

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

In the Matter of	)	
	)	
ABS TELECOM LLC and GARY SPECK	)	WC Docket No. 02-60
	)	
Request for Review of Decision of	)	
Universal Service Administrator	)	

REQUEST FOR RULE WAIVER

ABS Telecom LLC and its Managing Partner, Gary Speck (collectively “ABS”), by their attorney and pursuant to § 1.3 of the Commission’s rules (“Rules”), respectfully request that the Commission: (1) waive the filing deadline of § 54.720(a) of the Rules; and (2) accept their Request for Review that was electronically filed in the above-captioned proceeding at 12:01:52 AM on August 29, 2018.<sup>1</sup> In support thereof, the following is respectfully submitted:

ABS is seeking Commission review of a decision of the Universal Service Administrative Company that was issued on June 29, 2018.<sup>2</sup> Accordingly, under § 54.720(a) of the Rules, the deadline for submitting a request for review of that decision was Tuesday, August 28, 2018. However, as undersigned counsel previously explained, the 148-page Request for Review took much longer than expected to be scanned in preparation for submission using the ECFS.<sup>3</sup> Consequently, the pleading was electronically submitted a minute and 52 seconds late. Under these circumstances, good cause exists to justify a waiver of the 60-day filing deadline of § 54.720(a) of the Rules.

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<sup>1</sup> Attached hereto is a copy of the ECFS Confirmation (No. 20180829834705264) that shows that the Request for Review was submitted at 12:01:52 AM on August 29, 2018.

<sup>2</sup> See Request for Review at Ex. 1.

<sup>3</sup> See Letter from Russell D. Lukas to Marlene H. Dortch, WC Docket No. 02-60 (Aug. 28, 2018).

The Commission may waive any provision of its rules for good cause shown. *See* 47 C.F.R. § 1.3. Generally, a rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Here, the mere fact that the filing was less than two minutes late suffices to make strict compliance with the 60-day filing deadline contrary to the public interest and inconsistent with precedent.

The Wireline Competition Bureau (“WTB”) has waived the § 54.720 filing deadline when the filing parties “were only a few days late.” *Children of Peace School, Chicago, Illinois*, 25 FCC Rcd 5492, 5495 (¶ 6) (WTB 2010). In that case, the WTB waived the deadline when one appeal was “only 12 days late.” *Id.* In another case, it waived the § 54.720(a) deadline simply because the school district “missed the deadline for filing its appeal with the Commission by three days.” *Lower Merion School District, Ardmore, Pennsylvania*, 26 FCC Rcd 15444, 15446 n.9 (WTB 2011). If it served the public interest to waive the § 54.720(a) deadline because it was missed by just three days, it would serve the public interest to waive the filing deadline in this case where ABS missed the deadline by less than two minutes.

A waiver may be granted where it is shown that the “underlying purpose of the rule[] would not be served or would be frustrated by [its] application” in a case. 47 C.F.R. § 1.925(b)(3)(i). Here, the filing of the Request for Review one minute and 52 seconds after the deadline could not possibly hinder the Commission’s *de novo* review of USAC’s decision. The Request for Review was available for consideration when Commission staff arrived for work on Wednesday, August 29, 2018, just as it would have been had it been submitted one minute and 52 seconds before the deadline. Because the late filing will have no adverse affect on the Commission’s decision-making process, the Commission should waive the § 54.720(a) deadline and consider the Request for

Review on its merits. *Cf., Paging Systems, Inc.*, 25 FCC Rcd 450, 453 (¶ 7) (2010).

GOOD CAUSE HAVING BEEN SHOWN, the Commission should waive the 60-day filing deadline of § 54.720 of the Rules and accept ABS' Request for Review.

Respectfully submitted,



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September 11, 2018

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## Submit a Filing

1 **Filing** 2 **Review** 3 **Confirmation**

<b>Proceeding:</b>	02-60
<b>Confirmation #:</b>	20180829834705264
<b>Submitted:</b>	Aug 29, 2018 12:01:52 AM
<b>Status:</b>	SUBMITTED
<b>Name(s) of Filer(s)</b>	ABS Telecom LLC and Gary Speck
<b>Law Firm(s)</b>	Lukas, LaFuria, Gutierrez & Sachs, LLP
<b>Attorney/Author Name(s)</b>	Russell D. Lukas
<b>Primary Contact Email</b>	<a href="mailto:rlukas@fccclaw.com">rlukas@fccclaw.com</a>
<b>Type of Filing</b>	REQUEST
<b>File Number</b>	
<b>Report Number</b>	
<b>Bureau ID Number</b>	
<b>Address of</b>	Law Firm
<b>Address</b>	8300 Greensboro Drive , Tysons, VA, 22102
<b>Email Confirmation</b>	No

Submit Another  (/ecfs/filings)

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Fax: 1-866-418-0232

Contact Us (<https://www.fcc.gov/contact-us>)

**CERTIFICATE OF SERVICE**

I, Russell D. Lukas, hereby certify that on September 11, 2018, I caused a copy of the foregoing REQUEST FOR RULE WAIVER to be served via first-class mail and email upon the following:

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