

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208
)	

PETITION FOR WAIVER OF SHOREHAM TELEPHONE LLC

Shoreham Telephone LLC, d/b/a OTT Communications, (“Shoreham” or the “Company”), pursuant to Section 1.3 of the Federal Communications Commission’s (“FCC” or “Commission”) Rules¹ requests waiver and extension of the January 1, 2012 date specified in Section 54.313(h) for which rates must be in effect in order to determine whether rate-of-return companies that receive high cost loop support (“HCLS”) meet the rate floor benchmark of \$10. As explained herein, Shoreham requests that the Commission waive the January 1, 2012 deadline

¹ 47 C.F.R. §1.3

and extend it to June 1, 2012, a month prior to the July 1, 2012 date when the \$10 rate floor benchmark will be implemented.

I. BACKGROUND

Shoreham is a rate-of-return incumbent local exchange carrier that provides service in the state of Vermont and receives HCLS. Pursuant to Vermont law, Shoreham provides local measured service which has two components: a fixed charge for residential service, known as “Economy Local Service,” and variable charges that apply for each minute of local calling. On April 11, 2012, Shoreham made a filing with the Vermont Public Service Board (“VPSB”) to raise the fixed charge component for its residential service to \$10.² The sole purpose of this filing was to address the requirement in the FCC’s *USF-ICC Order* that in order to avoid reductions in HCLS, recipients of that support must meet an initial rate floor of \$10 for the period of July 1, 2012 through June 30, 2013.³

Although the rate floor rule has yet to be implemented, Section 54.313(h) of the Commission’s rules specifies that the rates which must be reported for the purposes of the rule are those which were in effect on January 1, 2012. For the reasons demonstrated below, it was not possible for Shoreham to have the \$10 Economy Local Service rate in effect as of that date; however, as of June 1, 2012, the new \$10 rate will be in effect. Accordingly, “good cause” exists for waiver of this rule.

² See Attachment 1 - Letter from Trina M. Bragdon, OTT Communications to Ms. Susan Hudson, Clerk, VPSB, Local Service Tariff #8329, filed Apr. 11, 2012 (“Local Service Tariff Filing”). The revisions indicated in the filing will become effective June 1, 2012 upon approval of the VPSB. Indications are that the tariff revisions will be approved.

³ See *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*USF-ICC Order*”) at para. 239. For the period July 1, 2013 through June 30, 2014, the rate floor benchmark will be \$14. .

II. GRANT OF THIS WAIVER IS WARRANTED

Generally, the Commission's rules may be waived for good cause shown.⁴ Furthermore, the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁵ As demonstrated herein, good cause exists and the public interest would be served by waiving the January 1, 2012 date specified in Section 54.313(h) for which rates must be in effect in order to determine whether Shoreham meets the rate floor benchmark of \$10.

The waiver that Shoreham seeks is not a permanent waiver, nor does it seek an exemption from the application of the rate floor rule. Instead, the waiver, if granted, would allow for a five-month extension of the January 1, 2012 rate reporting requirement so that Shoreham would be able to report the new residential rate that it raised specifically to meet the \$10 rate floor benchmark. Accordingly, good cause exists and the public interest would be advanced by grant of this petition.

As noted above, the rate floor will be phased in beginning with an initial rate floor of \$10 for the period of July 1, 2012 through June 30, 2013. To implement the initial \$10 rate floor benchmark and the subsequent rate floor benchmarks, the *USF-ICC Order* requires affected carriers to annually report their flat rate for residential service. Specifically, the order requires that:

...beginning April 1, 2012, subject to [Paperwork Reduction Act or "PRA"] approval, all incumbent local exchange carrier recipients of HCLS, frozen high-cost support and CAF also must report their flat rate for residential service to USAC so that USAC can calculate reductions in support levels for those carriers with R1 rates below the specified rate floor as established above.⁶

⁴ 47 C.F.R. § 1.3.

⁵ *Northeast Cellular Telephone co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular).

⁶ *Id.* at ¶ 594.

According to Section 54.313(h) of the Commission's rules, the rates which must be reported by April 1 each year are those that are "in effect as of January 1."⁷ In sum, the *USF-ICC Order* requires rate-of-return carriers that receive HCLS, such as Shoreham, to annually report by April 1, their flat rates for residential service and state fees which were in effect as of January 1 of that year and to report any rates that were below the relevant benchmark as of January 1 as well as the associated line counts. USAC will then use this data to calculate any reductions in support levels which will be reflected in support payments beginning July 1 of each year.

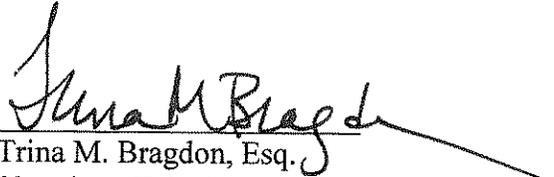
It was not until after the *USF-ICC Order* was released in mid-November of last year that Shoreham could have known about the new rate floor rule and the Section 54.313(h) reporting requirement which specifies the January 1st date. After Shoreham learned about the FCC's new rule, it worked with the VPSB in seeking clarification from the FCC regarding how to apply the rule in the context of Shoreham's local measured service offering and ultimately filed the tariff revisions with the VPSB to raise its fixed charge component for residential service so that it can meet the \$10 benchmark. The revisions are scheduled to be approved one month prior to the July 1, 2012 date when the \$10 rate floor benchmark will be implemented. Accordingly, good cause exists to grant Shoreham a five-month extension of the January 1, 2012 date specified in Section 54.313(h) – to June 1, 2012 - so it can report the flat rate for residential rate which it raised with the specific intent to meet the \$10 benchmark.

⁷ 47 C.F.R. § 54.313(h). This rule also requires these carriers to report all rates that are below the rate floor and the number of lines for each rate specified. The rates and number of lines must also be those in effect as of January 1.

III. CONCLUSION

As demonstrated herein, the “good cause” standard required for grant of waiver petitions has been met, and grant of this petition is consistent with the public interest.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Trina M. Bragdon". The signature is written in a cursive style and is positioned above the printed name and contact information.

Trina M. Bragdon, Esq.
Shoreham Telephone LLC
d/b/a OTT Communications
900 D Hammond St.
Bangor, ME 04401
(207) 992-9920

May 8, 2012

SHOREHAM TELEPHONE LLC
ATTACHMENT 1



FILE COPY

April 11, 2012

Via U.S. Mail

Ms. Susan Hudson, Clerk
Vermont Public Service Board
Chittenden Bank Building, 4th Floor
112 State Street, Drawer 20
Montpelier, VT 05620-2701

**Re: Shoreham Telephone LLC d/b/a OTT Communications
Local Service Tariff # 8329**

Dear Ms. Hudson:

Enclosed please find an original and nine (9) copies of Shoreham Telephone LLC's Local Service Tariff that carries an effective date of June 1, 2012. The proposed filing consists of page 21.

Non-substantive edits were made to correct formatting. In addition, substantive edits were made to meet the Federal Communications Commission's *Intercarrier Compensation Reform Order* requirement of a \$10.00 minimum local service rate.

Members of Shoreham Telephone LLC are available to answer any questions that the Public Service Board or the Department of Public Service may have about this filing. Please contact me at (207) 992-9920 or trina.bragdon@ottcommunications.com and I can direct your questions to the appropriate individual.

Please acknowledge receipt of this filing by returning a stamped duplicate copy of this letter in the enclosed, self-addressed envelope.

Sincerely,

Trina M. Bragdon
OTT Communications

NETWORK ACCESS SERVICE

RATES

Monthly Rate for Period

	Before January 1, 2005	On or After January 1, 2005	On or After August 1, 2005	<u>On or After June 1, 2012</u>
<u>ECONOMY LOCAL SERVICE – Rate Plus Local Measured Service</u>				
Residence (<u>Rate Plus Local</u>)	14.95	10.55	6.15	<u>10.00</u>
Business (<u>Measured Service</u>)	25.30	17.85	10.25	<u>16.65</u>

	Before August 1, 2005	On or After August 1, 2005	On or After August 1, 2005	<u>On or After June 1, 2012</u>
<u>LOCAL MEASURED SERVICE</u>				
LMS Group 1 (with exchange):	.02	.0137	.0137	<u>.0137</u>
** Peak Usage per Minute				
Off-Peak Usage per Minute	.005	.005	.005	<u>.005</u>
LMS Group 2 (between exchanges):				
Peak Usage per Minute	.035	.02	.02	<u>.02</u>
Off-Peak Usage per Minute	.02	.005	.005	<u>.005</u>
Local measured Service Usage CAP (Residence and Business) (not including monthly access line charge) (CAP covers both old and new calling)		30.00	30.00	<u>30.00</u>

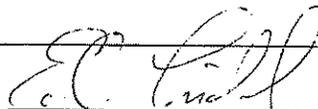
** Peak hours are from 9 a.m. to 9 p.m. Monday through Friday, and Off-Peak hours are 9 p.m. to 9 a.m. Monday through Friday, all day Saturday, Sunday, and certain holidays.

PREMIUM LOCAL SERVICE – Unlimited Local Calling

Residence	17.50
Business	35.00

Issued: April 11, 2012

Effective Date: June 1, 2012



Ed Tisdale, Senior Vice President