

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

In the Matter of	)	
	)	
Rural Call Completion	)	WC Docket No. 13-39
	)	
Petition for Waiver of Carolina West Wireless, Inc.	)	

**ORDER**

**Adopted: March 31, 2015**

**Released: March 31, 2015**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION AND BACKGROUND**

1. In this Order, the Wireline Competition Bureau (Bureau), on its own motion, finds good cause<sup>1</sup> to grant a three-month temporary waiver to Carolina West Wireless, Inc. and its wholly-owned subsidiary Clear Stream Communications, LLC (collectively Carolina West), of the recordkeeping, retention, and reporting rules contained in sections 64.2103 and 64.2105 of the Commission’s rules.”<sup>2</sup>

2. In the *Rural Call Completion Order*, the Commission concluded that certain recordkeeping, retention, and reporting rules apply to “covered providers,” i.e., providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines, including lines served by the providers’ affiliates.<sup>3</sup> The *Order* also adopted an exemption to these rules, the “smaller covered provider exception,” for providers falling under the 100,000 line threshold.<sup>4</sup>

3. On January 16, 2014, Carolina West filed a petition for reconsideration requesting that the Commission modify the definition of “covered provider” so that the lines served by non-controlling minority owners are not counted toward the 100,000 line threshold.<sup>5</sup> In the *Rural Call Completion Reconsideration Order*, the Commission denied Carolina West’s reconsideration request.<sup>6</sup> However, the Commission recognized “that there are burdens associated with compliance with these rules, and there may be particular circumstances that make application of the rules to Carolina West inequitable or contrary to the public interest” and therefore “invite[d] Carolina West and other carriers to file waiver requests if they believe that the public interest would be better served by not counting the lines of some or

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<sup>1</sup> See 47 C.F.R. §§ 0.91, 0.291, and 1.3.

<sup>2</sup> See *Rural Call Completion*, WC Docket No. 13-39, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 16154 (2013) (*Rural Call Completion Order or Order*); 47 C.F.R. §§ 64.2103, 64.2105.

<sup>3</sup> *Id.* at 16165, para. 20; 47 C.F.R § 64.2101.

<sup>4</sup> *Rural Call Completion Order* 28 FCC Rcd at 16169, para 27. Under section 3 of the Act, an affiliate is “a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.” And, for purposes of this definition, the term “own” means to “own an equity interest (or the equivalent thereof) of more than 10 percent.” 47 U.S.C. § 153(2).

<sup>5</sup> Carolina West Wireless, Inc. Petition for Reconsideration, WC Docket No. 13-39 (filed Jan. 16, 2014).

<sup>6</sup> *Rural Call Completion*, WC Docket No. 13-39, Order on Reconsideration, 29 FCC Rcd 14026, 14049-50, paras. 57-59 (2014) (*Rural Call Completion Reconsideration Order*).

all of their affiliates towards the 100,000 line threshold.”<sup>7</sup> On November 26, 2014, Carolina West filed a petition for waiver of the same rule provision for which it sought reconsideration.<sup>8</sup> On December 11, 2014, the Bureau issued a Public Notice seeking comment on the waiver petition; no comments were filed.<sup>9</sup>

## II. DISCUSSION

4. It is well established that the Commission has the authority to waive its rules if there is “good cause” to do so.<sup>10</sup> As the Court of Appeals for the D.C. Circuit has held, the Commission’s exercise of its discretion to waive a rule is warranted “where particular facts would make strict compliance inconsistent with the public interest.”<sup>11</sup> Absent waiver, Carolina West would be required to comply with the rules set forth in the *Rural Call Completion Order* beginning April 1, 2015.<sup>12</sup> At this time, however, the merits of Carolina West’s waiver petition remain under consideration. While making no conclusions on the merits, the Bureau finds good cause to grant Carolina West the temporary three-month waiver, exempting Carolina West from the requirements of sections 64.2103 and 64.2105 of the Commission’s rules for the period of one full quarterly reporting cycle.

## III. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED, pursuant to 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.

6. IT IS FURTHER ORDERED that pursuant to section 1.102(b) of the Commission’s rules, 47 C.F.R. § 1.102(b), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach  
Chief  
Wireline Competition Bureau

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<sup>7</sup> *Id.* at 14050, para. 60.

<sup>8</sup> See Carolina West Wireless, Inc. and Clear Stream Communications, LLC Petition for Waiver, WC Docket No. 13-39, at 3-4 (filed Nov. 26, 2014) (Carolina West Waiver Petition).

<sup>9</sup> *Wireline Competition Bureau Seeks Comment on Petition for Waiver Filed in the Rural Call Completion Proceeding*, WC Docket No. 13-39, Public Notice, 29 FCC Rcd 14855 (Wireline Comp. Bur. 2014).

<sup>10</sup> 47 C.F.R. § 1.3.

<sup>11</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

<sup>12</sup> See *Wireline Competition Bureau Announces that Certain Long Distance Providers Must Begin Recording the Data Required for Rural Call Completion Reporting*, WC Docket No. 13-39, Public Notice, DA 15-291, at 1 (Wireline Comp. Bur. rel. Mar. 4, 2015).