

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

JUL 29 2005

Federal Communications Commission
Office of Secretary

In the Matter of)
Federal-State Joint Board on Universal)
Service)
Northwest Dakota Cellular of North Dakota)
Limited Partnership; North Central RSA 2 of)
North Dakota Limited Partnership; North)
Dakota RSA No. 3 Limited Partnership;)
Badlands Cellular of North Dakota Limited)
Partnership; North Dakota 5 – Kidder Limited)
Partnership; and Bismarck MSA Limited)
Partnership)
Petition for Waiver of Section 54.307 of the)
Commission’s Rules)

CC Docket No. 96-45

DOCKET FILE COPY ORIGINAL

**NORTHWEST DAKOTA CELLULAR OF NORTH DAKOTA LIMITED
PARTNERSHIP; NORTH CENTRAL RSA 2 OF NORTH DAKOTA LIMITED
PARTNERSHIP; NORTH DAKOTA RSA NO. 3 LIMITED PARTNERSHIP;
BADLANDS CELLULAR OF NORTH DAKOTA LIMITED PARTNERSHIP;
NORTH DAKOTA 5 – KIDDER LIMITED PARTNERSHIP;
AND BISMARCK MSA LIMITED PARTNERSHIP
PETITION FOR WAIVER OF SECTION 54.307
OF THE COMMISSION’S RULES**

L. Charles Keller
WILKINSON BARKER KNAUER, LLP
2300 N Street NW
Suite 700
Washington, D.C. 20037
Telephone: (202) 383-3414
Facsimile: (202)783-5851

Mark J. Ayotte
Matthew A. Slaven
BRIGGS AND MORGAN, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Telephone: (612) 977-8400
Facsimile: (612) 977-8650

Its Counsel

No. of Copies rec'd 0+4
List ABCDE

SUMMARY..... 3
PETITION FOR WAIVER..... 5
I. BACKGROUND 6
II. REQUEST FOR WAIVER..... 10
 A. The Limited Waiver the Partnerships Seek Will Advance the
 Commission’s Universal Service Goals..... 11
 B. The Limited Waiver the Partnerships Seek is Consistent with Commission
 Precedent..... 12
 C. The Limited Waiver the Partnerships Seek Will Serve the Public Interest 16
III. CONCLUSION..... 17
EXHIBIT 1 (Affidavit of Scott Smith, GVNW)

SUMMARY

Northwest Dakota Cellular of North Dakota Limited Partnership; North Central RSA 2 of North Dakota Limited Partnership; North Dakota RSA No. 3 Limited Partnership; Badlands Cellular of North Dakota Limited Partnership; North Dakota 5 – Kidder Limited Partnership; and Bismarck MSA Limited Partnership (collectively, “Partnerships”) respectfully request a limited waiver of the September 30 filing deadline set forth in 47 C.F.R. § 54.307 to enable the Partnerships to receive high-cost universal service support for the months of January through March 2005.

The Partnerships’ line count reports due September 30, 2004 were received by the Universal Service Administrative Company (“USAC”) at 9:34 a.m. on October 1, 2004 — only a few working hours after the filing deadline. The Partnerships had hired an experienced third-party vendor to prepare and file the required line count data with USAC, and sent the necessary data to the vendor well in advance of the deadline. The Partnerships were unaware that the data had not been timely filed until their receipt of universal service support ceased in February 2005.

The third-party vendor’s subsequent internal investigation revealed that the employee responsible for making the filing was away from the office for extended periods of time prior to the September 30 filing deadline. Although the third-party vendor’s technical staff timely prepared the Partnerships’ September 30 line count filings, they did not tender the filing to the overnight courier in time to meet the September 30 filing deadline. Nevertheless, because the Partnerships’ line count data was filed with USAC mere hours after the deadline, the line count data could have been processed and included in USAC’s fund calculations for the quarter.

Upon discovering that the September 30, 2004 line count data had not been timely received, the Partnerships immediately contacted the third-party vendor to determine what had caused the late filing and prepared this petition without delay once the facts were discovered. In

addition, the Partnerships have satisfied themselves that the third-party vendor has put in place sufficient safeguards to ensure that the Partnerships' USAC line count submissions will be timely filed in the future.

The Partnerships recognize the importance of adherence to Commission and USAC deadlines. However, grant of the requested waiver is consistent with well-established Commission precedent and will advance the public interest and benefit consumers in rural and high-cost areas of North Dakota by promoting the provision of universal service.

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

In the Matter of)
Federal-State Joint Board on Universal)
Service)
)
Northwest Dakota Cellular of North Dakota)
Limited Partnership; North Central RSA 2 of)
North Dakota Limited Partnership; North)
Dakota RSA No. 3 Limited Partnership;)
Badlands Cellular of North Dakota Limited)
Partnership; North Dakota 5 – Kidder Limited)
Partnership; and Bismarck MSA Limited)
Partnership)
)
Petition for Waiver of Section 54.307 of the)
Commission’s Rules)

CC Docket No. 96-45

To: Wireline Competition Bureau

**NORTHWEST DAKOTA CELLULAR OF NORTH DAKOTA LIMITED
PARTNERSHIP; NORTH CENTRAL RSA 2 OF NORTH DAKOTA LIMITED
PARTNERSHIP; NORTH DAKOTA RSA NO. 3 LIMITED PARTNERSHIP;
BADLANDS CELLULAR OF NORTH DAKOTA LIMITED PARTNERSHIP;
NORTH DAKOTA 5 – KIDDER LIMITED PARTNERSHIP;
AND BISMARCK MSA LIMITED PARTNERSHIP
PETITION FOR WAIVER OF SECTION 54.307
OF THE COMMISSION’S RULES**

PETITION FOR WAIVER

Northwest Dakota Cellular of North Dakota Limited Partnership; North Central RSA 2 of North Dakota Limited Partnership; North Dakota RSA No. 3 Limited Partnership; Badlands Cellular of North Dakota Limited Partnership; North Dakota 5 – Kidder Limited Partnership; and Bismarck MSA Limited Partnership (collectively, “Partnerships”), by their counsel and pursuant to 47 C.F.R. §§ 1.3 and 1.925(b), hereby request waiver of Section 54.307 of the Rules of the Federal Communications Commission (“Commission”), 47 C.F.R. § 54.307. Specifically, the

Partnerships request waiver of the September 30 quarterly line count filing deadline set forth in 47 C.F.R. § 54.307(c)(2) to enable the Partnerships to receive High Cost Loop support (“HCL”), Local Switching Support (“LSS”), Long Term Support (“LTS”), Interstate Common Line Support (“ICLS”), High Cost Model support (“HCM”) and Interstate Access Support (“IAS”) for the eligible subscriber lines reported on the carriers’ September 30, 2004 line count reports.

Due to an oversight by the third-party vendor hired by the Partnerships to prepare and file their quarterly line count reports, the Partnerships’ September 30, 2004 line count reports were not filed with the Universal Service Administrative Company (“USAC”) until 9:34 a.m. on October 1, 2004 – only a few working hours after the filing deadline. As a result, the Partnerships have not received high-cost universal service support for the eligible subscriber lines that were reported on the carriers’ September 30 line count reports.

For the reasons set forth below, waiver of the September 30 filing deadline set forth in Section 54.307 of the Commission’s Rules will permit the Partnerships to receive the high-cost universal service support to which they are entitled, serve the public interest and benefit consumers in rural and high-cost areas of North Dakota.

I. BACKGROUND

The Partnerships have each been designated as competitive Eligible Telecommunications Carriers (“ETCs”) for certain service areas within the State of North Dakota.¹ To comply with

¹ *Northwest Dakota Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, Case No. PU-1226-03-597; *North Central RSA 2 of North Dakota Limited Partnership Designated Eligible Carrier Application*, Case No. PU-386-03-598; *North Dakota RSA No. 3 Limited Partnership Designated Eligible Carrier Application*, Case No. PU-897-03-599; *Badlands Cellular of North Dakota Limited Partnership Designated Eligible Carrier Application*, Case No. PU-1225-03-600; *North Dakota 5 – Kidder Limited Partnership Designated Eligible Carrier Application*, Case No. PU-338-03-601; *Bismarck MSA Limited Partnership Designated Eligible Carrier Application*, Case No. PU 494-03-602, Order, (Feb. 25, 2004) (“ETC Order”).

the quarterly line count filing requirements set forth in this Commission's Rules, the Partnerships engaged an experienced third-party vendor, GVNW Consulting, Inc. ("GVNW"), to prepare and file the required line count reports on behalf of the Partnerships. GVNW had previously performed these services for other ETCs and continues to perform these services for the Partnerships and other ETCs.

The Partnerships engaged GVNW to perform these services in May 2004. Prior to the September 30, 2004 filing deadline, GVNW timely filed the Partnerships' line count reports for the July 31, 2004 filing deadline. Likewise, GVNW timely filed the Partnerships' subsequent December 30, 2004 and March 30, 2005 line count reports with USAC.

In advance of the September 30, 2004 filing deadline, the Partnerships transmitted first-quarter 2004 line count data to GVNW on or about May 12, 2004. The Partnerships transmitted second-quarter 2004 line count data to GVNW on July 20, 2004. GVNW completed and signed the line count reports on or before September 29, 2004.

At the time of the September 30, 2004 filing deadline, GVNW Consulting Manager, Steve Metts, was responsible for reviewing and filing the Partnerships' line count reports with USAC. Mr. Metts was the only person at GVNW authorized to sign the line count submissions on behalf of the Partnerships. In the months leading up to the September 30, 2004 filing, a combination of work related and personal responsibilities caused Mr. Metts to be away from the GVNW office for prolonged periods. Although Mr. Metts was absent from GVNW's office, GVNW technicians were able to timely process the Partnerships' line count data and prepare the necessary line count reports to be filed with USAC.

Accordingly, the line count reports were prepared and ready for filing with USAC on or before September 29, 2004 — thus allowing sufficient time for the reports to be delivered to

USAC via United Parcel Service (“UPS”) Next-Day Air. However, due to an oversight GVNW did not tender the completed line count reports to UPS for delivery on September 29, but instead delivered the reports to UPS at 4:06 p.m. the following day, September 30, 2004. As a result, UPS was not able to deliver the line count reports to USAC until 9:34 a.m. the following morning, October 1, 2004 — merely a few working hours after the filing deadline set forth in Section 54.307 of the Commission’s Rules.

The Partnerships did not become aware of any problems with the September 30, 2004 line count filing until February 2005 when they first discovered a shortfall in high-cost universal service support for the first quarter of 2005. The Partnerships immediately contacted GVNW regarding this shortfall on February 2. Mr. Metts was out of the office and did not respond to the Partnerships’ inquiry until February 23, 2005. Mr. Metts advised the Partnerships that he would investigate the matter to determine why the carriers were not receiving universal service support for the subscriber lines that were reported on the September 30, 2004 line count reports. Mr. Metts also informed the Partnerships that he would be out of the office until March 20, 2005, and that he would provide the Partnerships with an update as soon as he received a response from USAC. Because the Partnerships had only recently received ETC designation, and the FCC had only recently approved their request for redefinition of the service area requirement for certain rural telephone company service areas, it seemed likely that the reduced support amount was the result of confusion on the part of USAC, and the Partnerships had no reason to suspect that their line count filings had not been timely filed.

The Partnerships again contacted Mr. Metts on March 24, 2004 requesting an update regarding the shortfall of high-cost universal service support. Mr. Metts was away from the GVNW office and did not respond until March 29. Mr. Metts then informed the Partnerships

that the September 30 line count reports were not delivered to USAC until 9:34 a.m. on October 1 and that USAC considered the filing late. Mr. Metts advised the Partnerships that he would attempt to resolve the matter with USAC. The Partnerships contacted Mr. Metts in early April 2005 regarding the status of his discussions with USAC. On April 18, the Partnerships again requested a status report, but received no response from Mr. Metts.

At the end of April 2005, another GVNW employee, Jonas Karlsson, assumed responsibility for the preparation and filing of the Partnerships' line count reports. Mr. Karlsson informed the Partnerships that Mr. Metts left GVNW in mid-April 2005. On May 2, 2005, Mr. Karlsson contacted USAC to determine the status of the Partnerships' September 30, 2004 line count filing. USAC informed Mr. Karlsson that the line count filings were deemed late and that it could not accept the filing.

On May 3, 2005, GVNW informed the Partnerships that it would conduct an internal investigation concerning the events that led up to the delayed filing of the carrier's September 30, 2004 line count reports. On June 3, 2005, the Partnerships contacted GVNW to obtain a status report. On June 15, the Partnerships again requested a report on the findings of GVNW's internal investigation. GVNW communicated the results of its internal investigation on June 21, 2005, concluding that the Partnerships' line count reports were completed but not delivered to UPS in time to meet the September 30 filing deadline.

GVNW also advised the Partnerships that it has since modified its internal practices and procedures. GVNW has improved the manner in which it reviews and processes carrier line count data so that it is not dependent on the presence of, or subject to the absence of, any one employee. These changes also include earlier preparation and review and the assignment of

multiple individuals with authority to execute and guarantee delivery of the quarterly line count filings to USAC in a timely manner.

II. REQUEST FOR WAIVER

The Commission's Rules expressly provide for waiver of any Rule if good cause is first established. 47 C.F.R. § 1.3. In addition, Section 1.925(b)(3) provides for a waiver where it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by the application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

47 C.F.R. § 1.925(b)(3). Consistent with these Rules, the Commission "may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

In this case, strict adherence to the line count filing requirements set forth in Section 54.307 would prevent the Partnerships from receiving federal high-cost universal support for the eligible subscriber lines that were reported on their September 30, 2004 line count submissions. Thus, the Partnerships would not receive timely and appropriate universal service support payments, even though the carriers were properly designated as ETCs, providing the supported services to North Dakota consumers and performing the obligations of an ETC during the first quarter of 2005. Granting the requested waiver will avoid this inequitable result and benefit these consumers by promoting the provision of universal service in North Dakota.

A. The Limited Waiver the Partnerships Seek Will Advance the Commission's Universal Service Goals

Granting the Partnerships' request for waiver of the line count filing requirements set forth in Section 54.307 will further the Commission's public policy goals of bringing access to competitive telecommunications services to all citizens by enabling the Partnerships to receive support for the provision, maintenance, and upgrading of facilities and services commensurate with their service as competitive ETCs. Without access to this support, the Partnerships cannot fulfill the goals of the Telecommunications Act of 1996: "[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." Pub. L. No. 104-104, 110 Stat. 56 (1996).

The Commission has further determined that "competitively neutral access to support is critical to ensuring that all Americans have access to affordable telecommunications."² Denying the Partnerships access to high-cost universal service support because the carrier's September 30, 2004 line count reports were filed at 9:34 a.m. the following morning – October 1 – would undermine the Commission's goal of competitive neutrality.³ Universal service funding is vital to the Partnerships' ability to carry out their mission as competitive ETCs in North Dakota, because it allows the carriers to pursue the construction and upgrading of their networks to better serve customers within their designated ETC service areas. The Partnerships'

² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Ninth Report and Order and Eighteenth Order on Reconsideration*, FCC 99-306, ¶¶ 89-90, 14 FCC Rcd 20423 (1999), *rev'd in part and remanded in part*, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001).

³ *See Federal-State Joint Board on Universal Service, Grande Communications, Inc. Petition for Waiver of Sections 54.307 and 54.314 of the Commission's Rules and Regulations*, CC Docket No. 96-45, *Order*, DA 04-2534, ¶ 10, 19 FCC Rcd 15580 (WCB TAPD 2004) ("*Grande Order*").

customers should not be denied support as a result of a short delay that resulted in no administrative difficulty to USAC. To do so would put administrative literalism before the fundamental goals of the Telecommunications Act of 1996 to the detriment of the public interest.

B. The Limited Waiver the Partnerships Seek is Consistent with Commission Precedent

The Commission has consistently granted petitions for waiver of certain ETC filing deadlines to facilitate an ETC's receipt of universal service support. The limited waiver that the Partnerships seek in this proceeding is consistent with and supported by the Commission's prior decisions.

For example, in 1999 the Commission granted Centennial Cellular Corporation's ("Centennial") petition for waiver of the line count filing deadlines set forth in Section 54.307.⁴ In so doing, the Commission found persuasive Centennial's argument that "the confusion and volume of new information surrounding universal service" and a strike by another company's employees "strained Centennial's time and resources and necessitated a diversion of its attention to the immediate situation at hand . . . to the neglect of its duties."⁵

The Partnerships' request for a limited waiver in this case is equally warranted. As in the *Centennial* case, other pressing matters unrelated to the filing distracted relevant personnel from making the filing in a timely fashion. Unlike the Partnerships, however, Centennial's filing was significantly late – so late that USAC would not have been able to include Centennial's data in its calculations for the quarter. In addition, unlike the Partnerships, Centennial retained complete control over the filing of its line count reports and simply failed to comply with Section 54.307

⁴ *Federal-State Joint Board on Universal Service, Centennial Cellular Corporation's Request for Waiver of Section 54.307(b) of the Commission's Rules*, CC Docket No. 96-45, Order, DA 99-453, 14 FCC Rcd 4350 (APD 1999) ("*Centennial Cellular*").

⁵ *Id.*

due to the company's own confusion and lack of preparedness. Here, the Partnerships engaged an experienced third-party vendor, GVNW, to complete and file the required line count reports with USAC and timely supplied GVNW with the necessary data. Once the line count data was transmitted to, and received by GVNW, the Partnerships had no reason to believe that the September 30, 2004 line count reports would not be timely filed with USAC. For all these reasons, if a waiver was justified in that case, it also is justified here.

In March 2001, the Commission granted the State of West Virginia's petition for waiver of the annual certification requirement for non-rural ETCs.⁶ The Commission reasoned that "the potential harm that would be suffered by customers [of the ETC] justifies a waiver" and found that the loss of three months worth of universal service funding in similar circumstances would be "egregious."⁷ Consistent with this decision, the Commission later granted Smith Bagley, Inc.'s ("Smith Bagley") petition for waiver of the annual Interstate Access Support ("IAS") certification deadline.⁸ In that case, Smith Bagley timely filed its initial IAS certification on March 30, 2001 but, due to an oversight, failed to file the required June 30, 2001 certification until eleven days after the filing deadline.⁹ The Commission granted Smith Bagley's petition for waiver stating:

SBI is currently providing supported service on three Indian reservations [in Arizona]. Strict application of the filing deadline in this instance may jeopardize the provision of service and delay system construction and upgrades in those

⁶ *Federal-State Joint Board on Universal Service, West Virginia Public Service Commission, Request for Waiver of State Certification Requirements for High-Cost Universal Service Support for Non-Rural Carriers*, CC Docket No. 96-45, *Order*, DA 01-86, 16 FCC Rcd 5784 (2001).

⁷ *Id.* (emphasis added).

⁸ *Federal-State Joint Board on Universal Service, Smith Bagley, Inc. Petition for Waiver of Section 54.809(c) of the Commission's Rules and Regulations*, CC Docket No. 96-45, *Order*, DA 01-1911, 16 FCC Rcd 15275 (CCB 2001) (emphasis added).

⁹ *Id.*

areas. Waiver of the filing deadline will permit SBI to receive interstate access universal service support uninterrupted, and continue its efforts to increase access to telecommunications services in those areas consistent with our statutory goal of preserving and advancing universal service pursuant to Section 254 of the Act. Such a waiver is also consistent with our mandate 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.¹⁰

The same compelling public interest considerations exist in this case. Like the non-rural carriers in West Virginia and Smith Bagley in Arizona, the Partnerships' loss of high-cost universal service support will inhibit and delay their ability to increase access to telecommunications services in North Dakota consistent with 47 U.S.C. § 254. Accordingly, the Commission should find that good cause exists to grant the Partnerships' requested waiver.

More recently, the Commission granted United States Cellular Corporation's ("US Cellular") petition for waiver of the Section 54.307 deadlines for two separate reporting periods.¹¹ As a result of US Cellular's confusion regarding Commission rule changes and ETC obligations, the company did not file its September 30, 2001 line count reports until October 17, 2001, and also did not file its December 30, 2001 line count reports until January 29, 2002.

Like Centennial Cellular discussed above, US Cellular retained complete control over the filing of its line count reports, and due to internal confusion regarding the Commission's rules, failed to timely file the reports on two separate occasions. In contrast, the Partnerships in this case were cognizant of, and diligently attempted to comply with, Section 54.307 by timely gathering and transmitting their line count data to GVNW. Only an oversight on the part of GVNW prevented the completed line count reports from reaching USAC by the

¹⁰ *Id.* (internal citations omitted).

¹¹ *Federal-State Joint Board on Universal Service, United States Cellular Corporation Petition for Waiver of Section 54.307(c) of the Commission's Rules and Regulations*, CC Docket No. 96-45, Order, DA 04-2076, 19 FCC Rcd 12418 (WCB 2004).

September 30, 2004 filing deadline. Additionally, US Cellular failed to file its line count data until *seventeen* and *thirty* days after the respective deadlines. Here, USAC received the Partnerships' line count data at 9:34 a.m. on October 1, 2004 – only a few working hours after the filing deadline. Under such circumstances, the Commission should find that the Partnerships are equally, if not more, deserving of relief from strict enforcement of Section 54.307.

Further, in July of last year, the Commission granted Smithville Telephone Company, Inc.'s ("Smithville") petition for waiver of the Section 54.301 filing deadline for local switching support data.¹² Smithville argued that it failed to meet the filing deadline because of the death of the Company's president and the subsequent management changes "which lead to an oversight and inadvertent failure to submit the projected data to USAC on October 1, 2003."¹³ Smithville further argued that its regulatory accountant was away from his job due to an illness and that this caused a substantial delay in the company discovering the missed filing deadline.¹⁴ The Commission found that good cause existed to grant the waiver and that denying Smithville local switching support due to the late filing would undermine the goals of universal service and be inconsistent with the public interest.¹⁵

In this case, GVNW Consulting Manager, Steve Metts, was preoccupied with work related and personal responsibilities during the months leading up to September 30 that caused him to be away from the office for substantial periods of time. These prolonged absences, and

¹² *Federal-State Joint Board on Universal Service, Smithville Telephone Company, Inc. Petition for Waiver of Section 54.301 Local Switching Support Data Submission Reporting Date for an Average Schedule Company*, CC Docket No. 96-45, *Order*, DA 04-1393, 19 FCC Rcd 8891 (WCB TAPD 2004).

¹³ *Id.* (internal citations omitted).

¹⁴ *Id.*

¹⁵ *Id.*

the fact that Mr. Metts was the only GVNW employee authorized to review and file the line count reports on behalf of the Partnerships, prevented GVNW from filing the Partnerships' line count reports in advance of the September 30, 2004 deadline. As a result, the Commission should find that good cause exists in this case to grant the Partnerships' requested waiver.

C. The Limited Waiver the Partnerships Seek Will Serve the Public Interest

The public interest will be served by granting the Partnerships request for waiver of the September 30, 2004 line count filing deadline. As previously discussed, the Partnerships have been designated as ETCs by the NDPSC, thus reflecting the NDPSC's judgment that these designations serve the public interest. The Partnerships' receipt of high-cost universal service support is essential to the maintenance and provision of the supported services in rural and high-cost areas in North Dakota. As noted above, the Commission consistently has acknowledged the public interest in granting waivers to ensure ETCs' receipt of support, under appropriate circumstances, despite inadvertent failures to meet USAC filing deadlines. Similarly, it would be inequitable to deny the Partnerships universal service support for the lines reported on the September 30, 2004 line count reports due to the line count data being received by USAC only a few working hours after the filing deadline. Moreover, the Partnerships have been assured that GVNW has taken appropriate steps to ensure the carriers' quarterly line count reports will be timely filed in the future.

III. CONCLUSION

For the foregoing reasons, the Commission should grant the Partnerships' request for waiver of the line count filing requirements set forth in 47 C.F.R. § 54.307 and allow the Partnerships to receive high-cost universal service support for the Companies' designated service areas in North Dakota for the lines that were reported to USAC on the September 30, 2004, line count reports.

Respectfully submitted,

Dated: July 29, 2005

WILKINSON BARKER KNAUER LLP

By: 

L. Charles Keller
2300 N Street, NW
Suite 700
Washington, D.C. 20037
Telephone: (202) 383-3414
Facsimile: (202) 783-5851
ckeller@wbklaw.com

BRIGGS AND MORGAN, P.A.

Mark J. Ayotte
Matthew A. Slaven
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Telephone: (612) 977-8400
Facsimile: (612) 977-8650
mayotte@briggs.com

EXHIBIT 1

of GVNW that the line count reports filed October 1, 2004 were deemed late and that it could not accept them.

6. GVNW subsequently conducted an internal investigation to determine what caused the delayed filing of the Partnerships' September 30, 2004 quarterly line count reports. From this investigation, GVNW has determined the following:

- (a) GVNW received the Partnerships' first-quarter 2004 line count data for the September 30, 2004, filing on or about May 12, 2004;
- (b) GVNW received the Partnerships' second-quarter 2004 line count data for the September 30, 2004, filing on July 20, 2004.
- (c) In the months leading up to the September 30, 2004 filing deadline, a combination of work related and personal responsibilities caused Mr. Metts to be away from the GVNW office for substantial periods of time.
- (d) Although Mr. Metts was absent from GVNW's office, GVNW technicians were able to timely process the Partnerships' line count data and prepare the necessary line count reports to be filed with USAC.
- (e) Mr. Metts completed his review and signed the Partnerships' September 30, 2004 line count reports no later than September 29, 2004;
- (f) Due to an internal oversight by GVNW, the Partnerships' September 30, 2004 line count reports were not tendered to UPS for overnight delivery until 4:06 p.m. on September 30, 2004; and
- (g) USAC did not receive the Partnerships' September 30, 2004 line count reports until 9:34 a.m. the following morning, October 1, 2004.

7. GVNW reported the above findings to the Partnerships on June 21, 2005.

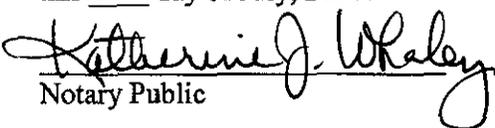
8. As a result of this internal investigation, GVNW has improved the manner in which it reviews and processes carrier line count data so that it is not dependent on the presence of, or subject to the absence of, any one employee. GVNW has also implemented procedures that result in earlier preparation and review of the quarterly reports and the assignment of multiple individuals with authority to execute and guarantee delivery of the quarterly line count filings to USAC in a timely manner.

FURTHER YOUR AFFLIANT SAYETH NOT.

GVNW CONSULTING, INC.

By: 
Scott Smith
Its: Division Manager

Subscribed and sworn before me
this 28th day of July, 2005.


Katherine J. Whaley
Notary Public

Katherine J. Whaley
Notary Public - Notary Seal
State of Missouri
Cass County
My Commission Expires: April 2, 2008

1797301v1