

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

In the Matter of)
)
Universal Service Contribution Methodology) WC Docket No. 06-122
)
Request for Review of a Decision of the Universal)
Service Administrator by Manitowoc Public)
Utilities)

ORDER

Adopted: March 29, 2011

Released: March 29, 2011

By the Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this order, we deny a request filed by Manitowoc Public Utilities (Manitowoc).1
Manitowoc seeks a waiver of the filing deadline for the annual Telecommunications Reporting Worksheet
(FCC Form 499-A) and a reversal of the associated late filing fees assessed by the Universal Service
Administrative Company (USAC) for the failure to timely file its 2010 FCC Form 499-A.2 We find that
Manitowoc has failed to demonstrate that good cause exists to justify waiver and accordingly we deny
Manitowoc’s request. We direct USAC to collect any outstanding balance from Manitowoc, including
any penalties or interest charges related to Manitowoc’s late filing.

2. Section 254(d) of the Communications Act of 1934, as amended, directs that every
telecommunications carrier that provides interstate telecommunications services shall contribute, on an
equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established
by the Commission to preserve and advance universal service.3 Pursuant to the Commission’s rules,
carriers and certain other providers of interstate telecommunications are required to file FCC Form 499-A
with USAC on April 1 each year.4 Providers whose contribution to the universal service fund (USF)
would be de minimis, that is under \$10,000, however, are exempt from directly contributing.5 De minimis

1 Letter from Timothy Hart, Business Services Manager, Manitowoc Public Utilities, to Office of the Secretary,
FCC, WC Docket No. 06-122 (filed Oct. 1, 2010) (Manitowoc Request). Manitowoc’s FCC Filer ID is 825651.
The Commission has delegated authority to the Wireline Competition Bureau to consider requests for review of
decisions made by USAC. 47 C.F.R. § 54.722(a).

2 Manitowoc Request at 1.

3 47 U.S.C.A. § 254(d).

4 See 47 C.F.R. §§ 54.706, 54.711, 54.713 (requiring all telecommunications carriers providing interstate
telecommunications services and certain other providers of interstate telecommunications to file the annual
Telecommunications Reporting Worksheet (FCC Form 499-A)); Universal Service Administrative Company,
Schedule of Filings, at http://www.universalservice.org/fund-administration/contributors/revenue-
reporting/schedule-filings.aspx (last visited Feb. 28, 2011) (USAC 499 Filing Schedule).

5 47 C.F.R. § 54.708 (“If a contributor’s contribution to universal service in any given year is less than \$10,000 that
contributor will not be required to submit a contribution or Telecommunications Worksheet for that year . . .”).

providers for USF purposes are therefore not required to file the FCC Form 499-A, unless required to do so by the Commission's rules governing contributions to other federal regulatory programs.⁶

3. Generally, 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 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.¹⁰

4. We find that USAC was correct in assessing Manitowoc late filing fees for its failure to timely file its 2010 FCC Form 499-A.¹¹ Manitowoc's claim that it did not file its 2010 FCC Form 499-A by the April 1 deadline because it failed to realize it was required to do so is not a unique circumstance sufficient to warrant a waiver of the deadline.¹² Businesses associated with the Commission have a responsibility to familiarize themselves with the rules and regulations that are relevant to their business.¹³ Moreover, Manitowoc's reliance on the fact that it is a "very small municipal utility" that owes no contribution to the USF, without more, is not sufficient to demonstrate that waiver is appropriate under the circumstances. As previously noted, although a telecommunications provider may not be required to contribute to the USF, a carrier may nonetheless be required by the Commission's rules to file the FCC Form 499-A for purposes of contributions to the other federal regulatory support mechanisms.¹⁴ We therefore find that Manitowoc has failed to show good cause to waive the deadline associated with the FCC Form 499-A, and accordingly we deny its requested waiver, consistent with precedent.¹⁵

5. ACCORDINGLY IT IS ORDERED that, 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, 254, and pursuant to sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, 54.722(a), that the request filed by Manitowoc on October 1, 2010 IS DENIED.

6. IT IS FURTHER ORDERED that this order SHALL BE transmitted to the Universal Service Administrative Company.

⁶ *Id.*; 47 C.F.R. § 52.17(b) (numbering administration); 47 C.F.R. § 52.32(b) (local number portability); 47 C.F.R. § 64.604(c)(5)(iii)(B) (telecommunications relay service).

⁷ 47 C.F.R. § 1.3.

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

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972); *Northeast Cellular*, 897 F.2d at 1166.

¹⁰ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-28 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

¹¹ *See* 47 C.F.R. § 54.713.

¹² *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Achilles Networks, Inc. et al.*, WC Docket No. 06-122, Order, 25 FCC Rcd 4646, 4649, para. 8 (Wireline Comp. Bur. 2010); *Request for Review by Atlantic Digital, Inc., of a Decision of the Universal Service Administrator*, CC Docket No. 96-45, Order, 20 FCC Rcd 4224, 4225, para. 4 (Wireline Comp. Bur. 2005).

¹³ 47 C.F.R. § 0.406.

¹⁴ 47 C.F.R. §§ 54.708, 52.17(b), 52.32(b), 64.604(c)(5)(iii)(B).

¹⁵ *See supra* note 12.

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

Vickie S. Robinson
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau