

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

In the Matter of)	
)	
West River Telecommunications Cooperative)	
)	WC Docket 08-71
Petition for Waiver of Section 54.301(e) of)	DA 09-1559
The Commission's Rules)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ submits these comments pursuant to the July 21, 2009 Public Notice by the Federal Communications Commission (the "Commission" or the "FCC")² regarding West River Telecommunications Cooperative's ("WRT" or the "Company") petition³ for waiver of the December 31, 2008 filing deadline set forth in Section 54.301(e) 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 WRT's waiver and urges the Commission to allow the Company to receive the \$469,212 of Local Switching Support for 2007 to which it is entitled.

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 Petitions for Waiver of Universal Service High-Cost Filing Deadlines*, WC Docket No. 08-71, DA 09-1559 (rel. July 21, 2009) (Public Notice).

³ *West River Telecommunications Cooperative Petition for Waiver of Section 54.301(e) Submission Date for 2007 Local Switching Support True-up Data*, WC Docket No. 08-71 (filed June 4, 2009) (Petition).

I. BACKGROUND.

West River Telecommunications Cooperative is a communications cooperative headquartered in Hazen, North Dakota. The company serves 25 exchanges in 17 counties in North and South Dakota, providing service to more than 14,500 customers. WRT was designated an ETC by the North Dakota Public Service Commission in December 1997.

Since exiting the National Exchange Carrier Association (NECA) traffic sensitive pool in 1986, the Company has submitted required Local Switching Support data in a timely manner. However, in the process of transitioning to a new cost consultant, an unfortunate miscommunication occurred among the various parties and the Company's 2007 true-up data worksheet was not filed by the December 31, 2007 deadline (although the certification form was filed.)⁴

It was not until WRT received its May 2009 disbursement statement from NECA that the Company realized that a mistake had been made. At that time, WRT immediately sent its 2007 Local Switching Support data to USAC. USAC, however, will not process that data until the Commission grants WRT a waiver of the Section 54.301(e) filing deadline. WRT has subsequently surrendered the entire \$469,211 in Local Switching Support received during 2007.⁵

II. WRT HAS SHOWN GOOD CAUSE MERITING RELIEF, AND WAIVER OF THE FILING DEADLINE IS IN THE PUBLIC INTEREST.

WRT 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. WRT has established a good record of submitting required USF information in a timely manner.⁶ There is no pattern of abuse, and no

⁴ Petition, p. 2.

⁵ *Ibid.*

⁶ *Ibid.*

intent to defraud. It is readily apparent that the missed reporting deadline was 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.⁷

Granting WRT's petition and allowing them to collect Local Switching Support serves the public interest. 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. WRT is dependent upon Local Switching Support for the maintenance of its network, as well as future improvements. Denying the Company these funds will unfairly jeopardize their ability to maintain quality service in such an expansive rural area, 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."⁸ NTCA believes that WRT has met the burden of showing good cause in this particular matter. Granting WRT's waiver petition is in the best interests of the consumers served by the Company, and will not harm any other providers.

III. WRT 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

⁷ *Ibid.*

⁸ 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 WRT, 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.

WRT 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 WRT's waiver petition and allow the Company to receive Local Switching Support in the amount of \$469,212 for 2007 to which it is entitled.

Respectfully submitted,



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August 20, 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 09-1559, was served on this 20th day of August 2009 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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