

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

In the Matter of )  
)  
Petitions for Waiver of Universal Service High-Cost ) WC Docket No. 08-71  
Filing Deadlines )  
)  
Federal-State Joint Board on Universal Service ) CC Docket No. 96-45  
)  
Grande Communications Networks, Inc. )  
Petition for Waiver of Sections 54.307(c) and 54.802(a) )  
of the Commission's Rules )  
)  
Hardy Telecommunications, Inc. Petition for Waiver of )  
Sections 54.307(c)(2) and 54.802(a) Applicable to the )  
Line Count Submission for High-Cost Loop and )  
Interstate Access Support )  
)  
Petition of iBroadband Network, Inc., d/b/a Cedar )  
Valley Communications Section 54.314 of the )  
Commission's Rules )  
)  
IT&E Overseas, Inc. Petition for Protective Waiver of )  
Section 54.314, 54.809, and 54.904 of the Commission's )  
Rules )  
)  
Petition of the Micronesian Telecommunications )  
Company for Waiver of Section 54.314 of the )  
Commission's Rules )  
)  
Pattersonville Telephone Company Petition for Waiver )  
of Section 54.904(d) Carrier Certification for Interstate )  
Line Support )  
)  
Petition of PTI Pacifica Inc. for Waiver of Section )  
54.314 of the Commission's Rules )  
)  
Texas RSA 8 South Limited Partnership dba Westex )  
Wireless Petition for Waiver of Sections 54.307(c)(2), )  
54.802(a), and 54.903(a) of the Commission's Rules )  
)  
Thumb Cellular, LLC Request for Waiver of the )  
December 31, 2007 Filing Deadline for Filing June 30, )  
2007 Information with USAC Regarding Interstate )  
Common Line Support and Long Term Support )

**ORDER****Adopted: April 21, 2009****Released: April 21, 2009**

By the Acting Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this order, we act on nine requests, filed by Grande Communications Networks, Inc. (Grande); Hardy Telecommunications, Inc. (Hardy); iBroadband Network, Inc. d/b/a Cedar Valley Communications (iBroadband); ICORE, Inc. on behalf of Pattersonville Telephone Company (Pattersonville); IT&E Overseas, Inc. (IT&E); Micronesian Telecommunications Company (Micronesian); PTI Pacifica Inc. (Pacifica); Texas RSA 8 South Limited Partnership dba Westex Wireless (Westex); and Thumb Cellular, LLC (Thumb Cellular) (collectively, the petitioners), for waivers of various high-cost universal service support filing deadlines set forth in sections 54.307, 54.314, 54.802, 54.809, and 54.904 of the Commission's rules.<sup>1</sup> For the reasons discussed below, we find that the petitioners have demonstrated compliance with the Commission's rules, or that good cause warrants waiver of the Commission's rules.

**II. BACKGROUND****A. Applicable Rules**

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."<sup>2</sup> Support shall be used "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."<sup>3</sup> To implement this statutory requirement, the Commission has adopted various certification and data filing requirements.<sup>4</sup>

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<sup>1</sup> Grande Communications Networks, Inc. Petition for Waiver of Sections 54.307(c) and 54.802(a) of the Commission's Rules, WC Docket No. 08-71 (filed Dec. 31, 2008) (Grande Petition); Hardy Telecommunications, Inc. Petition for Waiver of the Sections 54.307(c)(2) and 54.802(a) Applicable to the Line Count Submission for High Cost Loop and Interstate Access Support, CC Docket No. 96-45 (filed Dec. 26, 2007) (Hardy Petition); Petition of iBroadband Networks Inc., d/b/a Cedar Valley Communications Section 54.314 of the Commission's Rules, CC Docket No. 96-45 (filed Apr. 29, 2008) (iBroadband Petition); Pattersonville Telephone Company Petition for Waiver of Section 54.904(d) Carrier Certification for Interstate Common Line Support, CC Docket No. 96-45 (filed August 8, 2007) (Pattersonville Petition); IT&E Overseas, Inc. Petition for Waiver of Sections 54.314, 54.809, and 54.904 of the Commission's Rules, CC Docket No. 96-45 (filed Apr. 4, 2008) (amending IT&E Overseas, Inc. Petition for Waiver of Section 54.209 of the Commission's Rule, CC Docket No. 96-45 (filed Mar. 31, 2008) (IT&E Petition); Petition of the Micronesian Telecommunications Company for Waiver of Section 54.314 of the Commission's Rules, CC Docket No. 96-45 (filed Feb. 8, 2008) (Micronesian Petition); Petition of PTI Pacifica Inc. for Waiver of Section 54.314 of the Commission's Rules, CC Docket No. 96-45 (filed Feb. 8, 2008) (Pacifica Petition); Texas RSA 8 South Limited Partnership dba Westex Wireless Petition for Waiver of Sections 54.307(c)(2), 54.802(a), and 54.903(a), CC Docket No. 96-45 (filed Oct. 26, 2007) (Westex Petition); Thumb Cellular, LLC Request for Waiver of the December 31, 2007 Filing Deadline for Filing June 30, 2007 Information with USAC Regarding Interstate Common Line Support and Long Term Support, CC Docket No. 96-45 (filed Jan. 7, 2008) (Thumb Cellular Petition); 47 C.F.R. §§ 54.307, 54.314, 54.802, 54.809, 54.904.

<sup>2</sup> 47 U.S.C. § 254(e).

<sup>3</sup> *Id.*

<sup>4</sup> *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

3. Pursuant to section 54.307 of the Commission's rules, a competitive local exchange carrier (LEC) designated as an ETC must file with the Universal Service Administrative Company (USAC), working line count data according to the following schedule:

(1) No later than July 31st of each year, submit data as of December 31st of the previous calendar year;

(2) No later than September 30th of each year, submit data as of March 31<sup>st</sup> of the existing calendar year;

(3) No later than December 30th of each year, submit data as of June 30th of the existing calendar year; and

(4) No later than March 30th of each year, submit data as of September 30<sup>th</sup> of the previous calendar year;

in order to receive high-cost support for those quarterly periods.<sup>5</sup>

4. Pursuant to section 54.314 of the Commission's rules, state commissions must file an annual certification with USAC and the Commission stating that all high-cost support provided to ETCs subject to the jurisdiction of that state will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended."<sup>6</sup> In instances in which carriers are not subject to the jurisdiction of a state, the Commission allows an ETC to certify directly to the Commission and USAC that federal high-cost support will be used in a manner consistent with section 254(e) of the Act.<sup>7</sup> Section 54.314 of the Commission's rules provides that the certification must be filed by October 1 of the preceding calendar year to receive support beginning in the first quarter of a subsequent calendar year.<sup>8</sup> If the October 1 deadline for first quarter support is missed, the certification must be filed by January 1 for support to begin in the second quarter of the year, by April 1 for support to begin in the third quarter, and by July 1 for support to begin in the fourth quarter.<sup>9</sup>

5. 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 USAC to receive funding.<sup>10</sup> Specifically, an ETC 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.<sup>11</sup> Mandatory line count data are due on the last business day of March, June, September,

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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).

<sup>5</sup> 47 C.F.R. § 54.307(c).

<sup>6</sup> 47 C.F.R. § 54.314(a).

<sup>7</sup> See 47 C.F.R. § 54.314(b); *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Red 11244, 11318, para. 189 (2001) (*Rural Task Force Order*).

<sup>8</sup> See 47 C.F.R. § 54.314(d).

<sup>9</sup> *Id.*

<sup>10</sup> 47 C.F.R. § 54.802(a).

<sup>11</sup> *Id.*

and December of each year.<sup>12</sup> Additionally, pursuant to section 54.809 of the Commission's rules, an ETC must file a certification stating that all IAS received by it will be used only for the provision, maintenance, and upgrading of facilities and services for which such support is intended.<sup>13</sup> This certification must be filed with USAC and the Commission on the date that the ETC first files its line count information, and, thereafter, on June 30 of each year.<sup>14</sup>

6. Similarly, to receive interstate common line support (ICLS) pursuant to section 54.904 of the Commission's rules, an ETC must file a certification stating that all ICLS received by it will be used only for the provision, maintenance, and upgrading of facilities and services for which such support is intended.<sup>15</sup> This certification must be filed with USAC and the Commission on the date that the ETC first files its line count information, and, thereafter, on June 30 of each year.<sup>16</sup>

## **B. Petitioners Filing the Required Information Shortly After the Applicable Deadline**

7. *Westex's Petition for Waiver.* On October 26, 2007, Westex requested a waiver of the September 28, 2007, filing deadline established by section 54.802(a) of the Commission's rules and the October 1, 2007, filing deadline established by section 54.307(c)(2) of the Commission's rules.<sup>17</sup> Due to an administrative oversight, Westex filed the required data on October 4, 2007, four and three business days after the respective deadlines.<sup>18</sup> To ensure future filings are timely, Westex has revised its filing procedures and will now compile the required data as soon as it is available, set automatic calendar reminders to provide notice of filing deadlines, contract with a consulting firm to provide reminders of upcoming deadlines, and train another employee to submit filings.<sup>19</sup> Westex argues that granting its waiver request is in the public interest because no other party would be harmed by the grant, and allowing Westex to receive high-cost support would ensure that it is able to deliver quality services in the rural

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<sup>12</sup> *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 (5<sup>th</sup> Cir. 2001).

<sup>13</sup> 47 C.F.R. § 54.809(a).

<sup>14</sup> 47 C.F.R. § 54.809(c).

<sup>15</sup> 47 C.F.R. § 54.904(a).

<sup>16</sup> See 47 C.F.R. §§ 54.904(a) and (d). In the *MAG Order*, the Commission adopted a mechanism for accepting an untimely filed ICLS certification, whereby the carrier does not become eligible for ICLS until the second calendar quarter after the certification is untimely filed. See *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service; Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation; Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*; Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613, 19688, para. 176 (2001) (*MAG Order*) (subsequent history omitted).

<sup>17</sup> Westex Petition at 1-2; 47 C.F.R. §§ 54.307(c)(2), 54.802(a). Because September 30, 2007, fell on a Sunday, the filing required by section 54.307(c) of the Commission's rules was due the following business day, Monday, October 1, 2007. 47 C.F.R. § 54.307(c)(2). Although Westex also seeks a waiver of section 54.903 of the Commission's rules, we find that waiver of this rule is not necessary because the October 1, 2007, filing deadline Westex missed was established by section 54.307(c) of the Commission's rules, not section 54.903(a)(2) of the Commission's rules.

<sup>18</sup> Westex Petition at 2.

<sup>19</sup> *Id.* at Exh. A, Decl. of Darren J. Patrick, para. 6.

areas it serves.<sup>20</sup> Westex also asserts that its waiver should be granted because it is consistent with Commission precedent.<sup>21</sup>

8. *Thumb Cellular's Petition for Waiver.* On January 18, 2008, Thumb Cellular requested a waiver of the December 30, 2007, filing deadline established by section 54.307(c)(3) of the Commission's rules.<sup>22</sup> Thumb Cellular asserts that, due to administrative oversight, it did not file the required data until January 7, 2008, five business days after the deadline.<sup>23</sup> In response to its oversight, Thumb has revised its internal filing procedures.<sup>24</sup> To ensure that future filings are timely, Thumb Cellular will require four employees to verify that quarterly reports are completed and delivered to USAC by the applicable filing deadlines.<sup>25</sup> Thumb Cellular asserts that good cause exists to grant its waiver request because it promptly corrected its error and will revise its internal filing procedures.<sup>26</sup> Thumb Cellular claims that any loss of high-cost support would "result in service degradation to existing customers and more limited service available to potential future customers."<sup>27</sup>

9. *iBroadband's Petition for Waiver.* On April 29, 2008, iBroadband requested a waiver of the October 1, 2007 annual state certification filing deadline in section 54.314(d)(1) of the Commission's rules.<sup>28</sup> iBroadband argues that it filed its affidavit requesting renewal of the annual certification with the Texas Public Utility Commission (Texas PUC) on October 1, 2007, the deadline in the Commission's rules, but it missed the Texas PUC's state deadline of September 1, 2007 for receiving such affidavits.<sup>29</sup> iBroadband was not included in the Texas PUC's 2007 annual certification, which was timely filed by the October 1, 2007 deadline.<sup>30</sup> The Texas PUC certified iBroadband as eligible to receive federal universal service support on October 25, 2007.<sup>31</sup> iBroadband asserts that it was newly-designated as an ETC in Texas in June 2007 and this was its first annual certification in Texas.<sup>32</sup>

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<sup>20</sup> *Id.* at 4.

<sup>21</sup> *Id.* at 4-6 (citing *Citizens/Frontier Order*, 20 FCC Rcd 16761; *FiberNet LLC, Petition for Waiver of FCC Rule Section 54.307(c)(4)*, CC Docket No. 96-45, Order, 20 FCC Rcd 20316 (Wireline Comp. Bur. 2005) (*2005 FiberNet Order*); *MCI, Inc., Petitions for Waiver of Sections 54.802(a) and 54.809(c) of the Commission's Rules*, CC Docket No. 96-45, Order, 21 FCC Rcd 14926 (Wireline Comp. Bur. 2006)).

<sup>22</sup> Thumb Cellular Petition at 1; 47 C.F.R. § 54.307(c)(2). Thumb Cellular filed a motion for expedited consideration of its waiver request. See Request for Waiver of the December 31, 2007 Filing Deadline for filing 3rd Quarter Information with USAC Regarding Interstate Common Line Support and Long Term Support, CC Docket No. 96-45 (filed Jan. 30, 2008) (Thumb Cellular Motion). Due to the action we take in this order, we dismiss as moot the Thumb Cellular Motion.

<sup>23</sup> Thumb Cellular Petition at 2.

<sup>24</sup> *Id.* at 2-3.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 3.

<sup>27</sup> *Id.* at 2.

<sup>28</sup> iBroadband Petition at 1; 47 C.F.R. § 54.314.

<sup>29</sup> iBroadband Petition at 2.

<sup>30</sup> iBroadband Petition at 2; Letter from Pam Whittington, Division Director, Communications Industry Oversight Division, Public Utility Commission of Texas, to Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, and Karen Majcher, Vice President, High-Cost and Low-Income Division, Universal Service Administrative Company, CC Docket No. 96-45 (filed Oct. 1, 2007).

<sup>31</sup> See iBroadband Petition at Exh. C (*Designation of Common Carriers as Eligible Telecommunications Carriers (ETC) to Receive Federal Universal Funds Pursuant to the Federal Communications Commission's Fourteenth Report and Order Adopting a State Certification Process*, Docket No. 24481, Order No. 19, 2007 Certification

**C. Petitioners Submitting the Required Information to the Wrong Mailing or E-Mail Address**

10. *Micronesia and Pacifica's Petitions for Waiver.* On February 8, 2008, Micronesia and Pacifica separately requested waivers of section 54.314 of the Commission's rules.<sup>33</sup> Micronesia and Pacifica state that they missed the October 1, 2007, certification deadline because they mailed the certification to USAC's former address.<sup>34</sup> In January 2008, Micronesia and Pacifica learned that USAC had not received their certifications and re-sent the required certifications to USAC on January 28, 2008.<sup>35</sup> To ensure that future filings are received by USAC by the applicable deadlines, Micronesia and Pacifica have revised their internal filing procedures and now require the personnel responsible for submitting the filing to confirm, on the day the filing is submitted, USAC's mailing address.<sup>36</sup> Micronesia and Pacifica contend that good cause exists to grant their waiver requests because they submitted the certifications before the deadlines, they promptly resubmitted the certifications after learning that USAC had not received the initial filings, and it would serve the public interest to grant their waiver requests.<sup>37</sup> Additionally, Micronesia and Pacifica argue that granting their waiver requests is consistent with Commission precedent and would not cause any hardship to USAC or to other ETCs.<sup>38</sup>

11. *IT&E's Petition for Waiver.* On March 31, 2008, IT&E requested a waiver of the June 30, 2007, certification filing deadline established by sections 54.314, 54.809, and 54.904 of the Commission's rules.<sup>39</sup> IT&E states that it submitted the certifications prior to the deadline but the Commission did not receive the certifications because IT&E sent the certifications, by overnight carrier, to the Commission's headquarters, which is the incorrect address for receipt of overnight delivery services other than United States Postal Service deliveries.<sup>40</sup> IT&E argues that granting its waiver request is in the public interest because IT&E would be able to receive universal service support it could use to upgrade its facilities and provide services to rural customers.<sup>41</sup>

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Process, Approval of Late-Filed Affidavits for State Certification of Eligible ETC Status to Receive Federal Universal Service Support (Texas PUC, Oct. 25, 2007)).

<sup>32</sup> iBroadband Petition at 2.

<sup>33</sup> Micronesia Petition at 1; Pacifica Petition at 1; 47 C.F.R. § 54.314.

<sup>34</sup> Micronesia Petition at 2; Pacifica Petition at 2. As proof, Micronesia and Pacifica attached signed certified mail receipts indicating their mailings were received before the applicable deadline. See Micronesia Petition at Exh. A; Pacifica Petition at Exh. A.

<sup>35</sup> Micronesia and Pacifica claim they were not aware they had missed the deadline because their certifications were delivered to and signed for by someone at the former USAC address on September 18, 2007. See Micronesia Petition at 2; Pacifica Petition at 2.

<sup>36</sup> Micronesia Petition at 6; Pacifica Petition at 6.

<sup>37</sup> Micronesia Petition at 4-8; Pacifica Petition at 4-8.

<sup>38</sup> Micronesia Petition at 4-8; Pacifica Petition at 4-8 (citing *Valor Telecommunications of Texas, L.P. Request for Review of Decision of Universal Service Administrator; Petition for Waiver and/or Clarification of Filing Deadline in 47 C.F.R. Section 54.802(a)*, CC Docket No. 96-45, Order, 21 FCC Rcd 249 (Wireline Comp. Bur. 2006) (*Valor Order*)).

<sup>39</sup> IT&E Petition at 1; 47 C.F.R. §§ 54.314, 54.809, 54.904. IT&E states that its original certification did not contain a sworn affidavit. IT&E Petition at 3. IT&E notes that it has submitted the required certification, including a sworn affidavit. *Id.*

<sup>40</sup> IT&E Petition at 2. IT&E attached a receipt from its overnight carrier indicating that IT&E's mailing was sent to the Commission's headquarters before the applicable deadlines. See *id.* at Exh. 1.

<sup>41</sup> *Id.* at 3-4.

12. *Pattersonville's Petition for Waiver.* On August 8, 2007, Pattersonville requested a waiver of the June 30, 2007, certification deadline required by section 54.904 of the Commission's rules.<sup>42</sup> Pattersonville states that it sent the certification to USAC on June 20, 2007, but that USAC did not receive the certification because the mailing was returned to Pattersonville despite it containing the correct mailing address.<sup>43</sup> After ascertaining that it missed the deadline, Pattersonville resubmitted the certification to USAC.<sup>44</sup>

13. *Hardy's Petition for Waiver.* On December 26, 2007, Hardy requested a waiver of the September 28, 2007 and September 30, 2007 deadlines for submitting line count data to receive IAS and HCLS.<sup>45</sup> Hardy asserts that it submitted the required line count data several weeks prior to the deadlines, on September 4, 2007, via e-mail, but that its employee inadvertently used the incorrect e-mail address.<sup>46</sup> Instead of submitting the filing to HCLfilings@hcli.universalservice.org, Hardy's employee inserted an extra period between universal service, and e-mailed the filing to HCLfilings@hcli.universal.service.org.<sup>47</sup> Hardy also states that it did not receive any "bounce back" e-mail from the incorrect address.<sup>48</sup>

#### D. Petitioner Submitting Evidence of Timely Filing

14. *Grande's Petition for Waiver.* On December 31, 2008, Grande requested a waiver of the September 30, 2007 deadline for submitting line count data to receive HCLS, LSS, IAS, and ICLS.<sup>49</sup> Grande asserts that it submitted the required line count data to USAC via e-mail prior to the September 30<sup>th</sup> deadline, and attached to its petition a copy of an e-mail sent from a Grande employee to USAC on September 27, 2007.<sup>50</sup> Grande did not receive an e-mail receipt confirmation from USAC until October 2, 2007, four days after Grande sent its e-mail.<sup>51</sup> The USAC e-mail confirmation included a copy of Grande's e-mail, showing a sent date of October 2, 2007. The sent time displayed on the USAC version of the Grande e-mail, however, was 9:48 a.m., indicating that the Grande e-mail was sent thirteen minutes after USAC's e-mail confirming receipt of it, which was sent at 9:35 a.m.<sup>52</sup>

### III. DISCUSSION

15. We find that Grande submitted its line count information prior to the filing deadline and in conformance with the Commission's rules, and the remaining petitioners have demonstrated that there is good cause to waive the applicable sections of the Commission's rules.<sup>53</sup> USAC processes a tremendous

<sup>42</sup> Pattersonville Petition at 1; 47 C.F.R. § 54.904.

<sup>43</sup> Pattersonville Petition at 2. Pattersonville attached a copy of the signed certification and the cancelled and returned envelope, showing a postmark date of June 20, 2007, in which it sent the certification to USAC. *See id.* at Attach.

<sup>44</sup> *Id.* at 2.

<sup>45</sup> Hardy Petition at 1; 47 C.F.R. §§ 54.802(a); 54.307(c)(2).

<sup>46</sup> Hardy Petition at 4.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> Grande Petition at 2; 47 C.F.R. §§ 54.307(c)(2); 54.802(a).

<sup>50</sup> Grande Petition at 2 and Exh. 1.

<sup>51</sup> *Id.* at 3 and Exh. 2.

<sup>52</sup> *Id.*

<sup>53</sup> 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

amount of data each year. It is, therefore, administratively necessary to require carriers to meet the filing deadlines absent special circumstances.<sup>54</sup> Although our rules require that data must be received by the applicable deadline, we find that petitioners have demonstrated that, in these special circumstances, there is good cause to waive the filing deadlines.<sup>55</sup> Specifically, we find that waivers are warranted because the petitioners either promptly filed the required data and have revised their internal procedures to ensure compliance with the Commission's rules, or made a reasonable and good faith attempt to comply with the Commission's rules before the applicable deadlines.

16. As discussed above, Grande submitted evidence demonstrating that it filed its line count data prior to the September 30, 2007 deadline. Grande also submitted evidence demonstrating that there was an error in USAC's e-mail system regarding receipt of Grande's filing. The USAC e-mail indicated that Grande's filing was submitted thirteen minutes after USAC had confirmed receiving it. We therefore find that Grande timely filed its line count data and direct USAC to accept and process this information.

17. iBroadband filed its annual certification request with the state commission by the October 1 deadline in section 54.314 of the Commission's rules, but missed the Texas PUC deadline for inclusion in the state's annual certification filing. We find that good cause exists to waive the October 1, 2007 filing deadline in this case because iBroadband complied with that deadline but inadvertently missed the state's prior deadline, causing the state to exclude iBroadband from its October 1, 2007 certification and certify iBroadband on October 25, 2007. After this first experience with the state process, iBroadband is now familiar with the state filing requirements.<sup>56</sup>

18. Westex, and Thumb Cellular promptly filed the required data after discovering that they had missed the filing deadlines. In instances where carriers have filed the required data shortly after filing deadlines, the Commission has waived its rules.<sup>57</sup> The petitioners filed the required data between three

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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.

<sup>54</sup> *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). It is the responsibility of ETCs to familiarize themselves with any applicable regulations, and to ensure that filings are timely received. See 47 C.F.R. § 0.406. See also *Citizens/Frontier Order*, 20 FCC Rcd at 16763, para. 7.

<sup>55</sup> The Commission sought comment on all of the petitions. *Comment Sought on Petitions for Waiver of Filing Deadlines Related to the Universal Service Program*, CC Docket No. 96-45, Public Notice, 23 FCC Rcd 2892 (Wireline Comp. Bur. 2008) (seeking comment on Micronesian and Pacifica's petitions); *Comment Sought on Three Separate Petitions Filed by IT&E Overseas, Inc. for Waiver of Sections 54.209, 54.314, 54.809, and 54.904 of the Commission's Rules*, CC Docket No. 96-45, Public Notice 23 FCC Rcd 6448 (Wireline Comp. Bur. 2008) (seeking comment on IT&E's petition); *Comment Sought on Pattersonville Telephone Company Petition for Waiver of a Filing Deadline Related to the Universal Service Program*, CC Docket No. 96-45, Public Notice 22 FCC Rcd 15,273 (Wireline Comp. Bur. 2008) (seeking comment on Pattersonville's petition); *Comment Sought on Petitions for Waiver of Filing Deadlines Related to the Universal Service Program*, CC Docket No. 96-45, Public Notice, 23 FCC Rcd 430 (Wireline Comp. Bur. 2008) (seeking comment on Hardy and Thumb Cellular's petitions); *Comment Sought on Texas RSA 8 South Limited Partnership d/b/a Westex Wireless Petition for Waiver of Filing Deadline Related to the Universal Service Program*, CC Docket No. 96-45, Public Notice, 22 FCC Rcd 19373 (Wireline Comp. Bur. 2007) (seeking comment on Westex's petition).

<sup>56</sup> iBroadband Petition at 2.

<sup>57</sup> See, e.g., *Citizens/Frontier Order*, 20 FCC Rcd at 16764, para. 9 (waiving filing deadline when the filing was submitted two business days after the deadline); *2005 FiberNet Order*, 20 FCC Rcd at 20317, para. 6 (waiving filing deadline when the filing was submitted five days after the deadline); *Northwest Dakota Cellular of North Dakota*

and five business days after the deadline.<sup>58</sup> Accordingly, we find that, by filing the required data promptly after the applicable filing deadlines, the petitioners promptly remedied their errors. To ensure the Commission deadlines are met, these petitioners have revised their filing procedures.<sup>59</sup> We note that these steps are similar to those taken by other carriers who missed filing deadlines but were granted waivers of the missed deadlines.<sup>60</sup> In granting other waiver requests, the Commission has found that carriers must comply with their commitments to revise their internal procedures to ensure that their filings will be accurately and timely submitted.<sup>61</sup> Similarly, we rely on these petitioners to fulfill their commitments to adhere to their revised filing procedures, and do not expect these petitioners to seek similar waivers in the future.

19. Pattersonville, IT&E, Micronesia, and Pacifica mailed the required certifications to USAC and the Commission before the June 30, 2007, and October 1, 2007, deadlines, and resubmitted their certifications when they discovered that USAC and the Commission had not received the filings. Hardy e-mailed its line count data several weeks prior to the applicable filing deadline. In instances where carriers have made reasonable and good faith attempts to comply with filing deadlines, the Commission has waived its rules.<sup>62</sup> Although the Commission's rules require that filings must be *received* by the applicable deadlines, we find that these petitioners made reasonable and good faith efforts to comply with this requirement by mailing the required information in advance of the deadlines to addresses formerly or currently used by USAC or the Commission.<sup>63</sup> Hardy e-mailed its line count information more than three weeks prior to the applicable deadline, and made a minor ministerial error in the e-mail address. Had the incorrect e-mail address triggered a bounce back of Hardy's e-mail, Hardy would have had ample time to re-submit its information to the correct address.

20. We find that petitioners' circumstances are unique and emphasize that, going forward, we expect petitioners to ensure that the required information is filed with USAC and the Commission by the applicable filing deadlines. 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

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*Limited Partnership; North Central RSA 2 of North Dakota Limited Partnership; North Dakota RSA No. 3 Limited Partnership; Badlands Cellular of North Dakota Limited Partnership; North Dakota 5-Kidder Limited Partnership; and Bismarck MSA Limited Partnership Petition for Waiver of Section 54.307 of the Commission's Rules, CC Docket No. 96-45, Order, 21 FCC Rcd 9179, 9181, para. 7 (Wireline Comp. Bur. 2006) (waiving filing deadline when the filing was submitted one day after the deadline); Verizon Order, 21 FCC Rcd at 10157, para. 9 (Wireline Comp. Bur. 2006) (waiving a filing deadline when the filing was submitted two business days after the deadline); AT&T Order, 22 FCC Rcd at 954, para. 4 (waiving filing deadline when the filing was submitted two business days after the deadline); 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) (NPCR Order) (waiving filing deadline when the filing was submitted one business day after the deadline).*

<sup>58</sup> Westex Petition at 2; Thumb Cellular Petition at 2.

<sup>59</sup> Westex Petition at Exh. A, Decl. of Darren J. Patrick, para. 6; Thumb Cellular Petition at 2-3.

<sup>60</sup> See, e.g., AT&T Order, 22 FCC Rcd at 954, para. 5 (instituting e-mail reminders and quarterly reviews by management); NPCR Order, 22 FCC Rcd at 563, para. 9 (assigning filing responsibility to a manager).

<sup>61</sup> See, e.g., Citizens/Frontier Order, 20 FCC Rcd at 16764, para. 10; Verizon Order, 21 FCC Rcd at 10158, para. 10; AT&T Order, 22 FCC Rcd at 954, para. 5; NPCR Order, 22 FCC Rcd at 563, para. 9.

<sup>62</sup> See, e.g., Valor Order, 21 FCC Rcd at 250, 252, paras. 4, 9 (waiving filing deadline when the filing was submitted before the deadline but to USAC's former vendor).

<sup>63</sup> Pattersonville, IT&E, Micronesia, and Pacifica all submitted exhibits proving that they sent the filings to USAC or the Commission's addresses at least one week before the applicable deadlines. Pattersonville Petition at 2; IT&E Petition at Exh. 1; Micronesia Petition at Exh. A; Pacifica Petition at Exh. A.

may file timely via e-mail at [hcfilings@HCLI.universalservice.org](mailto: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. In addition, due to the procedures the petitioners have enacted in response to these late filings, we do not expect these petitioners to seek similar waivers in the future.

#### IV. ORDERING CLAUSES

21. 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.

22. IT IS FURTHER ORDERED that USAC SHALL ACCEPT the line count data submitted by Grande Communications Networks, Inc. as timely filed by the September 30, 2007 deadline.

23. IT IS FURTHER ORDERED that the petition for waiver of sections 54.307(c)(2) and 54.802(a) of the Commission's rules, 47 C.F.R. §§ 54.307(c)(2) and 54.802(a), filed by Hardy Telecommunications, Inc., IS GRANTED.

24. IT IS FURTHER ORDERED that the petition for waiver of section 54.314 of the Commission's rules, 47 C.F.R. § 54.314, filed by iBroadband Network, Inc d/b/a Cedar Valley Communications IS GRANTED.

25. IT IS FURTHER ORDERED that the petition for waiver of sections 54.314, 54.809, and 54.904 of the Commission's rules, 47 C.F.R. § 54.314, 54.809, 54.904, filed by IT&E Overseas, Inc. IS GRANTED.

26. IT IS FURTHER ORDERED that the petition for waiver of section 54.314 of the Commission's rules, 47 C.F.R. § 54.314, filed by Micronesian Telecommunications Corporation IS GRANTED.

27. IT IS FURTHER ORDERED that the petition for waiver of section 54.904 of the Commission's rules, 47 C.F.R. § 54.904, filed by ICORE, Inc. on behalf of Pattersonville Telephone Company, IS GRANTED.

28. IT IS FURTHER ORDERED that the petition for waiver of section 54.314 of the Commission's rules, 47 C.F.R. § 54.314, filed by PTI Pacifica Inc. IS GRANTED.

29. IT IS FURTHER ORDERED that the petition for waiver of sections 54.307(c)(2) and 54.802(a) of the Commission's rules, 47 C.F.R. §§ 54.307(c)(2), 54.802(a), filed by Texas RSA 8 South Limited Partnership dba Westex Wireless, IS GRANTED.

30. IT IS FURTHER ORDERED that the petition for waiver of section 54.307(c) of the Commission's rules, 47 C.F.R. § 54.307(c), filed by Thumb Cellular, LLC, IS GRANTED.

31. It IS FURTHER ORDERED that the motion for expedited consideration of request for waiver of section 54.307(c) of the Commission's rules, 47 C.F.R. § 54.307(c), filed by Thumb Cellular, LLC, IS DISMISSED AS MOOT.

32. 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

Julie A. Veach  
Acting Chief  
Wireline Competition Bureau