

HERMAN & WHITEAKER, LLC

DONALD L. HERMAN, JR
GREGORY W. WHITEAKER
ROBIN E. TUTTLE[†]
SUSAN C. GOLDHAR ORNSTEIN
SARAH L. J. ACEVES^{††}

[†]Admitted in DC, SC and FL only
^{††}Admitted in DC only

TEL 202-600-7272
FAX 202-706-6056
3204 TOWER OAKS BLVD, STE 180
ROCKVILLE, MD 20852

REDACTED – FOR PUBLIC INSPECTION

March 26, 2014

BY HAND

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: In the matter of E.N.M.R. Telephone Cooperative Petition for Limited Waiver of Section 51.917(b)(7)(ii) of the Commission's Rules, WC Docket Nos. 10-90, 07-135, 05-337, and 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92 and 96-45, and WT Docket No. 10-208

Dear Ms. Dortch:

Enclosed for filing are two copies of the redacted confidential version of the E.N.M.R. Telephone Cooperative Petition for Limited Waiver of Section 51.917(b)(7)(ii) of the Commission's Rules ("Petition") that is being filed pursuant to the Commission's Third Protective Order in the above referenced dockets.¹ One copy of the stamped confidential version of the Petition is being filed today with the Secretary's office under separate cover, and a copy of the redacted confidential Petition also is being filed electronically via ECFS.

Each page of the stamped confidential Petition is marked "CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NOS. 10-90, 07-135, 05-337, 03-109, GN DOCKET NO. 09-51, CC DOCKET NOS. 01-92, 96-45, WT DOCKET NO. 10-208 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION." Where confidential information is included, the relevant portions of the text are marked "[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]."

¹ See *Connect America Fund et al.*, Third Protective Order, WC Docket No. 10-90 et al., DA 12-1418 (rel. Aug. 30, 2012) ("Third Protective Order").

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The redacted copies of the Petition are marked “REDACTED – FOR PUBLIC INSPECTION,” and confidential portions of the Petition have been removed. Where confidential information has been removed, the relevant portions of the text are marked “[REDACTED].”

Please direct any questions concerning this matter to me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Whiteaker', with a long horizontal flourish extending to the right.

Gregory W. Whiteaker

Enclosures

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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

**E.N.M.R. TELEPHONE COOPERATIVE
PETITION FOR LIMITED WAIVER
OF SECTION 51.917(b)(7)(ii) OF THE COMMISSION’S RULES**

E.N.M.R. Telephone Cooperative (“ENMR” or “Company”) (SAC 492262 -- New Mexico study area only), by its attorneys and pursuant to Section 1.3 of the Rules and Regulations of the Federal Communications Commission (“Commission” or “FCC”),¹ requests a limited waiver of Section 51.917(b)(7)(ii) of the Commission’s Rules² to allow ENMR to correct inadvertent, administrative errors that resulted in under-reporting of billed and collected revenue

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. § 59.917(b)(7)(ii).

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for Dedicated Transport Access Service, End Office Access Service, and terminating Tandem-Switched Transport Access Service (collectively revenue from Transitional Intrastate Access Service) for Fiscal Year (“FY”) 2011 that should have been included in the calculation of the 2011 Rate-of-Return Carrier Base Period Revenue (“Base Period Revenue”).³ As demonstrated herein, good cause exists for a waiver to correct the Base Period Revenue. Limited waiver of the Commission’s Rule would allow ENMR to include the FY 2011 revenue for Transitional Intrastate Access Services that were billed and collected during this time period, but not reported to NECA due to inadvertent, administrative errors, and that should be accounted for in calculating ENMR’s Base Period Revenue. There is good cause for grant of the requested waiver, and grant of this waiver would be in the public interest.

I. Background

ENMR is a rural incumbent local exchange carrier (“ILEC”) operating in eastern New Mexico and western Texas, serving approximately 9,500 access lines. ENMR is a rate-of-return carrier and participates in the National Exchange Carrier Association (“NECA”) Common Line and Traffic Sensitive pools.

A NECA representative initially informed ENMR, during the NECA process of gathering Connect America Fund/Intercarrier Compensation (“CAF/ICC”) information for the annual true-up of CAF/ICC Support, that there was an apparent discrepancy and under-reporting of ENMR’s Base Period Revenue. Upon investigation, ENMR has determined that the revenue reported to NECA for purposes of calculating the Base Period Revenue was inconsistent with and

³ The FY 2011 revenue covers ENMR’s Transitional Intrastate Access Service revenue from October 1, 2010 through September 30, 2011.

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significantly less than ENMR’s collected revenue for FY 2011 for the same revenue categories that are used to calculate the Base Period Revenue.

Specifically, ENMR has determined that two inadvertent, administrative reporting errors resulted in the revenue for Transitional Intrastate Access Services that was reported to NECA and then reflected by NECA in the Base Period Revenue to be significantly different from ENMR’s Transitional Intrastate Access Service revenue records for FY 2011. First, the Dedicated Transport Access Service revenue for the entire FY 2011 was inadvertently omitted from the billed and collected revenue reported to NECA. Second, ENMR discovered a filtering function had been mistakenly applied to ENMR’s revenue spreadsheet for Transitional Intrastate Access Services and that filtering error resulted in the exclusion of billed and collected revenue for End Office Access Services and terminating Tandem-Switched Transport Access Services for three months of the FY 2011 period reported to NECA: specifically for October 2010, November 2010, and September 2011. As a result of these two errors, the FY 2011 revenue for Transitional Intrastate Access Services was underreported by **[REDACTED]**

, which amount was not included by NECA in calculating ENMR’s Base Period Revenue. The attached confidential Exhibits A and B provide further detail.

ENMR seeks to have NECA re-calculate the Base Period Revenue using the correct billed and collected FY 2011 revenue for all Transitional Intrastate Access Services that should have been reported to NECA. ENMR understands, however, that the FCC has directed NECA that prior to making corrections to any company’s CAF/ICC data, the company must obtain a waiver of Section 51.917(b). Accordingly, ENMR requests this waiver from the Commission.

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II. Grant of the Requested Limited Waiver Is Justified and Would Serve the Public Interest

The Commission may waive its rules for good cause shown, where special circumstances warrant a deviation from the rule, and strict compliance with the rule would be inconsistent with the public interest.⁴ There is good cause in here to waive the requirements of Rule Section 51.917(b)(7)(ii) to allow ENMR to submit corrected billed and collected FY 2011 Transitional Intrastate Access Service revenue to NECA for the purpose of recalculating ENMR's Base Period Revenue.

Grant of the requested waiver will allow NECA to revise ENMR's Base Period Revenue based on a corrected revenue that includes the Company's actual FY 2011 revenue from all billed and collected Transitional Intrastate Access Service, including the revenue that was omitted in error from ENMR's original revenue submission to NECA. Allowing corrections to the Base Period Revenue will also correct the related CAF/ICC Support from July 1, 2012 through the following periods that is calculated based on the Base Period Revenue. Without Commission grant of the waiver that would allow NECA to include the FY 2011 revenue that ENMR under-reported and to make the requested corresponding revision to ENMR's Base Period Revenue, ENMR will be impacted each year of the phased down CAF/ICC Support because the Base Period Revenue from which CAF/ICC Support is determined will not include the [REDACTED]

⁴ 47 C.F.R. §1.3. See generally *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969).

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Grant of this waiver is in the public interest. The Base Period Revenue is a critical starting point to calculate ENMR's CAF/ICC Support, which is part of the transitional recovery mechanism established by the Commission to mitigate the impact of universal service and intercarrier compensation reforms on carrier revenues and investments. Grant of this limited waiver will allow the initial calculation of CAF/ICC Support to accurately represent ENMR's FY 2011 Base Period Revenue and will serve the public interest by allowing ENMR to continue serving its customers consistent with the Commission's National Broadband Plan goals while having the benefit of the transitional recovery mechanism to the full extent intended by the Commission.

III. ENMR Requests Confidential Treatment of Submitted Data

ENMR seeks confidential treatment of the revenue data under the Third Protective Order in this proceeding.⁵ Pursuant to the Third Protective Order, one copy of the confidential document and two copies of the redacted version are provided to the Commission. The redacted version is also being filed with the Commission via the Electronic Comment Filing System.

IV. Conclusion

There is good cause for grant of a limited waiver of Rule Section 51.917(b)(7)(ii) in order to address inadvertent, administrative Company errors by correcting ENMR's Base Period Revenue to include Dedicated Transport Access Service revenue for the entire FY 2011 and End Office Access Service and terminating Tandem-Switched Transport Access Service revenue for October 2010, November 2010, and September 2011. Grant of the requested waiver will avoid financial harm to ENMR that would result from calculating ENMR's CAF/ICC Support based

⁵ See *Connect America Fund et al.*, Third Protective Order, WC Docket No. 10-90 et al., DA 12-1418 (rel. Aug. 30, 2012) ("Third Protective Order").

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upon under-reported Transitional Intrastate Access Service revenue instead of the actual, corrected Base Period Revenue that includes all billed and collected FY 2011 revenue.

Respectfully submitted,

E.N.M.R Telephone Cooperative



Alan Herman
Accounting Manager
E.N.M.R. Telephone Cooperative
7111 N. Prince Street
Clovis, NM 88101

By: Gregory W. Whiteaker
Robin E. Tuttle
Herman & Whiteaker, LLC
3204 Tower Oaks Blvd.
Suite 180
Rockville, MD 20852
greg@hermanwhiteaker.com
202-600-7274
Its Attorneys

March 26, 2014

EXHIBIT B

ENMR Petition for Limited Waiver of Section 51.917(b)(7)(ii) of the Commission's Rules

Explanation of Exhibit A

Reports from the billing systems which contained detail of billed amounts by customer, rate element, jurisdiction, direction, and service dates were placed into an Excel spreadsheet to segregate the switched access amounts by jurisdiction and direction.

Dedicated Transport Access Service revenue for the entire FY 2011 inadvertently was not included in the revenue calculation submitted in the original filing to NECA. The amounts of the omitted Dedicated Transport Access Service Revenue are identified in Exhibit A as Direct Trunk Transport, Direct Trunk Termination, and Mux for special access. ENMR bills in advance for circuits, and accordingly in the summary used for the waiver calculation, revenue is captured in the month the circuit was provided.

End Office Access Service and terminating Tandem-Switched Transport Access Service revenue for the months of October 2010, November 2010, and September 2011 also inadvertently was excluded from the revenue calculation originally submitted to NECA. On Exhibit A, the summary demonstrating the revenue reported in the original NECA filing does not contain billing on 11/1/2010, 12/1/2011, and 10/1/2011, which can be seen by the lack of "20101101," "20101201," and "20111001" columns in the summary. The collected revenue from these billings should have been included in the revenue reported to NECA because ENMR bills on the first of the month for the preceding month's switched usage. The summary used for the waiver calculation includes the previously unreported revenue for End Office Access Services and terminating Tandem-Switched Transport Access Services for the months of October 2010, November 2010, and September 2011. Specifically, revenue for October 2010 usage would be included in the November 1, 2010 bill; revenue for November 2010 usage would be included in the December 1, 2010 bill; and revenue for September 2011 usage would be included in the October 1, 2011 bill.

On Exhibit A, the summary of revenue amounts originally reported to NECA included revenue for switched services provided after 9/30/11 and therefore billing dates subsequent to 10/1/2011 for post billed services because at the time of the original data submission, it was ENMR's understanding that these amounts should be included in the reported revenue. ENMR understands that revenue for services provided after 9/30/11 should not have been included in the revenue reported to NECA for FY 2011 Transitional Intrastate Access Services and has omitted such billed and collected revenue for services rendered after 9/30/11 from the summary used for the waiver calculation revenue.

The billing dates included in both summaries in Exhibit A are indicated in YYYYMMDD. A key of the rate element IDs is included below the last summary.

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Certification of Alan Herman

In Support of

**E.N.M.R. TELEPHONE COOPERATIVE
PETITION FOR LIMITED WAIVER
OF SECTION 51.917(b)(7)(ii) OF THE COMMISSION'S RULES**

I, Alan Herman, Accounting Manager for E.N.M.R. Telephone Cooperative, hereby certify under penalty of perjury that I have reviewed the foregoing Petition for Limited Waiver of Section 51.917(b)(7)(ii) of the Commission's Rules and that the factual statements made therein are true and accurate to the best of my information and belief.



Alan Herman
Accounting Manager
E.N.M.R. Telephone Cooperative
March 26, 2014