

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

In the Matter of)
)
Comment Sought on Petition Filed by)
Minerva Valley Telephone Company for) WC Docket No. 08-71
Waiver of Universal Service Fund)
High-Cost Filing Deadline)
)

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ submits these comments in response to the March 30, 2009, Public Notice by the Federal Communications Commission (“FCC” or the “Commission”)² regarding Minerva Valley Telephone Company, Inc.’s (“Minerva Valley” or the “Company”) petition³ for a protective waiver of the Commission’s Section 54.904(d) rule⁴ relating to the filing of annual certification with the Universal Service Administrative Company (USAC) that its Interstate Common Line Support (ICLS) for the period from July 1, 2008 through June 30, 2009 will be used only for the intended purposes. NTCA respectfully asserts that Minerva Valley has shown good cause for the

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 580 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *Comment Sought on Petition Filed by Minerva Valley Telephone Company for Waiver of Universal Service Fund High-Cost Filing Deadline*, WC Docket No. 08-71, DA 09-687 (rel. March 30, 2009) (“Public Notice”).

³ *In the Matter of Universal Service High-Cost Filing Deadlines, Petition for Waiver of Section 54.904(d) Deadline for Annual Interstate Common Line Support Certification*, CC Docket No. 96-45 (filed March 4, 2009) (“Petition”).

⁴ 47 CFR § 54.904(d).

Commission to grant the Company's requested waiver and allow Minerva Valley to collect \$55,368 in ICLS to which it is entitled.

I. BACKGROUND

Minerva Valley is a rural incumbent local exchange carrier (ILEC) headquartered in the city of Zearing in central Iowa. The Company serves a total of 732 access lines in the small rural Iowa communities of Zearing and Clemmon.

Minerva Valley has been an eligible telecommunications carrier ("ETC") since the Telecommunications Act of 1996 was first implemented.⁵ Like numerous other small carriers, Minerva Valley depends upon the receipt of universal service funding in order to provide its customers with services comparable to those available to consumers living in non-rural areas.

Minerva Valley has fully complied with all ICLS data filing requirements in a timely manner since these requirements became effective in late 2001.⁶ On June 26, 2008, Minerva Valley mailed its annual ICLS certification to both the Commission and to USAC, four days in advance of the June 30 deadline stipulated by Section 54.904(d) of the Commission's rules. According to Minerva Valley's prior experience, this should have allowed sufficient time for the certifications to be received on or before the June 30 deadline.⁷

Due to an unforeseen and unexplained problem in the U.S. Postal Service, Minerva Valley's certification was not received by USAC and the Commission until July 2, two full days beyond the June 30 deadline.⁸

⁵ Petition, p. 2.

⁶ *Id.*, p. 3.

⁷ *Id.*, p. 4.

⁸ *Id.*, p. 1.

The penalty for late filing ICLS certification is six months of suspended ICLS payments.⁹ The loss of this critically needed support—which amounts to \$55,368, or approximately 4.5% of Minerva Valley’s total annual revenues¹⁰--would be a devastating blow to the Company’s ability to continue providing high-quality telecommunications services to its customers.

II. MINERVA VALLEY HAS SHOWN GOOD CAUSE MERITING RELIEF, AND WAIVER OF THE SECTION 54.904(d) FILING DEADLINE IS IN THE PUBLIC INTEREST.

Minerva Valley has demonstrated in its Petition that good cause exists to grant the waiver and that the waiver, in this situation, is in the public interest. There has been no showing of any pattern of abuse and no intent to defraud; rather, Minerva Valley made a good faith effort to comply with the ICLS certification deadline, but missed it due to an unforeseen problem with mail delivery.

The Commission may waive any of its rules for good cause shown, such as where strict compliance to a filing deadline is inconsistent with the public interest.¹¹ Granting Minerva Valley’s petition and allowing them to receive ICLS support for the period from July 1, 2008 to December 31, 2008 serves the public interest. The Company uses its Universal Service support to provide two very rural Iowa communities with high quality, affordable telecommunications services. Denying the Company any portion of these funds will unfairly impact Minerva Valley’s customers, contrary to the public interest.

Further, Minerva Valley’s receipt of ICLS funding would not threaten the funds disbursed or due to be disbursed to any other carriers. No other party would be harmed by the Commission granting Minerva Valley’s waiver petition.

⁹ *Ibid.*

¹⁰ *Id.*, p. 4.

¹¹ 47 C.F.R. § 1.3.

NTCA believes that Minerva Valley has met the burden of showing good cause in this particular matter. Granting Minerva Valley's waiver petition is in the best interests of the consumers served by the Company, and will not harm any other providers.

III. MINERVA VALLEY HAS LONG ACTED IN THE SPIRIT OF THE UNIVERSAL SERVICE PROGRAM, AND SHOULD NOT BE UNDULY PENALIZED FOR AN UNFORESEEABLE THIRD-PARTY MIX-UP.

The ultimate goal of the universal service program is to provide rural consumers with the comparable quality of service available in non-rural areas, at reasonable prices. Typically, rural areas are much more expensive to serve due to lower population densities, geographic barriers, and a general absence of the economies of scope and scale that benefit those providers serving non-rural areas. Often, it is only the receipt of universal service support that makes it possible for a provider to serve their highest-cost customers. Without that support, many customers living in the most remote and highest-cost areas would go unserved or underserved. It would not be in the public interest, nor would it be within the spirit of the universal service program, to take steps that would ultimately result in a degradation of service quality or increase in end user prices for consumers in rural areas, particularly when such steps are taken in response to the unforeseen difficulties of a third party.

Rightfully, the Commission has recently taken steps to try and reduce and eliminate any fraud and waste that may threaten the overall viability of the universal service program. Carriers do need to realize that receiving universal service funding also compels them to comply with any information requests that USAC or the Commission might impose, fully and in a timely manner. Repeated or intentional flaunting of these requirements would certainly warrant the imposition of punitive actions. Punishment is not warranted here.

Punitive action taken against Minerva Valley for a problem outside of their control will have the unfortunate consequence of causing harm to the Company's customers by reducing the available support and possibly impacting the quality, variety, and/or price of telecommunications services which Minerva Valley's customers may receive.

In addition, Minerva Valley has taken steps to ensure that a similar mix-up never happens again. The Company's new General Manager—who was hired just prior to the June 30, 2008 reporting deadline¹²--along with two board members, met with consultants on March 17th to discuss “managerial attributes that could be improved including organizational skills necessary within job responsibilities to adhere to regulatory requirements.”¹³

Minerva Valley has a long and distinguished record of service to their community. This has been largely accomplished as the result of carefully planned and fully thought-out financial investments made to the benefit of their customers. Compromising their financial position by withholding universal service funds as a result of a problem with the delivery of the U.S. mail will ultimately harm the Company's ability to provide high-quality, affordable service to their customers, contrary to the spirit and intent of the universal service program. Granting Minerva Valley's Petition is in the public interest.

¹² Petition, p. 1.

¹³ *Id.*, p. 3.

IV. CONCLUSION

For these reasons, NTCA respectfully requests that the Commission grant Minerva Valley's requested waiver of the Section 54.904(d) ICLS certification deadline and to allow Minerva Valley to receive the \$55,368 in ICLS support for the July 1, 2008 to December 31, 2008 period to which it is entitled.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION

Richard J. Schadelbauer
Economist
703-351-2019

By: /s/ Daniel Mitchell
Daniel Mitchell
(703) 351-2016

Its Attorney

4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203
703 351-2000

April 29, 2009

CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in WC Docket No. 08-71, DA 09-687, was served on this 29th day of April 2009 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

Acting Chairman Michael J. Copps
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, D.C. 20554
Michael.Copps@fcc.gov

Commissioner Jonathan S. Adelstein
Federal Communications Commission
445 12th Street, SW, Room 8-A302
Washington, D.C. 20554
Jonathan.Adelstein@fcc.gov

Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, SW, Room 8-C302
Washington, D.C. 20554
Robert.McDowell@fcc.gov

Best Copy and Printing, Inc.
Federal Communications Commission
445 12th Street, SW, Room CY-B402
Washington, D.C. 20554
fcc@bcpiweb.com

Minerva Valley Telephone Company, Inc.
BY
Its Consultant
Kiesling Associates
7780 Office Plaza Drive South, Suite 184
West Des Moines, IA 50266-2337
bsnoddy@kiesling.com

Ernesto Beckford
Federal Communications Commission
Telecommunications Access Policy
Division
Wireline Competition Bureau
445 12th Street, SW, Room 5-A317,
Washington, D.C. 20554
Ernesto.Beckford@fcc.gov

David Duarte
Federal Communications Commission
Telecommunications Access Policy
Division
Wireline Competition Bureau
445 12th Street, SW, Room 5-A422,
Washington, D.C. 20554
David.Duarte@fcc.gov

/s/ Adrienne L. Rolls
Adrienne L. Rolls