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May 1, 2013

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VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW,
Room TW-A325
Washington, DC 20554

Re: *Connect America Fund; Universal Service High-Cost Filing Deadlines; Petition of Virgin Islands Telephone Corp. d/b/a Innovative Telephone for Waiver of Section 54.904(d) of the Commission's Rules, WC Docket No. 10-90, WC Docket 08-71*

Dear Ms. Dortch:

On July 23, 2012, the Virgin Islands Telephone Corp. d/b/a Innovative Telephone (“Innovative”) filed the above-referenced Petition for Waiver of Rule 54.904(d) of the Commission’s Rules (“Waiver Petition”).¹ Innovative filed the Waiver Petition because it submitted its Interstate Common Line Support (“ICLS”) annual certification eight business days past the July 2, 2012 filing deadline.

In the *USF/ICC Transformation Order*, the Commission “streamline[d] existing certifications,” eliminating section 54.904 of the rules effective July 2013 and requiring compliance with the certification requirements contained in newly created section 54.314.² In paragraph 614 of the *USF/ICC Transformation Order*, however, the Commission noted that, “[a]lthough ICLS will remain in place for

¹ *Petition of Virgin Islands Telephone Corp. d/b/a Innovative Telephone for Waiver of Rule 54.904(d) of the Commission’s Rules, WC Docket Nos. 08-71, 10-90 (filed July 23, 2012) (“Petition”). See also Public Notice, Wireline Competition Bureau Seeks Comment on Virgin Islands Telephone Corp. d/b/a Innovative Telephone Petition for Waiver of a High-Cost Universal Service Filing Deadline, DA 12-1209, WC Docket Nos. 08-71, 10-90 (rel. Jul. 27, 2012).*

² *Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17861-62, ¶ 613 (2011) (“USF/ICC Transformation Order”), pets. for review pending sub nom. In re: FCC, 11-161, No. 11-9900 (10th Cir. filed Dec. 8, 2011).*

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*some carriers, those carriers will certify compliance through new section 54.314,” but “to ensure there is no gap in coverage, those carriers will file a final certification under section 54.904 due [July 2, 2012], covering the 2012-13 program year.”*³

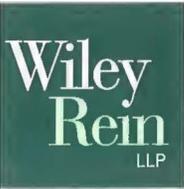
Subsequent to the filing of the Waiver Petition, and at the suggestion of the Wireline Competition Bureau (“Bureau”), counsel for Innovative recently discussed the language in paragraph 164 and the section 54.904(d) certification requirement with a representative of the Universal Service Administrative Company (“USAC”). Although paragraph 614 does not specify the carriers for which ICLS “will remain in place” and thus those required to file a final certification under section 54.904(d), USAC advised that it understands the reference to “carriers” in this context to mean rate-of-return carriers, not price cap carriers eligible to receive frozen ICLS. This understanding apparently is based on the fact that the *USF/ICC Transformation Order* froze all existing high-cost support mechanisms for price cap carriers, including ICLS, and transitioned those mechanisms to the new Connect America Fund (“CAF”).⁴ By contrast, rate-of-return carriers not affiliated with price cap carriers were authorized to continue receiving legacy high cost program support, including ICLS.⁵

Thus, in USAC’s view, the Commission’s directive in paragraph 614 requiring carriers receiving ICLS to file a final certification under section 54.904(d) applied only to carriers subject to rate-of-return regulation. Because Innovative converted to price cap regulation in 2010, USAC has indicated that Innovative will not incur any

³ *USF/ICC Transformation Order*, 26 FCC Rcd at 17862, ¶ 614 (emphasis added).

⁴ *Id.* at 17712 ¶ 128 (stating that “we begin the process of transitioning high cost support for price cap carriers to the CAF by establishing CAF Phase I,” during which “we freeze support under our existing high-cost support mechanisms — HCLS, SNA, safety valve support (SVS), high-cost model support (HCMS), LSS, interstate access support (IAS), and ICLS —for price cap carriers and their rate-of-return affiliates.”).

⁵ *Id.* at 17740 ¶ 206 (requiring rate-of-return carriers that continue to receive HCLS or ICLS or begin receiving new CAF funding to meet certain broadband service requirements as a condition of receiving that support).



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reduction in its frozen high-cost support due to the failure to file timely the section 54.904(d) certification and thus does not require a waiver.⁶

Based on USAC's interpretation of the *USF/ICC Transformation Order*, and consistent with discussions with the Bureau which concurs with this interpretation, Innovative was not required to file the section 54.904(d) certification on July 2, 2012 as a condition to its receipt of frozen high-cost support. Consistent with this interpretation, no need exists for Innovative to obtain a waiver of the July 2, 2012 deadline, and thus Innovative respectfully withdraws its Waiver Petition.

Please address any questions regarding this matter to undersigned counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Bennett L. Ross", written over a circular scribble. A horizontal arrow points to the right from the end of the signature.

Bennett L. Ross

Cc: Amy Bender
Travis Litman
Sammy Kahn

⁶ See *Virgin Islands Telephone Corporation Petition for Election of Price Cap Regulation and Limited Waiver of Pricing and Universal Service Rules*, Order, 25 FCC Rcd 4824 (2010).