

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

In the Matter of)	
)	
Petitions for Waiver of Universal Service High-Cost Filing Deadlines)	WC Docket No. 08-71
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Dixie Net Communications, Inc. Petition for Waiver of Section 54.307(c) of the FCC's Rules)	

ORDER

Adopted: January 13, 2011

Released: January 13, 2011

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant a request by Dixie Net Communications, Inc. (Dixie Net) for a waiver of section 54.307(c) of the Commission's rules, which sets forth deadlines for competitive eligible telecommunications carriers (ETCs) to file line count data with the Universal Service Administrative Company (USAC) to receive certain high-cost universal service support.¹ We conclude that Dixie Net has demonstrated that there is good cause to grant the requested waiver. Specifically, Dixie Net filed the required data one-day late, after a power failure on the day of the deadline disrupted transmission of the data to USAC.

II. BACKGROUND

2. Section 254(e) of the Communications Act of 1934, as amended (the Act), provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support,"² and such support shall be used "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."³ To implement this statutory requirement, the Commission has adopted various certification and data filing requirements.⁴

¹ Dixie Net Communications, Inc. Petition for Waiver of Section 54.307(c) of the FCC's Rules, WC Docket No. 08-71 (filed Sept. 3, 2010) (Petition); 47 C.F.R. § 54.307(c).

² 47 U.S.C. § 254(e).

³ *Id.*

⁴ *See, e.g.*, 47 C.F.R. §§ 54.301(b) and (e)(1) (data filing requirements for Local Switching Support), 54.307 (competitive ETC line count filing requirements for Interstate Common Line Support (ICLS) and other high-cost support), 54.313 (state certification requirements regarding the use of high-cost support by non-rural carriers), 54.314 (state certification requirements regarding the use of high-cost support by rural carriers), 54.802(a) (ETC line (continued. . .))

3. Section 54.307(c) of the Commission's rules provides that a competitive ETC must file working line count data with the Universal Service Administrative Company (USAC) on a quarterly basis to receive certain high-cost support.⁵ Mandatory line count data are due on March 30, July 31, September 30, and December 30 of each year.⁶

4. *Dixie Net's Petition for Waiver*. On September 3, 2010, Dixie Net requested a waiver of the March 30, 2010, line count filing deadline required by section 54.307(c) of the Commission's rules⁷ Dixie Net explains that its attempt to transmit the line count data to USAC by email on March 30, 2010 failed due to a commercial power failure in its headquarters building caused by severe storms in the region.⁸ On the following business day, March 31, 2010, Dixie Net discovered that the filing was not transmitted to USAC due to the power failure.⁹ Dixie Net immediately retransmitted the line count information to USAC, resulting in a one-day delay.¹⁰ Dixie Net notes that, except for this late filing, its filings have been sent and received by USAC in a timely manner.¹¹ The Wireline Competition Bureau sought comment on the petition on September 17, 2010, and no comments were filed in opposition to the petition.¹²

III. DISCUSSION

5. We conclude that Dixie Net has demonstrated that there is good cause to grant the requested waiver. Generally, the Commission's rules may be waived if good cause is shown.¹³ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁴ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁵ 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.¹⁶

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count filing requirements for Interstate Access Support (IAS)), 54.809 (carrier certification requirements regarding the use of IAS), 54.903 (data filing requirements for ICLS), 54.904 (carrier certification requirements regarding the use of ICLS).

⁵ See 47 C.F.R. § 54.307. USAC uses line count data filed in March to calculate third quarter support for the current calendar year, line count data filed in July to calculate fourth quarter support for the current calendar year, line count data filed in September to calculate first quarter support for the following calendar year, and line count data filed in December to calculate second quarter support for the following calendar year.

⁶ *Id.*

⁷ Petition at 1; 47 C.F.R. § 54.307(c).

⁸ Petition at 3-4.

⁹ *Id.* at 4.

¹⁰ *Id.*

¹¹ *Id.*

¹² See *Comment Sought on the Dixie Net Communications, Inc. Petition For Waiver of a Universal Service High-Cost Filing Deadline*, WC Docket No. 08-71, Public Notice, 25 FCC Rcd 13054 (Wireline Comp. Bur. 2010).

¹³ 47 C.F.R. § 1.3.

¹⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹⁶ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

6. USAC processes a tremendous amount of data each year. It is, therefore, administratively necessary to require carriers to meet the filing deadlines absent special circumstances.¹⁷ Although our rules require that filings be received by the applicable deadline, we conclude that Dixie Net has demonstrated that, in these special circumstances, there is good cause to waive the filing deadline.

7. Specifically, we conclude that a waiver is warranted because Dixie Net promptly filed the required data. In instances where carriers have filed the required data or certifications shortly after filing deadlines, the Commission has waived its rules.¹⁸ By making the required filing one day after the deadline – after a commercial power outage on the day of the deadline disrupted transmission of the data to USAC – Dixie Net promptly remedied the problem.

8. We remind all filers that it is their responsibility to ensure that their complete and accurate filings are timely received in the appropriate places, regardless of the time and method of such filings. Carriers now have many options by which to file, including U.S. Mail, other sources of commercial delivery, facsimile, and e-mail. For instance, any carrier receiving funding from the high-cost universal support mechanism may file timely via e-mail at hcfilings@HCLI.universalservice.org. Additional information regarding USAC's filing procedures and deadlines can be found at <http://www.usac.org/hc/tools/filing-tool/default.aspx>. We encourage carriers to use any and all methods they deem necessary to ensure that their filings are timely received.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 214, and 254, and sections

¹⁷ *FiberNet, LLC, Petition for Waiver of Section 54.307(c) of the Commission's Rules and Regulations*, CC Docket No. 96-45, Order, 19 FCC Rcd 8202, 8204, para. 5 (Wireline Comp. Bur. 2004). It is the responsibility of ETCs to familiarize themselves with any applicable regulations, and to ensure that filings are timely received. See 47 C.F.R. § 0.406. See also *Citizens Communications and Frontier Communications Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 20 FCC Rcd 16761, 16763, para. 7 (Wireline Comp. Bur. 2005) (*Citizens/Frontier Order*).

¹⁸ See, e.g., *Citizens/Frontier Order*, 20 FCC Rcd at 16764, para. 9 (waiving filing deadline when the filing was submitted two business days after the deadline); *FiberNet, LLC Petition for Waiver of FCC Rule Section 54.307(c)(4)*, CC Docket No. 96-45, Order, 20 FCC Rcd 20316, 20317, para. 6 (Wireline Comp. Bur. 2005) (waiving filing deadline when the filing was submitted five days after the deadline); *Northwest Dakota Cellular of North Dakota Limited Partnership*; *North Central RSA 2 of North Dakota Limited Partnership*; *North Dakota RSA No. 3 Limited Partnership*; *Badlands Cellular of North Dakota Limited Partnership*; *North Dakota 5-Kidder Limited Partnership*; and *Bismarck MSA Limited Partnership Petition for Waiver of Section 54.307 of the Commission's Rules*, CC Docket No. 96-45, Order, 21 FCC Rcd 9179, 9181, para. 7 (Wireline Comp. Bur. 2006) (waiving filing deadline when the filing was submitted one day after the deadline); *Verizon Communications Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, Order, 21 FCC Rcd 10155, at 10157, para. 9 (Wireline Comp. Bur. 2006) (*Verizon Order*) (waiving a filing deadline when the filing was submitted two business days after the deadline); *AT&T Communications of NY & AT&T Communications of California Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 22 FCC Rcd 953, at 954, para. 4 (Wireline Comp. Bur. 2007) (*AT&T Order*) (waiving filing deadline when the filing was submitted two business days after the deadline); *NPCR, Inc. Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, Order, 22 FCC Rcd 560 (Wireline Comp. Bur. 2007) (*NPCR Order*) (waiving filing deadline when the filing was submitted one business day after the deadline); *Benton/Linn Wireless, LLC, Petition for Waiver of Section 54.307(c) of the Commission's Rules, et al.*, CC Docket No. 96-45, Order, 20 FCC Rcd 19212, 19220, para. 10 (Wireline Comp. Bur. 2005).

0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that this order is ADOPTED.

10. IT IS FURTHER ORDERED that the petition for waiver of section 54.307(c) of the Commission's rules, 47 C.F.R. § 54.307(c), filed by Dixie Net Communications, Inc. IS GRANTED.

11. 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

Sharon E. Gillett
Chief
Wireline Competition Bureau