

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

In the Matter of)	
)	
Petition for Waiver of Universal Service High-Cost Filing Deadlines)	WC Docket No. 08-71
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Northeast Iowa Telephone Company)	
)	
Petition of Waiver of the Section 54.301(b) Submission Date for Projected 2008 Local Switching Support Data)	
)	

ORDER

Adopted: April 21, 2009

Released: April 21, 2009

By the Acting Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant a request by ICORE, Inc. on behalf of Northeast Iowa Telephone Company (Northeast Iowa), an incumbent local exchange carrier (LEC) that has been designated as an eligible telecommunications carrier (ETC), for a waiver of the data submission reporting deadline set forth in section 54.301(b) of the Commission's rules for local switching support (LSS).¹ We find that Northeast Iowa has demonstrated that good cause warrants this waiver.

II. BACKGROUND

2. Incumbent LECs that have been designated as ETCs and serve 50,000 or fewer access lines within a study area are eligible to receive LSS.² Before an incumbent LEC can begin receiving LSS, however, certain data must be filed with the Universal Service Administrative Company (USAC). First, the relevant state commission must file a certification stating that all high-cost support, which includes LSS, received by the incumbent LEC will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended."³ Second, the incumbent LEC must file certain data with USAC by October 1 of each year to receive LSS for the following calendar year.⁴

¹ Northeast Iowa Telephone Company Petition for Waiver of Section 54.301(b) Submission Date for Projected 2008 Local Switching Support Data, CC Docket No. 96-45 (filed Feb. 15, 2008) (Petition); 47 C.F.R. § 54.301(b).

² 47 C.F.R. § 54.301.

³ The certification requirements for non-rural carriers are found in section 54.313 of the Commission's rules and the certification requirements for rural carriers are found in section 54.314 of the Commission's rules. 47 C.F.R. §§ 54.313 and 54.314. In instances where carriers are not subject to state jurisdiction, an ETC may self-certify to the Commission and USAC. 47 C.F.R. §§ 54.313(b) and 54.314(b).

⁴ 47 C.F.R. § 54.301(b); *see also* Local Switching Support, Data Collection Form, Cost Company, available at http://www.usac.org/_res/documents/hc/pdf/LSS_Form-Cost_Co.pdf (retrieved April 21, 2009); Local Switching

3. *Northeast Iowa's Petition for Waiver.* On February 15, 2008, Northeast Iowa filed a request for waiver of the October 1, 2007 annual LSS filing deadline in section 54.301(b) of the Commission's rules so that it can receive support for the 2008 calendar year.⁵ Northeast Iowa asserts that the late filing occurred because Northeast Iowa had opted out of participating in the National Exchange Carrier Association (NECA) traffic sensitive pool, and Northeast Iowa was not aware that, after this change, NECA would not file the LSS data on Northeast Iowa's behalf.⁶ Northeast Iowa notes that it became aware of the missed filing when it received its January 2008 NECA disbursement notification, which did not include LSS.⁷ Upon learning that the filing deadline had been missed, Northeast Iowa states that it immediately contacted USAC and submitted the information via facsimile.⁸ Northeast Iowa states that the loss of approximately \$156,000 in LSS for the 2008 calendar year will adversely affect the rates it charges its rural customers, or significantly decrease its investment outlays.⁹ Northeast Iowa argues that it has never before missed a federal universal service filing requirement deadline, and details measures it has taken to ensure that no future deadlines will be missed.¹⁰

III. DISCUSSION

4. We find that good cause exists to waive section 54.301(b) of the Commission's rules to allow Northeast Iowa to receive LSS for the 2008 calendar year.¹¹ We conclude that denial of all LSS to Northeast Iowa in calendar year 2008 could result in substantial hardship to Northeast Iowa's rural customers. Unlike the requirements for other types of universal service support,¹² carriers must file data annually in order to receive LSS.¹³ Therefore, if a carrier misses the annual deadline, it will not receive funding for an entire year. As such, the loss of LSS has a much greater impact on a small carrier's capacity to ensure that consumers have and maintain access to service at just, reasonable, and affordable rates than the loss of other types of universal service support. Indeed, the loss of LSS for an entire

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Support, Data Collection Form, Average Schedule Company, available at http://www.usac.org/_res/documents/hc/pdf/LSS_Form-Ave_Sch.pdf (retrieved April 21, 2009).

⁵ See Petition at 1, 3.

⁶ *Id.* at 2.

⁷ *Id.* at 3.

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *Id.* at 3.

¹¹ 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. The Commission sought comment on Northeast Iowa's petition and did not receive any comments opposing the petition. See *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).

¹² In most instances, carriers can or must file line counts and certifications on a quarterly basis. See, e.g., 47 C.F.R. Part 54, Subpart J (Interstate Access Universal Service Support Mechanism) and Subpart K (Interstate Common Line Support Mechanism for Rate-of-Return Carriers).

¹³ See 47 C.F.R. § 54.301.

calendar year in these instances may have a significant effect on the rates that Northeast Iowa charges its customers.¹⁴ Likewise, the loss of LSS may adversely affect Northeast Iowa's ability to continue to provide quality service to its customers.¹⁵ For these reasons, we have previously found in other instances that waiver of section 54.301(b) of the Commission's rules would serve the public interest.¹⁶

5. Quality service available at just, reasonable and affordable rates is a fundamental principal of the Commission's universal service policies.¹⁷ We find that denying LSS for an entire calendar year to a small LEC such as Northeast Iowa would undermine this goal. Thus, we conclude that waiver of section 54.301(b) of the Commission's rules is in the public interest in this case.

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. Filers now have many options by which to file, including U.S. Mail, other sources of commercial delivery, facsimile, and electronic mail (e-mail). For instance, any carrier receiving funding from the high-cost universal service 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 their filings are timely received.

IV. 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 the petition for waiver of section 54.301(b) of the Commission's rules, 47 C.F.R. § 54.301(b), filed by ICORE, Inc. on behalf of Northeast Iowa Telephone Company IS GRANTED.

8. 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

¹⁴ See Petition at 4.

¹⁵ See *id.*

¹⁶ *Dixon Telephone Company, Lexcom Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Petitions for Waiver of Section 54.301 Local Switching Support Data Submission Reporting Date*, CC Docket No. 96-45, Order, 21 FCC Rcd 1717 (Wireline Comp. Bur. 2006); *Alliance Communications Cooperative, Inc. and Hills Telephone Company, Inc., East Ascension Telephone Company, LLC, Columbus Telephone Company, Petitions for Waiver of Section 54.301 Local Switching Support Data Submission Reporting Date*, CC Docket No. 96-45, Order, 20 FCC Rcd 18250 (Wireline Comp. Bur. 2005); *Smithville Telephone Company, Inc., Petition for Waiver of Section 54.301 Local Switching Support Data Submission Reporting Date for an Average Schedule Company*, CC Docket No. 96-45, Order, 19 FCC Rcd 8891 (Telecom. Access. Pol. Div. 2004).

¹⁷ See *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8839, para. 112 (1997) ("We recognize affordable rates are essential to inducing consumers to subscribe to telephone service, and also that increasing the number of people connected to the network increases the value of the telecommunications network."); 47 U.S.C. § 254(b).