

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Comment Sought on Petitions for Waiver of a)	
Filing Deadline Related to the Universal Service)	DA 07-4592
Program)	

**REPLY COMMENTS
OF THE
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”)¹ hereby submits these reply comments in response to the Public Notice in the above-captioned proceeding.² The Public Notice seeks comment on the petitions of Gila River Telecommunications, Inc. (“GRTI”)³ and Saddleback Communications (“Saddleback”)⁴ (collectively “Petitioners”) for a waiver of Section 54.209 of the Commission’s rules. Approval of Petitioners’ waiver requests would permit the Universal Service Administrative Company (USAC) to accept as timely

¹ OPASTCO is a national trade association representing over 520 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

² *Comment Sought on Petitions for Waiver of a Filing Deadline Related to the Universal Service Program*, CC Docket No. 96-45, Public Notice, DA 07-4592 (rel. Nov. 9, 2007) (Public Notice).

³ *Gila River Telecommunications, Inc. Petition for Waiver of Section 54.209 of the Commission’s Rules*, CC Docket No. 96-45 (fil. Oct. 26, 2007) (GRTI Petition).

⁴ *Saddleback Communications Petition for Waiver to Allow Filing of Supplemental Data Two Days Late*, CC Docket No. 96-45 (fil. Oct. 16, 2007) (Saddleback Petition).

filed Petitioners' late filed Section 54.209 compliance reports, allowing Petitioners to receive high-cost support for the first quarter of 2008.

The loss of high-cost support for an entire quarter, as a result of Petitioners filing their Section 54.209 compliance reports just days after the filing deadline, is not in the public interest. Such a loss of high-cost support could hamper Petitioners' ability to invest in the network upgrades necessary for their tribal customers to continue to have access to communications services that are reasonably comparable to those offered in urban areas. This would be antithetical to the universal service goals of the Telecommunications Act of 1996 ("1996 Act"). It is important to note that the Wireline Competition Bureau ("Bureau") has, on several prior occasions, granted waivers of the Commission's filing deadlines under circumstances similar to those of Petitioners. In addition, Petitioners' waiver requests were not opposed by any party in the initial comment round. OPASTCO therefore urges the Bureau to grant Petitioners' waiver requests so as to allow them to receive high-cost support for the first quarter of 2008.

II. GRANT OF PETITIONERS' WAIVER REQUESTS IS IN THE PUBLIC INTEREST, AS IT WOULD ALLOW GRTI AND SADDLEBACK TO CONTINUE PROVIDING HIGH-QUALITY COMMUNICATIONS SERVICES TO THEIR TRIBAL CUSTOMERS

OPASTCO urges the Bureau to grant Petitioners' waiver requests so that USAC can accept as timely filed Petitioners' late filed Section 54.209 compliance reports. Petitioners filed their Section 54.209 compliance reports just days after the October 1, 2007 filing deadline, and were notified by USAC that, as a result, they would not receive high-cost support for the first quarter of 2008. Approval of Petitioners' waiver requests would allow Petitioners to receive this critical funding.

Petitioners serve customers residing in historically underserved tribal communities, and each carrier has significantly improved their customers' access to basic and advanced communications services in recent years.⁵ However, for carriers such as Petitioners that serve high-cost areas of the country, the loss of high-cost support for an entire quarter could significantly hamper future network investments. Such a result is antithetical to the universal service goals of the 1996 Act. Moreover, when viewed in light of the fact that Petitioners filed the required compliance reports just days after the filing deadline, the loss of an entire quarter's worth of high-cost support is a disproportionate consequence. In fact, such a result would only serve to harm petitioners' tribal customers, and is therefore not in the public interest.

On several prior occasions, the Bureau has granted waivers of the Commission's filing deadlines under similar circumstances, recognizing that a strict adherence to those deadlines could undermine other Commission goals. For example, the Bureau recently granted a waiver of the Commission's rules on behalf of Pine Cellular, whose late filing pursuant to Section 54.307 would have resulted in the carrier's loss of high-cost support.⁶ In that case, the Bureau recognized that the "...strict enforcement of the filing deadline would disproportionately penalize Pine Cellular."⁷ Similarly, in 2005, the Bureau granted a waiver on behalf of Citizens Communications and Frontier Communications, carriers that serve tribal customers, among others.⁸ Here again, the Bureau found that the loss of Interstate Access Support, as a result of filing line-count data pursuant to Section

⁵ GRTI Petition, p.2; Saddleback Petition, pp. 5-6.

⁶ *Federal-State Joint Board on Universal Service, Pine Cellular Phones, Inc. Petition for Waiver of Section 54.307 of the Commission's Rule*, CC Docket No. 96-45, Order, 22 FCC Rcd 968 (2007).

⁷ *Id.*, 22 FCC Rcd 969-970, ¶ 5.

⁸ *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, Order, 20 FCC Rcd 16761(2005).

54.208(a) two business days late, "...could undermine Frontier's investments in its network, and thus its ability to ensure that customers have and maintain access to adequate services."⁹ Finally, in 2005, the Bureau granted a similar waiver to FiberNet.¹⁰ In granting the waiver, the Bureau noted that it has, in the past, "...granted waivers of [the Commission's] 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 information services."¹¹

OPASTCO recognizes that it is necessary for carriers to file compliance reports in a timely manner. However, the disproportionate impact that denial of the waiver requests would have on Petitioners' tribal customers would undermine the Commission's goal of ensuring that consumers all across the nation, including those in rural, high-cost, and tribal areas, have access to high-quality communications services. Approval of the petitions thus serves the public interest. It is important to note that the Petitioners' waiver requests were not opposed by any party in the initial comment round. OPASTCO therefore urges the Bureau to grant Petitioners' waiver requests so as to allow them to receive high-cost support for the first quarter of 2008.

III. CONCLUSION

The loss of high-cost support for an entire quarter, as a result of filing the required Section 54.209 compliance reports just days after the filing deadline, would

⁹ *Id.*, 20 FCC Rcd 16763-16764, ¶ 8.

¹⁰ *Federal-State Joint Board on Universal Service, FiberNet, LLC, Petition for Waiver of FCC Rule Section 54.307(c)(4)*, CC Docket No. 96-45, Order, 20 FCC Rcd 20316 (2005).

¹¹ *Id.*, 20 FCC Rcd 20318, ¶ 7. (Internal citations and quotations omitted). *See also, Federal-State Joint Board on Universal Service, Verizon Communications Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 21 FCC Rcd 10155, 10157, ¶ 8 (2006) (granting a waiver of Section 54.802(a) of the Commission's rules on behalf of Verizon, noting that it "...would enable Verizon to continue uninterrupted its efforts to maintain and promote access to advanced services in its high-cost areas.").

disproportionately harm Petitioners' tribal customers and is therefore not in the public interest. The Bureau has, on several prior occasions, granted waivers of the Commission's filing deadlines under similar circumstances. OPASTCO urges the Bureau to grant Petitioners' waiver requests so that they can receive high-cost support for the first quarter of 2008.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
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November 30, 2007

CERTIFICATE OF SERVICE

I, Brian Ford, hereby certify that a copy of the reply comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent on this, the 30th day of November, 2007 via electronic mail, to those listed on the attached sheet.

By: /s/ Brian J. Ford
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