

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
)
Syringa Wireless, LLC)
Petition for Waiver of Section 54.307(c) of the FCC's)
Rules)

ORDER

Adopted: November 1, 2010

Released: November 1, 2010

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant a request by Syringa Wireless, LLC (Syringa) for a waiver of the universal service high-cost filing deadline set forth in sections 54.307(c) of the Commission's rules. For the reasons discussed below, we conclude that Syringa has demonstrated that there is good cause to grant the requested waiver.

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," and such support shall be used "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." To implement this statutory requirement, the Commission has adopted various certification and data filing requirements.

1 Syringa Wireless, LLC Petition for Waiver of Section 54.307(c) of the FCC's Rules, WC Docket No. 08-71 (filed May 4, 2010) (Syringa Petition) 47 C.F.R. §§ 54.307(c).

2 47 U.S.C. § 254(e).

3 Id.

4 See, e.g., 47 C.F.R. §§ 54.301(b) and (e)(1) (data filing requirements for Local Switching Support), 54.307 (competitive ETC line count filing requirements for Interstate Common Line Support (ICLS) and other high-cost support), 54.313 (state certification requirements regarding the use of high-cost support by non-rural carriers), 54.314 (state 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 (carrier certification requirements regarding (continued. . .))

3. Section 54.307(c) of the Commission's rules provides that a competitive ETC must file working line count data with the Universal Service Administrative Company (USAC) on a quarterly basis to receive certain high-cost support.⁵ Mandatory line count data are due on March 30, July 31, September 30, and December 30 of each year.⁶

4. *Syringa Wireless's Petition for Waiver*. On May 4, 2010, Syringa requested a waiver of the December 30, 2009 line count filing deadline.⁷ Syringa states that its accountant in charge of the line count filing mistakenly believed the filing was due on the last day of the month and therefore filed the data on December 31, 2009.⁸ Upon filing, Syringa received notice that the filing was one day late, and staff at USAC confirmed that the filing was untimely.⁹ Syringa states that it has instituted internal measures to ensure it meets future filing deadlines.¹⁰

III. DISCUSSION

5. We conclude that Syringa has demonstrated that there is good cause to grant the requested waiver.¹¹ USAC processes a tremendous amount of data each year. It is, therefore, administratively necessary to require carriers to meet the filing deadlines absent special circumstances.¹² Although our rules require that filings be received by the applicable deadline, we conclude that Syringa has demonstrated that, in these special circumstances, there is good cause to waive the filing deadline.

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the use of IAS), 54.903 (data filing requirements for ICLS), 54.904 (carrier certification requirements regarding the use of ICLS).

⁵ See 47 C.F.R. § 54.307. USAC uses line count data filed in March to calculate third quarter support for the current calendar year, line count data filed in July to calculate fourth quarter support for the current calendar year, line count data filed in September to calculate first quarter support for the following calendar year, and line count data filed in December to calculate second quarter support for the following calendar year.

⁶ *Id.*

⁷ Syringa Petition at 1; 47 C.F.R. § 54.307(c). The Wireline Competition Bureau sought comment on the petition on May 6, 2010. See *Comment Sought on the Syringa Wireless, LLC. Petition For Waiver of a Universal Service High-Cost Filing Deadline*, WC Docket No. 08-71, Public Notice 10-871, (Wireline Comp. Bur. 2010). No comments were filed in opposition to the petition.

⁸ Syringa Petition at 2.

⁹ *Id.* at 2-3.

¹⁰ *Id.* at 5.

¹¹ Generally, the Commission's rules may be waived if good cause is 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 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.

¹² *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 Communications and Frontier Communications Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 20 FCC Rcd 16761, 16763, para. 7 (Wireline Comp. Bur. 2005) (*Citizens/Frontier Order*).

6. Specifically, we conclude that a waiver is warranted because Syringa promptly filed the required data. In instances where carriers have filed the required data or certifications shortly after filing deadlines, the Commission has waived its rules.¹³ By making the required filing one day after the deadline, Syringa promptly remedied its error.

7. Syringa states that it has revised its internal measures to ensure that it meet future deadlines.¹⁴ In granting previous waiver requests, we have found that carriers must comply with their commitments to revise their internal procedures to ensure that their filings will be accurately and timely submitted.¹⁵ Similarly, we rely on Syringa to fulfill its commitments to adhere to its revised filing procedures.

8. We remind all filers that it is their responsibility to ensure that their complete and accurate filings are timely received in the appropriate places, regardless of the time and method of such 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 carriers to use any and all methods they deem necessary to ensure that their filings are timely received.

IV. ORDERING CLAUSES

9. 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.

¹³ 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); *FiberNet, LLC Petition for Waiver of FCC Rule Section 54.307(c)(4)*, CC Docket No. 96-45, Order, 20 FCC Rcd 20316, 20317, para. 6 (Wireline Comp. Bur. 2005) (waiving filing deadline when the filing was submitted five days after the deadline); *Northwest Dakota Cellular of North Dakota 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 Communications Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, Order, 21 FCC Rcd 10155, at 10157, para. 9 (Wireline Comp. Bur. 2006) (*Verizon Order*) (waiving a filing deadline when the filing was submitted two business days after the deadline); *AT&T Communications of NY & AT&T Communications of California Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 22 FCC Rcd 953, at 954, para. 4 (Wireline Comp. Bur. 2007) (*AT&T Order*) (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); *Benton/Linn Wireless, LLC, Petition for Waiver of Section 54.307(c) of the Commission's Rules, et al.*, CC Docket No. 96-45, Order, 20 FCC Rcd 19212, 19220, para. 10 (Wireline Comp. Bur. 2005).

¹⁴ Syringa Petition at 5.

¹⁵ 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.

10. 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 Syringa Wireless, LLC IS GRANTED.

11. 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