

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

In the Matter of)
)
Jurisdictional Separations and Referral to the) CC Docket No. 80-286
Federal-State Joint Board) DA 07-3809
)
Petition by Gila River Telecommunications,)
Inc. Pursuant to 47 C.F.R. Sections 36.3,)
36.123 – 26, 36.152 –157 and 36.372 – 382)
for the Commission Approval t)
o Unfreeze Part 36 Category Relationships)

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ files these initial comments in response to the Federal Communications Commission’s (Commission’s or FCC’s) August 31, 2007, public notice seeking comment on Gila River Telecommunications’ (GRTI) petition (Petition)² for waiver concerning the Commission’s Part 36 Jurisdictional separation rules (Notice).³ NTCA supports GRTI, a rural rate-of-return independent local exchange carrier

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 575 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *Petition by Gila River Telecommunications, Inc., for Commission Approval to Unfreeze Part 36 Category Relationships*, CC Docket No. 80-296 (filed Nov. 21, 2006) (Petition).

³ *Commission Seeks Comment On Gila River Telecommunications, Inc. Petition For Waiver Concerning The Commission’s Part 36 Jurisdictional separations Rules, Public Notice Establishing Pleading Cycle*, CC Docket No. 80-286, DA 07-3809, Notice (rel. Aug. 31, 2007) (Notice), p. 1.

(ILEC), in its efforts to unfreeze its Part 36 Category Relationships, and NTCA urges the Commission to grant the Petition.⁴

I. Background.

On November 21, 2006, GRTI filed its Petition, seeking a waiver of 47 C.F.R. Sections Part 36.3, 36.123-126, 36.152-157, and 36.372-382 as those rules apply to frozen category relationships only.⁵ GRTI specifically notes that it does not seek a waiver of the Commissions rules” to unfreeze allocation factors used in apportioning regulated investment and expenses among the jurisdictions.”⁶ The category relationships GRTI seeks to unfreeze concern central office switching, circuit equipment, cable and wire facilities, and customer services.⁷ GRTI serves the Gila River Indian Reservation, consisting of about 12,000 current residents and covering nearly 625 square miles near Phoenix, Arizona.⁸ GRTI opted to freeze both its category relationships and allocation factors following the Commission’s 2001 Separations Report and Order.⁹

GRTI seeks the Part 36 waiver because its network demands have changed substantially since the 2001 freeze. GRTI has nearly doubled the number of access lines since purchasing the tribal territory in 1989 and extended service to nearly 1,000 tribal customers since 2000 through

⁴ Petition, p. 2.

⁵ Petition, p. 2.

⁶ *Ibid.*

⁷ *Id.*, pp. 2-3. Specifically, GRTI seeks waivers for Accounts 2210 (Central Office Switching), 2230 (Circuit Equipment), 2410 (Cable & Wire Facilities), and 6620 (Services). *Ibid.*

⁸ Petition, pp. 5, 6, 11, 12.

⁹ Petition, p. 6; *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, Report and Order, CC Docket No. 80-286 (rel. May 22, 2001) (2001 Separations Order).

GRTI's Lifeline and Link-up USF programs.¹⁰ GRTI's changes in its network technologies, services and investments since 2001 are not reflected in the frozen categories.¹¹ GRTI seeks a June 30, 2006 effective date.¹² On August 31, 2007, GRTI supplemented its Petition with additional data regarding frozen and unfrozen interstate and federal Universal Service High Cost Fund settlements, cost and rate base information, balance sheet data, and projected future expenses. GRTI seeks confidential treatment of this data.

II. The Commission Should Grant GRTI's Request.

GRTI asserts that its Petition serves the public interest of the Commission to provide new technologies to areas on Indian reservations.¹³ NTCA agrees and urges the Commission to grant GRTI's request due to the special circumstances GRTI provides in its Petition. GRTI is upgrading its network to provide advanced services, including DSL, to members of the Gila River Indian Community, yet its efforts to bring telephone and broadband services to unserved tribal areas are hampered by a reduced rate-of-return high cost support. GRTI is assisting the Gila River Tribe in its educational reforms, recreational and social needs, critical health services, fire-fighting and E911 demands and national homeland security efforts.¹⁴

NTCA agrees that GRTI should be allowed to recover its costs for material technology, services and investment changes since 2001.¹⁵ GRTI estimates that it will forego recovering

¹⁰ Petition, pp. 6, 10.

¹¹ *Id.*, p. 7.

¹² Petition, p. 17.

¹³ *Id.*, p. 9.

¹⁴ *Id.*, p. 12.

¹⁵ *Id.*, p. 7.

approximately \$1.2 million annually of its upgrade expenses if the separations waiver is not granted.¹⁶ While this sum is significant to GRTI, the amount will have no more than a minimal impact on the Universal Service Fund.¹⁷ The Petition and its supporting materials present a narrow, specific, detailed explanation of the harm that GRTI, a small rural rate-of-return carrier, experiences due to the continuation of the Part 36 freeze.¹⁸ GRTI has not been able to recover its significant service and plant upgrade costs in its unserved areas. GRTI recognizes that any waiver it would receive would continue until the Commission addresses comprehensive separations reform.¹⁹

NTCA, the National Exchange Carrier Association (NECA) and several other ILEC trade associations have urged the Commission in this docket to provide rate-of-return carriers a one-time option to freeze or unfreeze their category relationships for the remainder of the overall interim freeze.²⁰ Rate-of-return carriers like GRTI made their initial election regarding whether or not to freeze their category relationships based on an expectation that the freeze would last for five years. With the extension of the freeze for an additional three years, GRTI should be

¹⁶ *Id.*, pp. 12-13.

¹⁷ *Id.*, p. 16.

¹⁸ GRTI supplemented its Petition on August 31, 2007, with additional data regarding frozen and unfrozen interstate and federal Universal Service High Cost Fund settlements, cost and rate base information, balance sheet data, and projected future expenses. NTCA agrees that these data should receive confidential treatment, as GRTI requests, and notes that GRTI properly disclosed publicly the cumulative impact of its Petition on the USF - \$1.2 million annually – in its Petition. Petition, p. 12.

¹⁹ *Id.*, p. 14.

²⁰ *In the Matter of Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Comments of the Independent Telephone and Telecommunications Alliance, National Exchange Carrier Association, National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and the Western Telecommunications Alliance (filed Aug. 22, 2006), p. 3.

granted the option to reconsider its original decision in light of changed circumstances. GRTI has presented its case and its special tribal circumstances well; the Commission, therefore, should grant the requested waivers and effective date.

III. Conclusion.

For these reasons, the Commission should grant GRTI's Petition.

Respectfully submitted,

**NATIONAL TELECOMMUNICATIONS
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October 1, 2007

CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in CC Docket No. 80-286, DA 07-3809, was served on this 1st day of October 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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