

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

In the Matter of)	
)	
Implementation of Interim Filing Procedures for)	
Filings of Requests for Review)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

ORDER

Adopted: December 20, 2001

Released: December 26, 2001

By the Commission:

1. Due to recent emergency events in Washington, D.C. resulting in the unforeseeable and understandable disruption of regular mail delivery and of the processing of other deliveries due to the threat of contamination, the Commission is presently unable to confirm receipt of requests for review of the decisions of the Universal Service Administrative Company (Administrator) that are filed pursuant to sections 54.719 through 54.725, 47 C.F.R. §§ 54.719-54.725.¹ In order to continue timely processing of such filings and to avoid prejudice to parties as a result of this disruption in mail service, we hereby amend our procedural rules on an emergency, interim basis as described below to extend the period for filing a request for review, or applications for review arising from such proceedings, from the current 30 day period to 60 days, to provide applicants with the option of electronic filing (via either electronic mail or facsimile) for requests for review and petitions for reconsideration or applications for review that arise from such proceedings, and to provide parties that have mailed pleadings on or after September 12, 2001 with an opportunity to refile their pleadings electronically.²

2. Our current rules provide that any person aggrieved by a decision of any Division of the Administrator may file an appeal directly with the Commission within 30 days of the date of the issuance of the decision.³ Alternately, the person may appeal the decision of a Division within 30 days of the date of the decision to the relevant Committee governing that Division, in which case the time for filing an appeal with the Commission is tolled during the pendency of the appeal before the Committee.⁴ Once the

¹ The affected requests for review include requests for waiver that are filed pursuant to 47 C.F.R. §§ 54.719 – 54.725.

² We amend our rules without notice and comment pursuant to section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B). We find that notice and public procedure are impractical and contrary to the public interest, because of the need to respond rapidly to the disruptions in mail service.

³ 47 C.F.R. §§ 54.719(c), 54.720(a).

⁴ 47 C.F.R. §§ 54.719(a), 54.720(b).

Committee has issued a decision on the appeal, the person then has up to 30 days to appeal that decision to the Commission.⁵ A person receiving an adverse decision from the Commission has up to 30 days to file a petition for reconsideration pursuant to section 1.106 or an application for review of action taken on delegated authority pursuant to section 1.115.⁶

3. Effective upon publication in *Federal Register* and until further notice, we modify our rules as follows. First, requests for review filed pursuant to sections 54.719 through 54.725, 47 C.F.R. §§ 54.719 through 54.725, and any applications for review arising from such proceedings shall be filed within 60 days of the issuance of the decision being reviewed.⁷ This 60-day period will be applicable to all such pleadings that were required to be filed on or after September 12, 2001 and were received by the Commission on or after September 12, 2001.⁸ Second, parties filing requests for review, or petitions for reconsideration or applications for review of decisions on requests for review, may, at their option, file their pleadings electronically, either by electronic mail or facsimile.⁹

4. If filed by electronic mail, pleadings shall be filed at the following e-mail address: CCBSecretary@fcc.gov. Documents filed via electronic mail may be submitted in Adobe Portable Document Format (PDF), Word, WordPerfect, or any other widely used word processing format. The Commission will automatically reply to all incoming e-mails to confirm receipt. If filed by facsimile, pleadings shall be faxed to 202-418-0187. The fax transmission should include a cover sheet listing contact name, phone number, and, if available, an e-mail address.¹⁰

⁵ 47 C.F.R. §§ 54.719(c), 54.720(a).

⁶ 47 U.S.C. § 405; 47 C.F.R. §§ 1.106(f), 1.115(d).

⁷ We exclude petitions for reconsideration, which must, by statute, be filed within 30 days. *See* 47 U.S.C. § 405(a).

⁸ Thus, any request for review or application for review arising from proceedings pursuant to sections 54.719 through 54.725, 47 C.F.R. §§ 54.719-54.725, that was required to be filed on or before September 10 under the 30 day filing period will still be subject to the 30 day filing period. We note that, because Commission offices were closed on September 11, 2001, documents that would otherwise have been due on that date were not due until September 12, 2001, pursuant to 47 C.F.R. § 1.4(e)(1). *See* Public Notice, Federal Communications Commission Closes Offices (rel. September 12, 2001). Thus, documents that would have been due on September 11, 2001 are also subject to the 60-day period. We further note that, to the extent that a party is unsure of whether the Commission has received its pleading, that party may refile as described in paragraph 5, *infra*.

⁹ We note that, as an alternative means of avoiding the current disruptions to regular mail service and assuring rapid receipt of pleadings, parties may submit their pleadings by overnight delivery services, *i.e.*, other than U.S. Postal Service Express and Priority Mail, to Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20024, or by hand delivery to our Capital Heights facility, 9300 East Hampton Drive, Capitol Heights, Maryland, 20743, in accordance with the terms of our earlier October 17 and October 18, 2001 public notices. *See Public Notice*, "FCC Announces Change in Filing Location for Paper Documents," DA 01-2436 (rel. October 17, 2001); *Public Notice*, "FCC Announces Changes In Filing Procedures," DA 01-2430 (rel. October 17, 2001); *Public Notice*, "Clarification on FCC's Announced Changes in Filing Procedures," DA 01-2451 (rel. October 18, 2001).

¹⁰ Pleadings submitted by electronic mail will be considered filed on a business day if they are received at the Commission at any time up to 12:00 a.m. Pleadings received after that time will be considered received on the next business day. Similarly, facsimile transmissions will be considered filed on a business day if the complete transmission is received by any time up to 12:00 a.m.

5. We further provide that pleadings of the type described in paragraph 3 above that were due on or after September 12, 2001 and that were submitted by non-electronic means between September 12, 2001 and the effective date of this order may be refiled electronically within 30 days of the effective date of this order in accordance with the procedures specified in the preceding paragraph.¹¹ Pleadings filed electronically pursuant to this paragraph shall be accompanied by a signed affidavit or a declaration pursuant to Commission rule section 1.16 stating that the previously filed pleading was timely filed, and providing the date the pleading was originally mailed to the Commission, and by what means. For this purpose only, the original pleading will be considered filed as of the date that it was mailed.

6. Accordingly, IT IS ORDERED that, pursuant to the authority of Sections 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154 (i), the Commission ADOPTS the procedural requirements set forth in this order and SUSPENDS any contrary requirements.

7. IT IS FURTHER ORDERED that the rule changes set forth in Appendix A shall become effective upon publication in the *Federal Register*.¹²

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

¹¹ We emphasize that parties may only take advantage of the refiling option within the 30 day period. Pleadings that are refiled outside the period, even in cases where the original pleadings are never received by the Commission, will be treated as new submissions filed on the date that they are received at the Commission.

¹² We amend our rules without notice and comment pursuant to section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. § 553(b)(B). *See supra*, n.2. We are making the rule changes effective upon publication in order to respond to the disruptions in mail service. 5 U.S.C. § 553(d)(3).

APPENDIX A

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

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1. Section 1.4 is amended by adding at the end of section 1.4 (f):

§ 1.4 Computation of Time

(f) *****

Note:

Due to the emergency events in Washington, D.C. resulting in the interruption of regular mail delivery, until further notice, the following types of pleadings may be filed either manually or electronically with the Commission: 1) requests for review pursuant to Section 254 of the Communications Act of 1934, as amended, and Sections 54.719 through 54.725 of the Commission's rules; 2) petitions for reconsideration arising from such proceedings and filed pursuant to Section 405 of the Communications Act of 1934, as amended, and Commission rule section 1.106; and 3) applications for review arising from such proceedings and filed pursuant to section 155 of the Communications Act of 1934 and Commission rule 1.115. Electronic filing shall be by electronic mail or facsimile. If filed by electronic mail, pleadings described above shall be filed at the following e-mail address: CCBSecretary@fcc.gov. Documents filed via electronic mail may be submitted in PDF, Word, WordPerfect, or any other widely-used word processing format. The Commission will automatically reply to all incoming e-mails to confirm receipt. If filed by facsimile, pleadings described above shall be faxed to: 202-418-0187. The fax transmission should include a contact name, phone number and e-mail address if applicable. Pleadings of the type described in this paragraph that were due on or after September 12, 2001 and that were submitted by non-electronic means between September 12, 2001 and the effective date of this order may be refiled electronically within 30 days of the effective date of this order. Refilings pursuant to this paragraph shall be accompanied by a signed affidavit or a declaration pursuant to Commission rule section 1.16 stating that the previously filed pleading was timely filed, the date the pleading was originally sent to the Commission, and by what means. For this purpose only, the original pleadings will be considered timely filed if they were mailed on or prior to the due date.

2. Section 1.106 is amended by adding at the end of 1.106(f):

1.106 Petitions for Reconsideration.

(f) *****

Note: Due to the emergency events in Washington, D.C. resulting in the interruption of regular mail delivery, until further notice, petitions for reconsideration that are filed in connection with final Commission action on requests for review pursuant to sections 54.719-54.725, may be filed electronically via either electronic mail or facsimile in accordance with the procedures set forth in amended rule 1.4 (f).

3. Section 1.115 is amended by adding at the end of 1.115(d):

1.115 Application for review of action taken pursuant to delegated authority.

(d) *****

Note: Due to the emergency events in Washington, D.C. resulting in the interruption of regular mail delivery, until further notice, applications for review that are filed in connection with final Commission action on requests for review pursuant to sections 54.719-54.725, shall be filed within 60 days from the date of public notice of the final Commission action as that date is defined in section 1.4(b), and may be filed electronically via either electronic mail or facsimile in accordance with the procedures set forth in amended rule 1.4 (f). The 60 day period shall be applied to pleadings that were required to be filed on or after September 12, 2001 and that were or are received by the Commission on or after September 12, 2001 in accordance with the procedures set forth in amended rule 1.4(f).

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section is amended by adding at the end of section 54.720(e):

54.720 Filing Deadlines.

(e) *****

Note: Due to the emergency events in Washington, D.C. resulting in the interruption of regular mail delivery, until further notice, requests for review pursuant to sections 720(a), (b), (c), or (d) shall be filed within 60 days from the date of the issuance of the relevant decision, and may be filed electronically via either electronic mail or facsimile in accordance with the procedures set forth in amended rule 1.4 (f). The 60 day period shall be applied to pleadings that were required to be filed on or after September 12, 2001 and that were or are received by the Commission on or after September 12, 2001 in accordance with the procedures set forth in amended rule 1.4(f).