

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

In the Matter of	)	
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
Primo Communications Request for Review of a Decision of the Universal Service Administrator and Request for Waiver	)	

**ORDER**

**Adopted: August 27, 2012**

**Released: August 27, 2012**

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

1. In this order, we dismiss a request for review and deny a waiver filed by Primo Communications, Inc. (Primo) on July 27, 2011.<sup>1</sup> Primo states that it is a long distance reseller. Primo did not file any Form 499 reports with the Universal Service Administrative Company (USAC) for the period of 2007 through 2010, until USAC made inquiries in 2010 as to Primo's missing reports. Primo filed its reports in 2010, and was assessed by USAC for unpaid universal service fund (USF) contributions as well as late filing fees and penalties. Primo does not provide an explanation as to why it did not timely file its 2007 through 2010 Form 499 Reports. It asserts, however, that it indirectly paid USF charges to its underlying carriers during this time period and therefore should not be required to pay USF charges directly. Primo seeks review of USAC's invoice for USF contributions for the period of 2007 through 2010, and a general waiver of all such charges.

2. We dismiss Primo's request for review of USAC's invoices seeking payment for USF charges for 2007 through 2010. Primo has provided no basis or offered any explanation on which to overturn USAC's determination that Primo owes USF contributions for the relevant time period. Primo's submission does not indicate or assert that USAC made an error in assessing contributions based on Primo's 2007 through 2010 Form 499 reports. We therefore dismiss Primo's request for review as procedurally defective.<sup>2</sup>

3. We also deny Primo's request for waiver. Primo has failed to demonstrate that there is good cause to waive the applicable sections of the Commission's rules.<sup>3</sup> Generally, the Commission's rules may be waived if good cause is shown.<sup>4</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>5</sup> In addition,

<sup>1</sup> Letter from Benjamin Ardelean, Primo Communications, Inc., to Office of the Secretary, FCC, WC Docket No. 06-122 (filed July 27, 2011).

<sup>2</sup> Primo's filing failed to comply with the procedural requirements for requests for review of USAC decisions. Among other things, Primo failed to (1) support its factual assertions with an affidavit signed by an officer of the company or other knowledgeable individual; (2) reference any Commission rule, order, or appropriate statutory provision in support of its request for review; and (3) indicate it had served USAC with a copy of the request. *See generally* 47 C.F.R. § 54.721(b) (setting forth general filing requirements for requests for review of USAC decisions).

<sup>3</sup> *See generally* 47 CFR §§ 54.706, 54.711 (universal service contribution and reporting requirements).

<sup>4</sup> 47 C.F.R. § 1.3.

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

the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>6</sup> 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.<sup>7</sup> We conclude that Primo has failed to justify grant of a waiver. Primo's statements are merely cursory. It has not presented any information as to the rule(s) for which it seeks waiver, the reason that such waiver would be appropriate, the special circumstances that warrant a deviation from the general rule, nor why such deviation would serve the public interest. Accordingly, we deny Primo's request for waiver.

4. 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 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, the request for review filed by Primo Communications, Inc. on July 27, 2011, IS DISMISSED.

5. IT IS FURTHER 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 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, the request for waiver filed by Primo Communications, Inc. on July 27, 2011, IS DENIED.

6. 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

Vickie S. Robinson  
Deputy Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau

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

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