

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

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Centennial Communications Corp.)	
Petition for Waiver of the December 31, 2008 Deadline)	
for Submitting to USAC Changes to the Interim High)	
Cost Cap Data of Centennial Communications Corp. and)	
its CETC Subsidiaries)	

ORDER

Adopted: October 2, 2009

Released: October 2, 2009

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we address a petition for waiver filed by Centennial Communications Corp. and its subsidiaries (Centennial).¹ Centennial requests that the Commission extend the deadline for submitting changes to the March 2008 data used to cap high-cost universal service support for competitive eligible telecommunications carriers (ETCs).² For the reasons stated below, we dismiss Centennial's petition for waiver as moot.

II. BACKGROUND

2. On May 1, 2008, the Commission adopted the *Interim Cap Order*, which established an emergency interim cap on universal service high-cost support for competitive ETCs.³ Under the interim cap, total annual competitive ETC high-cost support for each state is limited to the level of support that competitive ETCs in that state were eligible to receive in March 2008 on an annualized basis.⁴ The interim cap is to remain in place only until the Commission adopts comprehensive high-cost universal service reform.⁵

3. On December 10, 2008, the Commission issued a public notice establishing a deadline of December 31, 2008, for competitive ETCs to submit any changes to the March 2008 data on which the

¹ Centennial Communications Corp., Petition for Waiver of the December 31, 2008 Deadline for Submitting to USAC Changes to the Interim High Cost Cap Data of Centennial Communications Corp. and its CETC Subsidiaries, WC Docket No. 05-337, CC Docket No. 96-45 (filed Dec. 31, 2008) (Petition).

² *Id.* at 1.

³ *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834, para. 1 (2008) (*Interim Cap Order*).

⁴ *Id.*

⁵ *Id.*

interim cap is calculated.⁶ In the *Interim Cap Public Notice*, the Wireline Competition Bureau (Bureau) stated that “[c]ompetitive ETCs should confirm their March 2008 high-cost support amount information with [the Universal Service Administrative Company (USAC)] and file any corrections on or before December 31, 2008. . . . USAC will not accept changes from competitive ETCs regarding the data on which their March 2008 high-cost support is based, absent grant of a waiver of this deadline by the Commission.”⁷

4. *Centennial’s Petition for Waiver*. On December 31, 2008, Centennial filed a petition for waiver of the December 31, 2008 deadline for submitting changes to the March 2008 data on which the interim cap is based.⁸ Also on December 31, 2008, Centennial submitted to USAC a letter requesting additional information concerning the March 2008 data.⁹ Centennial states that it has no way to fully review and meaningfully verify the March 2008 data.¹⁰ It argues that the *Interim Cap Public Notice* does not explain whether each competitive ETC is required to verify its own line count and cost data, or whether it is required to verify data filed by all third parties.¹¹ For example, Centennial states that it is not in a position to verify whether any states failed to certify the eligibility of all competitive ETCs, or whether any incumbent local exchange carriers (LECs) failed to file data in a timely and accurate fashion.¹² Centennial requests a waiver of the December 31, 2008 deadline so that it may submit changes to its March 2008 data two weeks after USAC provides Centennial with the “data, formulas, methodology and any other information necessary to fully review and verify the interim cap data.”¹³

5. Further, Centennial argues that the Commission has not explained how the interim cap may be affected by late filings or inaccurate data filed by parties other than competitive ETCs.¹⁴ Centennial is concerned that revisions by incumbent LECs or third parties (other than competitive ETCs) may result in downward adjustments to the interim cap.¹⁵

6. Finally, Centennial asserts that there are several requests and waiver petitions pending before the Commission relating to Centennial’s subsidiaries in the U.S. Virgin Islands, Puerto Rico, and Louisiana.¹⁶ Centennial argues that the resolution of these pending petitions would either have a

⁶ *March 2008 Capped Universal Service High-Cost Support for Competitive Eligible Telecommunications Carriers*, WC Docket No. 05-337, CC Docket No. 96-45, Public Notice, 23 FCC Rcd 17873 (Wireline Comp. Bur. 2008) (*Interim Cap Public Notice*).

⁷ *Id.*

⁸ Petition at 1.

⁹ See Petition (attaching Letter from Danielle Frappier, Davis, Wright, and Tremaine, LLP, to Karen M. Majcher, Universal Service Administrative Company (Dec. 31, 2008) (Centennial December 31 Letter)).

¹⁰ Petition at 2.

¹¹ Centennial December 31 Letter at 2.

¹² *Id.* at 2-3.

¹³ Petition at 3.

¹⁴ Centennial December 31 Letter at 3.

¹⁵ *Id.*

¹⁶ Centennial December 31 Letter at 9. See also Centennial USVI Operations Corp. Petition for Waiver of Section 54.314(d) of the Commission’s Rules, CC Docket No. 96-45 (filed Feb. 28, 2008) (Centennial USVI Petition); Centennial Communications Corp. Request for Review of Decision of the Universal Service Administrator, CC Docket Nos. 96-45 and 00-256 (filed May 25, 2007) (Centennial Puerto Rico Petition); Centennial Communications Corp. Petition for Waiver of Section 54.809 of the Commission’s Rules, WC Docket No. 08-71 (filed Sept. 18, 2008) (Centennial Louisiana Petition).

significant effect on the interim cap for those jurisdictions or otherwise confirm Centennial's right to continue to receive high-cost support in the subject jurisdictions.¹⁷

7. On March 19, 2009, the Bureau sought comment on Centennial's petition.¹⁸ Several entities filed comments, urging the Commission to clarify that the December 31, 2008 deadline in the *Interim Cap Public Notice* applies only to corrections of a competitive ETC's own line counts or other submissions affecting March 2008 support.¹⁹ The commenters also urge USAC to disclose publicly the amounts of support which all competitive ETCs in a given state are eligible to receive in a particular month or quarter, arguing that USAC's published disbursement data does not necessarily represent the full amount carriers are entitled to receive in a reported period because disbursements often include true-ups and other adjustments to support from prior periods.²⁰ The commenters also urge the Commission to rule that late-filed certifications or line counts requiring waivers will not negatively impact the interim cap.²¹

8. In its December 31 letter to USAC, Centennial identified what it believed were errors or inconsistencies in USAC's projections for the month of March 2008.²² On January 28, 2009, Centennial submitted a letter to USAC, in which it acknowledges that it received certain additional information from USAC.²³ Based on this revised information, Centennial states that the following errors were included in USAC's March 2009 data for Centennial: (i) in calculating competitive ETC support in Indiana, USAC did not include high-cost support to Michiana Metronet, Inc. (a Centennial company); and (ii) in calculating competitive ETC support in Louisiana, USAC did not reflect timely-filed line count revisions filed by Centennial.²⁴

¹⁷ Centennial December 31 Letter at 9.

¹⁸ *Comment Sought on the Petition of Centennial Communications Corp. and its Subsidiaries to Waive the December 31, 2008 Deadline for Submitting Changes to Interim High Cost Cap Data*, WC Docket No. 05-337, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 3259 (Wireline Comp. Bur. 2009).

¹⁹ Comments of Rural Cellular Association, WC Docket No. 05-337, CC Docket No. 96-45, 3-4 (filed Apr. 20, 2009) (RCA Comments); Comments of United States Cellular Corporation, WC Docket No. 05-337, CC Docket No. 96-45, 3-4 (filed Apr. 20, 2009) (U.S. Cellular Comments).

²⁰ RCA Comments at 6-7; U.S. Cellular Comments at 6-7; Reply Comments of Southern Communications Services, Inc. d/b/a SouthernLINC Wireless, WC Docket No. 05-337, CC Docket No. 96-45, 5 (filed May 12, 2009) (SouthernLINC Reply Comments).

²¹ RCA Comments at 8-10; U.S. Cellular Comments at 8-10. The Bureau addressed this issue, finding that high-cost support that is not disbursed to ETCs due to missed filing deadlines will be included in the March 2008 amounts available to competitive ETCs under the interim cap. See *LBH, L.L.C. Petition for Waiver of Section 54.802(a) of the Commission's Rules, Knology of the Black Hills, LLC f/k/a PrairieWave Black Hills, LLC Petition for Waiver of Section 54.802(a) of the Commission's Rules, USCOC of Cumberland, Inc. Hardy Cellular Telephone Company Petition for Waiver of Sections 54.809(c), 54.904(d), 54.313(d) and 54.314(d) of the Commission's Rules*, WC Docket No. 08-71, Order, 24 FCC Rcd 4806, 4811, para. 11 (Wireline Comp. Bur. 2009) (*LBH et al. High-Cost Waiver Order*).

²² Centennial December 31 Letter at 4-9.

²³ Letter from Danielle Frappier, Counsel for Centennial, to Marlene H. Dortch, Federal Communications Commission, WC Docket No. 05-337, CC Docket No. 96-45 (filed Jan. 28, 2009) (attaching Letter from Danielle Frappier, Davis, Wright, and Tremaine, LLP, to Karen M. Majcher, Universal Service Administrative Company (Jan. 28, 2009) (Centennial January 28 Letter)).

²⁴ Centennial January 28 Letter at 5.

III. DISCUSSION

9. For the reasons stated below, we dismiss Centennial's petition as moot.²⁵ We find unpersuasive Centennial's argument that the *Interim Cap Public Notice* was unclear as to whether competitive ETCs were required to submit any changes to their own data or to the data of third parties. As commenters have noted, logically the deadline applied only to corrections of a competitive ETC's own line count submissions or other information that is necessarily within the competitive ETC's knowledge, and not to data filed by third parties.²⁶ Accordingly, Centennial's request for an extension of time to allow it to submit changes to data filed or failed to be filed by third parties is moot.

10. USAC will determine the application of the interim cap in accordance with the Commission's rules.²⁷ The Commission can address on a case-by-case basis whether adjustments should be made to the interim cap in the event of any significant changes to the March 2008 data caused by waivers or revisions accepted in compliance with the Commission's rules.²⁸ Such adjustments, if necessary, will be reviewed as they arise. Centennial's concern regarding how adjustments will be made in the event that third parties subsequently file corrected information that affects the interim cap is therefore premature.

11. Centennial's arguments regarding its petitions related to its U.S. Virgin Islands, Puerto Rico and Louisiana entities are also moot. On April 21, 2009, the Bureau issued an order directing USAC to provide all high-cost support for which Centennial is eligible in the U.S. Virgin Islands as of February 26, 2008, and to offset against this amount any high-cost support received by Centennial in the U.S. Virgin Islands for periods prior to that date.²⁹ On June 10, 2009, the Bureau issued an order denying Centennial's Louisiana petition but finding that the amount of high-cost support that Centennial would have received in Louisiana absent the missed filing deadlines will be included in the capped support available to competitive ETCs in Louisiana.³⁰ Finally, the period at issue in Centennial's Puerto Rico petition is 2003 and 2004, and does not affect Centennial's high-cost support received in March 2008; therefore, Centennial's concern regarding resolution of its Puerto Rico petition is not relevant to the competitive ETC support capped as of March 2008.

²⁵ 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. *WALT 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 appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008), *Northeast Cellular*, 897 F.2d at 1166.

²⁶ See U.S. Cellular comments at 3-4; RCA Comments at 3-4.

²⁷ See *Interim Cap Order*, 23 FCC Rcd at 8846, para. 27; 47 C.F.R. § 54.307.

²⁸ See e.g., *LBH et al. High-Cost Waiver Order*, 24 FCC Rcd at 4811, para. 11 (although petitioners' requests for waiver of filing deadlines for high-cost support were denied, the amount of high-cost universal service support that the ETC petitioners would have been able to receive in March 2008 had they not missed the applicable filing deadlines will be included in the capped level of support available to competitive ETCs pursuant to the *Interim Cap Order*).

²⁹ *Centennial USVI Operations Corp. Petition for Waiver of Section 54.314(d)(1) of the Commission's Rules*, WC Docket No. 08-711, CC Docket No. 96-45, Order, 24 FCC Rcd 4821 (Wireline Comp. Bur. 2009).

³⁰ *Petition for Waiver of Universal Service High-Cost Filing Deadlines; Centennial Communications Corp. Petition for Waiver of Section 54.809 of the Commission's Rules*, WC Docket No. 08-71, Order, 24 FCC Rcd 7756, 7760, para. 7 (Wireline Comp. Bur. 2009).

12. With respect to the changes to the March 2008 data that were noted by Centennial in its January 28 letter to USAC,³¹ USAC has informed us that (i) the March 2008 competitive ETC cap data for Indiana does include the high-cost support for Michiana Metronet, Inc., and (ii) USAC has already made adjustments to the March 2008 competitive ETC cap data for Louisiana to include timely-filed line count revisions filed by Centennial. Therefore, Centennial's concerns regarding inclusion of this data in the competitive ETC capped amounts for these states are moot as well.

IV. ORDERING CLAUSES

13. ACCORDINGLY, IT IS ORDERED that, 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, the petition to extend the deadline for submitting changes to the March 2008 data used to cap high-cost universal service support for competitive ETCs, filed by Centennial Communications Corp., IS DISMISSED as moot.

14. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. §1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau

³¹ Centennial January 28 Letter at 5.