

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

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
NewComm Wireless Services Petition for Waiver of	)	
Section 54.307(d) of the FCC's rules	)	

**ORDER**

**Adopted: April 28, 2011**

**Released: April 28, 2011**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we address a petition filed by NewComm Wireless Services, Inc. d/b/a Movistar (NewComm) for a waiver of the universal service high-cost support filing deadline set forth in section 54.307(d) of the Commission rules.<sup>1</sup> Section 54.307(d) of the Commission's rules requires a newly designated eligible telecommunications carrier (ETC) to file working line count information with the Universal Service Administrative Company (USAC) within sixty days of the effective date of its designation as an ETC in order to receive universal service high-cost support as of its designation date.<sup>2</sup> For the reasons discussed below, we find that NewComm's filing was timely. We therefore dismiss the waiver petition and we direct the Universal Service Administrative Company (USAC) to accept NewComm's filing.

**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,"<sup>3</sup> and such support shall be used "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."<sup>4</sup> To implement this statutory requirement, the Commission has adopted various rules that include certification and data filing requirements and established deadlines for those filings.<sup>5</sup> Consistent with our precedent, complete

<sup>1</sup> NewComm Wireless Services Petition for Waiver of Section 54.307(d) of the FCC's rules, CC Docket No. 96-45 (filed July 20, 2006) (Petition); 47 C.F.R. § 54.307(d).

<sup>2</sup> See 47 C.F.R. § 54.307(d).

<sup>3</sup> 47 U.S.C. § 254(e).

<sup>4</sup> *Id.*

<sup>5</sup> See, e.g., 47 C.F.R. §§ 54.301(b) and (e)(1) (data filing requirements for the local switching support (LSS) mechanism), 54.307 (competitive ETC line count filing requirements for the interstate common line support (ICLS) mechanism and other high-cost universal service support mechanisms), 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 count filing requirements for the interstate access support (IAS) mechanism), 54.809 (carrier certification requirements regarding the use of IAS), 54.903 (data filing requirements for the ICLS mechanism), 54.904 (carrier certification requirements regarding the use of ICLS).

and accurate submissions must be *received* in the appropriate places by the applicable deadline to be considered timely filed.<sup>6</sup>

3. Pursuant to section 54.307(d) of the Commission's rules, a newly designated ETC must file working line count information with USAC within sixty days of the effective date of its designation as an ETC in order to receive universal service high-cost support as of its designation date.<sup>7</sup> If the newly designated ETC misses this deadline, it will be eligible to receive universal service high-cost support based on the timing of its next line count filing.<sup>8</sup>

4. *NewComm's Petition for Waiver.* On July 20, 2006, NewComm filed a petition for waiver of section 54.307(d) of the Commission's rules to permit NewComm to receive high-cost universal service support as of January 11, 2006, the date on which the Telecommunications Regulatory Board of Puerto Rico (Puerto Rico Board) adopted an order granting NewComm's designation as an ETC.<sup>9</sup> NewComm explains that order was certified but not released by the Puerto Rico Board until March 1, 2006, that NewComm received a copy of the order on March 8, 2006, and that NewComm filed its initial working line count information with USAC on March 29, 2006.<sup>10</sup> Although NewComm states that it believed that the effective date of the order was March 1, 2006, and thus its filing was timely, USAC later informed NewComm that the effective date was January 11, 2006 and thus NewComm should have filed its initial working line count information with USAC on or before March 13, 2006.<sup>11</sup> NewComm, therefore, seeks a waiver of the purported March 13 deadline to enable it to receive support back to January 11, 2006.<sup>12</sup> NewComm argues that a waiver is warranted because the Puerto Rico Board did not certify and release the order granting NewComm's request for ETC designation until March 1, 2006, and NewComm did not receive the order until March 8, 2006.<sup>13</sup>

### III. DISCUSSION

5. We conclude that NewComm's initial line count submission was timely filed. We therefore dismiss NewComm's waiver petition and direct USAC to accept as timely the March 29, 2006 line count submission. Consistent with the *Centennial Order* and *Allied Order*, we find that for purposes of distributing federal high-cost universal service support, the effective date of the order was March 1, 2006, the date on which it was released.<sup>14</sup> NewComm's filing on March 29, 2006, therefore, was within

<sup>6</sup> See, e.g., *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, 19218, 19220, paras. 12, 18 (Wireline Comp. Bur. 2005).

<sup>7</sup> See 47 C.F.R. § 54.307(d).

<sup>8</sup> See 47 C.F.R. § 54.307. Mandatory line count data are due on March 30, July 31, September 30, and December 30 of each year. 47 C.F.R. § 54.307(c). 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.

<sup>9</sup> Petition at 1–2. The Wireline Competition Bureau sought comment on the petition on August 25, 2006. See *The Wireline Competition Bureau Seeks Comment on Petitions Requesting Waiver of Various Filing Deadlines Related to the Universal Service Program*, CC Docket No. 96-45, Public Notice, 21 FCC Rcd 9627 (Wireline Comp. Bur. 2006). No comments were filed in opposition to the petition.

<sup>10</sup> Petition at 2.

<sup>11</sup> See 47 C.F.R. § 54.307(d); Petition at 3 & n.11.

<sup>12</sup> Petition at 3.

<sup>13</sup> *Id.* at 2. See also *NewComm Wireless Services, Inc. d/b/a Movistar, JRT-2005-SU006, Resolucion y Orden* at 3 (Junta Reglamentadora de Telecomunicaciones de Puerto Rico Jan. 11, 2006).

<sup>14</sup> See *Petitions for Waiver of Universal Service High-Cost Filings Deadlines; Federal State Joint Board on Universal Service, Centennial USVI Operations Corp. Petition for Waiver of Section 54.314(d)(1) of the*

the 60 day deadline established by section 54.307(d) of the Commission's rules. Accordingly, NewComm is eligible for high-cost support as of March 1, 2006.

#### IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 254, and sections 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.

7. IT IS FURTHER ORDERED that the petition for waiver of section 54.307(d) of the Commission's rules, 47 C.F.R. § 54.307(d), filed by NewComm Wireless Services, Inc. d/b/a Movistar IS DISMISSED.

8. IT IS FURTHER ORDERED that USAC SHALL CONSIDER, for the purposes of providing high-cost universal service support, the effective date of the designation of NewComm Wireless Services, Inc. d/b/a Movistar as an eligible telecommunications carrier to be March 1, 2006.

9. 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

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*Commission's Rules*, WC Docket No. 08-71, CC Docket No. 96-45, Order, 24 FCC Rcd 4821, 4825, para. 10 (Wireline Comp. Bur. 2009) (*Centennial Order*) (finding that for purposes of distributing federal high-cost universal service support, the effective date of a state's ETC designation order was the release date). *See also Petitions for Waiver of Universal Service High-Cost Filings Deadlines; Allied Wireless Communications Corporation Petition for Waiver of Sections 54.307(d), 54.313 and 54.314 of the Commission's Rules*, WC Docket No. 08-71, Order, DA 11-656 (Wireline Comp. Bur. 2011) (*Allied Order*) (concluding that for purposes of distributing federal high-cost universal service support, the effective date of a state's ETC designation was the release date of the state's designation order).