

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

In the Matter of)
)
 Telecommunications Carriers Eligible for) WC Docket No. 09-197
 Universal Service Support)
)
 NTCH, Inc. Petition for Forbearance from 47)
 U.S.C. § 214(e)(5) and 47 C.F.R. § 54.207(b))

ORDER

Adopted: May 6, 2011

Released: May 6, 2011

By the Chief, Wireline Competition Bureau:

1. On March 5, 2010, NTCH, Inc. and its affiliated operating entity NTCH-West Tenn, Inc. (collectively, NTCH) filed the above-captioned petition for forbearance, for the limited purpose of becoming designated as a Lifeline-only eligible telecommunications carrier (ETC), from application of the definition of “service area” in section 214(e)(5) of the Communications Act of 1934, as amended, and section 54.207(b) of the Commission’s rules.¹ On May 4, 2011, NTCH submitted a request to withdraw its petition for forbearance without prejudice to re-filing.² For the reasons below, we grant NTCH’s request to withdraw their petition without prejudice.

2. The Commission’s rules give a petitioner the right to “withdraw . . . a petition for forbearance without approval of the Commission” if the petitioner exercises that right “by filing a notice of full or partial withdrawal at any time prior to the end of the tenth business day after the due date for reply comments announced in the public notice.”³ Because NTCH filed its request to withdraw after the timeframe allotted to do so without approval, we must affirmatively approve NTCH’s request.⁴

3. NTCH request to withdraw its petition because it “intends to supplement its original demonstration of the burden justifying forbearance at a future date, but it cannot gather the needed information within the time frame of its current forbearance petition.”⁵ Given the particular

¹ NTCH, Inc. Petition for Forbearance, WC Docket No. 09-197 (filed Mar. 5, 2010); 47 U.S.C. §§ 160, 214(e)(5); 47 C.F.R. § 54.207(b). On February 10, 2011, pursuant to section 10(c) of the Act, the Wireline Competition Bureau (Bureau) extended until June 3, 2011, the date on which the NTCH Forbearance Petition shall be deemed granted in the absence of a Commission decision that the petition fails to meet the standard for forbearance under section 10(a) of the Act. *Telecommunications Carriers Eligible to Receive Universal Service Support; NTCH, Inc. Petition for Forbearance*, WC Docket No. 09-197, Order, 27 FCC Rcd 1340 (2011). On March 15, 2010, the Wireline Competition Bureau issued a public notice seeking comment on that petition, with comments and reply comments due on April 14 and April 29, 2010, respectively. *See Comment Sought on NTCH, Inc. Petition for Designation as an Eligible Telecommunications Carrier in Alabama and Tennessee and Petition for Forbearance from Eligible Telecommunications Carrier Service Area Requirement*, WC Docket No. 09-197, Public Notice, 25 FCC Rcd 2569 (Wireline Comp. Bur. 2010).

² Request for Withdrawal of Petition for Forbearance of NTCH, Inc., WC Docket No. 09-197 (filed May 4, 2011) (NTCH Withdrawal Request).

³ 47 C.F.R. § 1.59(a).

⁴ 47 C.F.R. § 1.59(b) (“Except as provided in paragraph (a) of this section, a petition for forbearance may be withdrawn . . . only with approval of the Commission.”).

⁵ *See* NTCH Withdrawal Request at 1.

circumstances surrounding NTCH's petition and its request to withdraw, we grant the request and dismiss the petition without prejudice.

4. ACCORDINGLY, IT IS ORDERED, pursuant to section 1.59(b) of the Commission's rules, 47 C.F.R. § 1.59(b), and the authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the request to withdraw the petition of NTCH, Inc. and NTCH-West Tenn, Inc. IS GRANTED and that the petition for forbearance filed on March 5, 2010 IS DISMISSED WITHOUT PREJUDICE.

5. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this order SHALL BE effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau