SUMMARY: This document grants informal requests for waiver of the deadline for compliance with the Commission's revised presubscribed interexchange carrier (PIC) change charge policies. PIC change charges are federally-tariffed charges imposed by incumbent local exchange carriers on end-user subscribers when these subscribers change their long distance carriers. The order extends by six months the date by which incumbent local exchange carriers must file tariff revisions to comply with the revised PIC change charge requirements.

DATES: *Effective Date:* April 8, 2005.

Compliance Date: Incumbent local exchange carriers shall filed revised rates in compliance with the PIC Change Charge Order no later than October 17, 2005. These rates shall be effective on 15 days' notice.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530, *jennifer.mckee@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the order in CC Docket No. 02–53 released on April 11, 2005. The full text of this document is available on the Commission's Electronic Comment Filing System Web site and for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

On February 10, 2005, the Commission adopted a report and order revising its requirements regarding PIC change charges. *Presubscribed Interexchange Carrier Charges,* 70 FR 12601, March 15, 2005. PIC change charges are federally tariffed charges imposed by local exchange carriers (LECs) on end user subscribers when these subscribers change their presubscribed interexchange carriers (IXCs). Based on the record in the proceeding, the Commission required incumbent LECs to adopt separate PIC change charges for changes that are processed electronically and manually. The Commission adopted a safe harbor of $1.25 for electronically processed PIC changes, and a safe harbor of $5.50 for manually processed PIC changes. The Commission also required that, when a customer changes its PIC in conjunction with changing its intraLATA primary interexchange carrier (LPIC), incumbent LECs should assess half of the applicable federally-tariffed PIC change charge. Incumbent LECs were required to revise their Federal tariffs to reflect these changes within 30 days of publication of the order in the **Federal Register**, with the new rates to be effective on 15 days' notice. The *PIC Change Charge Order* was published in the **Federal Register** on March 15, 2005; therefore, incumbent LECs were required to file their tariff revisions by April 14, 2005.

Several individual incumbent LECs and trade groups representing incumbent LECs have informally requested that the Commission extend the effective date of the requirements in the *PIC Change Charge Order*. These entities assert that they will not be able by April 14 to make the changes necessary within their systems to assess separate charges for manually and electronically processed PIC changes, or to assess the 50 percent charge when PICs are changed in conjunction with LPICs.

The incumbent LECs have shown good cause for an extension of the tariff revision deadline. Several incumbent LECs have provided extensive explanations of the changes to their billing and operating systems necessary for implementation of the revised PIC change charges. We therefore find that a limited waiver of the deadline for complying with the *PIC Change Charge Order* is warranted. We do not, however, believe that the public interest is served by delaying the implementation of the PIC change charge requirements for the ten- to twelve-month period requested by some parties. Instead, we extend by six months the effective date for filing revised tariffs implementing the PIC change charge requirements. Based on information provided by several incumbent LECs, we believe that six months is a sufficient amount of time for incumbent LECs to make the system changes necessary to implement the revised PIC change charge requirements. This limited extension serves the public interest by allowing incumbent LECs to implement revised PIC change charges at one time, rather than in a piecemeal fashion, which could create customer confusion.

Accordingly, *it is ordered*, pursuant to section 1–4, 201, 203, 205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 203, 205, and 403, §§ 1.3 and 1.41 of the Commission's rules, 47 CFR 1.3 and 1.41, and authority delegated under §§ 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, that the informal request of the incumbent LECs for a limited waiver of the date for filing tariff revisions related to the *PIC Change Charge Order is granted,* to the extent discussed above. Incumbent LECs *shall file revised rates,* to include one rate for PIC changes that are processed electronically and a separate rate for PIC changes that are processed manually, and rates equal to 50 percent of the full PIC change charge rate when a customer requests a PIC change in conjunction with an LPIC change, *no later than October* 17, 2005. These rates *shall be effective* on fifteen (15) days' notice.

Federal Communications Commission.

Lisa S. Gelb,

Deputy Chief, Wireline Competition Bureau.

[FR Doc. 05–8342 Filed 4–26–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket Number 03–109; FCC 05–77]

Smith Bagley, Inc., Petition for Waiver of Section 54.400(e) of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission grants the petition of Smith Bagley, Inc. (SBI) seeking a waiver of section 54.400(e) of the Commission's Lifeline and Link-Up eligibility rules to enable eligible residents of the Eastern Navajo Agency in the state of New Mexico to receive enhanced Lifeline and Link-Up support.

FOR FURTHER INFORMATION CONTACT: Mark Seifert, Assistant Chief, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–7400, TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in WC Docket No. 03–109 released on March 30, 2005. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

I. Introduction

1. In this Order, we grant the petition of Smith Bagley, Inc. (SBI) seeking a waiver of § 54.400(e) of the Commission's Lifeline and Link-Up eligibility rules to enable eligible residents of the Eastern Navajo Agency in the state of New Mexico to receive enhanced Lifeline and Link-Up support. We find that this waiver is in the public interest and warranted by the unique and compelling circumstances of low-income consumers residing in the Eastern Navajo Agency.

II. Discussion

2. We grant SBI's request for waiver of § 54.400(e) of the Commission's rules and find that SBI has demonstrated good cause to justify the waiver by demonstrating that special circumstances exist and because granting such a waiver, in this instance, is in the public interest.

3. Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.

4. We find that SBI has identified special circumstances in the Eastern Navajo Agency that warrant a waiver of § 54.400(e) of the Commission's rules. In the *Twelfth Report and Order,* 65 FR 47941, August 4, 2000, the Commission identified a number of factors that are primary impediments to subscribership on Tribal lands, including the lack of access to and/or affordability of telecommunications services, the cost of basic service, the cost of intrastate toll service, inadequate telecommunications infrastructure and the cost of line extensions, and the lack of competitive service providers offering alternative technologies. To address these impediments, the Commission adopted measures specifically targeted to increase subscribership and infrastructure development on Tribal lands, where unaffordable service and low subscribership are most prevalent. Our review of the record reveals that the Eastern Navajo Agency has the same impediments to subscribership and infrastructure development as those existing on Tribal lands.

5. The Eastern Navajo Agency encompasses lands that do not fall within the Commission definition of a ''reservation'' for purposes of enhanced Lifeline and Link-Up support. Ninety-two percent of the 37,404 persons living within its borders are Navajo Nation tribal members. Recent data published by the Census Bureau indicate that telephone penetration rates and per capita incomes in the Eastern Navajo Agency are far below the average existing throughout America. The telephone subscribership penetration rates for the United States are approximately 94% and per capita income is $21,587. Telephone penetration rates and per capita income in the Eastern Navajo Agency are far below the average existing on Tribal lands nationwide. Census data show that the average telephone penetration rate on Tribal lands is approximately 68% and per capita income is $12,452. By comparison, telephone penetration in the Eastern Navajo Agency is approximately 33% and per capita income is $6,979. Census data also show that nearly 45% of the 37,404 Eastern Navajo Agency residents subsist at or below the federal poverty level, compared to 23.5% of American Indian residents living on Tribal lands. In addition, data show that unemployment in the Eastern Navajo Agency stands at 25%, compared to 13.6% of American Indian residents on Tribal lands. Finally, approximately 52% of households rely on wood for heat and 46% of households lack plumbing. It is evident, therefore, that depressed economic conditions exist in the Eastern Navajo Agency. The Commission has previously determined that this is one of the primary causes of low subscribership levels.

6. Other factors identified by the Commission as impediments to subscribership also exist in the Eastern Navajo Agency. In particular, the cost of basic telephone service, $13.50 per month, and the cost of intrastate toll service, $0.16 per minute, is high relative to the incomes of many families in the Eastern Navajo Agency. Moreover, sparse population and distances between existing plant and requesting customers in this area make extending wireline telephone facilities challenging, if not infeasible. In addition, depressed economic conditions of potential subscribers may not justify construction of telecommunications facilities because of the consumers' inability to pay for service. In fact, there are many areas within the Eastern Navajo Agency where no telephone service is available. SBI submits that it has been unable to identify another area in the United States of similar geographic size or population that suffers from these types of conditions.

7. Based on the statistics discussed above and our review of the record, we conclude that specific action is needed to address the impediments to subscribership and infrastructure development in the Eastern Navajo Agency to ensure affordable access to telecommunications services for residents. Although the enhanced Lifeline and Link-Up program is limited to low-income consumers living on reservations, most of the factors that the Commission found relevant in establishing enhanced Lifeline and Link-Up support exist for the Eastern Navajo Agency. We therefore conclude that it is appropriate to waive § 54.400(e) of the Commission's rules and permit ETCs serving the Eastern Navajo Agency to offer Tier 4 Lifeline and Link-Up benefits to qualified residents.

8. We find that granting SBI's Waiver Petition will serve the public interest by allowing SBI to provide service at rates that will likely increase the number of subscribers in the Eastern Navajo Agency who can afford basic telephone service. As illustrated in SBI's Waiver Petition, household telephone penetration in the other four Navajo Nation Agencies significantly increased as a result of ETCs having the ability to offer and advertise Tier 4 benefits. In fact, in three years, SBI added more than 27,000 new Tier 4-eligible subscribers in four other Navajo Nation Agencies. Based on the performance of the other four Navajo Agencies, SBI estimates that 20,000 households in the Eastern Navajo Agency will be able to initiate telephone service with the availability of Tier 4 support. This record persuades us that making enhanced Lifeline and Link-Up support available will eliminate or diminish the effect of unaffordability for individuals in the Eastern Navajo Agency who have never had telephone service and for individuals who cannot afford to maintain telephone service. Furthermore, making access to telecommunications services more affordable also serves the public interest because it enables these low-income consumers to have easier access to emergency, medical, government and other public services that they may need.

9. The availability of enhanced federal support in the Eastern Navajo Agency will also make this area more attractive for carrier investment and deployment of telecommunications infrastructure. As the Commission stated in the *Twelfth Report and Order,* increasing the total number of individuals who are connected to the network within a tribal community enhances the value of the network in that community and results in greater incentives for ETCs to serve those areas. Specifically, as the number of potential subscribers grows, carriers may achieve greater economies of scale and scope when deploying facilities and providing service to those areas. In this way, granting this waiver serves the public interest because doing so furthers the Commission's goal of increasing the deployment of telecommunications facilities in unserved and underserved

regions of the Nation, especially among Native American populations. We emphasize that the action we take here does not affect state sovereignty or impinge upon a state's ability to establish universal service programs aimed at increasing telephone subscribership within its borders.

10. Verizon opposes a waiver of § 54.400(e) until such time as the Commission determines how the term ''near reservation'' should be defined. As noted above, however, Smith Bagley no longer requests the Commission to designate the Eastern Navajo Agency as ''near reservation'' land. Because we do not grant this waiver on the basis of defining ''near reservation,'' we reject Verizon's argument.

11. Further, we are not persuaded by Verizon's argument that SBI's Waiver Petition should be denied because states are in a better position to address pockets of low subscribership in non-reservation areas within their respective state. We agree that, in most instances, it is more appropriate for states to implement Lifeline and Link-Up programs designed for the specific needs of their state. Nothing in this order is intended to prevent state action in this regard. Indeed, the state of New Mexico is free to adopt measures to eradicate pockets of low subscribership within its borders. We emphasize that, at the present time, 67% of occupied housing units in the Eastern Navajo Agency do not have telephone service. As we stated in the *Twelfth Report and Order,* ''the unavailability or unaffordability of telecommunications service on Tribal lands is at odds with our statutory goal of ensuring access to such services to ''[c]onsumers in all regions of the Nation, including low-income consumers.'' Although the Eastern Navajo Agency is not entirely comprised of Tribal lands under the Commission's definition, the area is almost exclusively populated by Native Americans that suffer from the same conditions present on other federally-recognized Tribal lands. The availability of Tier 4 support program will provide immediate and vital benefits to low-income consumers in the Eastern Navajo Agency, consistent with the Commission's goal of enhancing telecommunications access among consumers on Tribal lands and its responsibility to ensure a standard of livability for members of Indian tribes.

III. Ordering Clause

12. Pursuant to authority contained in sections 1, 4, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 254, and the authority under § 1.3 of the Commission's rules, 47 CFR 1.3, the Waiver Petition filed by Smith Bagley, Inc., on November 15, 2004, is granted.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–8339 Filed 4–26–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 05–62; FCC 05–31]

Suspension of the Acceptance of Applications for new 900 MHz Licenses Allotted to Business and Industrial Land Transportation Pool Licensees

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission affirmed the Wireless Telecommunications Bureau's (Bureau) decision to suspend the acceptance of applications for new 900 MHz business and industrial land transportation (B/ILT) licenses. The Commission takes this action to facilitate the auction of 900 MHz B/ILT white space.

DATES: The application suspension became effective on September 17, 2004.

FOR FURTHER INFORMATION CONTACT: Michael Connelly, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Memorandum Opinion and Order (MO&O)*, FCC 05–31, in WT Docket No. 05–62, adopted February 10, 2005, and released February 16, 2005. The full text of this document is available for public inspection during regular business hours at the FCC Reference Information Center, 445 12th St., SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor: Best Copy & Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 800–378–3160, facsimile 202–488–5563, or via e-mail at *www.fcc@bcpiweb.com.*

1. In this document, the Commission affirms the Bureau's decision to suspend the acceptance of applications for new 900 MHz business and industrial land transportation (B/ILT) licenses in a *Public Notice,* 19 FCC Rcd 18,277 (2004), until further notice. The Bureau noted that an exceptionally large number of applications for 900 MHz authorizations had been filed subsequent to the release of the *800 MHz Rebanding Order*, 69 FR 67823, November 22, 2004. The Bureau noted its concern that such additional filings might compromise the ability to accommodate displaced systems while the 800 MHz band is in the process of being reconfigured to abate unacceptable interference to Public Safety, Critical Infrastructure, and other ''high site'' 800 MHz systems. The Bureau provided that applications for the modification of existing facilities, assignment of licenses, or transfer of control of a licensee would continue to be accepted, subject to applicable rules regarding eligibility, loading, and other requirements. In addition, applicants were advised that pursuant to 47 CFR 1.925, they may have recourse via the Commission's waiver provisions to request an exception to the freeze.

2. Because of the fundamental changes the Commission is proposing in the service areas and channel blocks for future licensees in the 900 MHz B/ILT white space spectrum, the Commission finds it appropriate and necessary to continue to suspend new 900 MHz applications in the B/ILT category Pools. Being cognizant of the needs of existing licensees, and the fact that incumbents may continue to file modification applications, the Commission will consider requests for waiver of the application freeze for new authorizations (*e.g.*, a licensee with a legitimate business need to expand coverage or add channels), thereby striking an appropriate balance of the need to keep the spectrum as unencumbered as possible with the needs of current licensees with business plans that need to be effectuated. Further, the Commission stresses that the waiver applicant bears the burden of demonstrating compliance with waiver standards, and notes that all 900 MHz band applications for new licenses filed prior to the freeze and are still pending, and will be processed in the normal course.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–8343 Filed 4–26–05; 8:45 am]

BILLING CODE 6712–01–P