

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Protecting Against National Security Threats to the)
Communications Supply Chain Through FCC) WC Docket No. 18-89
Programs)

SUPPORT FOR WAIVER OF FCC FORM 5640 DEADLINE

The Rural Wireless Association, Inc. (“RWA”) and NTCA – The Rural Broadband Association (“NTCA”) (collectively, the “Associations”) hereby support the individual waiver requests filed by Advantage Cellular Systems, Inc. (“ACS”)¹ and VTel Wireless (“VTel”)² in the above referenced docket to briefly extend the midnight filing deadline for FCC Form 5640. The Associations ask that the Federal Communications Commission’s (“FCC” or “Commission”) Wireline Competition Bureau (“Bureau”) deem their applications to be considered timely filed and treated as such.

Both ACS and VTel have demonstrated that, if not for a malfunction of the Reimbursement Program’s filing system, they would have timely completed the filing of their respective FCC Form 5640s.³ Both applicants also had completed the information necessary and were ready to file well before the midnight deadline.⁴

¹ *Advantage Cellular Systems, Inc. Request for Waiver of FCC Form 5640 Filing Deadline*, Advantage Cellular Systems, Inc. (filed Feb. 1, 2022) (“ACS’s Waiver Request”).

² *VTel Wireless Request for Waiver of FCC Form 5640 Filing Deadline*, VTel Wireless (filed Feb. 1, 2022) (“VTel’s Waiver Request”).

³ See ACS’s Waiver Request, at Attachment A and B; see also VTel’s Waiver Request, at Attachment A and B.

⁴ *Id.*

The FCC's rules may generally be waived if good cause is shown.⁵ Here, the applicants were in good faith attempting to file their FCC Form 5640s on a timely basis when they encountered a glitch in the filing system. Both applicants proceed to promptly alert FCC Support of this issue and worked diligently with support staff in advance of the midnight deadline only to barely miss that deadline.⁶ Thus, it would unjustly penalize these applicants for an error in the filing system that was not within their control. The Commission may also grant a waiver of its rules when the requested relief would not undermine the policy objectives of the rule, special circumstances warrant a deviation from the rule, and such deviation serves the public interest.⁷

Treating the applications as timely filed would not undermine the Reimbursement Program's objective of reimbursing eligible applicants for their covered equipment and services. Not granting their waiver request would actually undermine the policy objectives of the Reimbursement Program, by undermining the efforts of eligible entities to remove and destroy unsecure equipment that presents a national security threat to U.S. communications networks and replace it with secure equipment. The national security threat of the covered equipment in our networks far outweighs the minor deviation from the filing deadline, especially in light of the circumstances giving rise to the deviation in this instance. Allowing these applicants the opportunity to be reimbursed will greatly serve the public interest by ensuring that they will not have to shut down their networks that serve many rural customers due to the enormous costs of removing and replacing large portions of a network. In addition, grant of these waiver requests will not produce any negative consequences for either the Reimbursement Program or other applicants.

⁵ 47 C.F.R. § 1.3.

⁶ ACS's Waiver Request at 3-4; VTel's Waiver Request at 2.

⁷ See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); see also *Northeast Cellular* (D.C. Cir. 1990).

For the reasons set forth herein, the Associations respectfully request that the Bureau grant ACS's and VTel's waiver requests.

Respectfully submitted,



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