

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Twin Valley Telephone, Inc.) WC Docket No. 08-71
)
Petition for Waiver of Sections 36.612(a)(3))
and 54.305(d)(1) of the Commission's Rules)

To: Wireline Competition Bureau

**COMMENTS OF
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION,
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL
TELECOMMUNICATIONS COMPANIES, AND
WESTERN TELECOMMUNICATIONS ALLIANCE**

The National Telecommunications Cooperative Association (“NTCA”)¹, the Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”)² and the Western Telecommunications Alliance (“WTA”)³ submit these comments in support of the Petition for Waiver of Sections 36.12 and 54.305 of the Commission’s Rules submitted by Twin Valley Telephone, Inc. (“Twin Valley”) on or about August 9, 2010. These comments are submitted in accordance with the Commission’s Public Notice (Comment Sought on the Twin Valley Telephone, Inc. Petition for Waiver of a Universal Service High Cost Filing Deadline), DA 10-1559, released August 23, 2010.

¹ NTCA is a national industry association representing 585 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full-service rural local exchange carriers, and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. NTCA’s members are dedicated to providing competitive modern communications and advanced services and ensuring the economic future of their rural communities.

² OPASTCO is a national trade association representing approximately 470 small incumbent local exchange carriers serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3 million customers.

³ WTA is a trade association that represents approximately 250 rural incumbent local exchange carriers (including both commercial companies and cooperatives) that operate in Kansas and the other 23 states located west of the Mississippi River.

Twin Valley indicated in its Petition that it has invested over \$50 million to upgrade thirteen rural Kansas exchanges that it purchased from Sprint/Embarq in 2006. At the time of the transaction, these exchanges had been long neglected, and less than 10 percent of the customers therein had access to advanced telecommunications services. Twin Valley's post-transaction investments and upgrades have made available quality voice service and advanced telecommunications services to 100 percent of the customers in the 13 exchanges.

Safety Valve support was established as part of the Rural Task Force plan in 2001 to encourage investment in acquired high-cost exchanges that had not been significantly upgraded for some time by their former owners.⁴ As a result of its significant investments in the 13 rural exchanges it acquired from Sprint/Embarq, Twin Valley qualified for Safety Valve support. However, due to a misunderstanding of complex Safety Valve filing requirements that render certain quarterly reports mandatory or optional depending upon whether the carrier selects a calendar or fiscal year for its test year, Twin Valley missed a March 30, 2010 quarterly Safety Valve filing, and has been informed that it will receive no Safety Valve support for a 12-month period beginning in July 2010 (a loss of approximately \$2 million).

NTCA, OPASTCO and WTA have been working very hard to develop approaches and proposals that will assist the Commission's efforts to bring quality and affordable broadband services to rural areas that are reasonably comparable with the broadband services and rates available in urban areas. The Twin Valley situation constitutes another example of how small, rural local exchange carriers have been incrementally advancing telecommunications service quality and broadband availability by acquiring long-neglected rural exchanges from larger carriers and then making the substantial investments needed to upgrade the acquired rural

⁴ *Federal-State Joint Board on Universal Service, Multi-Association Group Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 11244, 11282 at paras. 93-94 (2001) (*Rural Task Force Order*).

facilities into multiple use networks that provide access to broadband services as well as quality voice services. While Twin Valley has not resolved the entire urban-rural Digital Divide, it certainly has greatly improved the telecommunications and advanced services available to the 4,500-to-5,000 customers in the subject 13 rural Kansas exchanges. The circumstances of this proceeding should also have reiterated to the Bureau the importance of carefully considering the impacts of various regulatory and universal service support mechanisms upon rural network investment incentives – and ultimately rural consumers such as those in these Kansas communities – as the Commission proceeds to implement the objectives outlined in the National Broadband Plan.

Specifically, Twin Valley's understandable confusion and unfortunate misunderstanding with respect to the Safety Valve reporting rules should not be allowed to disrupt its upgrades of the 13 acquired exchanges, or the operations of all 18 of its former and newly-acquired exchanges. As Twin Valley indicates in its Petition, the loss of twelve months of Safety Value support totaling approximately \$2 million would severely impair the ability of this relatively small company to repay its Rural Utilities Service loans and to fund its day-to-day operations, much less to plan or implement further network and service upgrades.⁵ In other words, the potential \$2 million penalty or revenue reduction threatens not only Twin Valley's investments in the acquired exchanges, but the quality and continuing availability of the services depended upon by all of Twin Valley's rural customers.

Particularly where a single missed deadline has threatened loss of universal service support for an entire year,⁶ the Commission in the past has avoided harsh results by waiving such

⁵ Petition, page 2.

⁶ See, e.g., *CenturyTel of Central Wisconsin, LLC*, 21 FCC Rcd 14633, 16334 (Dec. 2006); *Alliance Communications Cooperative, Inc. and Hills Telephone Company, Inc.*, 20 FCC Rcd 18250 (November 2005); *Smithville Telephone Company*, 19 FCC Rcd 8891 (May 2004).

deadlines. Twin Valley has established the special circumstances and public interest benefits that warrant the grant of its requested waiver. NTCA, OPASTCO and WTA urge the Commission to grant Twin Valley's requested waiver on an expedited basis.

Respectfully submitted,

**NATIONAL TELECOMMUNICATIONS COOPERATIVE
ASSOCIATION**

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