

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
)	
The Georgia Public Service Commission)	
Request for Leave to File an Addendum to its State Certification of Federal Universal Service Support Eligibility Out-Of-Time)	

ORDER

Adopted: April 29, 2010

Released: April 29, 2010

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant a request filed by the Georgia Public Service Commission (GPSC) for waiver of the high-cost universal service support filing deadline set forth in section 54.314(d)(1) of the Commission’s rules.¹ For the reasons discussed below, we find that the GPSC 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.”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

¹ The Georgia Public Service Commission Request for Leave to File an Addendum to its State Certification of Federal Universal Service Support Eligibility Out-Of-Time, WC Docket No. 08-71 (filed Oct. 21, 2009) (Petition); 47 C.F.R. § 54.314(d)(1). We note that although the GPSC styles its filing as a “Request for Leave to File an Addendum,” the relief sought would require a waiver of Commission rules. Thus, we refer to the GPSC’s filing as a request for waiver.

² 47 U.S.C. § 254(e).

³ *Id.*

this statutory requirement, the Commission has adopted various certification and data filing requirements.⁴

3. Pursuant to section 54.314 of the Commission's rules, state commissions must file an annual certification with the Universal Service Administrative Company (USAC) and with the Commission stating that all high-cost universal service support received by rural carriers (and competitive ETCs serving lines in a rural carrier's service area) within the state will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended."⁵ Section 54.314(d) of the Commission's rules provides that the certification must be filed by October 1 of the preceding calendar year for support to begin in the first quarter of a subsequent calendar year.⁶ 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, by April 1 for support to begin in the third quarter, and by July 1 for support to begin in the fourth quarter.⁷

4. *The GPSC's Petition for Waiver.* On October 21, 2009, the GPSC requested a waiver of the October 1, 2009 certification deadline established by section 54.314(d)(1) of the Commission's rules to allow it to supplement its annual certification filings.⁸ By letters dated September 1, 2009, the GPSC timely filed its annual certification with USAC and with the Commission.⁹ Due to a "procedural mix-up," however, the GPSC failed to include four Georgia carriers in its certification letters.¹⁰ In an administrative session on October 6, 2009, the GPSC approved the certification of those four carriers.¹¹ The GPSC asserts that its failure to meet the October 1, 2009 deadline was inadvertent, and that it has endeavored to file its request for waiver as close in time to the deadline as possible.¹²

⁴ See, e.g., 47 C.F.R. §§ 54.301(b) and (e)(1) (data filings 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 the use of IAS), 54.903 (data filing requirements for ICLS), 54.904 (carrier certification requirements regarding the use of ICLS).

⁵ 47 C.F.R. § 54.314(a). The certification requirement for non-rural carriers is set forth in section 54.313 of the Commission's rules. 47 C.F.R. § 54.313.

⁶ 47 C.F.R. § 54.314(d).

⁷ *Id.*

⁸ Petition at 1, Attach. A.

⁹ *Id.* at 1, Attach. B, C.

¹⁰ *Id.* at 2, Attach. A.

¹¹ *Id.*

¹² *Id.* at 2. The Commission sought comment on the petition and did not receive any comments in opposition to the petition. See *Comment Sought on the Georgia Public Service Commission Petition for Waiver of a Universal Service Filing Deadline*, WC Docket No. 08-71, Public Notice, DA 09-2614 (Wireline Comp. Bur., rel. Dec. 22, 2009).

III. DISCUSSION

5. We find that the GPSC has demonstrated that there is good cause to waive section 54.314(d)(1) of the Commission's rules.¹³ Granting the requested waiver will further the goals of universal service by helping maintain and promote access to quality services in rural and high-cost areas.¹⁴ This conclusion is consistent with Commission precedent.¹⁵

6. We remind state regulatory bodies 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 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 filer 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.

¹³ 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 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.

¹⁴ See 47 U.S.C § 254.

¹⁵ See *West Virginia Public Service Commission Request for Waiver of State Certification Requirements for High-Cost Universal Service Support For Non-Rural Carriers*, CC Docket No. 96-45, Order, 16 FCC Rcd 5784, 5786, para. 7 (2001) (granting a waiver of a section 54.313(c)(2)(i) deadline to accept a certification filed 22 days after the filing deadline); *Illinois Commerce Commission's Petition for Waiver and Leave to File Certification of Eligible Telecommunications Carrier Out-of-Time; Farmers Mutual Telephone Company Petition for Waiver of Section 54.314(d) Filing Deadlines for Submission of State Certification of Federal High-Cost Support for a Rural Carrier; Petition of the Wyoming Public Service Commission for Waiver of Filing Deadline for Rate Comparability Certification Pursuant to 47 C.F.R. § 54.313(d)(3)*, CC Docket No. 96-45, Order, 23 FCC Rcd 6664 (Wireline Comp. Bur. 2008) (granting waivers of 53.313(d) and 54.314(d) deadlines where a certification was filed over four months after the filing deadline, and where confusion about state reporting requirements caused a carrier to be left out of a certification); *Hawaii Public Utilities Commission Request for Waiver of Filing Deadline in 47 C.F.R. Section 54.314*, CC Docket No. 96-45, Order, 20 FCC Rcd 10655 (Telecom. Access Policy Div. 2006) (allowing the Hawaii Public Utility Commission to amend its certification letter to include an ETC which it inadvertently omitted from its letter); *Washington Utilities and Transportation Commission Request to Amend Certification, Inland Cellular Telephone Company Request For Waiver of Filing Deadline in 47 C.F.R. § 54.313*, CC Docket No. 96-45, Order, 20 FCC Rcd 13745 (Telecom. Access Policy Div. 2005) (allowing the Washington Utilities and Transportation Commission to amend its certification letter to include an ETC which it inadvertently omitted from its letter).

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 the petition for waiver of section 54.314(d)(1) of the Commission's rules, 47 C.F.R. § 54.314(d)(1), filed by the Georgia Public Service Commission, 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

Sharon E. Gillett
Chief
Wireline Competition Bureau