

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

In the Matter of)
)
Lifeline and Link Up Reform and Modernization) WC Docket No. 11-42
)

ORDER

Adopted: May 22, 2020

Released: May 22, 2020

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. On May 6, 2020, North American Local, LLC (North American) filed a motion requesting additional time to file its request for review of a decision made by the Universal Service Administrative Company (USAC),¹ seeking an additional 60 days beyond the 60-day period provided by the Commission’s rules. As discussed below, in this Order, the Wireline Competition Bureau (Bureau) grants in part North American’s motion, extending by 15 days the time within which North American must file its request for review.

II. BACKGROUND

2. In 2019, USAC’s Audit and Assurance Division conducted an audit of North American to determine its compliance with the Lifeline program rules and subsequently determined that North American claimed subscribers outside of its designated service area in violation of the Commission’s rules.² North American filed an appeal of the audit’s findings with USAC on November 5, 2019.³ On March 23, 2020, USAC issued its decision and affirmed its prior finding that North American was in violation of the Lifeline program’s rules.⁴

3. The Commission’s rules give affected parties 60 days to request review or waiver of a USAC decision by the Commission.⁵ Here, the 60-day period in which North American may request review of USAC’s March 23, 2020 decision will end on May 22, 2020. On May 6, 2020, North American requested an extension of the deadline to file its request for review until July 20, 2020.⁶

¹ Motion of North American Local, LLC for Extension of Time to File Request for Review, WC Docket No. 11-42, at 1 (filed May 6, 2020) (North American Motion).

² See 47 CFR § 54.207(a) (“A service area defines the overall area for which the carrier shall receive support from federal universal service support mechanisms.”).

³ Letter from Jorge Bellas, Managing Partner, North American Local, to Lifeline Program Division, USAC (Nov. 5, 2019).

⁴ See Letter from USAC, to Jorge Bellas, Managing Partner, North American Local, LLC, at 1 (Mar. 23, 2020).

⁵ 47 CFR § 54.720(a).

⁶ See North American Motion at 1. We note that North American’s motion incorrectly states the original 60-day period as ending on May 20, 2020, not May 22, before requesting a 60-day extension from May 20 to July 20.

III. DISCUSSION

4. The Commission's rules may be waived for good cause shown.⁷ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁸ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁹ We find that good cause exists to waive the requirement that North American file any request for review of USAC's decision by May 22, 2020.

5. North American presents two justifications for its request for more time to file. First, North American asserts that its business operations have been impacted by the coronavirus COVID-19 pandemic.¹⁰ The coronavirus COVID-19 pandemic is an outbreak of a respiratory illness that has spread throughout the United States.¹¹ Efforts to slow the spread of the disease have resulted in the dramatic disruption of many aspects of Americans' lives, including social distancing measures that have required the closure of businesses. According to North American, the COVID-19 pandemic presents unprecedented challenges for carriers, like North American, whose resources have been constrained.¹² As a result, North American has temporarily closed its offices and allowed employees to work from home, "while continuing to provide valuable telecommunications services, including essential Lifeline services, to the public."¹³ Based on the facts before us, we believe that a request for some additional time in this case is appropriate, given the disruption to North American's business practices caused by the pandemic.

6. Second, North American argues that it has recently filed Freedom of Information Act (FOIA) seeking to obtain information that is not publicly available that it claims is important to its request for review.¹⁴ North American states that its FOIA request is pending, "but the information responsive to this request is being assembled by Commission staff and will likely be available if this Motion is granted."¹⁵ We are not persuaded that a pending FOIA request is grounds for an extension of the filing period in this case. Moreover, we note that North American filed its FOIA request approximately 30 days after receiving USAC's decision letter, half-way through the time period provided by the rules to file a request for review with the Commission.

7. While North American requests a 60-day extension of the filing period, we believe that a 15-day extension is more appropriate. In its motion for an extension of the deadline, North American notes that, while it has needed to temporarily close its offices during the pandemic, its employees are able to telework.¹⁶ Based on the facts presented in North American's request, we believe that an additional 15 days—and thus, a total of 75 days—is a reasonable length of time for North American to prepare its request for review of USAC's decision in light of any delay or disruption caused by the pandemic. With this waiver, North American must submit any request for review of USAC's March 23, 2020 decision no

⁷ 47 CFR § 1.3.

⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁰ North American Motion at 1.

¹¹ See Centers for Disease Control and Prevention, Coronavirus (COVID-19) (last visited Apr. 28 2020), <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

¹² North American Motion at 1.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

later than June 8, 2020.¹⁷ The action taken today is limited to North American and is not generally applicable to all eligible telecommunications carriers.

IV. ORDERING CLAUSES

8. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that section 47 CFR § 54.720(a) of the Commission's rules is waived to the limited extent provided herein.

9. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau

¹⁷ A 15-day extension of time from May 22, 2020 would bring the filing deadline to June 6, 2020, a Saturday. In accordance with the Commission's rules, a deadline that falls on a weekend moves to the next business day, here Monday June 8, 2020. *See* 47 CFR § 1.4(j).