said Section 17 which is 238.01 feet east of the South Quarter Corner;

THENCE North 28 Degrees 50 Minutes 25 Seconds West, along the west line of said "Hootenanny Holler" Subdivision, a distance of 172.15 feet to a point on a curve, concave to the east, the center of which bears North 61 Degrees 09 Minutes 35 Seconds East, a distance of 168.03 feet;

THENCE northerly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 71 Degrees 03 Minutes 04 Seconds, a distance of 208.37 feet;

THENCE North 42 Degrees 12 Minutes 35 Seconds East, continuing along the west line of said "Hootenanny Holler" Subdivision, a distance of 728.73 feet to a point on a curve, concave to the east, the center of which bears South 47 Degrees 47 Minutes 25 Seconds East, a distance of 675.57 feet;

THENCE northeasterly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 17 Degrees 13 Minutes 00 Seconds, a distance of 203.00 feet;

THENCE North 59 Degrees 25 Minutes 35 Seconds East, continuing along the west line of said "Hootenanny Holler" Subdivision, a distance of 633.11 feet to a point on a curve, concave to the northwest, the center of which bears North 30 Degrees 34 Minutes 25 Seconds West, a distance of 658.13 feet;

THENCE northeasterly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 16 Degrees 53 Minutes 59 Seconds, a distance of 194.12 feet;

THENCE North 42 Degrees 31 Minutes 35 Seconds East, continuing along the west line of said "Hootenanny Holler" Subdivision, a distance of 645.96 feet to a point on a curve, concave to the southeast, the center of which bears South 47 Degrees 28 Minutes 25 Seconds East, a distance of 420.46 feet;

THENCE northeasterly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 20 Degrees 33 Minutes 03 Seconds, a distance of 150.81 feet to Williamson Valley Road.

DECISION NO. 74487

EXHIBIT 1

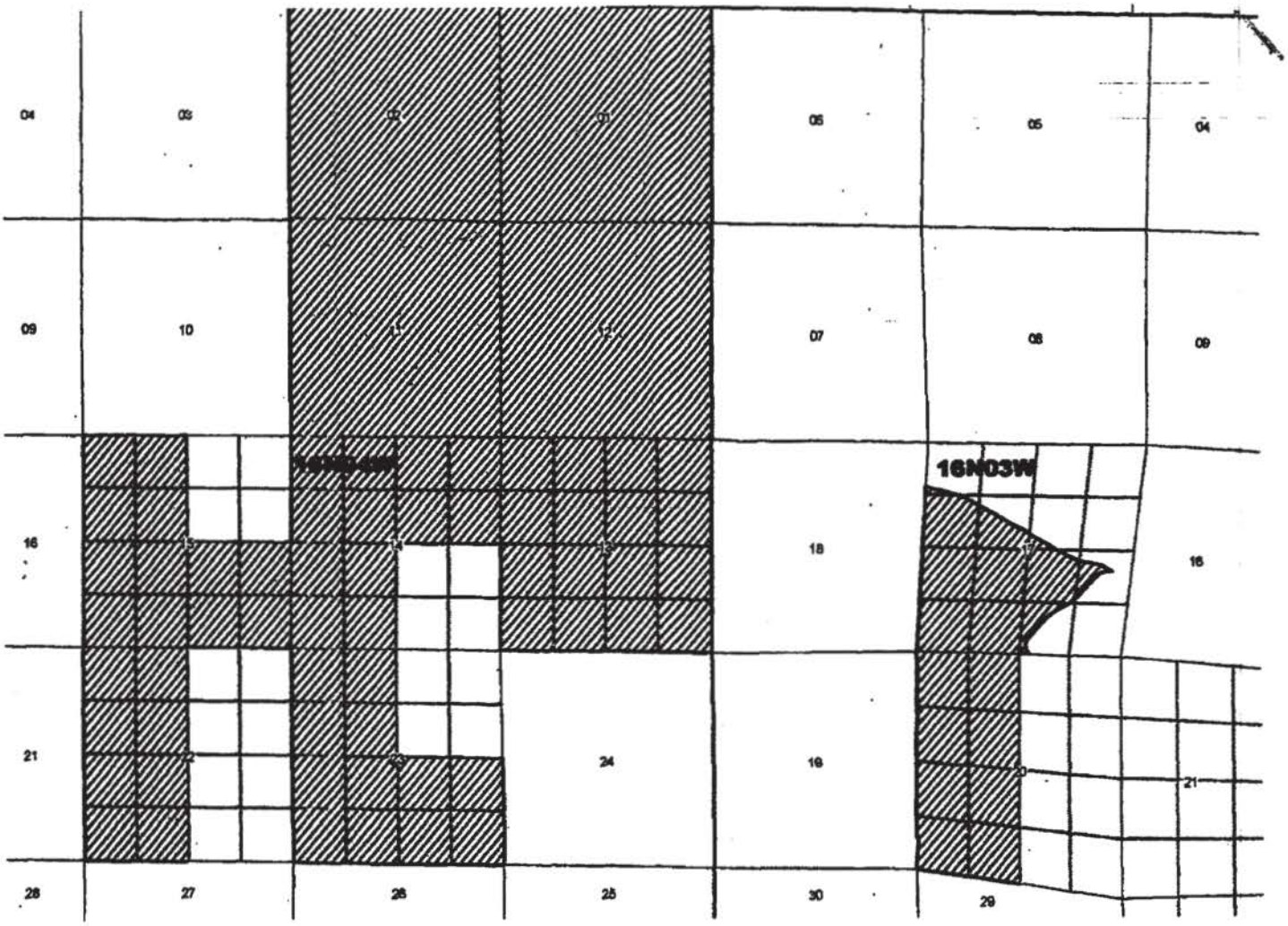
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EXHIBIT 2

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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

Arizona Corporation Commission
DOCKETED
MAY 23 2014
DOCKETED BY

IN THE MATTER OF MIDVALE TELEPHONE COMPANY, INC.'S APPLICATION FOR EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY.	**DOCKET NO. T-02532A-08-0542** **DECISION NO. 74487** **OPINION AND ORDER**

DATE OF HEARING:	**April 15, 2014**
PLACE OF HEARING:	**Phoenix, Arizona**
ADMINISTRATIVE LAW JUDGE:	**Yvette B. Kinsey**[1]
APPEARANCES:	**Mr. Gary H. Horton, on behalf of Midvale Telephone Company, Inc.;** **Mr. Norman G. Curtright, on behalf of Qwest Corporation dba CenturyLink-QC; and** **Mr. Matthew Laudone, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.**

BY THE COMMISSION:

This case involves a request by Midvale Telephone Company, Inc. to extend its Certificate of Convenience and Necessity to provide facilities-based local exchange telecommunications services in a portion of service territory currently held by Qwest Corporation doing business as ("dba") CenturyLink-QC.

* * * * * * * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

. . .

[1] Administrative Law Judge Yvette B. Kinsey presided over the evidentiary hearing for Administrative Law Judge Sarah N. Harpring, who prepared the Recommended Opinion and Order in this matter.

FINDINGS OF FACT

Procedural History

1. On October 17, 2008, Midvale Telephone Exchange Inc. ("Midvale") filed with the Arizona Corporation Commission ("Commission") an application requesting an amendment to its Certificate of Convenience and Necessity ("CC&N"), to add customer locations within Qwest Communication Corporation's ("QCC's") service area.[2] In the application, Midvale stated that it desired Commission authorization to provide facilities-based local exchange service and toll service to two currently unserved customers located in an area of Yavapai County immediately contiguous to the Long Meadows portion of Midvale's Mill Site Exchange ("extension area").

2. On November 12, 2008, Qwest Corporation ("Qwest") filed a notice indicating that it had accepted service of process of Midvale's application, as it was Qwest rather than QCC that was providing local exchange telecommunications services in the extension area. Qwest requested that the service list for this matter be revised to include Qwest and exclude QCC.

3. On November 14, 2008, the Commission's Utilities Division ("Staff") issued a Letter of Insufficiency to Midvale, along with a request for additional data.

4. No additional filings were made in this docket until May 7, 2010, when a Procedural Order was issued requiring Staff to file an update on the status of this matter, including any appropriate recommendations as to how the matter should be resolved and a statement regarding whether the matter should be administratively closed.

5. On May 12, 2010, Midvale filed an Amended Application, in which Midvale continued to identify QCC as the provider for the service area including the extension area. Midvale stated that the Amended Application changed the description of the extension area and provided updated loop/line counts. Subsequently, Midvale filed a revised legal description for the extension area.

6. On May 26, 2010, Staff filed a Staff Update stating that Staff was reviewing Midvale's application and would process it.

[2] This was an error, as the correct entity was Qwest Corporation.

7. On June 14, 2010, Midvale filed Responses to Staff's First Set of Data Requests.

8. On June 29, 2010, Staff filed a Letter of Sufficiency stating that Midvale's Amended Application had met the sufficiency requirements of A.A.C. R14-2-502 and that the Commission had 150 calendar days to complete its substantive review.

9. On July 1, 2010, a Procedural Order was issued requiring Qwest, by July 30, 2010, to file a document either requesting to be added to this docket as a joint applicant or explaining why it was not necessary for Qwest to participate as a party herein. The Procedural Order further permitted Midvale and Staff to make filings providing input on the need for Qwest to participate as a party herein and extended the Commission's time frame to issue a Decision in this matter by 30 days.

10. On July 30, 2010, Qwest filed Qwest Corporation's Motion to be Added as a Necessary Party and Statement of Position, in which Qwest requested to be added as a necessary party in interest to this proceeding and not to be designated as a joint applicant. Qwest stated that Qwest supported Midvale's Amended Application and that Qwest was willing to participate and fully cooperate in the proceeding, but that Qwest was not the moving entity and did not believe it should be required to bear the costs of the proceeding. Qwest also noted that Qwest and Midvale had agreed that the circumstances underlying Midvale's Amended Application also existed or could arise with other portions of Qwest's Prescott Exchange bordering Midvale's existing service area. Qwest stated that Midvale and Qwest had agreed that it would be more efficient to address these circumstances comprehensively in this proceeding by including additional portions of Qwest's Prescott Exchange that could be served more economically by Midvale. Qwest further stated that it understood Midvale was preparing to amend its Amended Application.

11. On August 11, 2010, a Procedural Order was issued joining Qwest as a necessary party in interest in this matter and suspending the time frame in this matter until Midvale filed with Docket Control either an amendment to its Amended Application or a document stating that it was ready to go forward with its Amended Application as it stood.

12. On November 15, 2010, Midvale filed a Second Amended Application, in which it again identified QCC as the holder of the service area in which the extension area was located and amended the extension area to include additional areas.

13. On November 16, 2010, a Procedural Order was issued requiring Qwest to file a response to Midvale's Second Amended Application, requiring Staff to file a document regarding the sufficiency of Midvale's Second Amended Application, and suspending the time frame in this matter.

14. On December 7, 2010, Staff filed Staff's Second Letter of Insufficiency and Second Set of Data Requests.

15. On December 15, 2010, Midvale filed an amended Attachment C to its Second Amended Application, which included a legal description.

16. On January 4, 2011, Qwest filed its response to the Second Amended Application, stating that the legal description in the amended Attachment C to the Second Amended Application was correct; that Qwest was the local exchange service provider of record in the affected areas; and that Qwest consented to the transfer of the extension area to Midvale, for the reasons stated in Qwest's Motion filed on July 30, 2010.

17. No additional filings were made in this docket until December 16, 2011, when a Procedural Order was issued requiring Midvale and Qwest to make filings providing their current positions in the matter and proposals for how the matter should proceed and requiring Staff to file a response including a recommendation as to how this matter should proceed.

18. On January 6, 2012, in Docket No. T-02532A-10-0207 et al., Decision No. 72728[3] was issued approving Midvale's request to transfer its assets, liabilities, and customers to Midvale Telephone Company, Inc. ("MTCI") and transferring to MTCI both Midvale's CC&N for facilities-based local exchange telecommunications services and Midvale's Eligible Telecommunications Carrier ("ETC") designation.

19. On January 17, 2012, Qwest dba CenturyLink-QC ("CenturyLink")[4] filed its response to the December 2011 Procedural Order, stating that its position in this matter had not changed and that it continued to support the proposed transfer of territory as set forth in the Second Amended Application, as amended by Midvale's Attachment C. CenturyLink added that it believed this matter

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[3] Official notice is taken of this Decision.

[4] On March 9, 2011, in Decision No. 72232, the Commission granted, pursuant to the terms of a Settlement Agreement, approval of an application for merger of parent corporations Qwest Communications International Inc. and CenturyTel, Inc. Official notice is taken of this Decision.

should proceed in typical fashion, with a Staff Report, followed by a brief hearing after notice to affected customers.

20. On January 30, 2012, MTCI filed its response to the December 2011 Procedural Order, stating that MTCI desired to seek transfer of the territory in the Second Amended Application, as amended by Midvale's Attachment C. MTCI stated that it believed the matter should move forward with a Staff Report, notice to Midvale's customers, and a short hearing. MTCI also stated that it would not object to having the matter proceed to Open Meeting without a hearing.

21. On February 17, 2012, Staff filed its response to the December 2011 Procedural Order, stating that Staff agreed that the matter should proceed, but had not yet received a response to Staff's Second Letter of Insufficiency and Second Data Request. Staff recommended that, in order to move forward, Midvale file its response to the Second Data Request and all future Data Requests in an expeditious manner, to allow Staff to make a sufficiency finding and complete its analysis. Staff stated that it agreed with the process described by CenturyLink in its January 2012 filing.

22. No additional filings were made in this docket until April 9, 2013, when a Procedural Order was issued requiring MTCI and CenturyLink to make filings providing their current positions in the matter and proposals for how the matter should be resolved, requiring Staff to make a filing in response and including a recommendation as to how the matter should be resolved, and requiring all of the parties to address whether this docket should be administratively closed.

23. On May 10, 2013, CenturyLink filed its response to the April 2013 Procedural Order, stating that its position had not changed and that it continued to support the proposed transfer of territory as set forth in Midvale's Second Amended Application, as amended by Midvale's Attachment C filed on December 15, 2010. CenturyLink stated that the proceeding should move forward.

24. On May 13, 2013, MTCI filed its response to the April 2013 Procedural Order, stating that it was still in the public interest for the transfer to be completed; that the only barrier to sufficiency was the filing of an acceptable legal description of the transfer area; and that the matter should move forward to Open Meeting, without a hearing, once the Second Amended Application was found sufficient, a Staff Report was filed, and notice was given to affected customers.

25. On May 21, 2013, Staff filed its response to the April 2013 Procedural Order, stating that Staff agreed the matter should proceed, that Staff had been working on the correct legal description with MTCI and CenturyLink, and that Staff would be filing a corrected legal description. Staff stated that it would then make a sufficiency finding, complete its analysis, and file a Staff Report.

26. On November 18, 2013, Staff filed a corrected legal description and corresponding map. Staff stated that both MTCI and CenturyLink agreed as to the legal description and that CenturyLink had confirmed that it had no customers in the transfer area.

27. On February 11, 2014, Staff filed its Staff Report, recommending approval of MTCI's Second Amended Application, subject to certain conditions.

28. On February 14, 2014, a Procedural Order was issued setting the date for hearing in this matter.

29. On February 28, 2014, CenturyLink filed its Request for Legal Counsel to Appear Telephonically at the April 15, 2014 hearing ("Request").

30. On March 14, 2014, a Procedural Order was issued granting CenturyLink's Request.

31. On April 2, 2014, MTCI filed a Notice of Filing of Affidavit of Publication and Mailing, showing that the prescribed notice of the hearing in this matter had been mailed to all residents of the extension area on March 11 and 12, 2014, and published in *The Daily Courier*, a daily newspaper of general circulation published in the City of Prescott, March 14 through March 16, 2014.

32. On April 15, 2014, a full evidentiary hearing in this matter was held before a duly authorized Administrative Law Judge of the Commission at the Commission's offices in Phoenix, Arizona. MTCI, CenturyLink, and Staff appeared through counsel[5] and provided evidence.[6] No member of the public appeared to provide public comment.

. . .

. . .

[5] Counsel for CenturyLink appeared telephonically.

[6] At MTCI's request, official notice was taken of the filings made by Midvale and MTCI in the docket for this matter, to include application filings, data responses, and proof of notice. (Tr. at 6.)

General Background

33. Midvale was granted a CC&N to provide facilities-based local exchange telecommunications services in its Cascabel Exchange in Decision No. 58048 (October 29, 1992). (Ex. S-1 at 4.) MTCI now holds Midvale's CC&N, for which the service area has been expanded through subsequent Commission Decisions to include the Young, Silver Bell, Granite Mountain, and Mill Site Exchanges as well. (*See id.* at 4-5.) MTCI is a facilities-based Incumbent Local Exchange Carrier ("ILEC") and holds ETC designation. (Decision No. 72728 at 1.)

34. MTCI has been providing service in the Mill Site Exchange area for approximately 11 years. (Tr. at 11.) As of December 2, 2013, MTCI was providing services to approximately 1,142 rural residential customers and 98 rural business customers. (Ex. S-1 at 5.)

35. Staff reported that MTCI is in good standing with the Commission's Corporations Division; that all complaints filed with the Commission regarding MTCI had been resolved and closed as of December 2, 2013; and that MTCI had no outstanding Commission compliance items. (Ex. S-1 at 7.) MTCI reported that it has never had its authorization to provide service revoked in any state and, further, that it has not been the subject of any complaints filed with the Commission or the Federal Communications Commission ("FCC") since the Staff Report was issued in February 2014. (Tr. at 11.)

36. CenturyLink, through its predecessors, is also an ILEC and has been providing facilities-based local exchange services in Arizona since before Arizona's statehood. (*See* Decision No. 70641 (December 17, 2008); Decision No. 74092 (September 23, 2013)[7]; Tr. at 14.) CenturyLink's Arizona service area is designated in service area maps incorporated into its tariffs and approved by the Commission. (*See id.*)

Requested Extension Area

37. The extension area requested by MTCI, which is fully identified in Exhibit A, attached hereto and incorporated herein,[8] contains all of Sections 1, 2, 11, 12, and 13 and portions of Sections 14, 15, 22, and 23 within Township 16 North, Range 4 West of the Gila and Salt River Base and

[7] Official notice is taken of these Decisions.

[8] Official notice is taken of Staff's Notice of Filing Corrected Legal Description, docketed in this matter on November 18, 2013.

Meridian, Yavapai County, as well as portions of Sections 17 and 20 within Township 16 North, Range 3 West of the Gila and Salt River Base and Meridian, Yavapai County.

38. MTCI's Mill Site Exchange borders the extension area, and Midvale intends to provide service to customers in the extension area under the same rates and conditions as in its Mill Site Exchange. (Tr. at 9.) According to MTCI, there are potentially six to eight customers in the extension area, most of them residential. (*Id.* at 10.) MTCI has been providing local exchange service to two residential customers within the extension area, pursuant to agreement with CenturyLink, since May 2008 and January 2012, respectively. (Ex. S-1 at 7.)

39. Because MTCI has existing fiber running through the entire extension area, MTCI asserted that the only expense for MTCI to provide service to customers within the extension area would be from running drops to the homes, for which MTCI would charge a $35 installation fee per customer. (Tr. at 10-11.) MTCI intends to provide a full range of modern telecommunications services, including high speed internet access, to the extension area customers using Fiber to the Home ("FTTH") technology and further intends to complete construction and provide service within 60 days of a customer request. (Ex. S-1 at 6.)

40. MTCI will not borrow funds to finance any necessary construction, using general funds instead. (Ex. S-1 at 6.) MTCI has ETC designation and receives Federal Universal Service Funds ("FUSF") in the Mill Site Exchange, but predicts little impact to its FUSF receipts because of the low number of potential customers in the extension area. (*Id.*)

41. MTCI's tariffed rate for residential basic local exchange service in the Mill Site Exchange is $24.00, and its rate for basic business local exchange service is $30.00. (Ex. S-1 at 7.) MTCI also offers to its Mill Site Exchange customers vertical services such as caller ID, call forwarding, call waiting, and 3-way calling; broadband service; and extended area service ("EAS") calling for all three CenturyLink Exchanges within the Prescott local calling area. (*Id.*) Additionally, MTCI provides a toll-free customer service line during regular business hours and emergency and service outage reporting at all times, with employees on standby to correct problems. (*Id.*)

42. CenturyLink is willing and would be able to serve customers within the extension area, but the cost for CenturyLink to provide that service may be viewed as prohibitive by those

customers, as CenturyLink's tariff would require potential customers to pay any applicable line extension costs. (Ex. S-1 at 6; Tr. at 14-15.) CenturyLink's facilities construction costs would be higher than MTCI's costs because CenturyLink does not have any nearby facilities, while MTCI does. (Ex. S-1 at 6.) Thus, although CenturyLink's recurring monthly rate for basic residential service is lower than MTCI's, the overall cost to customers would likely be higher. (*Id.*) CenturyLink has asserted that it would be reasonable and in the public interest for the Commission to approve MTCI's application, and CenturyLink supports it. (*Id.*; Tr. at 15.) CenturyLink asserted that it has no existing customers in the extension area, that none of its existing customers will be impacted by the transfer of the extension area to MTCI, and that the Second Amended Application addresses all of the areas that CenturyLink has identified as being more appropriately served by MTCI than by CenturyLink. (Tr. at 15-17.)

Federal Study Area Boundary Freeze

43. CenturyLink's witness testified that a Study Area boundary freeze waiver must be obtained from the FCC whenever service territory boundaries change. (Tr. at 16-17.) Thus, CenturyLink testified that it would work with the FCC to ensure that the FCC requirements are met. (*Id.*) CenturyLink also asserted that the FCC only approves such a waiver after Commission approval is obtained. (*Id.* at 18.) CenturyLink is willing to file notice in the docket for this matter when the FCC waiver is approved. (*Id.*)

44. In a prior case in which the Commission was requested to provide a statement that it did not object to a Study Area boundary waiver, the Commission stated the following:

> Staff explained that the FCC froze Study Area boundaries as of November 15, 1984, to prevent holding companies from setting up high cost exchanges as separate companies within the holding companies' existing territories to maximize high-cost support. Staff stated that in reviewing Study Area waiver petitions, the FCC considers (1) whether the change in Study Area boundaries will adversely affect the USF, (2) whether a state commission with regulatory authority over the transferred area has opposed the transfer, and (3) whether the transfer is in the public interest.
>
> . . . .
>
> [The Company] testified that the FCC waiver would allow [it] to include the . . . extension area within its Study Area and thus in its cost study. Without the waiver, [the Company] would be required to make a separate

> cost study for the . . . extension area, would not be able to receive federal USF on its costs, and would have to file separate National Exchange Carrier Association ("NECA") tariffs[5] for it, all of which would be administratively burdensome. [The Company] also testified that the FCC waiver would ultimately allow [it] to receive federal USF for the . . . extension area.
>
> [5] NECA represents small rural carriers' interests before the federal government and files with the federal government consolidated tariffs that all of the represented carriers participate in.[9]

45. No party has disputed CenturyLink's assertion regarding the need for an FCC waiver of the Study Area boundary freeze or objected to the Commission's expressing support for such a waiver.

Staff's Recommendations

46. Staff asserted that it is in the public's best interests to grant MTCI the requested CC&N extension because customers in the extension area will receive cheaper service establishment faster than they would with CenturyLink. (Tr. at 21-22.)

47. Staff recommends that the Commission:

(a) Find approval of MTCI's requested CC&N extension to be in the public interest;

(b) Authorize MTCI to use its Mill Site Exchange rates, charges, and other terms and conditions of service in the extension area; and

(c) Approve the transfer of the extension area from CenturyLink to MTCI, subject to the following conditions:

(i) MTCI and CenturyLink shall update their service area maps on file with the Commission within 60 days of a Decision granting MTCI's application; and

(ii) MTCI shall include the extension area as part of its Mill Site Exchange and shall apply its currently authorized tariffed rates and charges for the Mill Site Exchange to the extension area until further Order of the Commission.[10]

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[9] Decision No. 70641 at 10 (citations omitted).
[10] Ex. S-1 at 8.

48. Neither MTCI nor CenturyLink expressed objection to Staff's recommendations. (Tr. at 12, 16.)

Resolution

49. Based upon the record in this matter, we conclude that the interests of the residents of the extension area, and the public interest, will be best served by granting MTCI's request for an extension of its CC&N to include the extension area described in Exhibit A hereto.

50. Staff's recommendations set forth in Findings of Fact No. 47 are reasonable and appropriate and in the public interest and will be adopted.

51. CenturyLink's request that the Commission express support for an FCC waiver of the Study Area boundary freeze, to allow the transfer of the extension area from CenturyLink to MTCI, is reasonable and appropriate and will be granted. Additionally, the Commission will require CenturyLink to file notice that such a waiver is received.

CONCLUSIONS OF LAW

1. MTCI is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. CenturyLink is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

3. The Commission has jurisdiction over MTCI and CenturyLink and the subject matter of MTCI's application.

4. Notice of MTCI's Second Amended Application and the hearing in this matter was given in accordance with the law.

5. Pursuant to Article XV of the Arizona Constitution and the Arizona Revised Statutes, it is in the public interest to eliminate the extension area from CenturyLink's service area and to allow MTCI to extend its CC&N service area to include the extension area.

6. MTCI is a fit and proper entity to receive an extension of its CC&N service area to include the extension area.

7. It is just and reasonable and in the public interest to allow MTCI to charge in the extension area the rates and charges in MTCI's existing tariffs on file with the Commission for the

Mill Site Exchange.

8. It is just and reasonable and in the public interest to allow the extension area to be included in MTCI's Mill Site Exchange.

9. Staff's recommendations, as set forth in Findings of Fact No. 47, are just and reasonable and in the public interest and should be adopted.

10. CenturyLink's request for the Commission to express support for an FCC waiver of the Study Area boundary freeze, to allow the transfer of the extension area from CenturyLink to MTCI, is just and reasonable and in the public interest and will be granted. Additionally, the Commission will require CenturyLink to file notice when such a waiver is received.

ORDER

IT IS THEREFORE ORDERED that Midvale Telephone Company, Inc.'s Certificate of Convenience and Necessity is hereby extended to include within its service area the extension area for which the full legal description is set forth in Exhibit A attached hereto.

IT IS FURTHER ORDERED that Qwest Corporation dba CenturyLink-QC's service area is hereby modified by eliminating from the service area the extension area for which the full legal description is set forth in Exhibit A attached hereto.

IT IS FURTHER ORDERED that Midvale Telephone Company, Inc. shall, within 60 days after the effective date of this Decision, file with the Commission's Docket Control, as a compliance item in this docket, an updated service area map showing the modification approved herein.

IT IS FURTHER ORDERED that Qwest Corporation dba CenturyLink-QC shall, within 60 days after the effective date of this Decision, file with the Commission's Docket Control, as a compliance item in this docket, an updated service area map showing the modification approved herein.

IT IS FURTHER ORDERED that Midvale Telephone Company, Inc. shall charge in the extension area granted herein those rates and charges set forth in Midvale Telephone Company, Inc.'s existing tariffs on file with the Commission for its Mill Site Exchange.

IT IS FURTHER ORDERED that the Commission does not object to the Federal Communications Commission's granting a waiver of the Study Area boundary freeze to allow

Midvale Telephone Company, Inc. and Qwest Corporation dba CenturyLink-QC to modify their respective Study Areas to reflect the transfer of the extension areas granted herein.

IT IS FURTHER ORDERED that Qwest Corporation dba CenturyLink-QC shall file with the Commission's Docket Control, within 60 days after it occurs, a notice of the Federal Communications Commission's action on the Study Area boundary freeze waiver request.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 23rd day of May 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SH:ru

SERVICE LIST FOR: MIDVALE TELEPHONE COMPANY, INC.

DOCKET NO.: T-02532A-08-0542

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EXHIBIT A

MIDVALE TELEPHONE EXCHANGE, INC.
DOCKET NO. T-02532A-08-0542
SERVICE AREA TO BE TRANSFERRED FROM CENTURYLINK (QWEST) TO MIDVALE
THIRD AMENDED LEGAL DESCRIPTION

Township 16 North, Range 4 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona:

All of Sections 1, 2, 11, 12 and 13;

The North Half and the Southwest Quarter of Section 14;

The South Half and the Northwest Quarter of Section 15;

The West Half of Section 22;

The South Half and the Northwest Quarter of Section 23.

Township 16 North, Range 3 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona:

The West Half of Section 20;

That portion of Section 17 lying south of Williamson Valley Road (as it exists today) and west of the west boundary of the "Hootenanny Holler Subdivision" said subdivision boundary further described as follows:

Beginning at a point on the south line of said Section 17 which is 238.01 feet east of the South Quarter Corner;

THENCE North 28 Degrees 50 Minutes 25 Seconds West, along the west line of said "Hootenanny Holler" Subdivision, a distance of 172.15 feet to a point on a curve, concave to the east, the center of which bears North 61 Degrees 09 Minutes 35 Seconds East, a distance of 168.03 feet;

THENCE northerly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 71 Degrees 03 Minutes 04 Seconds, a distance of 208.37 feet;

THENCE North 42 Degrees 12 Minutes 35 Seconds East, continuing along the west line of said "Hootenanny Holler" Subdivision, a distance of 728.73 feet to a point on a curve, concave to the east, the center of which bears South 47 Degrees 47 Minutes 25 Seconds East, a distance of 675.57 feet;

THENCE northeasterly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 17 Degrees 13 Minutes 00 Seconds, a distance of 203.00 feet;

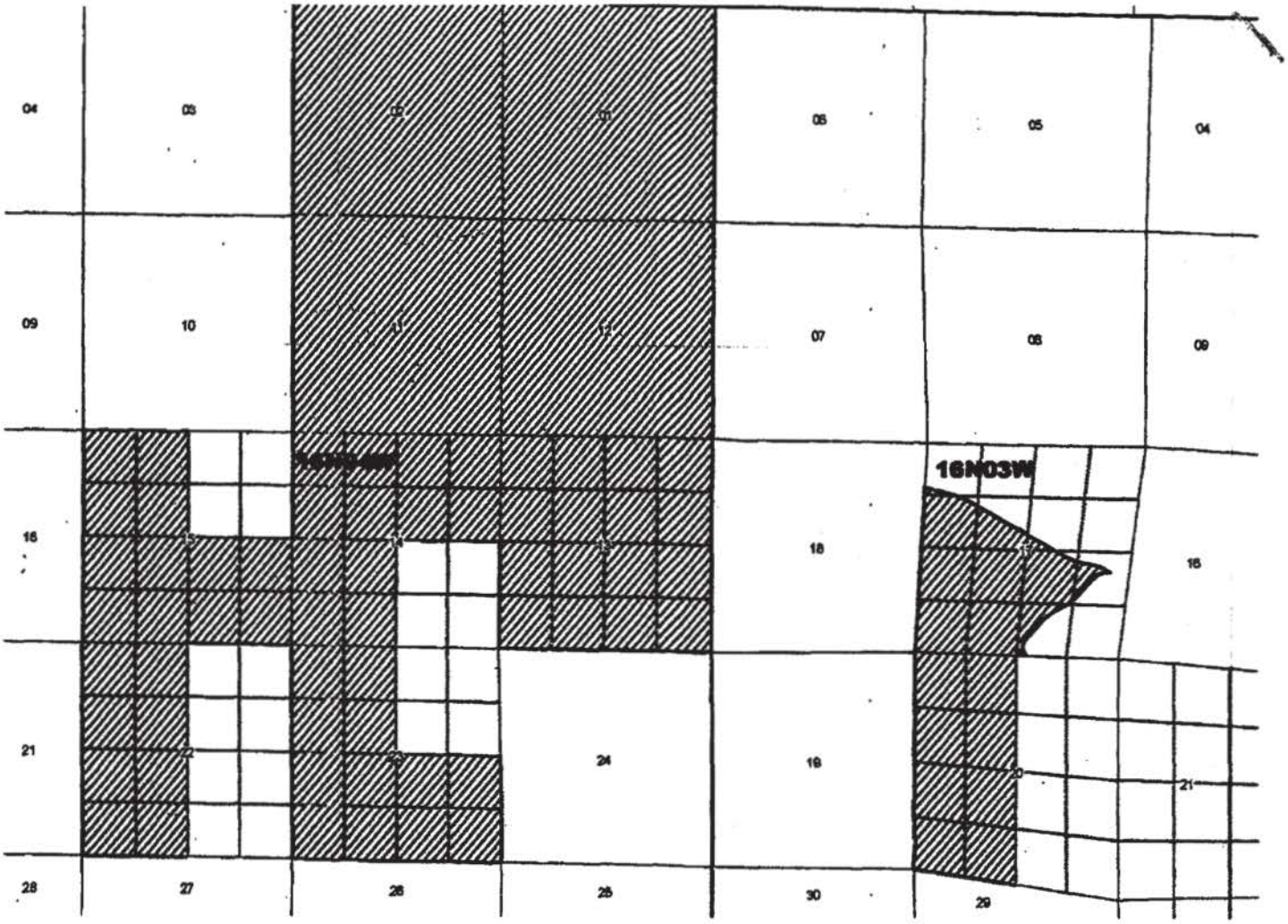
THENCE North 59 Degrees 25 Minutes 35 Seconds East, continuing along the west line of said "Hootenanny Holler" Subdivision, a distance of 633.11 feet to a point on a curve, concave to the northwest, the center of which bears North 30 Degrees 34 Minutes 25 Seconds West, a distance of 658.13 feet;

THENCE northeasterly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 16 Degrees 53 Minutes 59 Seconds, a distance of 194.12 feet;

THENCE North 42 Degrees 31 Minutes 35 Seconds East, continuing along the west line of said "Hootenanny Holler" Subdivision, a distance of 645.96 feet to a point on a curve, concave to the southeast, the center of which bears South 47 Degrees 28 Minutes 25 Seconds East, a distance of 420.46 feet;

THENCE northeasterly, continuing along the west line of said "Hootenanny Holler" Subdivision and along the arc of said curve, through a central angle of 20 Degrees 33 Minutes 03 Seconds, a distance of 150.81 feet to Williamson Valley Road.

EXHIBIT 2 DOCKET NO. T-02532A-08-0542



DECISION NO. 74487