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

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In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21
	)	
Petition for Rule Change of Section 54.717(f) of the Commission's Rules and Regulations	)	

ORDER

Adopted: March 19, 2003 **Released:** March 26, 2003

By the Commission:

1. In this Order, we amend section 54.717(f) of the Commission's rules to extend the filing deadline by which the independent auditor hired by the Universal Service Administrative Company (USAC) must submit its draft audit report to the Wireline Competition Bureau (formerly known as the Common Carrier Bureau).[1] At USAC's request, we extend the filing deadline from 60 days to 105 days after the end of the audit period.[2]

2. Under section 54.717 of the Commission's rules, USAC is required to designate an independent auditor to examine its operations and books of account to determine, among other things, whether USAC is properly administering the universal service support mechanisms to prevent fraud, waste, and abuse.[3] The independent auditor is required to submit a draft audit report to the Wireline Competition Bureau audit staff within 60 days after the end of the audit

[1] 47 C.F.R. § 54.717(f).

[2] *Universal Service Fund Administrator's Petition for Permanent Waiver of 47 CFR § 54.717(f) Regarding Audit Report Deadline or, in the Alternative, for a Rule Change*, filed July 26, 2000 (July 2000 USAC Petition). In subsequent petitions filed with the Commission, USAC renewed its request for permanent waiver of section 54.717(f). *See Universal Service Fund Administrator's Petition for Limited Waiver of 47 CFR § 54.717(f) Regarding Audit Report Deadline*, filed January 8, 2003, at 5 (January 2003 USAC Petition); *Universal Service Fund Administrator's Petition for Limited Waiver of 47 CFR § 54.717(f) Regarding Audit Report Deadline*, filed February 19, 2002, at 4 (February 2002 USAC Petition).

[3] 47 C.F.R. § 54.717.

period.[4] Because USAC's fiscal year is the calendar year, the draft audit report is due by March 1.

3. USAC seeks a permanent waiver of this requirement or, in the alternative, a rule change that would allow the independent auditor to file the draft audit report on or before April 15 instead of March 1.[5] USAC explains that because it closes its books in early February and its parent, the National Exchange Carrier Association (NECA), does not close its books until mid-February, the 60-day deadline leaves the independent auditor only two weeks to complete its draft audit report. Specifically, USAC asserts that meeting the March 1 deadline is extremely difficult because it provides the independent auditor with just two weeks to complete six financial audits and five program reviews.[6] As a result of this short timeframe, it has been difficult for the independent auditor to meet the deadline during the last five years.[7]

4. We amend section 54.717(f) of the Commission's rules to require submission of the independent auditor's draft audit report within 105 days after the end of the audit period.[8] We are persuaded that the time frame specified in the existing rule does not provide adequate time for the independent auditor to complete its draft audit report. Since this rule's inception, the independent auditor has had difficulty meeting the deadline every year. In fact, USAC has received extensions on behalf of the independent auditor for the 1998, 2000, 2001, and 2002 annual audits.[9] A permanent change of this deadline therefore is warranted. We are persuaded that no harm will result by providing the independent auditor an additional 45 days to submit the draft audit report. We find that the change in the audit deadline still gives sufficient time for the Wireline Competition Bureau audit staff and the independent auditor to review the draft audit report and comply with the other provisions of section 54.717 of the Commission's rules.[10]

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[4] 47 C.F.R. § 54.717(f).

[5] July 2000 USAC Petition at 1.

[6] *Id.* at 3.

[7] *Id.*; February 2002 USAC Petition; January 2003 Petition.

[8] *See* Appendix A.

[9] *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, 14 FCC Rcd 4350 (Acct. Pol. Div. 1999); *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 4715 (Com. Car. Bur. 2001); *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order, CC Docket No. 96-45, 17 FCC Rcd 3698 (Com. Car. Bur. 2002); *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, DA 03-614 (Wire. Comp. Bur. rel. Feb. 28, 2003). The Commission granted USAC a 45-day extension for the last three annual audits. *Id.* Although USAC was able to meet the deadline for submission of the 1999 draft audit, it was only with great difficulty, and the independent auditor supplemented the report after the deadline. *See* July 2000 USAC Petition at 3.

[10] We note that, because this order merely changes a rule of agency procedure and does not alter any substantive rights or interests, the Commission is not required to perform notice and comment procedures. 5 U.S.C. § 553 (b)(3)(A).

5. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, and 254, the rule set forth herein is ADOPTED to allow submission of the draft audit report within 105 calendar days after the end of the audit period.

6. IT IS FURTHER ORDERED that section 54.717(f) of the Commission's rules is AMENDED as set forth in Appendix A, effective 30 days after publication of the text thereof in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Marlene H. Dortch WFC
Secretary

APPENDIX A – FINAL RULE

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 54 – UNIVERSAL SERVICE

Subpart H – Administration

1. Section 54.717 is amended by revising the first sentence of paragraph (f) to read as follows:

§ 54.717 Audits of the Administrator

(f) Within 105 calendar days after the end of the audit period, but prior to discussing the audit findings with the Administrator, the independent auditor shall be instructed by the Administrator to submit a draft of the audit report to the Wireline Competition Bureau Audit Staff.

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