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PUBLIC NOTICE

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DA 02-1466

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON SMITH BAGLEY, INC. PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR THE NAVAJO RESERVATION IN UTAH

PLEADING CYCLE ESTABLISHED

CC Docket No. 96-45

Release Date: June 21, 2002

Comment Date: 30 days after publication in Federal Register
Reply Comment Date: 45 days after publication in Federal Register

On May 24, 2002, Smith Bagley, Inc. (Smith Bagley) filed with the Commission a petition under section 214(e)(6) seeking designation as an eligible telecommunications carrier (ETC) to receive federal universal service support for the provision of service on the Navajo Reservation in Utah.[1] Smith Bagley contends that its service offering to tribal residents on the Navajo Reservation is not subject to the jurisdiction of the Public Service Commission of Utah (Utah Commission).[2] Smith Bagley also maintains that it satisfies all the statutory and regulatory requirements to be an ETC, and that designating Smith Bagley as an ETC for the Navajo Reservation in Utah will advance the public interest.[3] The Wireline Competition Bureau seeks comment on Smith Bagley's petition.

In the *Twelfth Report and Order*, the Commission concluded that a carrier seeking ETC designation for service provided on tribal lands may petition the Commission for designation under section 214(e)(6), without first seeking designation from the appropriate state commission.[4] The petitioner must provide copies of its petition to the appropriate state

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[1] *See Smith Bagley, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Navajo Reservation in Utah*, filed May 24, 2002 (Smith Bagley Petition).

[2] Smith Bagley Petition at 3-6.

[3] *Id.* at 6-17.

[4] *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order,

commission at the time of filing with the Commission. Pursuant to the guidelines established in the *Twelfth Report and Order*, the Commission will publish a copy of this Public Notice, or a summary thereof, in the Federal Register.[5] The Commission will also send the Public Notice announcing the comment and reply comment dates to the Utah Commission by overnight express mail to ensure that the state commission is notified of the notice and comment period.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before **30 days after publication of the Public Notice in the Federal Register** and reply comments on or before **45 days after publication of the Public Notice in the Federal Register**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12265, para. 115 (2000) (*Twelfth Report and Order*). The petitioner must set forth in its petition the basis for its assertion that it is not subject to the state commission's jurisdiction, and bears the burden of proving that assertion. *Twelfth Report and Order*, 15 FCC Rcd at 12266, para. 120.

[5] *See Twelfth Report and Order*, 15 FCC Rcd at 12266-67, para. 120.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20054.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

For further information, contact Anita Cheng, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400, TTY (202) 418-0484.