

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

In the Matter of)	
)	
Universal Service High-Cost Filing)	WC Docket No. 08-71
Deadlines)	
)	

**PETITION OF COLUMBUS COMMUNICATIONS
SERVICES, LLC FOR WAIVER OF SECTION 54.903(a)(3)**

Pursuant to Section 1.3 of the rules of the Federal Communications Commission (“FCC” or “Commission”),¹ Columbus Communications Systems, LLC. (“CCS”) respectfully requests a waiver of the March 31, 2015, deadline for filing projected data necessary to calculate prospective Interstate Common Line Support (“ICLS”) with the Universal Service Administrative Company (“USAC”) as set forth in section 54.903(a)(3) of the Commission’s rules.² Failure to grant the waiver will cause substantial harm to CCS, as well as to members of this rural cooperative’s members located in southeastern Kansas. CCS demonstrates below that good cause exists sufficient for the Commission to grant the requested waiver.

I. BACKGROUND

CCS receives ICLS support to help offset subscriber line charges, which ensures affordable service is available to its customers. In order to receive ICLS, section 54.903(a)(3) of the Commission’s rules requires rate-of-return carriers to submit to USAC, projected data necessary to calculate the carrier’s prospective ICLS. Required data includes common line cost and revenue data for each of USAC’s study areas in the upcoming funding year. Carriers must submit projected data no later than March 31 for the funding year starting

¹ 47 C.F.R. § 1.3 (2013).

² 47 C.F.R. § 54.903(a)(3).

July 1 of the current year through June 30 of the following year. Carriers have three more months, until June 30, to submit corrections to the projected data for the upcoming funding year. Additionally, carriers may submit updated data on June 30 for the funding year ending on that date.

CCS is not a participant in the National Exchange Carrier Association (“NECA”) pool. For this reason, CCS submits its ICLS projected data required by section 54.903(a)(3) directly to USAC annually, at the end of March. CCS switched consultants in April of 2014 (after last year’s submission was prepared by its previous consultant) and was not, itself, accustomed to submitting the relevant ICLS filing directly to USAC, and, therefore, it erroneously missed the March 31, 2015 deadline.

CCS management discovered the oversight on April 13, 2015 and the submission to USAC was made the following day. This Petition is made within four days’ time. CCS and its consultant will, by May 1, have instituted decisive policies that prevent such an oversight in the future.

II. DISCUSSION

The Commission’s rules may be waived for good cause shown³ and “where the particular facts make strict compliance inconsistent with the public interest.”⁴ The Commission has made clear in several decisions that good cause exists and the public interest is advanced where “the

³ See 47 C.F.R. § 1.3.

⁴ *Federal-State Joint Board on Universal Service: Verizon Communications Inc. Petition for Waiver of Section 54.802(A) of the Commission’s Rules*, Order, DA 06-1861, 21 FCC Rcd. 10,155, 10,157 ¶ 6 (2006) (“Verizon Order”). See also *Petitions for Waiver of Universal Service High-Cost Filing Deadlines, Federal-State Joint Board on Universal Service*, Order, DA 11-1337, 26 FCC Rcd. 11,069, 11,073 (2011).

missed deadlines were the result of minor ministerial, clerical, or procedural errors.”⁵ Such circumstances are present here. The Commission has previously granted petitions to waive the March 31 projected data filing deadline in several instances where a carrier has inadvertently missed the deadline and then promptly corrected its error by filing its data before June 30,⁶ the deadline to file corrected projected data.⁷ For instance, in granting a petition filed by Westgate Communications LLC d/b/a/ WeavTel (“WeavTel”),⁸ the Commission specifically found that

[g]ranteeing WeavTel’s waiver request will not harm the administration of ICLS because ICLS is ultimately based on actual data filed by carriers, rather than the projected data for which WeavTel missed the filing deadline. The actual data that will ultimately determine the amount of ICLS available to WeavTel is due on December 31st. Granting WeavTel’s waiver request will allow USAC to distribute ICLS to WeavTel now, based on projected data which USAC will later “true-up” with actual data.⁹

⁵ *The Telecommunications Access Policy Division of the Wireline Competition Bureau Grants Petitions Requesting Waiver of Various High-Cost Universal Service Filing Deadlines*, Public Notice, DA 12-39, 27 FCC Rcd. 229 (2012). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Tel. Co., L.P. v. FVV*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). Waiver of the Commission’s rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

⁶ Section 54.903(a)(3) provides carriers with the opportunity to update their March 31 filing until June 30.

⁷ See, e.g., *Federal-State Joint Board on Universal Service Westgate Communications LLC d/b/a WeavTel*, Order, DA 08-1957, 23 FCC Rcd. 12,797, 12,798-99 (2008) (finding good cause where “WeavTel filed the required data on June 27, 2007, within the window to adjust or correct projected data due on March 31, 2007.”) (“*WeavTel*”).

⁸ Similar to CCS, WeavTel was required to submit projected data for the upcoming funding year, July 1 through June 30, by March 31. See 47 C.F.R. § 54.903(a)(3). As the Commission explained in *WeavTel*, “[u]nlike projected data, which is filed on a funding year basis, actual data is submitted for each calendar year.... Pursuant to section 54.903(a)(4), rate-of-return carriers must submit to USAC, no later than December 31, actual data for the prior calendar year.” *WeavTel* at n. 21 (citing 47 C.F.R. § 54.903(a)(4)).

⁹ *Id.* at 12,799 (internal citations omitted). “To ensure ICLS is distributed in a predictable manner without significant lag in the distribution of support to rate-of-return carriers, the Commission requires USAC to collect and use projected data instead of waiting until actual cost data is available.” *Id.* at n. 20 (internal quotations and citations omitted). “USAC applies a ‘true-up’ to determine differences between projected data and actual data.” *Id.* “True-ups ensure that carriers eventually receive ICLS that reflects their actual costs.” *Id.*

In that case, WeavTel did not file its March 31 projected data until June 27.¹⁰ Nonetheless, the Commission granted its waiver petition because WeavTel’s belated submission was filed prior to the June 30 deadline for filing corrected projects. Here, CCS submitted its late filing to USAC the following day, on April 14, 2015, as demonstrated in Exhibit A attached hereto, and will file revisions to projections—if any—before the June 30, 2015 deadline.

In WeavTel’s case, the Commission determined that “WeavTel’s circumstances are unique and emphasize[d] that, going forward, [the Commission] expect[s] WeavTel to file the required information with USAC and the Commission by the applicable filing deadlines.”¹¹ Specifically, the Commission noted that WeavTel “missed the deadline because of procedural issues stemming from WeavTel’s access to leased facilities.”¹² Importantly, the Commission noted that “WeavTel *did* file the necessary data, albeit untimely.”¹³

Like WeavTel, upon discovering the oversight, CCS quickly relayed to USAC the missing projected data.

¹⁰ *Id.* at 12,798.

¹¹ *Id.* at 12,799 ¶ 7.

¹² *Id.*

¹³ *Id.* (emphasis added). Generally, rate-of-return carriers meet the projected data deadlines for receipt of ICLS. The majority of rate-of-return carriers are members of the National Exchange Carrier Association's (NECA) common line pool. *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Report and Order and Further Notice of Proposed Rulemaking, FCC 01-304, 16 FCC Rcd. 19,613, 19,683 ¶ 165 (2001).

See also WeavTel at n. 22 (explaining that “carriers are already required to submit similar projected data to NECA and can rely on NECA to develop and file their projected data. . . . Also, rate-of-return carriers do not have an incentive to miss the deadlines for receipt of projected data because it would delay their receipt of ICLS.”).

The Wireline Competition Bureau extended this same logic last year to grant the waiver petition of United Utilities, Inc (UUI)¹⁴. UUI, also not a NECA pool participant, unintentionally missed the March 31 submission date for projections to USAC. UUI provided USAC with the projection data ahead of the June 30 revisions deadline, and implemented significant steps to ensure all future filings would be timely. The Bureau subsequently directed USAC to accept UUI's filing as timely.¹⁵ Like UUI, CCS has also implemented significant steps to ensure all future filings will be timely.

The Commission typically looks favorably on small transgressions where a carrier has implemented steps to eliminate future data submission deadline errors.¹⁶ In the present instance, CCS changed consultants in April, 2014, and the new consultant—not the carrier—inadvertently did not transmit the annual ICLS filing due March 31, 2015. CCS and its consultant recognize the importance of the filing deadlines the FCC has established. They also recognize USAC processes a significant number of forms to ensure USAC can collect and distribute universal service funds in a timely manner.

¹⁴ See, *Petition of United Utilities, Inc. for Waiver of Section 54.903(a)(3), In the Matter of Universal Service High-Cost Filing Deadlines*, WC Docket No. 08-71, June 11, 2014

¹⁵ See, *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, DA-14-1330, in the present docket, released September 15, 2014, at page 5.

¹⁶ See, e.g., *Federal-State Joint Board on Universal Service, AT&T Communications of NY and AT&T Communications of California Petition for Waiver of Section 54.802 (A) of the Commission's Rules*, Order, DA 07-234, 22 FCC Rcd. 953, 955-56 ¶ 9 (2007) ("AT&T Order") (relying on AT&T's commitment to notify personnel electronically of filing deadlines at specific intervals, and to conduct regular reviews for ensuring that responsible personnel are taking necessary steps to meet deadlines); *Federal-State Joint Board on Universal Service, NPCR, Inc. Petition for Waiver of Section 54.802 (A) of the Commission's Rules*, Order, DA 07-100, 22 FCC at Rcd. 560, 563 ¶ 9 (2007) ("NPCR Order") (relying on the "subsequent revisions that NPCR has committed to make [which] include making its Senior Tax Manager directly responsible for submitting the data to USAC and requiring that filings be sent via overnight carrier."); *Verizon Order*, 21 FCC Rcd. at 10,158 ¶ 10; *Federal-State Joint Board on Universal Service, Citizens and Frontier Communications Petition for Waiver of Section 54.802 (a) of the Commission's Rules*, Order, DA 05-2829, 20 FCC Rcd. 16,761, 16,764 ¶ 10 (2005) ("Citizens/Frontier Waiver Order") (relying on the petitioner's commitment to implement such measures as creating a centralized compliance group to coordinate all required filings, establishing systems for tracking compliance and alerting staff of upcoming deadlines, and integrating regulatory accounting into corporate accounting functions).

CCS and its consultant are committed to meeting these deadlines and have taken steps to revise internal procedures that ensure compliance with all future filing deadlines. As part of its commitment, CCS will automatically generate electronic reminders to personnel responsible for filing at various intervals prior to the filing deadlines. Second, CCS will assign internal deadlines to its procedures to ensure preparation of filings in advance of the required filing deadline. Third, CCS and its consultant will meet quarterly to review the status of all upcoming regulatory compliance filings, and confirm completions.

When considering similar commitments to ensure compliance, the Commission has previously found that “strict enforcement of the filing deadline would disproportionately penalize [the ETC] when considered in light of its actions to remedy its error.”¹⁷

Finally, CCS urges the Commission to grant its petition because doing so is in the public interest. About 1,100 CCS cooperative member customers are contributors to the USF mechanism as the company has carefully invested in plant necessary to bring telecommunications services to its rural Kansas service area. It could not continue to do so absent high-cost universal service support. CCS currently receives approximately \$50 thousand per month in ICLS.

Failure to grant the waiver will result in a break in funding and a substantial economic hardship to CCS’s cooperative membership, to the detriment of citizens of Columbus, Kansas. The offset CCS realizes from ICLS ensures CCS’s services remain affordable to its customers.

¹⁷ AT&T Order, 22 FCC Rcd. at 955 ¶ 6. *See also* NPCR Order, 22 FCC Rcd. at 562 ¶ 7; Verizon Order, 21 FCC Rcd. at 10,157 ¶ 8; Citizens/Frontier Waiver Order, 20 FCC Rcd. at 16,763-64 ¶ 7.

CONCLUSION

For the foregoing reasons, CCS respectfully requests that the Commission promptly grant this Petition and direct USAC to accept CCS's projected data submission for the period ending June 30, 2016.

Respectfully submitted,



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*Consultant for Columbus
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April 17, 2015

EXHIBIT A

From: HC Filings [HCFilings@hcli.universalservice.org]
Sent: Tuesday, April 14, 2015 5:04 PM
To:
Subject: Confirmation of Email Submission from HCFilings@usac.org



Thank you for your Submission to HCFilings@usac.org. Your email has been received and will be reviewed by an Analyst shortly.

We will respond to all inquiries within 24 hours of receipt. If you have more information or need to reach us sooner, please contact us at 888-641-8722.

If your email included a form filing, please note that that *this will serve as your receipt confirmation*, that your form submission has been received by USAC, at the email address hcfilings@usac.org as of the time and date of this reply.

Thank You,

Customer Operations

Toll Free:(888) 641-8722

Hours: 9:30AM- 4:30PM Monday-Friday

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