

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

In the Matter of)	
)	
Cellular Network Partnerships d/b/a)	CC Docket No. 96-45
Pioneer Cellular Petition for Waiver)	
Of Deadline in 47 C.F.R. 54.307(c))	

**COMMENTS OF CTIA-THE WIRELESS ASSOCIATION®
IN SUPPORT OF PIONEER CELLULAR’S PETITION FOR WAIVER OF
DEADLINE IN 47 C.F.R. 54.307(c)**

CTIA-The Wireless Association® (“CTIA”)¹ supports, and urges the Commission to grant, the petition of Cellular Network Partnership d/b/a Pioneer Cellular (“Pioneer Cellular” or “Petitioner”) for waiver of Section 54.307(c) of the Commission’s rules.² Specifically, the petition seeks a waiver of the September 30, 2005 filing deadline for High Cost Loop, Local Switching Support, Long Term Support and Interstate Common Line Support reported data and requests that the Commission accept its September 30, 2005 High Cost Fund (“HCF”) Line Count data submissions as timely.

On September 23, 2005, Pioneer Cellular sent its HCF line counts to the Universal Service Administration Company (“USAC”) by first-class U.S. mail. However, USAC did not receive the filing until October 3, 2005, one business day after the deadline.³ USAC did not notify the Petitioner of the mistake until March of this year, after Pioneer Cellular had inquired into a discrepancy in its universal service distribution.

¹ CTIA - The Wireless Association® is an international organization representing all sectors of wireless communications – cellular, personal communication services and enhanced specialized mobile radio.

² Petition of Cellular Network Partnership d/b/a Pioneer Cellular for Waiver of Deadline in 47 C.F.R. 54.307(c), CC Docket No. 96-45, (filed Mar. 15, 2006) (“Pioneer Cellular petition”).

³ Id. at 3.

USAC informed the Petitioner that it would not receive HCF support for the First Quarter of 2006 without a waiver of the filing rules.

By granting Pioneer Cellular's petition, the Federal Communications Commission ("FCC" or "Commission") will serve the public interest by advancing the Commission's overall universal service goals. Pioneer Cellular is a commercial mobile radio service ("CMRS") carrier serving over 40,000 consumers in rural areas throughout Oklahoma. In December 2005, Pioneer Cellular finished installation of thirty-two new cell sites, and has plans to install over 115 more to improve the quality of its service to rural areas of Oklahoma.⁴ A loss of universal service funding for the first quarter of 2006 would seriously jeopardize its build-out plans.

Application of the deadline in Section 54.307(c) would frustrate the overall policy of the Commission to ensure all Americans have access to supported telecommunications services. According to the *10th CMRS Competition Report*, there are 1.8 fewer competitive providers in less densely populated areas than in more densely populated areas.⁵ Pioneer Cellular was designated an ETC on March 1, 2005 and has been using its approximately \$160,000 per month universal service distribution to provide competitive choice to rural service areas of Oklahoma. Pioneer Cellular requires continued universal service support in order to ensure the necessary funding to maintain its provision of supported services in rural, insular, and high-cost areas.

In addition, under the circumstances, strict application of the Commission's rules would be inequitable, unduly burdensome and contrary to the public interest. Pioneer

⁴ Id. at 5.

⁵ See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, WT Docket No. 05-71, FCC 05-173, at para. 94 ("*Tenth CMRS Competition Report*").

Cellular made reasonable efforts to submit the required line count data on time; however, due to circumstances beyond its control, the filing was received one business day after the filing deadline. Petitioner had followed the same procedures for all previous filings, which were timely filed with USAC. To ensure future compliance, however, Pioneer Cellular has since implemented additional procedures. Pioneer Cellular's late filing resulted in harmless error, and considering its commitment to future compliance, strict application of the rules in this case would be inequitable, unduly burdensome and contrary to the public interest.

The Commission may grant a waiver of its rules if the “underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case...[or] application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest.”⁶ While neither CTIA nor Pioneer Cellular question the importance of timely data and certification filings by eligible telecommunications providers (“ETCs”), the present circumstances show that the Commission will serve the public interest by granting the petition. The petitioner has accepted responsibility for the late filing and has taken sufficient steps to ensure future compliance with filing deadlines. At this point, application of the rule will only serve to delay the benefits of Pioneer Cellular's continued build-out to rural consumers.

The Commission has “granted waivers of [its] universal service rules in order 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

⁶ 47 C.F.R. § 1.925(3).

information services.”⁷ As in previous cases, the circumstances surrounding Pioneer Cellular’s petition were unique, brief, and the error was promptly cured to ensure future compliance with the Commission’s rules. Further, Pioneer Cellular filed a petition for waiver promptly after notification from USAC that its September 30, 2005 submission was late. Finally, the uninterrupted receipt of universal service distribution is necessary to ensure that Pioneer Cellular continues to deploy supported telecommunications services to rural areas of Oklahoma.

Conclusion

For these reasons, CTIA respectfully requests that the Commission grant Pioneer Cellular’s petition for waiver of the deadline in 47 C.F.R. Section 54.307(c).

Respectfully Submitted

/s/ Paul Garnett

Paul Garnett

Assistant Vice-President, Regulatory Affairs

Michael F. Altschul

Senior Vice President, General Counsel

CTIA—The Wireless Association®

1400 16th Street N.W.

Suite 600

Washington, D.C. 20036

(202) 785-0081

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⁷ *In the Matter of FiberNet, LLC Petition for Waiver of FCC Rule Section 54.307(c)(4)*, Order, CC Docket No. 96-45 at para. 7 (rel. Dec 23, 2005).

CERTIFICATE OF SERVICE

I, Marlea Leary, do hereby certify that on this 28th day of April 2006, I caused copies of the foregoing “Comments of CTIA – The Wireless Association®” to be delivered to the following by First Class U.S. mail:

Mary Kathryn Kunc, OBA # 15907
Ron Comingdeer, OBA #1835
Kendall W. Parrish, OBA # 15039
Comingdeer, Lee & Gooch
6011 North Robinson
Oklahoma City, OK 73118

Stephen G. Kraskin, ESQ.
Communications Advisory Counsel
2154 Wisconsin Avenue, NW
Washington, DC 20007

/s/ Marlea Leary