

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Petition for Waiver of Section 54.802(a) of) CC Docket No. 96-45
the FCC's Rules)

To: Wireline Competition Bureau

Petition for Waiver of Section 54.802(a) of the FCC's Rules

Verizon,¹ pursuant to Sections 1.3 of the Commission's rules, requests a waiver of the June 30, 2006 date for filing line count data set forth in Section 54.802(a) of the Commission's rules. For the first time since this filing requirement was instituted, Verizon inadvertently missed the filing date. Verizon sought to file the data early in the day on July 5, 2005 – just two business days late – but was told by the Universal Service Administrative Company (“USAC”) that USAC could not accept the data without a waiver. Verizon accordingly is filing this petition to ask that the Bureau waive the June 30, 2006 date and direct USAC to accept Verizon's line count data.² Grant of this petition will directly advance the public interest because, as the

¹ The Verizon companies participating in this filing (‘Verizon’) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² The Bureau has granted similar waivers of 47 C.F.R. § 54.802(a) on delegated authority. *See, e.g., Federal-State Joint Board on Universal Service, Valor Telecommunications of Texas, L.P. Request for Review of Decision of Universal Service Administrator; Petition for Waiver and/or Clarification of Filing Deadline in 47 C.F.R. Section 54.802(a)*, Order, CC Docket No. 96-45, (rel. Jan. 13, 2006) (“*Valor Waiver Order*”); *Federal-State Joint Board on Universal Service, Citizens Communications and Frontier Communications Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, DA 05-2829 (rel. Oct. 27, 2005) (“*Citizens/Frontier Waiver Order*”). If for any reason the Commission is required to act on this Petition, Verizon requests that this Petition be treated as directed to the Commission.

Commission has acknowledged, Interstate Access Support funding based on the line count data serves a vitally important role in assuring affordable telephone service. Grant also is consistent with Commission precedent; in particular, the facts here are virtually identical to those underlying the recent *Citizens/Frontier Waiver Order*. Finally, granting the petition expeditiously will serve the public interest by minimizing the impact of the late-filed data and helping to assure that USAC is not inconvenienced by the delay from the original filing date.

FACTS

Section 54.802(a) of the Commission's rules requires that line count data be filed on a quarterly basis with USAC. Verizon fully appreciates the high priority that USAC and the Commission place on compliance with this filing date and deeply regrets the oversight that caused the late filing in this instance. Until last Friday, Verizon had never failed to meet the relevant filing date. To the contrary, Verizon has timely filed every quarterly submission since the effective date of the filing requirements adopted in the *CALLS Order*.³

Unfortunately, Verizon last week inadvertently missed the filing date due to an oversight by the relevant compliance personnel. The oversight resulted from a significant planned reorganization of the department responsible for USF filings. Of particular relevance here, the planned reorganization is moving the functionality for making the line count data filings, with the result that there was confusion as to who was responsible for reviewing the filing and ensuring it was submitted. On Wednesday, July 5 – two business days after the filing was due – Verizon attempted to file the line count data with USAC. As noted above, however, USAC declined to accept the data and informed Verizon that it would need to secure a waiver.⁴

³ Declaration of Patrick Garzillo, Attachment A hereto, ¶ 3.

⁴ *Id.* ¶¶ 4-5.

Verizon's internal procedures are designed to guard against missed filing dates, and Verizon is taking steps this week to revise its procedures in order to assure that the company once again will meet the filing dates for these data going forward. To this end, Verizon is making several employees specifically responsible for assuring that the line count filings are timely submitted, in order to institute a system of checks and balances that will minimize to the greatest extent possible the risk of non-compliance. Verizon also is tasking a senior manager with responsibility for assuring the accurate and timely filing of the line count data, as is the company's practice for other types of required information submissions.⁵ For example, Verizon successfully uses this process today in preparing and filing its Form 477 Broadband and Local Competition Report. The filing team prepares an analysis of the data to be filed against the prior period's data and provides this, along with the completed 477 Reports, to the Department Head for review. After this review, the filing team presents the aforementioned data to a Senior Manager for review and sign-off. By extending this same process to the line count data filings, Verizon can assure that those filings will be made in a timely fashion.⁶

DISCUSSION

The Commission's rules may be waived for good cause shown.⁷ In particular, the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁸ In addition, the Commission may consider whether grant of a waiver will avoid hardship and inequity or result in more effective

⁵ *Id.* ¶ 6.

⁶ *Id.* ¶ 7.

⁷ 47 C.F.R. § 1.3.

⁸ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

implementation of overall Commission policy.⁹ The requested waiver clearly meets these criteria.

Interstate Access Support is an integral part of the CALLS access charge reform plan. As the Commission has explained, the CALLS plan creates several very important public interest benefits: it “reduces, and in most instances eliminates, implicit subsidies among end-user classes; makes implicit universal service funding in access charges explicit and portable; provides significant benefits to consumers who make few or no long-distance calls; and sets carrier charges at reasonable levels.”¹⁰ The Commission accordingly concluded that the CALLS plan “resolves these issues in a way that benefits consumers and is pro-competitive and economically efficient”¹¹

As an essential element of the CALLS plan, the Commission has concluded that Interstate Access Support represents a “necessary first step” to replace “various implicit subsidies” that violated the Act’s requirement that universal service support be explicit and were no longer tenable in a competitive environment.¹² To this end, the Commission has found that Interstate Access Support provides “explicit support that is specific, predictable, and sufficient to ensure that consumers in all regions of the nation have access to telecommunications services at

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

¹⁰ *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long-Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 ¶ 29 (2000), *aff’d in part, rev’d in part, and remanded in part, Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001) (“CALLS Order”).

¹¹ *Id.*

¹² *Id.* ¶¶ 201-203.

affordable and reasonably comparable rates.”¹³ The Commission also has determined that Interstate Access Support is critical to enabling local exchange carriers to continue to invest in their networks and provide service at reasonable rates in the face of dramatically lower access charges.¹⁴

In addition, Commission precedent strongly supports granting this Petition. Most notably, the Bureau last October granted a waiver of Section 54.802(a) to Citizens Communications and Frontier Communications in circumstances nearly identical to those presented here. Those companies missed the line count filing deadline by two business days due to a corporate reorganization that “directly affected the employees responsible for the line-count filing, the companies previously had a “longstanding history of submitting timely data,” and they sought to file the data as soon as they discovered their oversight.¹⁵ Moreover, Citizens and Frontier committed to “implement new procedures and safeguards to ensure that future filings will be submitted on a timely basis,”¹⁶ as Verizon has committed to do here. Under these circumstances, the Bureau found that a waiver was warranted:

Significantly, Frontier’s delay in filing the line-count report was caused by unique circumstances, was brief, and the error was promptly cured and did not create any hardship for USAC or other IAS funding recipients. Frontier acted expeditiously in both filing its data and seeking a waiver of the deadline. These findings are consistent with previous waivers granted. For example, we have granted waivers of the Commission’s data submission rules in cases involving delays of two or more weeks. Here, Frontier filed its report only two business days after the deadline. Importantly,

¹³ *Id.* ¶ 186.

¹⁴ *Id.* ¶ 32; *see also Valor Waiver Order*, ¶ 8; *Citizens/Frontier Waiver Order*, ¶ 11 (granting a waiver of the universal service line count filing deadline to “facilitate the continued provision of service, as well as system construction and upgrades”).

¹⁵ *Citizens/Frontier Waiver Order* ¶¶ 5, 7

¹⁶ *Id.* ¶ 10.

Frontier's swift efforts to submit the report, notify Commission staff of the delay, and file the waiver request ensured that the late filing would not impair the administration of the universal service fund.¹⁷

For the foregoing reasons, Verizon respectfully requests that the Bureau promptly grant this Petition and direct USAC to accept Verizon's second-quarter 2006 line count data.

Respectfully submitted,

VERIZON

Michael E. Glover
Of Counsel

By: /s/ Jeffrey S. Linder
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Edward Shakin
1515 North Courthouse Road
Arlington, Virginia 22201-2909
(703) 351-3099

Its Attorneys

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¹⁷ *Id.* ¶ 9. Indeed, the Bureau has granted waivers in the past for competitive ETCs who become eligible to receive universal service support mid-quarter, demonstrating that even much later submissions do not create an insuperable obstacle to calculating Interstate Access Support. *See, e.g., Federal-State Joint Board on Universal Service, RFB Cellular Inc., Petitions for Waiver of Sections 54.314(d) 54.307(c) of the Commission's Rules and Regulations*, Order, CC Docket No. 96-45, 17 FCC Rcd 24387, 24391, ¶ 10 (Wireline Comp. Bur. 2002). Likewise, the Commission granted a waiver to Valor when that company filed its line count data more than two full months after the end of the relevant quarter, finding that the "special circumstances" Valor demonstrated "outweigh any processing difficulties that USAC may face as a result of the late-filed data." *Valor Order* ¶ 9. The extremely brief delay here accordingly should not result in any hardship to USAC.

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July, 2006, I caused true and correct copies of foregoing to be served on the following parties.

/s/ Robin Walker

Robin Walker

Universal Service Administrative Company
(hand delivery)
High Cost and Low Income Division
2000 L Street, NW
Suite 200
Washington, DC 20036

Jeremy Marcus (hand delivery)
Acting Division Chief
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission