

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

In the Matter of	)	
	)	
OTZ Telecommunications	)	
	)	WC Docket 08-71
Petition for Waiver of Section 54.307 of	)	DA 09-1248
The Commission's Rules	)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION  
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> submits these comments pursuant to the June 5, 2009 Public Notice by the Federal Communications Commission (the “Commission” or the “FCC”)<sup>2</sup> regarding OTZ Telecommunication’s (“OTZ Telecom” or the “Company”) petition<sup>3</sup> for waiver of the December 30, 2008 and March 30, 2009 filing deadlines set forth in Section 54.307 of the Commission’s rules for receipt of universal service funds. NTCA respectfully asserts that the Company has shown good cause for the Commission to grant OTZ Telecom’s waiver and urges the Commission to allow the Company to receive uninterrupted high-cost universal service support for the second, third and fourth quarters of the year.

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<sup>1</sup> 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.

<sup>2</sup> *Comment Sought on Petitions for Waiver of Universal Service High-Cost Filing Deadlines*, WC Docket No. 08-71, DA 09-1248 (rel. June 5, 2009) (Public Notice).

<sup>3</sup> *OTZ Telecommunications Petition for Waiver of Section 54.307 Deadline for Quarterly Filings – Expedited Action Required*, WC Docket No. 08-71 (filed April 22, 2009) (Petition).

## **I. BACKGROUND.**

OTZ Telecommunications is a wholly-owned subsidiary of OTZ Telephone Cooperative, Inc. (“OTZ”). OTZ Telecom is an Eligible Telecommunications Carrier (“ETC”) that provides wireless service to remote, primarily Alaskan Native villages in the Northwest Arctic Borough of Alaska through the use of universal service funds. As OTZ Telecom notes in its Petition, the Company “takes its regulatory obligations very seriously and its parent company, OTZ, has a very solid record of compliance with state and Commission ETC mandates.”<sup>4</sup> Indeed, after being granted ETC status in March 2008, OTZ Telecom made three timely line count filings on May 12, 2008, July 31, 2008, and September 30, 2008.

However, due to an unfortunate miscommunication between OTZ staff and OTZ Telecom staff, OTZ Telecom’s operations department believed that the line count filings would be the responsibility of the billing department, while the billing department believed that the filings would remain with the operations department. As a result of this misunderstanding, the line count filings due December 30, 2008 and March 30, 2009 were not submitted to USAC until April 10, 2009, shortly after the mistake was discovered.<sup>5</sup>

## **II. OTZ TELECOM HAS SHOWN GOOD CAUSE MERITING RELIEF, AND WAIVER OF THE FILING DEADLINE IS IN THE PUBLIC INTEREST.**

OTZ Telecom 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. OTZ Telecom has established a good record of submitting required USF information in a timely manner.<sup>6</sup> There is no pattern of abuse, and no intent to defraud. It is readily apparent that the missed reporting deadlines were

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<sup>4</sup> Petition, p. 2.

<sup>5</sup> *Id.*, p. 3.

<sup>6</sup> *Ibid.*

the result of an internal miscommunication. Further, once the mistake was identified, immediate steps were taken both to rectify the immediate problem as well as to implement new internal procedures to ensure future compliance.

Granting OTZ Telecom's petition and allowing them to collect uninterrupted high cost support serves the public interest. As OTZ Telecom correctly noted, 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.<sup>7</sup> The Company uses its universal service funds for purposes of constructing its wireless network in order to bring wireless service to all customers in its service area. Denying the Company these funds will unfairly jeopardize the next phase of OTZ Telecom's network build-out, contrary to the public interest.

Section 1.3 of the FCC's Rules allows the Commission to grant a waiver of the application of any of its rules for "good cause shown."<sup>8</sup> NTCA believes that OTZ Telecom has met the burden of showing good cause in this particular matter. Granting OTZ Telecom's waiver petition is in the best interests of the consumers served by the Company, and will not harm any other providers.

### **III. OTZ TELECOM HAS CONSISTENTLY ACTED IN THE SPIRIT OF THE UNIVERSAL SERVICE PROGRAM, AND SHOULD NOT BE UNDULY PENALIZED AS THE RESULT OF A SINGLE, HONEST MISTAKE.**

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

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<sup>7</sup> *Id.*, p. 4.

<sup>8</sup> 47 C.F.R. § 1.3.

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.

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 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.

It would be unfair and unjust to penalize OTZ Telecom, which has an otherwise unblemished record, for a single error. Punitive action taken against such a carrier will have the unfortunate consequence of causing harm to that carrier's customers, and possibly limiting the quality and/or variety of telecommunications services which the customers may receive.

OTZ Telecom 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 through the withholding of universal service funds resulting from a simple and honest mistake 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.

#### IV. CONCLUSION

For the above-noted reasons, NTCA respectfully requests that the Commission grant OTZ Telecom's waiver petition and allow the Company to receive high-cost support in the amount of \$38,740 a quarter for the final three quarters of 2009 to which it is entitled.

Respectfully submitted,



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July 6, 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. 80-71, DA 09-1248, was served on this 6<sup>th</sup> day of July 2009 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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