

June 26, 2012

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VIA ECFS

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

Attention: Sharon Gillett, Chief, Wireline Competition Bureau

Re: Sandwich Isles Communications, Inc.
Petition for Rule Waiver
CC Docket No. 01-92, WC Docket Nos. 05-337, 07-135 and 10-90 and
GN Docket No. 09-51

REQUEST FOR STAY OR INTERIM RELIEF

Dear Ms. Gillett:

Sandwich Isles Communications, Inc. (SIC), through counsel, and pursuant to Sections 1.41 and 1.43 of the Commission's Rules, hereby submits this Request for Stay or Interim Relief in this rule waiver proceeding. By this letter, and in accordance with recent FCC precedent, SIC requests that the FCC grant SIC "interim relief" pending agency review of SIC's Petition for Waiver of the \$3,000 per line per year high cost support cap scheduled to become effective on July 2 of 2012. SIC hereby requests that the Bureau maintain its Universal Service support at their current levels pending final review of SIC's Petition for Waiver.

Earlier this month, on June 6, representatives of SIC met with you and the staff of the Wireline Competition Bureau to discuss the pending Petition for Waiver. At that meeting, SIC asked whether the FCC would consider granting SIC some form of interim relief, in the form of a stay or other procedural ruling, while the Bureau continued reviewing SIC's Petition for Waiver. SIC suggested that given the Bureau's professed intent to submit additional written inquiries related to the Petition for Waiver, it was obviously unlikely that the FCC would be able to rule on the Waiver prior to July 2. Consequently, as it has done in other regulatory proceedings, the FCC should grant interim relief to avoid causing unnecessary financial hardship to SIC's customers that would result from a material reduction in SIC's high cost support on July 2. In response, SIC was informed at that meeting that no such interim relief would be granted.

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Less than one week later, on June 12, the Wireless Telecommunications Bureau granted interim relief to a wireless Eligible Telecommunications Carrier, Windy City Cellular, LLC. Order June 12, 2012 (DA 12-923). In pertinent part, that Bureau's order stated that it was granting "interim relief to support the status quo for wireless service in WCC's service area during the pendency of our review [of WCC's petition for waiver of the support cap]." *Id.* At ¶ 1.

It is worth noting that WCC did not submit its Petition for Waiver of the FCC's new support caps until April 3 of this year, several months *after* SIC had filed its Petition for Waiver with the FCC. Also, in granting WCC interim relief from the annual support caps, the FCC noted that at least one other carrier had claimed that it was already providing comparable communications service to "all or nearly all of the inhabited portions of Adak Island." *Id.* At ¶ 6. In other words, there was no record evidence that the public would actually be harmed in the carrier's service area absent interim relief. Moreover, there was no indication in the FCC's Order that WCC had ever asked for a stay or interim relief.

In stark contrast, SIC filed its Petition for Waiver with the FCC on December 30 of 2011. The record shows that SIC is the only carrier that provides basic telecommunications and broadband services to many of the inhabitants of the Hawaiian Home Lands. SIC has diligently responded to all FCC inquiries related to its Petition for Waiver and has met with the Bureau and the Chairman's Office in an effort to expedite a decision prior to the effective date of the new high cost support caps. And, SIC requested interim relief at a time when the FCC was presumably contemplating granting similar relief to another, similarly situated carrier. These are undisputed facts.

This is not to question the merits of granting interim relief to WCC; rather, all of this underscores the fundamental fairness of granting similar relief to SIC. Indeed, SIC had suggested at its recent meeting with the Bureau that, given the looming July 2 deadline, it would be prudent and reasonable for the FCC to grant a stay of the support caps to any and all carriers that had timely submitted a Petition for Waiver of the new per line support restrictions.

Given that as of this writing the FCC has offered no hint that any such relief will be granted across the board, SIC hereby requests that the FCC grant this Request for Stay and Interim Relief. Recent agency precedents evidently support this request for relief, financial data submitted to the FCC proves that serious financial harm will occur to SIC and its customers absent interim relief, and there will be no harm to the FCC's overall regulatory goals and objectives should this interim relief be granted. A grant of this request will merely preserve the status quo ante while the Bureau continues to analyze the considerable amount of documents and data it has requested from SIC. Additional data submissions will be filed with the FCC later this

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week; hence, it is highly unlikely that the Bureau will be able to review that data and issue its decision before the July 2nd effective date.

Again, to be quite clear about SIC's request, it is respectfully submitted that SIC's high cost support should be continued at its current levels pending final review of SIC's Petition for Waiver. We would kindly ask that the FCC respond to this request by the end of this week, so that SIC can make appropriate plans given that the cap becomes effective next Monday, July 2, 2012.

Thank you very much for your attention to this important request. Should there be any questions in this regard, please contact SIC's undersigned counsel.

Sincerely,

/s/ Frederick M. Joyce

Frederick M. Joyce

cc: Carol Matthey, Deputy Bureau Chief
Julie Veach, Deputy General Counsel
Michael Steffen (Office of the Chairman)