



July 16, 2009

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: *Petition for Waiver of Section 54.802(a) of the Commission's Rules*, WC Docket
No. 08-71

Dear Ms. Dortch:

Attached, please find the Petition for Waiver of Section 54.307(c) of the Commission's Rules filed today by General Communications Corp. Please feel free to contact me with any questions.

Sincerely,

Christopher P. Nierman
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(202) 730-1300

Counsel for GCI Communication Corp.

cc: Julie Veach

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

In the Matter of)
)
Petition for Waiver of Section 54.802(a)) WC Docket No. 08-71
of the Commission's Rules)
)

**General Communication, Inc.'s Petition for Waiver
of Section 54.307(c) of the Commission's Rules**

Pursuant to section 1.3 of the Commission's rules, GCI Communication Corp. ("GCICC"), for itself and for its former commonly owned affiliate, Alaska DigiTel, LLC, which merged into GCICC on April 14, 2009 (collectively referred to as "GCICC"), respectfully requests a waiver of the December 30, 2008 and March 30, 2009 deadlines for filing high-cost line count data with the Universal Service Administrative Company ("USAC") as set forth in section 54.307(c) of the Commission's rules.

I. Background

To receive support for service provided in high-cost areas, section 54.307(c) of the Commission's rules requires competitive eligible telecommunications carriers ("CETCs") to submit to USAC the number of working loops it serves in a given service area according to a specific schedule. CETCs must submit data no later than December 30 for the quarterly line count as of June 30 of the same year and no later than March 30 for the quarterly line count as of September 30 of the previous year.

The GCICC personnel responsible for filing the line count data, however, were under the mistaken belief that the filing deadline was the last day of each quarter-ending calendar month, *i.e.*, a deadline of December 31, 2008 to submit data as of the quarter ending June 30, 2008 and a deadline of March 31, 2009 to submit data as of the quarter

ending September 30, 2008. Accordingly, GCICC submitted its high-cost data on December 30, 2008 and March 30, 2009 via Priority Overnight FedEx with the expectation that they would arrive on the presumed deadlines.¹ As a result, however, USAC received the first data submission on December 31, 2008, one day late, and the second data submission on April 1, 2009, two days late.²

GCICC, to the best of its knowledge, had never before filed late high-cost data with USAC.

II. Discussion

The Commission's rules may be waived for good cause shown³ and "where the particular facts make strict compliance inconsistent with the public interest."⁴ The Commission has made clear in several decisions over the past few years that good cause exists and the public interest is advanced where eligible telecommunications carriers ("ETCs") (1) have filed the required data only days after the filing deadline, (2) have taken steps to ensure future compliance, and (3) will otherwise lose funding that could negatively impact universal service programs.⁵ Each of those circumstances is present here.

¹ See the attached FedEx delivery notices.

² Although the submission was sent from Alaska via Priority Overnight on March 30, 2009, it did not reach its destination in New Jersey until two days later. *See id.*

³ 47 C.F.R. § 1.3.

⁴ *Verizon Communications Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, Order, CC Docket No. 96-45, 21 FCC Rcd 10155, 10157 ¶ 6 (2006) ("*Verizon Order*").

⁵ *See, e.g., Verizon Order; Xfone USA, Inc. Petition for Waiver of Sections 54.307(c) and 54.802(a) of the Commission's Rules*, Order, WC Docket No. 08-71, 24 FCC Rcd 4813 (2009) ("*Xfone Order*"); *AT&T Communications of NY & AT&T Communications of California Petition for Waiver of Section 54.802(a) of the Commission's Rules*, Order, CC Docket No. 96-45, 22 FCC Rcd 953 (2007) ("*AT&T*").

The Commission has routinely granted petitions to waive the line count filing deadlines where an ETC has inadvertently missed the deadline by a matter of days.⁶ Most recently, in granting a petition filed by Xfone USA, Inc. (“Xfone”), the Commission specifically found “that waivers are warranted because Xfone *promptly* filed the required data,” where Xfone was five days late with one filing and six days late with another.⁷ GCICC submitted its filings even more promptly, one and two days late respectively, and with the belief, albeit mistaken, that it was timely filing.

The Commission has also looked favorably on such small transgressions where an ETC has taken steps to eliminate future data submission deadline errors.⁸ GCICC has committed to revise its internal procedures to ensure compliance with all future filing deadlines. First, GCICC will submit line count data to USAC electronically, thus preventing any delay due to the delivery of paper submissions. Second, GCICC will automatically generate electronic reminders to personnel responsible for filing at various

Order”); *NPCR, Inc. Petition for Waiver of Section 54.802(a) of the Commission’s Rules*, Order, CC Docket No. 96-45, 22 FCC Rcd 560 (2007) (“*NPCR Order*”); *Citizens Communications and Frontier Communications Petition for Waiver of Section 54.802(a) of the Commission’s Rules*, Order, CC Docket No. 96-45, 20 FCC Rcd 16761 (2005) (“*Citizens/Frontier Waiver Order*”).

⁶ See, e.g., *Xfone Order*, 24 FCC Rcd at 4815-16 ¶ 7 (waiving filing deadlines for filings that were five and six days late, but denying waiver petition for filings that were three months late); *AT&T Order*, 22 FCC Rcd at 955 ¶ 8 (waiving filing deadline when the filing was submitted two business days after the deadline); *NPCR Order*, 22 FCC at Rcd 562 ¶ 8 (waiving filing deadline when the filing was submitted one business day after the deadline); *Verizon Order*, 21 FCC Rcd at 10157 ¶ 9 (waiving a filing deadline when the filing was submitted two business days after the deadline); *Citizens/Frontier Waiver Order*, 20 FCC Rcd at 16764 ¶ 9 (waiving a filing deadline when the filing was submitted two business days after the deadline).

⁷ *Xfone Order*, 24 FCC Rcd at 4815 ¶ 6 (emphasis added).

⁸ See, e.g., *AT&T Order*, 22 FCC Rcd at 955-56 ¶ 9; *NPCR Order*, 22 FCC at Rcd 563 ¶ 9; *Verizon Order*, 21 FCC Rcd at 10158 ¶ 10; *Citizens/Frontier Waiver Order*, 20 FCC Rcd at 16764 ¶ 10.

intervals prior to the filing deadlines. Third, GCICC will assign internal deadlines to its current procedures to ensure preparation and submission of filings in advance of the required filing deadline. When considering similar commitments to ensure compliance, the Commission has previously found that “strict enforcement of the filing deadline would disproportionately penalize [the ETC] when considered in light of its actions to remedy its error.”⁹

Finally, the Commission has recognized that where line count data has been filed only days late and corrective measures have been implemented, denying the waiver would “undermine [an ETC’s] investments in its network, and thus its ability to ensure that customers have and maintain access to adequate services.”¹⁰ Denial of the instant waiver would deprive GCICC of high-cost support that is necessary to expand its telecommunications offerings to some of the most remote areas in the country, in GCICC’s home state of Alaska. Alaska’s vast distances, widely dispersed population, severe climate, and difficult terrain make telecommunications a lifeline for its residents. Alaska’s dispersed population and difficult terrain also make it very difficult and costly to build out telecommunications facilities. While GCICC has invested hundreds of millions of dollars to bring telecommunications service to its customers in remote areas, it could not do so without high-cost universal support.

⁹ *AT&T Order*, 22 FCC Rcd at 955 ¶ 6. *See also NPCR Order*, 22 FCC at Rcd 562 ¶ 7; *Verizon Order*, 21 FCC Rcd at 10157 ¶ 8; *Citizens/Frontier Waiver Order*, 20 FCC Rcd at 16763-64 ¶ 7.

¹⁰ *Verizon Order*, 21 FCC Rcd at 10157 ¶ 8.

Conclusion

For the foregoing reasons, GCICC respectfully requests that the Commission promptly grant this Petition and direct USAC to accept GCICC's quarterly high-cost data submission for the quarters ending June 30, 2008 and September 30, 2008.

Respectfully submitted,



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Counsel for GCI Communication Corp.

July 16, 2009

Detailed Results

Enter tracking number

Track

Detailed Results

Notifications

Tracking no.: 797216623379

 E-mail notifications

Delivered



Delivered
Signed for by: E.JENKINS

Shipment Dates

Ship date  Dec 30, 2008

Delivery date  Dec 31, 2008 9:41 AM

Destination

PISCATAWAY, NJ

[Signature Proof of Delivery !\[\]\(06a315363e7801bba8c7489a6694af19_img.jpg\)](#)

Shipment Facts

[Help](#)

Service type	Priority Overnight	Reference	00.7902.91420.0000.0000
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Shipment Travel History

[Help](#)

Select time zone:

Select time format: [12H](#) | [24H](#)

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Dec 31, 2008 9:41 AM	Delivered	PISCATAWAY, NJ	

Detailed Results

Enter tracking number

Track

Detailed Results

Notifications

Tracking no.: 797460601056

 E-mail notifications

Delivered



Delivered
Signed for by: M.DIXON

Shipment Dates

Ship date  Mar 30, 2009
Delivery date  Apr 1, 2009 11:08 AM

Destination

PISCATAWAY, NJ
[Signature Proof of Delivery !\[\]\(e3f255517d37bb309a3a931ec4849e6a_img.jpg\)](#)

Shipment Facts

[Help](#)

Service type: Priority Overnight Reference: 00.7902.91420.0000.0000

Shipment Travel History

[Help](#)

Select time zone:

Select time format: [12H](#) | [24H](#)

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Apr 1, 2009 11:08 AM	Delivered	PISCATAWAY, NJ	