

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

In the Matter of)	
)	
Petitions for Waiver of Universal Service High-Cost Filing Deadlines)	WC Docket No. 08-71
)	
Total Communications, Inc.)	
Petition for Waiver of Section 36.621(a)(4) of the Commission's Rules)	

ORDER

Adopted: August 5, 2011

Released: August 5, 2011

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we deny a petition filed by Total Communications, Inc. (Total) for a waiver of section 36.621(a)(4) of the Commission's rules, which caps the amount of high-cost universal service support recoverable for carriers' corporate operations expenses.¹ Total provides local exchange telephone service in areas of rural Oklahoma and states that it has corporate operations expenses that exceed the Commission's limit on the recovery of such expenses for purposes of receiving loop support.² In its request, Total contends that it would not be able to maintain affordable rates in its service area without a waiver of the corporate operations expense cap.³

2. We conclude that Total has failed to demonstrate that there is good cause to waive the applicable section of the Commission's rules. Generally, the Commission's rules may be waived if good cause is shown.⁴ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁵ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁶ 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.⁷

3. We find that there is no evidence to substantiate Total's claims. Total's statements are merely cursory. It has not presented any information about what its rates are today and how they may change without a waiver of the corporate operations expense cap, nor how the limit on corporate operations expenses causes a hardship on Total and its subscribers. It also has not supplied a detailed accounting of the corporate operations expenses incurred for the past three years and an explanation of why these costs were necessary and unavoidable. We conclude that Total has provided no evidence of

¹ Total Communications, Inc. Petition for Waiver of Commission Rule 47 CFR § 36.621(a)(4), WC Docket No. 08-71 (filed July 7, 2011) (Petition); *see also* 47 C.F.R. § 36.621(a)(4).

² Petition at 1.

³ *Id.*

⁴ 47 C.F.R. § 1.3.

⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁷ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

special circumstances to demonstrate good cause to grant a waiver of the Commission's rules and we deny its petition.

4. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 4(i) and 254(d) of the Communications Act, 47 U.S.C. §§ 4(i), 254(d), and the authority delegated by sections 0.91, 0.291, and 54.722 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722, the petition for waiver of section 36.621(a)(4) of the Commission's rules filed by Totah Communications, Inc. IS DENIED.

5. 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

Amy E. Bender
Deputy Chief
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