

Morgan Lewis

Andrew D. Lipman

Partner

+1.202.373.6620

andrew.lipman@morganlewis.com

October 11, 2016

VIA ELECTRONIC DELIVERY

Commissioner Michael O'Rielly
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: WC Docket No. 08-71: Application for Review of SureWest Communications

Dear Commissioner O'Rielly:

On behalf of Consolidated Communications of California Company (formerly known as SureWest Telephone) and Consolidated Communications ("Consolidated"), I am writing about the pending Application for Review filed in this docket. I respectfully urge to you take a close look at the issues in this case.

Granting the Application for Review and requested waiver would benefit the public interest. As we have previously explained to your legal advisors, Consolidated would use the high cost support to accelerate broadband deployment projects in rural California that were deferred due to two quarters' funding loss of approximately \$3 million. Consolidated would specifically improve service to underserved consumers who currently receive less than 10/1 mbps broadband service and has voluntarily committed to spend 100% of the funds to deploy broadband-capable facilities to such underserved customers. It does not serve the public interest to delay upgrades to these customers due to what was, at most, a clerical error.

The Wireline Competition Bureau's order denying SureWest's petition for waiver (DA 13-2093) is inconsistent with its decision in *Smith Bagley, Inc. Petition for Waiver of Section 54.809(c) of the Commission's Rules and Regulations*, Order, CC Docket No. 96-45, 16 FCC Rcd. 15275 (Wireline Comp. Bur. 2001). In *Smith Bagley*, the Bureau relied on a public interest analysis to grant a waiver of filing deadline because strict application would not benefit consumers in the company's service territory. Similarly, strict application of the filing deadline and waiver denial here penalizes Consolidated's California customers by denying funds needed to complete broadband expansion projects.

In addition, approval of the waiver will not adversely affect the Commission's high-cost support policy objectives. To the best of my knowledge, no other company is similarly situated and no company will be in this position again because the certifications for Interstate Common Line

Morgan, Lewis & Bockius LLP

2020 K Street, NW, 10th Floor
Washington, DC 20004
United States

T +1.202.373.6000
F +1.202.373.6001

Commissioner Michael O'Rielly
October 11, 2016
Page 2

Support ("ICLS") were eliminated after the second quarter of 2013 as part of the 2011 *Transformation Order*. Moreover, the waiver would not apply to any company that has entirely failed to certify compliance. SureWest *had* filed a certification of compliance with the Commission covering its ICLS support (the only form of support it received at the time of the filing) for the two quarters for which support was withheld. As previously explained, the omission of the California Public Utility Commission certification was an oversight by Consolidated following SureWest's conversion from rate-of-return to price cap status in October 2012 as a result of its acquisition by Consolidated and the changes in the high-cost certification requirements resulting from the 2011 *Transformation Order*.

Accordingly, Consolidated respectfully requests that the Commission grant the Application for Review and requested waiver. Thank you for your time and attention.

Sincerely,

/s/ Andrew D. Lipman

Andrew D. Lipman
Attorney for Consolidated Communications of
California Company, f/k/a SureWest Telephone