

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

In the Matter of

Federal-State Joint Board on Universal Service

HTC Services, Inc.

Petition for Waiver of Section 54.802(a) Deadlines for Submission of
Line Count Data by Eligible Telecommunications Carriers Seeking
Portable Interstate Access Support

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) CC Docket No. 96-45
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FILED/ACCEPTED
MAY - 2 2008
Federal Communications Commission
Office of the Secretary

**PETITION FOR WAIVER OF SECTION 54.802(a) DEADLINES
FOR PORTABLE INTERSTATE ACCESS SUPPORT**

HTC Services, Inc. ("HTC"), by its attorney and pursuant to Section 1.3 of the Commission's Rules, requests waiver of the September 29, 2006, and December 29, 2006, deadlines established by Section 54.802(a) of the Rules for the filing of quarterly line count data by competitive eligible telecommunications carriers ("CETCs") claiming portable Interstate Access Support ("IAS").

Good cause exists for the requested waiver. First, the waiver is warranted by unique and special circumstances beyond the control of HTC – namely, the abrupt departure on June 20, 2006, of the Office Manager previously responsible for HTC's Universal Service Fund ("USF") filings, followed by a six-week gap before the position could be filled. These unforeseen and uncontrollable events disrupted the training and operations of HTC's very small administrative staff for the remainder of 2006 and the early portion of 2007. Second, grant of the requested waiver will enable HTC to receive approximately \$18,878 in portable Interstate Access Support, and will have no significant adverse impact upon USAC's administration of the Interstate Access Support program. Third, the loss of approximately \$18,878 in portable IAS will impair the ability of HTC to invest in and recover the cost of new telecommunications infrastructure and

services, and to offer effective competition to Qwest Corporation, the dominant price cap carrier serving the affected Hillsboro, North Dakota market.

I

Factual Background

HTC, a Minnesota corporation, is a competitive local exchange carrier (“CLEC”) authorized by the North Dakota Public Service Commission (“North Dakota PSC”) to provide facilities-based local exchange telecommunications services in the Hillsboro, North Dakota¹ exchange in competition with the incumbent local exchange carrier (“ILEC”), Qwest Corporation. HTC was designated as an Eligible Telecommunications Carrier (“ETC”) by the North Dakota PSC in February 2000 (Order, Case Nos. PU-2213-99-669/670, dated February 23, 2000), and subsequently began receiving portable IAS for its lines in the Hillsboro exchange (Study Area Code 389002).

HTC is a wholly-owned subsidiary of Halstad Telephone Company (“Halstad”), a Minnesota telephone cooperative that is the ILEC for the areas in and around the rural communities of Halstad, Shelly, Nielsville, Climax, Fisher and Bygland in Norman and Polk counties in Minnesota, plus several extensions into adjacent areas of North Dakota. Halstad is an Issuing Carrier in the National Exchange Carrier Association (“NECA”) tariffs, and a participant in the NECA pools since 1984.

Halstad and HTC maintain their headquarters at 345 Second Avenue West in Halstad, Minnesota 56548. During most of 2006 (except for the period from June 20, 2006 to August 1, 2006), Halstad and HTC operated with an aggregate staff of twelve (12) full-time employees,

¹ Hillsboro is a small city (2000 population: 1,563) located in rural Traill County in eastern North Dakota near the border with Minnesota.

comprised of two (2) full-time administrative employees, six (6) full-time technical employees, and four (4) full-time customer service employees.

Halstad's annual and quarterly USF filings are prepared and submitted on its behalf primarily by NECA and Halstad's cost consultant. In contrast, HTC prepares and submits its own USF filings, including the quarterly line counts required by Section 54.802(a). This task has always been performed for HTC by the Office Manager of Halstad and HTC.

In mid-June 2006, the prior Office Manager of the Companies resigned unexpectedly and departed his employment abruptly on June 20, 2006. This departure was so sudden that Halstad and HTC had no time to train their remaining administrative employee to take over the Office Manager's tasks, and had to start their search for a new Office Manager from ground zero. The Office Manager position remained vacant for more than six weeks while the Companies: (a) solicited resumes and interviewed potential successors; (b) selected and hired their current Office Manager, Mark Forseth; and (c) allowed him to provide appropriate notice to his previous employer. Mr. Forseth began work for Halstad and HTC on August 1, 2006, forty-one (41) days after his predecessor had left.

Mr. Forseth is a qualified and experienced office manager, but did not have any previous experience in the telecommunications industry. And because the previous Office Manager had been gone for almost six weeks when he started, Mr. Forseth not only had a substantial number of urgent and uncompleted tasks awaiting him on his first day of work, but also did not receive the benefit of any on-the-job training or counsel from his predecessor. From August 1, 2006, to the end of January 2007, Mr. Forseth was forced to work extremely hard to keep abreast of his ongoing day-to-day office management obligations, while playing catch-up with the backlog of pressing problems and paperwork piles that had accumulated before he started work and while

discovering and teaching himself the requirements, details and nuances of office management for telecommunications carriers.

Coming from outside the telecommunications industry, one of the matters with which Mr. Forseth was not familiar was USF filing requirements and deadlines, and the consequences of even brief delays in meeting them. Moreover, because NECA and Halstad's cost consultant prepared and made the parent company's USF filings, Mr. Forseth did not realize that a HTC quarterly line count filing was due on or before September 29, 2006.

In October 2006, Mr. Forseth was reviewing some 2005 files when he became aware that HTC may have been required to make a universal service filing at the end of September. He made several calls to HTC's attorneys and consultants, and learned that a line count filing had been due on or before September 29, 2006. Mr. Forseth promptly prepared and submitted the line count data to USAC on or about October 26, 2006, and received a confirmation from USAC dated November 6, 2006 (copy of submission attached as Exhibit A).

However, in October 2006, M. Forseth was still dealing with the administrative backlog, and was not able to familiarize himself fully with Section 54.802(a) and other USF procedures and requirements, or to implement office procedures for compliance with USF deadlines and requirements. Unfortunately, he did not realize that another quarterly line count filing was due on or before December 29, 2006, until after that deadline had passed. Mr. Forseth discovered this oversight in January 2007, and promptly submitted the line count data to USAC on January 25, 2007 and received conformation from USAC on January 26, 2007 (copy of submission attached as Exhibit B).

Since January 2007, Mr. Forseth has thoroughly reviewed and familiarized himself with the Commission's and USAC's procedures, deadlines and requirements regarding portable IAS

support, and has implemented internal procedures to ensure HTC's compliance with such procedures, deadlines and requirements. HTC has made all subsequent quarterly line count filings, and believes that it is in full compliance with all other applicable IAS requirements.

II

Good Cause Exists for Waiver of Section 54.802(a) Deadlines

Section 1.3 of the Rules permits the Commission's rules to be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of public policy on an individual basis. WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

A. Special Circumstances Warrant a Waiver

In *Smithville Telephone Company, Inc.*, DA 04-1393, released May 18, 2004, the Bureau waived the October 1, 2003, annual Local Switching Support filing deadline due to special circumstances involving the death of the carrier's president during September 2003, the disruption of the carrier's daily business operations and stalling of projects due to subsequent management changes, and the illness-related absence of the carrier's regulatory accountant during November and December 2003.

The special circumstances that affected HTC herein are at least as severe and disruptive as those found to have warranted waiver of the USF filing deadline in *Smithville*. Whereas it is not clear what specific USF compliance responsibilities (if any) had been performed by Smithville's

deceased president, the resignation and abrupt departure of Halstad's and HTC's former Office Manager constituted the sudden loss of the only person on their two-person administrative staff who had been familiar with and responsible for Section 54.802(a) line count filings. The abrupt departure of the former Office Manager deprived HTC of the opportunity to train its remaining administrative employee or its successor Office Manager regarding USF and other responsibilities, while the almost six-week period before the companies could obtain a successor Office Manager created backlogs that disrupted HTC's daily business operations (including its IAS line count filings) until January 2007.

In sum, the unexpected and abrupt departure of the former Halstad-HTC Office Manager caused disruptions similar to those caused by the death of Smithville's president, and the resulting turmoil, supervisory gaps, training losses and work backlogs led directly to the inadvertent delays by HTC in meeting its September 29, 2006 and December 29, 2006 line count deadlines. These special circumstances warrant a deviation from the general IAS filing deadlines and late-filing penalties.

B. Impacts upon Service and Competition

Without the requested waiver, HTC will lose approximately \$4,119 of portable IAS for the Second Quarter of 2006, approximately \$11,073 of portable IAS for the Third Quarter of 2006, and approximately \$3,686 of portable IAS for the Fourth Quarter of 2006.

Payment of this total of \$18,878 in portable IAS support to HTC will not adversely impact the ability of USAC to administer the federal High-Cost Support programs (currently approximately \$4.6 billion) or the specific Interstate Access Support program (currently approximately \$511 million).

However, the loss of the subject \$18,878 of portable IAS support will adversely impact the ability of HTC to compete with the much larger Qwest Corporation in the Hillsboro, North Dakota market. Whereas \$18,878 is not a large sum for many carriers, it is a relatively large amount for a small rural market like Hillsboro, which has a population less than 1,600 and contains fewer than 1,000 access lines. In such a small rural market, the subject \$18,878 is needed by HTC to for service and service quality enhancements that will enable it to compete more effectively with Qwest, and to recover its investment, operating and maintenance costs while keeping its customer rates at affordable levels.

III

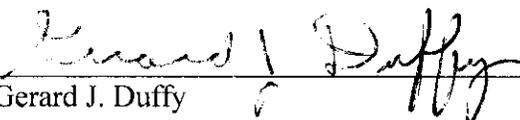
Conclusion

The unique circumstances of the abrupt departure of HTC's former Office Manager and of the administrative disruptions, backlogs and training problems cause by the six-week period until HTC could hire a new Office Manager establish good cause for grant of the requested waiver of the filing deadlines in Sections 54.802(a) of the Rules. HTC's new Office Manager and small administrative staff have worked hard and effectively to restore order, and to implement full compliance with the Commission's and USAC's universal service filing deadlines and requirements. While grant of the proposed waiver will not disrupt or impair USAC's administration of IAS and other universal service programs, the projected loss by HTC of \$18,878 of portable IAS support will impair its ability to invest in and recover the costs of the facilities and services it needs to compete effectively with Qwest Corporation in the rural Hillsboro, North Dakotas market.

Hence, good cause having been shown, the Commission should waive the Sept 29, 2006 and December 29, 2006 filing deadlines established by Section 54.802(a) of the Rules, and order

USAC to distribute to HTC the full amount of portable Interstate Access Support to which it was entitled for its Hillsboro, North Dakota exchange (Study Area Code 389002) for the Second, Third and Fourth Quarters of 2006.

Respectfully submitted,
HTC SERVICES, INC.

By 
Gerard J. Duffy

Its Attorney

Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP
2120 L Street, NW (Suite 300)
Washington, DC 20037
Phone: (202) 659-0830
Facsimile: (202) 828-5568
Email: gjd@bloostonlaw.com

Dated: May 2, 2008

EXHIBIT A

Mark Forseth

From: "HC FILINGS" <HCFilings@hcli.universalservice.org>
To: <markforseth@rrv.net>
Sent: Monday, November 06, 2006 1:03 PM
Subject: RE: Issue With Form 525 for HTC Services, Inc., SAC 389002, for IAS

EMAIL RECEIPT CONFIRMATION!

From: markforseth@rrv.net [mailto:markforseth@rrv.net]
Sent: Monday, November 06, 2006 10:10 AM
To: HC FILINGS
Subject: RE: Issue With Form 525 for HTC Services, Inc., SAC 389002, for IAS

Corina,

The corrected Lines Reported as of date should be 6/30/06.

HTC Services, Inc. has received a CETC designation from the North Dakota Public Service Commission.

If you have any questions please feel free to contact me at 218-456-2125

Sincerely,

Mark Forseth, Office Manager
HTC Services, Inc

COMPETITIVE CARRIERS HIGH COST DATA SUBMISSION

(1) Quarterly Submission Date:	September 29, 2006
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(2) USAC Service Provider Identification Number (SPIN):	Halstad Telephone # 143002100
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(3) Company Study Area Code: (First time filers leave blank and a Study Area Code will be assigned)	389002
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(4) Study Area Name:	UNE Zone 3 - Incumbent carrier is Qwest Corporation - Incumbent SAC is 385144
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(5) Company Legal Name:	HTC Services, Inc.
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(6) Filer 499 ID:	821584
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Check Box if this is a new address/contact from a previous data submission:

(7) Mailing Address:	P. O. Box 55
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(8) Contact Name:	Ronald Laqua	(9) Title:	General Manager
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(10) Telephone Number:	218.456.2125
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(11) E-mail Address:	rsayler@rry.net
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Do Not Write in this Area:
For Administrator's Use Only

(12) Mechanism for which you are requesting support:	(13) Lines Reported as of:	(14) Type of Filing		(15) Worksheet to Complete
		Original	Revision	
High Cost Loop Support (HCL)				Complete HCL and LSS
Local Switching Support (LSS)				Complete HCL and LSS
Interstate Common Line Support (ICLS)				Complete ICLS Worksheet
High Cost Model Support (HCM)				Complete HCM Worksheet
Interstate Access Support (IAS)	6/30/2006	X		Complete IAS Worksheet

INTERSTATE ACCESS SUPPORT (IAS) LINE COUNT WORKSHEET

(2) USAC Service Provider Identification Number (SPIN)	Halstad Telephone # 143002100	Do Not Write in this Area For Administrator's Use Only
(3) Company Study Area Code:	389002	
(4) Study Area Name:	UNE Zone 3 - Incumbent carrier is Qwest Corporation - Incumbent SAC is 385144	
(13) Lines Reported as of:	9/30/2005	
(14) Type of Filing:	Interstate Access Support (IAS)	

(39) Incumbent Carrier Name	(40) Incumbent Carrier SAC	(41) ETC Designation	Number of Lines								(50) Total Lines
			Zone 1		Zone 2		Zone 3		Zone 4		
			(42) Residence & Single Line Business	(43) Multi-line Business	(44) Residence & Single Line Business	(45) Multi-line Business	(46) Residence & Single Line Business	(47) Multi-line Business	(48) Residence & Single Line Business	(49) Multi-line Business	
Qwest Corporation	385,144	?					577	158			735

EXHIBIT B

Mark Forseth

From: "HC FILINGS" <HCFilings@hcli.universals
To: "Mark Forseth" <markforseth@rrv.net>
Sent: Friday, January 26, 2007 5:06 PM
Subject: RE: Revised HTC Services, Inc Line count

EMAIL RECEIPT CONFIRMATION!

From: Mark Forseth [mailto:markforseth@rrv.net]
Sent: Friday, January 26, 2007 11:57 AM
To: HC FILINGS
Subject: Revised HTC Services, Inc Line counts

Please disregard the one I sent earlier today.

Thanks,
Mark Forseth, Office Manager
Halstad Telephone Company
HTC Services, Inc.
P.O. Box 55
345 Second Ave. West
Halstad, MN 56548

Tel 218-456-2125
Fax 218-456-2196

(1) USA Service Provider Identification Number (SPV)	03000000
(2) Company Study Area Code:	SEBXC
(4) Study Area Name:	USDC Zone 1 - Number of Units Reported in Incumbent SAC & SES SAC
(12) Lines Reported as of:	03/2006
(14) Type of filing:	Private Access Submission

Complete one row for each Incumbent Carrier Area Served

Incumbent Carrier Name	Incumbent Carrier SAC	M-1 ETC Designation	Zone 1			Zone 2			Zone 3			Total Lines
			(13) Residential Single Lines	(14) Residential Business	(15) Multi-line Business	(16) Residential Single Lines	(17) Residential Business	(18) Multi-line Business	(19) Residential Single Lines	(20) Residential Business	(21) Multi-line Business	

DO NOT WRITE IN THESE SPACES

FCC Form 525
 High Cost Mechanism
 Competitive Carrier Line Count Report

FCC 1
 OMB Control No. 3
 Jan.

TO BE COMPLETED BY REPORTING CARRIER. IF THE REPORTING CARRIER IS USING FCC FORM 525-1, DO NOT SIGN BEHALF.

Certification of Officer or Employee as to the Accuracy of the Data Reported in FCC Form 525, Line Count Report for Competitive Carriers, on Behalf of Reporting Carrier			
<p>I certify that I am an officer or employee of the reporting carrier; my responsibilities include ensuring the accuracy of the actual line count data reported on FCC Form 525; and, to the best of my knowledge, the information reported on this form is accurate.</p>			
Name of Reporting Carrier		HTC Services, Inc.	
Service Provider Identification Number		143002103	
Signature of authorized officer or employee:		Date:	
Printed name of authorized officer or employee: Ronald Laqua			
Title or position of authorized officer or employee: General Manager			
Telephone number of authorized officer or employee: (218) - 456-2125 ext.			
Study Area Code of Reporting CEC	399002	Filing Due Date for this form (mm/dd/yyyy)	12/31/2006
<p>Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001</p>			