

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket 01-92
)	
Federal State Joint Board on Universal Service)	CC Docket No. 96-45

**COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)¹ hereby submits these comments in response to the Public Notice² in the above-captioned proceedings. The Public Notice seeks comment on the petition of Chillicothe Telephone Company³ for waiver of the July 2, 2012 deadline established by Section 54.304(d)(1) of the Commission’s rules for filing a duplicate copy of Connect America Fund

¹ OPASTCO is a national trade association representing approximately 420 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve nearly 3 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

² *Wireline Competition Bureau Seeks Comment on Chillicothe Telephone Company Petition for Waiver of Connect America Fund Intercarrier Compensation Support Deadline*, WC Docket No. 10-90, CC Docket No. 01-92, CC Docket No. 96-45, Public Notice, DA 12-1239 (rel. Aug. 3, 2012) (Public Notice).

³ Chillicothe Telephone Company Petition for Expedited Waiver of Section 54.304(d)(1) Deadline for Filing of CAF ICC Support Data with USAC, WC Docket No. 10-90, CC Docket Nos. 01-92, 96-45 (fil. Jul. 31, 2012) (Chillicothe Petition).

(CAF) intercarrier compensation (ICC) data with the Universal Service Administrative Company (USAC).

The Commission should immediately grant the Chillicothe Telephone Company petition for expedited waiver. As demonstrated herein, Chillicothe meets the Commission's standard for waiver of the Commission's filing deadlines, under circumstances nearly identical to those contained in previously granted waivers. More specifically, Chillicothe's inadvertent oversight in neglecting to meet the filing deadline at issue was corrected in two business days, and the carrier responded by adopting additional internal procedures to prevent future reoccurrences. In light of these facts, the loss of, or delay in receiving, the \$1.6 million in CAF ICC support at issue would disproportionately harm Chillicothe's efforts to serve its rural consumers, and thus grant of the petition is in the public interest.

II. THE COMMISSION SHOULD IMMEDIATELY GRANT CHILLICOTHE'S WAIVER REQUEST, AS THEY HAVE DEMONSTRATED GOOD CAUSE TO WAIVE THE APPLICABLE FILING DEADLINE

The Commission should immediately grant Chillicothe Telephone Company's request to waive the filing deadline set forth in Section 54.304(d)(1) of the Commission's rules. Petitioners filed their Section 51.917(f) election to receive CAF ICC support with the Commission on a timely basis, and while they inadvertently failed to file the requisite duplicate copy with USAC on a timely basis, this error was corrected within two business days.⁴ As demonstrated below, good cause exists to grant Chillicothe's waiver request.⁵

⁴ *Id.*, pp. 2-3.

⁵ 47 C.F.R. §1.3.

Chillicothe and its counsel made substantial efforts to comply with the extensive, newly adopted filing requirements enacted by the USF/ICC Transformation Order,⁶ including the filing at issue in their petition.⁷ To begin with, Chillicothe submitted their 51.917(f) filing to the FCC by the date required by the new rules. Unfortunately, Chillicothe's counsel inadvertently failed to file a duplicate copy of that same data with USAC. This error was promptly remedied, however, with the filing transmitted to USAC a mere two business days after the deadline.⁸ Moreover, in response to this oversight, Chillicothe's counsel and consultant devised a new internal procedure to ensure that future filings will be made in compliance with deadlines.⁹ It should also be noted that given the Wireline Competition Bureau's pending investigation of the Access Recovery Charges (ARCs) of several carriers, including Chillicothe,¹⁰ USAC's ability to administer the CAF ICC mechanism has not been adversely impacted.

On several prior occasions, the Wireline Competition Bureau has granted waivers of the Commission's filing deadlines under circumstances nearly identical to those in the Chillicothe petition. For instance, in 2011 the Bureau granted the waiver petitions of several carriers who ran afoul of the Commission's Section 54.307(c) filing deadlines for various Universal Service

⁶ *Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (USF/ICC Transformation Order).

⁷ Chillicothe Petition, pp. 5-6.

⁸ *Id.*, pp. 7-8. As noted by Chillicothe, USAC did not reject the filing as untimely; in fact, USAC used the data supplied in the filing to preliminarily calculate the CAF ICC support payable to Chillicothe for the period July 2012 to June 2013. *Id.*, p. 3.

⁹ *Id.*, p. 7.

¹⁰ *In the Matter of July 3, 2012 Annual Access Charge Tariff Filings*, Order, WCB/Pricing No. 12-09, DA 12-1037 (rel. Jul. 3, 2012).

Fund (USF) mechanisms.¹¹ In doing so, the Bureau noted that, like Chillicothe, petitioners filed the required data shortly after the filing deadline (between one and seven business days) and revised their internal procedures.¹² Similar findings have been made by the Bureau with respect to several other waiver petitions granted in the past, in circumstances quite like those described in the Chillicothe waiver petition.¹³

OPASTCO recognizes that it is necessary for carriers to meet the Commission's various filing deadlines set forth in its rules. However, denial of petitioner's waiver request would disproportionately harm Chillicothe and the thousands of rural consumers they serve. A loss of, or even significant delay in receiving, the \$1.6 million in CAF ICC support at issue would substantially harm Chillicothe's ability to serve its customers and meet its loan covenants. Given that Chillicothe's oversight was corrected in two business days, the loss or delay of support under "the particular facts make strict compliance [with the filing deadline] inconsistent with the public interest."¹⁴ As demonstrated in Chillicothe's petition, the special circumstances at issue "warrant a deviation from the general rule"¹⁵ and "such deviation will serve the public interest."¹⁶ The Commission should therefore grant Chillicothe's petition for waiver to enable it to begin receiving CAF ICC support payments in August 2012.

¹¹ *Petitions for Waiver of Universal Service High-Cost Filing Deadlines* (Cedar-Wapsie Communications, Inc., et al.), Order, WC Docket No. 08-71, CC Docket No. 96-45, DA 11-1337 (rel. Aug. 2, 2011) (August 2011 Waiver Order).

¹² *Id.*, ¶12.

¹³ *Petitions for Waiver of Universal Service High-Cost Filing Deadlines* (Western New Mexico Telephone Company, Inc., et al.), Order, DA 10-107 (rel. Jan. 22, 2010).

¹⁴ August 2011 Waiver Order, ¶10.

¹⁵ *Id.*

¹⁶ *Id.*

III. CONCLUSION

As required by Section 1.3 of the Commission's rules, Chillicothe Telephone Company has shown that good cause exists to grant its request for a waiver of the Section 54.304(d)(1) filing deadline inadvertently missed. The Commission should therefore immediately grant their petition for an expedited waiver so that Chillicothe can begin to receive CAF ICC support in August 2012.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
SMALL TELECOMMUNICATIONS COMPANIES**

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August 17, 2012

CERTIFICATE OF SERVICE

I, Brian Ford, hereby certify that a copy of the comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent on this, the 17th day of August, 2012 via electronic mail, to those listed on the attached sheet.

By: /s/ Brian J. Ford
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SERVICE LIST
WC Docket No. 10-90
CC Docket 01-92
CC Docket 96-45
DA 12-1239

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