

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Universal Service High-Cost Filing Deadlines	)	WC Docket No. 08-71
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Petition of ASTAC Wireless LLC – CL d/b/a ASTAC Wireless for Waiver of Sections 54.307 and 54.903 of the Commission’s Rules	)	
	)	

**PETITION OF ASTAC WIRELESS LLC – CL D/B/A ASTAC  
WIRELESS FOR WAIVER OF SECTIONS 54.307 AND 54.903  
OF THE COMMISSION’S RULES**

Pursuant to Section 1.3 of the Commission’s rules, ASTAC Wireless LLC – CL d/b/a ASTAC Wireless (ASTAC) (SAC 619010), respectfully requests a waiver related to two separate filing deadlines set forth in Sections 54.307 and 54.903 of the Commission’s rules. The first relates to the Q2 2015 filing of FCC Form 525 that was saved to the USAC website on June 24, 2015, but not certified until October 10, 2015. The second relates to the Q3 2015 filing of FCC Form 525 that was filed seven days late on October 7, 2015. Due to two instances of unfortunate clerical errors, ASTAC<sup>1</sup> now pleads for waivers of these two filing deadlines. ASTAC contacted the Universal Service Administrative Company (USAC) on October 13, 2015.

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<sup>1</sup> ASTAC has included the certification page from both of the Form 525 forms as Attachment A.

Consistent with Commission precedent, good cause exists to grant ASTAC's petition. Accordingly, the Commission should waive the 2Q and 3Q 2015 filing deadlines for Form 525 for ASTAC and direct USAC to accept the late filings. A failure to waive the deadline would result in the loss to ASTAC of approximately \$77,500 each month in high-cost federal universal service funding, and poses an undue hardship to the company and its Alaskan customers that rely upon ASTAC to meet their telecommunications needs. ASTAC serves the North Slope Region of Alaska, a service area that encompasses over 95,000 square miles and has seven traditional Native villages, the City of Barrow and the oilfields of Prudhoe Bay scattered across that vast expanse. With the exception of Prudhoe Bay, which is built out from the terminus of the Dalton Highway, all other villages can only be reached year round by aircraft.

#### **I. DESCRIPTION OF SITUATION AND STATEMENT OF FACTS**

ASTAC is an Alaska company that provides communications services to customers in some of the most extreme and remote territory in the United States. Serving the North Slope region requires meeting the needs of customers across a geography that would on its own be the 12<sup>th</sup> largest state in the country. In this remote and desolate region, ASTAC provides essential public and personal safety services in cases where ASTAC Wireless is the only signal available to the customer.

ASTAC has timely filed all of its prior FCC Form 525 high-cost line count filings. The 2Q 2015 filing was made on a timely basis (June 24), but the step of certification was omitted due to a new clerical employee being involved at that time. Since no reduction in support had occurred, this omission was not discovered until October 10, 2015. The late October 7<sup>th</sup> execution of the 3Q 2015 Form 525 filing was simply the case of miscommunication between an employee that was previously responsible for this filing and one that was to now assume the filing

responsibility. Steps have been taken and procedures enacted to prevent this from occurring in the future.

## II. GOOD CAUSE EXISTS FOR THE COMMISSION TO WAIVE SECTIONS 54.307 AND 54.903 OF ITS RULES IN THIS CIRCUMSTANCE

The Commission may waive its rules for good cause shown.<sup>2</sup> Further, the Commission may exercise its discretion to waive a rule where the particular facts of the situation make strict compliance with the rule inconsistent with the public interest.<sup>3</sup> The Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>4</sup> A waiver of a filing deadline is appropriate when special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.<sup>5</sup>

The Commission has previously found that good cause exists to waive filing deadlines where the petitioning party demonstrates that the missed deadline was the result of a minor ministerial, clerical or procedural error.<sup>6</sup> The Commission has also stated that good cause exists in situations when the petitioning party promptly remedies its failure to timely file and revises its internal procedures to ensure ongoing compliance.<sup>7</sup> Consistent with this Commission precedent, a waiver is justified for ASTAC. Absent a waiver, ASTAC will lose approximately \$77,500 each month in high-cost federal universal service support funding. These universal service funds are

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<sup>2</sup> 47 C.F.R. Section 1.3.

<sup>3</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (“*WAIT*”); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”)

<sup>4</sup> *WAIT*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>5</sup> *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127-28 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

<sup>6</sup> See *In the Matter of Petitions for Waiver of Universal Service High-Cost Filing Deadlines, et al.*, WC Docket No. 08-71, Order, DA 13-2094, (rel. Oct. 29, 2013) at para. 7.

<sup>7</sup> See, e.g., *In the Matter of Petitions for Waiver of Universal Service High-Cost Filing Deadlines, et al.*, WC Docket No. 08-71, CC Docket No. 96-45, Order, DA 10-107 (rel. Jan. 22, 2010) at para. 22.

vital to ASTAC's ability to serve its high-cost remote Alaska customers and the loss of such funding would be detrimental to the public interest. A failure to receive these universal service funds would limit the telecommunications choices and mobility available to rural Alaska villages and would negatively impact the ability of ASTAC's customers to access critical health and safety services when away from their home base. It would be unjust to ASTAC and ASTAC's customers for clerical errors to deprive ASTAC of approximately \$77,500 each month. In sum, hardship and equity considerations support the grant to ASTAC's requested waiver.<sup>8</sup>

### CONCLUSION

The loss of approximately \$77,500 each month in high-cost universal service funding would cause ASTAC and its rural Alaska customer base undue hardship. Steps have been taken and procedures enacted to prevent this from occurring in the future. The loss of this important universal service funding would result in the decreased availability of telecommunications services to ASTAC rural customers and limit access to critical safety and health services. The grant of this waiver request will benefit the public interest and is consistent with Bureau precedent regarding waivers of high-cost filing deadlines. For all these reasons, ASTAC respectfully requests that the Commission promptly grant this petition for waiver of sections 54.307 and 54.903 of the Commission's rules and direct USAC to accept ASTAC's Form 525 for the applicable periods.

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<sup>8</sup> *In the Matter of Federal-State Joint Board on Universal Service, et al.*, CC Docket No. 96-45, Order, DA 06-2584 (rel. Dec. 28, 2006) at para. 5 (finding that “[i]n this case, . . . considerations of hardship and equity – as well as North River’s longstanding history of submitting timely data – weigh in favor of granting the requested waiver” and stating that previous waivers had been granted to “ensure that consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, have access to telecommunications and information services.”).

Respectfully submitted,

By: /s/ Jeffry H. Smith

GVNW Consulting on behalf of ASTAC  
PO Box 2330  
Tualatin, Oregon 97062  
Phone: 503-612-4409  
Email: [jsmith@gvnw.com](mailto:jsmith@gvnw.com)

October 13, 2015

## DECLARATION OF CLOVER MCNEIL

I, Clover McNeil, Chief Financial Officer of ASTAC, have read the foregoing Petition for Waiver of Sections 54.307 and 54.903 of the Commission's Rules and declare under penalty of perjury that the factual statements made therein are true and correct to the best of my personal knowledge, information, and belief.

Executed on October 13, 2015.

By: \_\_\_\_\_



Clover McNeil  
Chief Financial Officer  
ASTAC  
4300 B Street, Suite 501  
Anchorage, Alaska 99503  
Phone: (907) 563-3989

Exhibit A

FCC Form 525 Filing Certifications for Q2 and Q3 2015

TO BE COMPLETED BY THE REPORTING CARRIER, IF THE REPORTING CARRIER IS FILING FCC FORM 525 ON ITS OWN BEHALF:

Certification of Officer or Employee as to the Accuracy of the Data Reported in FCC Form 525, Line Count Report for Competitive Carriers, on Behalf of Reporting Carrier			
<p>I certify that I am an officer or employee of the reporting carrier; my responsibilities include ensuring the accuracy of the actual line count data reported on FCC Form 525; and, to the best of my knowledge, the information reported on this form is accurate.</p>			
Name of Reporting Carrier: ABTAC Wireless LLC - CL			
Service Provider Identification Number: 143031803			
Signature of authorized officer or employee: CERTIFIED ONLINE			Date: 10/10/2015
Printed name of authorized officer or employee: Clover McNeil			
Title or position of authorized officer or employee: CFO			
Telephone number of authorized officer or employee: (507) 566-2620 ext.			
State Area Code of Reporting CERC	019010	Filing Date Data for this form (mm/dd/yyyy)	06/30/2015
Persons making false statements on this form can be punished by fine or forfeiture under the Communication Acts of 1934, 47 U.S.C. §§ 502, 503(d), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.			

TO BE COMPLETED BY THE REPORTING CARRIER, IF THE REPORTING CARRIER IS FILING FCC FORM 525 ON ITS OWN BEHALF:

Certification of Officer or Employee as to the Accuracy of the Data Reported in FCC Form 525, Line Count Report for Competitive Carriers, on Behalf of Reporting Carrier			
I certify that I am an officer or employee of the reporting carrier; my responsibilities include ensuring the accuracy of the actual line count data reported on FCC Form 525; and, to the best of my knowledge, the information reported on this form is accurate.			
Name of Reporting Carrier: ASTAC Wireless LLC - CL			
Service Provider Identification Number: 143031995			
Signature of authorized officer or employee: CERTIFIED ONLINE			Date: 10/07/2016
Printed name of authorized officer or employee: Caver Molter			
Title or position of authorized officer or employee: CFO			
Telephone number of authorized officer or employee: (807) 564-3690 ext.			
Study Area Code of Reporting CRTC	619010	Filing Date Date for this form (mm/dd/yyyy)	09/30/2015
Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communication Acts of 1914, 47 U.S.C. §§ 502, 502(a), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.			