



Westelcom Family of Companies

Ex Parte Presentation
March 8, 2016

BACKGROUND

Westelcom Network, Inc. (“Westelcom” or the “Company”) 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. (“AT&T”); CenturyLink’s reply comments supported AT&T.

Westelcom filed its reply comments on May 11, 2015.

Multiple *ex partes* have been made by Westelcom with attachments.

UPDATE

Multiple reasons have been provided by the Company in its filings in this proceeding as to why a grant of Westelcom's Petition is in the public interest and advances the following Commission policies -- the provision of advanced services, advancement of rural telemedicine, and reasonable access charge transitions.

These policies are better achieved by a grant of Westelcom's Petition rather than through the rote application of 47 C.F.R. § 61.26(a)(6).

For example, based on the facts in this proceeding, rote application of Section 61.26(a)(6) to Westelcom is contrary to these existing Commission policies.

Common sense supports the conclusion that a ninety-six (96%) flash cut reduction in its interstate switched access revenue arising from the Census Bureau's reclassification of Watertown as an urbanized area is not a reasonable transition that avoids flash cuts.

The flash cut reduction has resulted in Westelcom not being able to expand its current fiber-based network to new areas seeking advanced services such as broadband (although current customer needs are able to be met).

The Company is unable to expand its ability to meet the needs of its significant rural critical care facility customers (*e.g.*, hospitals and supporting entities in the rural Adirondack North Country area).

The Company is not alone in these concerns; Senator Kirsten Gillibrand and Senator Chuck Schumer agree in their February 18, 2016 letter to Chairman Wheeler.

As Senator Gillibrand and Senator Schumer have informed the Commission:

"We are deeply concerned that the failure to act promptly in this matter will directly harm the rural areas served by Westelcom. . . . The relief requested in this waiver petition is consistent with the Commission's goal of ensuring the deployment of robust broadband networks in rural America, including the sparsely-populated rural Adirondack North Country region in New York, and the advancement of rural telemedicine networks."

"Through their broadband network investments, Westelcom has become a critical source of communication services to medical centers seeking to provide telehealth medicine."

"Without this revenue, Westelcom will not be able to continue its investments into the deployment of the fiber-based network serving specific rural areas of upstate New York. . . ."

UPDATE (cont'd)

The potential for “Me-Too” requests should not delay prompt FCC action granting Westelcom’s Petition.

Westelcom noted that it was unaware of any other entity that could provide the specific, fact-rich request that it had filed regarding the impact on the Company’s operations of the Census Bureau’s (“CB’s”) reclassification of Watertown, New York as an “urbanized area.”

Moreover, while the CB announced new standards in March of 2012 that resulted in Watertown, New York being reclassified as an “urbanized area,” in doing so the CB specifically noted that agencies relying on such CB classifications should make sure that the CB action was consistent with that agency’s purposes, *i.e.*, policies, “of its program.”

AT&T Services, Inc. (“AT&T”) stated in its comments at page 6, n. 30, that “[t]o the extent the Commission is persuaded to grant Westelcom’s request, the Commission should carefully craft the language of any waiver order to avoid opening a significant loophole and potentially encouraging arbitrage.”

The Company’s reply comments amply rebutted the contentions that AT&T argues supported its opposition to the Petition (including the fact that no arbitrage concerns exist in this case).

The Company is confident that the Commission and its Staff can draft an order granting the Petition that is intended to be limited to the specific factual circumstances that Westelcom has provided to the Commission.