

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

In the Matter of)
Connect America Fund) WC Docket No. 10-90
CenturyLink Request for Extension of Time and)
Petition for Waiver)

ORDER

Adopted: December 3, 2012

Released: December 3, 2012

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) grants a petition filed by CenturyLink requesting limited waiver of section 54.314 of the Commission's rules. Under section 54.314, for an eligible telecommunications carrier (ETC) within a state to receive high-cost support, the state must file a certification with the Commission and the Universal Service Administrative Company stating that the ETC has used and will use support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. If a state fails to file a timely certification, the ETC receives reduced levels of support. State certifications ordinarily are due annually on October 1 for ETCs to receive full support in the succeeding year, but this year the deadline for state action was extended to November 16, 2012.

2. CenturyLink states that it receives high-cost support for its operations in the state of New Jersey. CenturyLink notes that it filed the necessary documentation with the New Jersey Board of Public Utilities (NJBPU) that would allow the NJBPU to make its certification under section 54.314. According to CenturyLink's petition, the NJBPU was originally scheduled to make the certification at its public meeting on November 16. However, due to the effects of Hurricane Sandy, the NJBPU was forced to delay its public meeting and did not certify on behalf of CenturyLink until November 20, four

1 CenturyLink Request for Extension of Time and Petition for Waiver, WC Docket Nos. 10-90, 05-337, CC Docket No. 96-45 (filed Nov. 16, 2012) (CenturyLink Petition).

2 See 47 C.F.R. § 54.314(a). Carriers not subject to state jurisdiction may make the certification themselves. 47 C.F.R. § 54.314(b).

3 See 47 C.F.R. § 54.314(d).

4 47 C.F.R § 54.314(d)(1). See Connect America Fund, ACS Wireless, Inc. Petition for Waiver of Section 54.313(j) of the Commission's Rules, WC Docket No. 10-90, Order, 27 FCC Rcd 11107, 11112, para. 13 (Wireline Comp. Bur. 2012) (granting states a waiver of section 54.314(d)(1) for 60 days following the release of the order).

5 See CenturyLink Petition at 1.

6 See id. at 2.

7 See id. at 3.

days after the deadline.⁸ CenturyLink therefore requests that the Bureau extend the deadline for the NJBPU to file its certification pursuant to section 54.314 and accept its late-filed certification.⁹

3. Generally, the Commission's rules may be waived if good cause is shown.¹⁰ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹¹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹² 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.¹³

4. We grant CenturyLink's petition for waiver. The unexpected delay of a public meeting due to the effects of Hurricane Sandy constitutes special circumstances justifying a waiver, and grant of such a waiver is in the public interest.¹⁴ The Bureau therefore waives section 54.314(d)(1) and accepts the NJBPU's certification of CenturyLink filed on November 20. The Bureau directs USAC to accept the NJBPU's certification and distribute support to CenturyLink in accordance with this Order.

II. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED that, pursuant to 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 Extension of Time and Petition for Waiver filed by CenturyLink IS GRANTED to the extent described above.

6. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, section 54.314(d)(1) of the Commission's rules, 47 C.F.R. § 54.314(d)(1), IS WAIVED to the extent described above.

⁸ See *id.* at 3-4. See also New Jersey Board of Public Utilities Annual State Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314, WC Docket No. 10-90, CC Docket No. 96-45 (filed Nov. 20, 2012).

⁹ See CenturyLink Petition at 4.

¹⁰ 47 C.F.R. § 1.3.

¹¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹² *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹³ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

¹⁴ See generally *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Order, 20 FCC 16883 (2005) (granting various forms of relief in the wake of Hurricane Katrina); *Federal-State Joint Board on Universal Service, Pine Belt Cellular, Inc. Petition for Waiver of Section 54.313 of the Commission's Rules*, CC Docket No. 96-45, Order, 21 FCC Rcd 9175 (Wireline Comp. Bur. 2006) (waiving certification deadline due to Hurricane Ivan).

7. 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

Julie A. Veach
Chief
Wireline Competition Bureau