

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45

PETITION FOR LIMITED WAIVER

CenturyLink, by counsel and pursuant to section 1.3 of the Commission's rules,¹ hereby seeks a limited waiver of section 54.301(e) of the Commission's rules² so that the company may file local switching support (LSS) true-up data for calendar year 2011 for two subsidiary company study areas that inadvertently were excluded from CenturyLink's earlier-filed, company-wide submission.

Although CenturyLink filed 2011 LSS true-up data in a timely manner for most of its study areas receiving that support, it inadvertently failed to include in that submission true-up data for two of its study areas. Upon discovering this error, CenturyLink immediately prepared true-up data for those two study areas and submitted it to the Universal Service Administrative Company (USAC). However, USAC did not accept this supplemental submission because it was made after the December 31, 2012, filing deadline set forth in section 54.301(e) of the Commission's rules. CenturyLink therefore is filing this Petition to request that the Commission authorize USAC to accept the true-up data for these two study areas.

Absent grant of this Petition, CenturyLink may be required to disgorge not only its 2011 LSS for these two study areas but also related 2012 frozen high-cost support (because it is based

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 54.301(e).

on 2011 LSS) as well as future frozen LSS-based high-cost support for these two study areas. That would be an unusually harsh outcome for an administrative processing error and would undermine CenturyLink's ability to maintain quality telephone service and expand broadband service in these areas. By contrast, expeditious grant of this Petition would allow USAC to complete its final true-up of LSS on a timely basis for these study areas and further the Commission's universal service policy objectives. Expeditious grant of this Petition also would not adversely affect any entity.

BACKGROUND

On December 21, 2012, CenturyLink filed 2011 LSS true-up data for its study areas receiving that support. On January 3, 2013, USAC notified CenturyLink that it had not received 2011 LSS true-up data for two CenturyLink study areas which had been due by December 31, 2012. CenturyLink investigated immediately and confirmed that the two study areas had not been included in CenturyLink's December 21, 2012 submission.³ CenturyLink therefore immediately prepared the true-up data for those two study areas and submitted that information to the USAC on January 8, 2013. Unfortunately, USAC did not accept this submission because section 54.301(e) of the Commission's rules specifies a December 31, 2012 deadline for submitting such data.

³ The study areas are rural areas that CenturyLink serves in Colorado and northern Idaho that are served by CenturyLink The El Paso County Telephone Company and CenturyLink Qwest Corporation Idaho North, respectively.

REQUEST FOR RELIEF

CenturyLink respectfully requests a one-time waiver of the December 31, 2012, deadline to permit USAC to accept CenturyLink's 2011 LSS true-up data for these two additional study areas as timely filed. Section 1.3 of the Commission's rules permits the agency to waive any of its regulations for good cause shown. To show good cause, a carrier must demonstrate that (1) there are special circumstances warranting deviation from the general rule, and (2) waiver will serve the public interest.⁴

The Commission previously has granted waivers of universal service high-cost support filing deadlines.⁵ In fact, this past November the Telecommunications Access Policy Division of

⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁵ See, e.g., *Chillicothe Telephone Company Petition for Waiver of Section 54.304(d)(1) Deadline to File Connect America Fund Intercarrier Compensation Eligibility Support Data*, Order, 27 FCC Rcd 13200 (2012) (granting waiver of filing deadline of initial funding period under section 54.304(d)(1) of the Commission's rules); *Petitions for Waiver of Universal Service High-Cost Filing Deadlines; Federal-State Joint Board on Universal Service; Western New Mexico Telephone Company, Inc., Petition for Waiver of Section 54.904(d) Filing Deadline For Submission of Annual Interstate Common Line Support Certification for a Rural Rate-of-Return Carrier*; *Yukon Telephone Company, Inc., Petition for Waiver of Section 54.904(d) Filing Deadline For Submission of Annual Interstate Common Line Support Certification for a Rural Rate-of-Return Carrier*; *Northern New England Telephone Operations LLC and Telephone Operating Company of Vermont LLC, Petition for Waiver of Sections 54.802(a) and 54.809(c) of the Commission's Rules*; *Ballard Rural Telephone Cooperative Corporation, Inc., Petition for Waiver of Section 54.904(d) Filing Deadline For Submission of Annual Interstate Common Line Support Certification for a Rural Rate-of-Return Carrier*; *PRWireless Inc., Petition for Waiver of Section 54.307(c) of the FCC's Rules*; *CommuniGroup of Jackson, Inc., Petition for Waiver of Sections 54.307(c) and 54.802(a) of the Commission's Rules*; *Hopi Telecommunications, Inc. (SAC # 452173), Petition for Waiver of Section 54.314(d)(1) Filing Deadline For Submission of Annual Section 254(e) Certification by Tribal and Other Carriers Not Subject to State Jurisdiction*; *Midstate Telecom, Inc., Petition for Waiver of FCC Rules Section 54.307(c) and Section 54.802(a)*; *T-Mobile USA, Inc., Petition for Waiver of Section 54.307(c) of the Commission's Rules (SAC Nos. 639003 and 239005)*; *Minerva Valley Telephone Company, Inc., Petition for Waiver of Section 54.904(d) Deadline for Annual Interstate Common Line Support Certification*; *WorldNet Telecommunications, Inc., Petition for Waiver of Filing Deadline for Quarterly Interstate Common Line Support Line Count Report -- Form 525*; *Midcontinent Communications, Petition for Waiver of Section 54.307(c) of the Commission's Rules*; *General Communications, Inc., Petition for Waiver of Section 54.802(a) of the Commission's Rules*,

the Wireline Competition Bureau found good cause to grant certain petitions seeking waivers of high-cost support filing deadlines, finding that the missed deadlines “were the result of minor ministerial, clerical or procedural errors.”⁶ Two of the waivers granted were for companies that had missed the 2010 LSS true-up filing deadline of December 31, 2011, by more than a month.⁷ CenturyLink’s error similarly was the result of a procedural error that inadvertently excluded two study areas from the company’s otherwise timely-filed 2011 LSS true-up submission. As soon as CenturyLink became aware of the oversight, it took prompt action to correct it. It also has put procedures in place to prevent such errors in the future. There is good cause to grant this Petition as special circumstances and the public interest impel the relief requested here.

In the *USF/ICC Transformation Order*, the Commission froze all high-cost support mechanisms, including LSS for price cap carriers and their rate-of return affiliates.⁸ The Commission also stated its intent to, commencing January 1, 2012, distribute future high-cost support to those carriers equal to the amount of support each carrier received in 2011 in a given study area.⁹ CenturyLink is a price cap carrier subject to this new interim method for distributing

Order, 25 FCC Rcd 843 (2010) (*2010 Petitions for Waiver*) (granting thirteen separate requests for waiver of various universal service high-cost support filing deadlines).

⁶ *The Telecommunications Access Policy Division Of The Wireline Competition Bureau Grants Petitions Requesting Waiver Of Various High-Cost Universal Service Filing Deadlines*, Public Notice, 27 FCC Rcd 13507 (2012).

⁷ *See id.* and also Petition for Waiver of Hargray Telephone Company and Bluffton Telephone Company, WC Docket No. 08-71, filed Dec. 17, 2012.

⁸ *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, 17715 ¶ 133 (2011) (*USF/ICC Transformation Order*) (subsequent history omitted).

⁹ *Id.*

high-cost support, and in 2012 CenturyLink received LSS-based frozen high cost support in the two study areas at issue here based on the projected LSS it received in 2011.

But, if the Commission does not grant this Petition, CenturyLink will lose its 2011 LSS in these two study areas. Even more problematic is that this loss may have a cascading effect for subsequent years. This is because future support is calculated by USAC based on the total high-cost support carriers received in 2011. It is not clear whether that frozen support is also subject to any true-up of the 2011 high-cost support on which that frozen support was calculated. If it is, and the result of missing the deadline is to lose the LSS base in the frozen support as well, this would be an extremely harsh result for missing a filing deadline by a few days. The financial harm from the loss of this support would significantly hinder CenturyLink's ability to provide quality service in the rural areas in Colorado and Idaho at issue here.

To exacerbate matters, CenturyLink already has spent the LSS it received in 2011 and the LSS-based frozen support it received in 2012 to help provide and maintain the supported services in these service areas. To lose future support *and* to have to refund support already received (and spent) would amount to a significant and unexpected blow to CenturyLink's ability to provide and maintain quality service for its customers in these rural areas. The potentially devastating and long-lasting effect that would result from a mere administrative processing error a few days in duration surely presents unique circumstances which warrant granting the relief requested here.

Notably, in sharp contrast to the harm that will occur if the Commission does not grant this Petition, grant of the waiver sought here will serve the public interest. Within three business days of being notified by USAC of its omission, CenturyLink was able to provide USAC with the missing true-up data. Thus, USAC quickly had the data necessary to close out the final

calculations of LSS for these two study areas. Expedient grant of this waiver will permit USAC to complete those calculations as intended. Furthermore, no party would be adversely affected by this grant.

Additionally, CenturyLink already has revised its filing procedures to ensure that the error triggering this missed filing deadline does not recur. CenturyLink has implemented a process for sharing information between all locations responsible for filing such reports. The process is designed to ensure that all involved parties will be aware of any communications related to USAC/FCC study area filing requirements. Additionally, the organization responsible for these filings has formally designated one manager as the central point of contact. This person will be responsible for keeping a list of all employees that are involved in filings of this nature, serve as the single point of contact with USAC on any procedural matters, and will ensure that all company data is included in filings as appropriate, and that reports are filed on or before the due date.

The Commission has previously granted waivers of various universal service high-cost filing deadlines where petitioners had made the required filings between one and fourteen business days after the deadlines and had revised their filing procedures to ensure that future Commission filing deadlines were met.¹⁰ CenturyLink's filing of the true-up data within five business days of the filing deadline and its revised filing processes warrant the same relief. The Commission has also found that there was good cause to waive a high-cost filing deadline where "on balance . . . strict enforcement of the filing deadline would disproportionately penalize [the

¹⁰ *2010 Petitions for Waiver*, 25 FCC Rcd at 854-55 ¶¶ 22 & 23.

petitioner] when considered in light of its actions to remedy its error.”¹¹ Applying this same reasoning here strongly supports granting the requested relief.

CenturyLink has had an exemplary record in complying with universal service high-cost support filing deadlines. Under these unusual and unexpected circumstances, and for all of the reasons stated herein, CenturyLink requests that the Commission grant this Petition for Waiver of the filing deadline of Commission Rule 54.301(e).

Respectfully submitted,

CENTURYLINK

Melissa E. Newman
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
202-429-3120
melissa.newman@centurylink.com

By: /s/ Tiffany West Smink
Tiffany West Smink
1099 New York Avenue, N.W.
Suite 250
Washington, DC 20001
303-992-2506
tiffany.smink@centurylink.com

Its Attorney

January 16, 2013

¹¹ *Federal-State Joint Board on Universal Service; Verizon Communications Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules, Order, 21 FCC Rcd 10155, 10157 ¶ 7 (2006).*