

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Pond Branch Telephone Company AAD 95-126
and Ridge Telephone Company

Petition for Waiver of the Definition of
"Study Area" Contained in Part 36,
Appendix-Glossary, of the Commission's Rules

MEMORANDUM OPINION AND ORDER

Adopted: February 2, 1996; Released: February 5, 1996

By the Chief, Accounting and Audits Division

I. INTRODUCTION

1. On August 23, 1995, Pond Branch Telephone Company ("Pond Branch") and Ridge Telephone Company ("Ridge") (collectively, "Petitioners"), filed a petition for waiver ("Petition") of the definition of "Study Area" contained in the Part 36 Appendix-Glossary of the Commission's rules. That definition constitutes a rule freezing all study area boundaries. The requested waiver would allow consolidation of the Ridge and Pond Branch study areas into one study area.

2. On September 5, 1995, the Common Carrier Bureau ("Bureau") released a public notice soliciting comments on the Petition.¹ On September 29, 1995, the Bureau received comments supporting the Petition from two parties: the National Exchange Carrier Association ("NECA"), and the United States Telephone Association ("USTA"). In this Order, we find that allowing the creation of the consolidated study area will serve the public interest and we therefore grant the petition, as explained more fully below.

II. BACKGROUND

3. As stated in the petition, the two local exchange carriers ("LECs"), Pond Branch and Ridge, operate in the state of South Carolina and provide service to 10,667 and 1,524 access lines, respectively. Pond Branch purchased Ridge in the summer of 1992, but both companies maintained separate study areas until the instant petition.² Both Pond Branch and Ridge are cost companies, and both participate in the NECA pools. Pond Branch proposes to consolidate the Ridge study area into its study area which would then contain 12,191 access lines, and would continue to participate in the NECA pools as a cost company.

4. A study area is a geographical segment of a carrier's telephone operations. Generally, a study area corresponds to a carrier's entire service territory within a state. Thus, carriers operating in more than one state typically have one study area for each state, and carriers operating in a single state typically have a single study area. Study area boundaries are important primarily because carriers perform jurisdictional separations at the study area level.³ For jurisdictional separations purposes, the Commission froze study area boundaries effective November 15, 1984.⁴ The Commission took that action primarily to ensure that LECs do not set up high-cost exchanges within their existing service territories as separate study areas to maximize high-cost payments.⁵

5. Carriers wishing to change their study area boundaries can request a waiver of the frozen boundary rule. However, waiver of a commission rule is appropriate only if special circumstances warrant deviation from the general rule⁶ and such a deviation will serve the public interest.⁷ In evaluating petitions seeking a waiver of the frozen boundary rule, the Commission employs a threeprong standard.⁸ First, that the change does not adversely affect the Universal Service Fund ("USF") support program;⁹ second, that the state commission(s) having regulatory authority over the exchange(s) to be transferred does not object to the change;¹⁰ and third, that the public interest supports such a change.

¹ Public Notice, 10 FCC Rcd 9769 (Com. Car. Bur. 1995).

² See Petition at 2.

³ The phrase "jurisdictional separations," or "separations," refers to the process of dividing costs and revenues between a carrier's state and interstate operations. See generally 47 C.F.R. §§ 36.1 - 36.741.

⁴ 47 C.F.R., Part 36, Appendix-Glossary, definition of "Study Area" (1993). See MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72 and 80-286, 49 Fed. Reg. 48325 (Dec. 12, 1984) (1984 Joint Board Recommended Decision), adopted by the Commission, 50 Fed. Reg. 939 (Jan. 8, 1985) (1985 Order Adopting Recommendation). See also Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Notice of Proposed Rulemaking, 5 FCC Rcd 5974 (1990) (Study Area Notice).

⁵ See 1985 Order Adopting Recommendation, 50 Fed. Reg. 939, 940. Also see 1984 Joint Board Recommended Decision, 49 Fed. Reg. 48325, 48337.

⁶ *Northeast Cellular Telephone Company v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁸ See *US West Communications, Inc., and Eagle Telecom-*

munications, Inc., Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules, Memorandum Opinion and Order, 10 FCC Rcd 1771 (1995) (*US West-Eagle Study Area Order*) at para. 5.

⁹ See 1984 Joint Board Recommended Decision, 49 Fed. Reg. at 48337, para. 65. The Commission created the USF to preserve and promote universal service. See Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, 96 FCC 2d 781 (1984). The USF allows LECs with high local loop plant costs to allocate a portion of those costs to the interstate jurisdiction, thus enabling the states to establish lower local exchange rates in study areas receiving such assistance. The amount of USF assistance a LEC receives depends on how much its average cost per loop exceeds the national average. See 47 C.F.R. § 36.631.

¹⁰ See Order, Petitions for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules, Common Carrier Bureau, Released June 21, 1995 (DA 95-1403).

III. PETITION

6. Petitioners seek a waiver to consolidate the Ridge study area into the Pond Branch study area. Pond Branch states that the purpose of the merger is to consolidate administrative functions and to recognize cost savings that would benefit the companies and their customers. Further, the merger will result in a more efficient administration of local exchange service in this 650 square mile area.¹¹ In addition to administrative efficiencies, the petitioners also state that the merger of the Ridge study area into the Pond Branch study area will result in a reduction in interstate cost recoveries related to local switching investments. The petitioners state that the Dial Equipment Minutes ("DEM") factor weighting that is used to jurisdictionally allocate local switching, will decrease for Ridge (from 3.0 to 2.5) because Ridge will become part of a study area that is above the 10,000 line threshold. Petitioners estimate the decrease in interstate cost recovery related to this change to be \$64,921.¹² Further, the petitioners state that the proposed merger will reduce the need for the companies to incur additional administrative expense, including for example, the costs associated with conducting two interstate cost studies and two separate reporting requirements for NECA purposes. The petitioners estimate that these administrative efficiencies would result in savings to the combined companies of \$20,000 per year.¹³

IV. DISCUSSION

7. We conclude, based on the record before us, that the petitioners have made the necessary showings for granting the requested waiver petition. Specifically, we find that the three-prong standard, as discussed below, has been met.

8. *USF impact.* Petitioners state that in 1994 Pond Branch received \$774,310 and Ridge received \$11,471 in USF Funding for a total of \$785,781.¹⁴ The petitioners state that after the consolidation, Pond Branch would receive approximately \$787,275.¹⁵ As a result USF payments would increase by \$1,494. Based on the petitioners' statements, we find that the proposed reconfiguration would not adversely affect the USF support program.

9. *State commission approval.* Filed with the petition is a copy of the order, released June 23, 1995 by the South Carolina Public Service Commission ("SCPSC"), approving the merger of Pond Branch and Ridge.¹⁶ Further, the SCPSC submitted a letter stating that it does not object to the reconfigured study area boundaries that result from the approved merger.¹⁷

10. *Public interest finding.* We are persuaded by several factors that the public interest will be served by our approval of the requested Pond Branch/Ridge waiver. First, we believe that the consolidation should result in administrative cost savings for Pond Branch. For example, regulatory cost study expenses should be reduced by reason of having to perform one set of cost studies versus two. The administrative cost savings are estimated by the petitioners to be \$20,000 annually, and they should be passed on to

ratepayers through reduced rates. Second, interstate cost assignment will be reduced by almost \$65,000 after the merger due to the decrease in the DEM factor weighting for small companies. Finally, the estimated \$1,494 annual increase in USF support is a very small amount, and will not have an adverse effect on the USF program.

11. We therefore find, on the basis of the record before us, that the petitioners have shown good cause for granting the requested waiver. Accordingly, the petition for waiver is granted so that the new Pond Branch study area boundary will include the merged study area formerly known as Ridge.

V. ORDERING CLAUSE

12. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 155(c), and Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that the Petition of Pond Branch Telephone company and Ridge Telephone Company, for waiver of Part 36, Appendix Glossary, of the Commission's rules, 47 C.F.R. Part 36 Appendix-Glossary, IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Kenneth P. Moran
Chief, Accounting and Audits Division
Common Carrier Bureau

¹¹ Petition at 7.

¹² *Id.* at 8 and Attachment B, Exhibit 4.

¹³ *Id.* at 8.

¹⁴ See Attachment B, Exhibit 2.

¹⁵ *Id.*

¹⁶ See Attachment B, Exhibit 1, *Order Approving Merger and Issuing Certificate of Public Convenience and Necessity*, Order No. 95-1322, Docket No. 95-773-C, dated June 23, 1995.

¹⁷ Letter from Gary E. Walsh, Deputy Executive Director, SCPSC, to Mr. Bob Hall, Accounting and Audits Division, FCC, dated December 6, 1995.