

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

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
)  
YORKVILLE TELEPHONE )  
COOPERATIVE, INC. )  
)  
Petition for Limited and Temporary Waiver of the )  
Federal Communications Commission's Rules )  
Concerning Truth-in-Billing )

File No. \_\_\_\_\_

CC Docket 98-170

To: Common Carrier Bureau

**PETITION FOR LIMITED AND TEMPORARY WAIVER**

Yorkville Telephone Cooperative, Inc. ("Yorkville"), by its attorneys, respectfully requests a limited and temporary waiver of the November 12, 1999 effective date of the Commission's Truth-in-Billing Format Order and revised rule sections 64.2401(a)(1),(2) and 64.2401(d). Petitioner requests additional time to comply with these rules which require the itemization of products and services on a customer bill by service provider as well as listing the toll-free contact number for the individual service providers. Petitioner is unable to comply with these requirements because the company which provides its billing services, Communications Data Group ("CDG"), is not technically able to provide this service by the required implementation date. As demonstrated herein, good cause exists for this waiver<sup>1/</sup> because it is technically infeasible for Petitioner to comply with

<sup>1/</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d

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the November 12, 1999 implementation date for the Commission's truth-in-billing format requirements. Accordingly, Petitioner requests an extension of time until April 1, 2000 to implement the truth-in-billing format requirements.

### **Background and Facts**

On April 15, 1999, the Federal Communications Commission adopted its *First Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Truth-in Billing Format* CC Docket No. 98-170, 14 FCC Rcd 7492, released May 11, 1999 ("Report & Order"), which set a November 12, 1999 deadline for all carriers to comply with new format requirements when providing customers with their bills. The Report & Order required significant changes be made to the format of all carriers' bills for the purpose of providing more detailed information regarding the alternative service providers for which products and services are billed. When requesting bill modifications of CDG, Petitioner learned that in order for CDG to be able to comply with the new rules, CDG would need to modify its software platform.

Since the adoption of the FCC's Report and Order Petitioner has worked with CDG and both have made good faith efforts to come into compliance with the new requirements. However, the upgrade of the software platform currently used by CDG is a time consuming and expensive process which will take months to complete. Although Petitioner have worked with CDG to make this

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1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC 897 F.2d 1164, 1166 (D.C. Cir. 1990).

happen as quickly as possible, it will not be completed by November 12, 1999. Based upon the current timetable for work on the upgrade process, a first quarter 2000 implementation is expected.

### **Request for Waiver**

Petitioner requests a temporary waiver of the November 12, 1999 deadline for implementation of FCC rule sections 64.2401(a)(1), (2) and 64.2401(d) requiring that itemized products and services charged on a customer's bill be separated by company, and that a toll-free contact number be provided for each alternative service provider. Implementation of these new requirements is not only technically infeasible for CDG, it would be prohibitively expensive for small local exchange carriers ("LEC") such as Petitioner to find some alternative way of meeting this requirement.<sup>2/</sup>

The Commission has previously recognized the technical and economic burden on small and rural LECs in purchasing software and equipment upgrades. In its December 10, 1995 Caller ID Order, the Commission issued a stay of its per call block and unblocking requirements in response to waiver petitions from several LECs, including small rural LECs, that claimed that providing blocking and unblocking was technically and economically infeasible.<sup>3/</sup> Delaying Petitioner's compliance with the November 12, 1999 truth-in-billing format deadline will not harm its customers. Rather, the customers will still benefit from the new format only at a slightly slower pace, which is technically and economically feasible for both companies. Therefore, Petitioner submits that grant of a waiver of the transition deadline in this instance will benefit the public interest.

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<sup>2/</sup> Yorkville is a "rural telephone company" within the meaning of Section 3 of the Communications Act of 1934, as amended (47 U.S.C. 153(37)).

<sup>3/</sup> *Order and Fourth Notice of Proposed Rulemaking*, 10 FCC Rcd 13796, 13808 (1995).

**Conclusion**

For the reasons explained, Petitioner requests a temporary waiver of the November 12, 1999 deadline for implementation of the truth-in-billing format requirements. Petitioner requests that a limited waiver be granted and an extension given until April 1, 2000. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and extension be granted as proposed.

Respectfully submitted,

**YORKVILLE TELEPHONE COOPERATIVE, INC.**

By:   
David L. Nace

Its Attorney

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November 12, 1999

**DECLARATION**

I, Mary Alice Higdon, state and declare:

1. I am Administrative Assistant to the General Manager of Yorkville Telephone Cooperative, Inc.

2. I am familiar with the facts contained in the foregoing Petition For Limited and Temporary Waiver, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of November, 1999.



Mary Alice Higdon

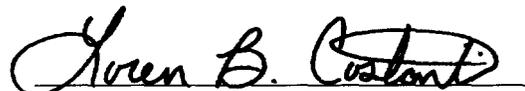
## CERTIFICATE OF SERVICE

I, Loren B. Costantino, of Lukas, Nace, Gutierrez & Sachs, Chartered, hereby certify that on this 12th day of November, 1999, a copy of the foregoing PETITION FOR LIMITED AND TEMPORARY WAIVER was hand delivered to the parties listed below:

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