

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

In the Matter of)	
)	
Ensuring Customer Premises Equipment Backup Power for Continuity of Communications)	PS Docket No. 14-174
)	
Technology Transitions)	GN Docket No. 13-5
)	
Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers)	RM-11358
)	
Special Access for Price Cap Local Exchange Carriers)	WC Docket No. 05-25
)	
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services)	RM-10593
)	

ORDER

Adopted: December 30, 2014

Released: December 30, 2014

By the Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau grants Public Knowledge’s request for an extension of time¹ for oppositions to the United States Telecom Association (USTA) petition for reconsideration² of the Commission’s Declaratory Ruling adopted on November 21, 2014, in the above-captioned proceedings.³ Accordingly, as discussed below, oppositions to the Petition are due on or before January 23, 2015, and replies are due on or before January 30, 2015.

2. USTA states that its Petition is filed “[p]ursuant to section 1.429 of the Commission’s rules.”⁴ Under that rule, which governs petitions for reconsideration in rulemaking proceedings, oppositions “shall be filed within 15 days after the date of public notice of the petition’s filing.”⁵ In contrast, oppositions to petitions for reconsideration in non-rulemaking proceedings “shall be filed within

¹ See Motion of Public Knowledge for Clarification or, In the Alternative, Extension of Time, PS Docket No. 14-174 et al. (filed Dec. 26, 2014) (Public Knowledge Motion).

² See Petition for Reconsideration of the United States Telecom Association, PS Docket No. 14-174 et al. (filed Dec. 23, 2014), <http://apps.fcc.gov/ecfs/document/view?id=60001010988> (Petition).

³ *Ensuring Customer Premises Equipment Backup Power for Continuity of Communications et al.*, PS Docket No. 14-174 et al., Notice of Proposed Rulemaking and Declaratory Ruling, FCC 14-185 (rel. Nov. 25, 2014) (*Declaratory Ruling*).

⁴ Petition at 1.

⁵ 47 C.F.R. § 1.429(f).

10 days after the petition is filed.”⁶ Public Knowledge “requests that the Commission clarify that it will treat the Petition filed by USTA as a Petition filed under Rule 1.429(f) and allow parties to respond 15 days after issuance of a Public Notice,” or “in the alternative, [grant] an extension of time until January 23, 2015 to file responses.”⁷ In the latter case, Public Knowledge asserts that an extension is warranted because “the 10 days permitted by Rule 1.106 overlap with two of the most popular holiday vacation weeks of the year” and because parties “are likely to assume that they will have until 15 days following public notice to file oppositions” due to USTA’s characterization of its petition.⁸

3. We cannot apply the deadlines of section 1.429 to the Petition because the decision for which it seeks reconsideration is adjudicatory in nature.⁹ Therefore, the ten-day opposition deadline of section 1.106 *prima facie* applies — which, in this case, would require the filing of oppositions by January 2, 2015. Extensions of time are not routinely granted.¹⁰ Nevertheless, we find that granting the extension requested by Public Knowledge is warranted by the unusual circumstances here. Due to USTA’s incorrect characterization of its Petition, parties are likely to be confused as to the applicable filing period. The impact of this confusion is compounded by major holidays falling during the response period. Moreover, due to the importance of the issues here, we wish to ensure that all interested parties have ample time to provide input. Finally, given that USTA apparently anticipates a longer pleading cycle, we find that the brief delay caused by our action will not harm the petitioner, nor do we anticipate a negative impact on any other interested party.¹¹

4. We therefore grant the requested extension of time and permit oppositions to the Petition to be filed on or before January 23, 2015. To eliminate any risk of confusion, we further clarify that replies to any oppositions will be due on or before January 30, 2015.¹²

5. IT IS ORDERED that, pursuant to sections 4(i), 4(j), 5(c) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 155(c) and 303(r), and sections 0.91, 0.291, and 1.46 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 1.46, Public Knowledge’s Motion for Clarification or, In the Alternative, Extension of Time IS GRANTED to the extent described herein and otherwise IS DENIED.

6. 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

Julie A. Veach

⁶ 47 C.F.R. § 1.106(g).

⁷ Public Knowledge Motion at 1-2.

⁸ *Id.* at 2.

⁹ See 47 C.F.R. § 1.2(a) (“The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.”). The *Declaratory Ruling* specifically states that it serves to “terminat[e] a controversy or remov[e] uncertainty” by “clarif[y]ing] that the analysis under section 214 of whether a change constitutes a discontinuance, reduction, or impairment of service is a functional test.” *Declaratory Ruling* at para. 114 (internal quotation marks removed).

¹⁰ 47 C.F.R. § 1.46.

¹¹ See Public Knowledge Motion at 3 (stating that a brief delay is unlikely to harm any potentially interested party).

¹² See 47 C.F.R. § 1.106(h).

Chief
Wireline Competition Bureau