

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Universal Service High-Cost Filing Deadlines)	WC Docket No. 08-71
)	
HTC Services, Inc. Petition for Waiver of Section)	CC Docket No. 96-45
54.802(a) Deadlines for Submission of Line Count Data)	
by Eligible Telecommunications Carriers Seeking)	
Portable Interstate Access Support)	

ORDER

Adopted: October 22, 2008

Released: October 22, 2008

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we deny a petition by HTC Services Inc. (HTC) for a waiver of the filing deadlines in section 54.802(a) of the Commission rules.¹ We find that HTC has failed to demonstrate that good cause warrants waiver of this rule.

II. BACKGROUND

2. Section 254(e) of the Communications Act of 1934, as amended (the Act), provides that “only an eligible telecommunications carrier [(ETC)] designated under section 214(e) shall be eligible to receive specific Federal universal service support.”² Support shall be used “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”³ To implement this statutory requirement, the Commission has adopted various certification and data filing requirements.⁴

3. To receive Interstate Access Support (IAS) pursuant to section 54.802 of the Commission’s rules, an ETC that is providing service within an area served by a price cap LEC must file certain data with the Universal Service Administrative Company (USAC) to receive funding.⁵ Specifically, an ETC

¹ HTC Services Inc. Petition for Waiver of Section 54.802(a) Deadlines for Submission of Line Count Data by Eligible Telecommunications Carriers Seeking Portable Interstate Access Support, CC Docket No. 96-45 (filed May 2, 2008) (HTC Petition); 47 C.F.R. § 54.802(a).

² 47 U.S.C. § 254(e).

³ *Id.*

⁴ *See, e.g.*, 47 C.F.R. §§ 54.307 (competitive ETC line count filing requirements), 54.313 (certification requirements regarding use of high-cost support by non-rural carriers), 54.314 (certification requirements regarding the use of high-cost support by rural carriers), 54.802(a) (ETC line count filing requirements for Interstate Access Support (IAS)), 54.809 (certification requirements regarding the use of IAS), 54.903 (data filing requirements for Interstate Common Line Support (ICLS)), 54.904 (certification requirements regarding the use of ICLS).

⁵ 47 C.F.R. § 54.802(a).

must submit line count data showing separately the number of residential/single-line business lines, and multi-line business lines within its study area on a quarterly basis.⁶ Mandatory line count data are due on the last business day of March, June, September, and December of each year.⁷

4. *HTC's Petition for Waiver.* On May 2, 2008, HTC filed a request for waiver of section 54.802(a) of the Commission's rules to permit HTC to receive IAS funding for the fourth quarter of 2006 and the first quarter of 2007 despite missing the September 29, 2006, and December 29, 2006, filing deadlines.⁸ HTC did not submit the fourth quarter line count data to USAC until October 26, 2006, and did not file the first quarter data until January 25, 2007, almost a month after the deadline in both instances.⁹ HTC claims it missed both deadlines due to, "the abrupt departure on June 20, 2006 of the [o]ffice [m]anager previously responsible for HTC's Universal Service Fund (USF) filings, followed by a six week gap before the position could be filled," and the new office manager's lack of familiarity with the filing requirements.¹⁰ In addition, HTC argues that the grounds for granting its waiver petition are consistent with Commission precedent, that granting the waiver will not negatively impact USAC's administration of the IAS program, and that the loss of IAS support will impair HTC's ability to effectively compete in the local market.¹¹

A. DISCUSSION

5. We find that HTC has not demonstrated that good cause exists to waive by more than three weeks the filing deadlines required by section 54.802(a) of the Commission's rules.¹² Because USAC processes such a large amount of data each year, it is necessary that carriers meet the requisite filing deadlines, absent special circumstances.¹³ Carriers are responsible for reviewing and understanding the rules to ensure that submissions are filed in a timely manner.¹⁴ HTC did not promptly cure its failure to timely file by filing the required information shortly after the applicable deadlines, nor did HTC provide evidence of any extenuating circumstances sufficient to demonstrate the good cause required for

⁶ *Id.*

⁷ *Id.*; see also *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long-Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962, 13060, para. 227 (2000) (*CALLS Order*), *aff'd in part, rev'd in part, and remanded in part*, *Texas Office of Public Utility Counsel*, 265 F.3d 313 (5th Cir. 2001).

⁸ HTC Petition at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 5-7.

¹² Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166; 47 C.F.R. § 54.802(a).

¹³ *Federal-State Joint Board on Universal Service, FiberNet, LLC, Petition for Waiver of Section 54.307(c) of the Commission's Rules and Regulations*, CC Docket No. 96-45, Order, 19 FCC Rcd 8202, 8204, para. 5 (Wireline Comp. Bur. 2004).

¹⁴ *Id.*

us to grant a rule waiver.¹⁵ Accordingly, we deny HTC's waiver request.

6. We remind carriers that it is their responsibility to ensure that their filings are timely received in the appropriate places, regardless of the time and method of their filings. Carriers now have many options by which to file, including U.S. Mail, other sources of commercial delivery, facsimile, and e-mail. For instance, any carrier receiving funding from the high-cost universal support mechanism may file timely via e-mail at hcfilings@HCLI.universalservice.org. Additional information regarding USAC's filing procedures and deadlines can be found at <http://www.usac.org/hc/tools/filing-tool/default.aspx>. We encourage filers to use any and all methods they deem necessary to ensure that their filings are timely received.

III. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 214, and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that this order is ADOPTED.

8. IT IS FURTHER ORDERED that the petition for waiver of section 54.802 of the Commission's rules, 47 C.F.R. § 54.802, filed by HTC Services, Inc., IS DENIED.

9. IT IS FURTHER ORDERED that, pursuant to section 1.102(b) of the Commission's rules, 47 C.F.R. §§1.102(b), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Dana R. Shaffer
Chief
Wireline Competition Bureau

¹⁵ Compare *Federal-State Board on Universal Service, NPCR, Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 22 FCC Rcd 560 (Wireline Comp. Bur. 2007) (waiver granted when line count data was received one business day after the filing deadline); *Verizon Communications Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 21 FCC Rcd 10149 (Wireline Comp. Bur. 2006) (waiver granted when deadline was missed by two business days); *Citizens Communications and Frontier Communications Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket 96-45, Order, 20 FCC Rcd 16761 (Wireline Comp. Bur. 2005) (waiver granted when deadline was missed by two business days), with *Federal-State Joint Board on Universal Service, Cedar Valley Communications, Inc. Petition for Waiver of 47 C.F.R. §§ 54.307(d), 54.314(a), and 54.904(d)*, CC Docket 96-45, Order, 23 FCC Rcd 114 (Wireline Comp. Bur. 2008) (waiver denied because the filing deadline was missed by more than five months); *South Slope Cooperative Telephone Company Petition for Waiver of Filing Deadline in 47 C.F.R. Section 54.307(c)*, CC Docket 96-45, Order, 19 FCC Rcd 17493 (Wireline Comp. Bur. 2004) (waiver denied because the data was filed more than a month late); *NPI-Omnipoint Wireless, LLC Petition for Waiver of Sections 54.307(c), 54.802(a), and 54.903 of the Commission's Rules*; *SouthEast Telephone, Inc. Petition of Waiver of Deadlines in 47 C.F.R. § 54.809(c)*; *SEI Data, Inc. Petition for Waiver of Filing Deadline in 47 C.F.R. Section 54.802(a)* CC Docket 96-45, Order, 22 FCC Rcd 4946 (Wireline Comp. Bur. 2007) (NPI's waiver denied because the data was filed six months late; SouthEast's waiver denied because the data was filed two months late; SEI's waiver denied because the data was filed three months late).