

Dated: December 5, 2008.

**Michael K. Buckley,**

*Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 51, 54, 61, and 69

[WC Docket Nos. 06-122, 05-337, 04-36, 03-109; CC Docket Nos. 01-92, 99-200, 99-68, 96-98, 96-45; DA 08-2631]

### Universal Service Contribution Methodology; High-Cost Universal Service Support; IP-Enabled Services; Lifeline and Link Up; Developing a Unified Intercarrier Compensation Regime; Numbering Resource Optimization; Intercarrier Compensation for ISP-Bound Traffic; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Federal-State Joint Board on Universal Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule: extension of reply comment period.

**SUMMARY:** This document grants motions requesting an extension of time to file reply comments on the proposals contained in the appendices of the Commission's November 5, 2008 *Further Notice of Proposed Rulemaking* in the Intercarrier Compensation and Universal Service Reform, FCC 08-262.

**DATES:** Reply comments are due on or before December 22, 2008.

**ADDRESSES:** You may submit comments, identified by CC Docket Nos. 96-45, 99-200, 96-98, 01-92, 99-68; WC Docket Nos. 05-337, 03-109, 06-122, 04-36, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *E-mail:* [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response. Include the docket number in the subject line of the message.

- *Mail:* Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer McKee, Telecommunications Access Policy Division, Wireline Competition Bureau, 202-418-7400 or TTY: 202-418-0484 (universal service), or Victoria Goldberg, Pricing Policy Division, Wireline Competition Bureau, 202-418-1520 or TTY 202-418-0484 (intercarrier compensation).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order* released December 2, 2008. The complete text of the *Order* is available on the Commission's Internet site at <http://www.fcc.gov> and for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St., SW., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

The Commission received motions for extension of time to file reply comments in these proceedings (see 73 FR 66821, Nov. 12, 2008) from the National Association of State Utility Consumer Advocates (NASUCA) and the Rural Cellular Association (RCA). Although it is the policy of the Commission that motions for extension of time shall not be routinely granted, given the volume of comments to which parties are responding, the complexity of the issues involved, and the intervening holidays, the Commission finds that good cause exists to provide all parties an extension of time from December 3, 2008 to December 22, 2008 for filing reply comments in these proceedings.

Accordingly, *it is ordered that*, pursuant to Sections 4(i), 4(j), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(c) and Sections 0.91, 0.291, and 1.46 of the Commission's rules, 47 CFR 0.91, 0.291, 1.46, reply comments in these

proceedings shall be filed on or before December 22, 2008.

*It is further ordered that* the Motion for Extension of Time for Reply Comments by the National Association of State Utility Consumer Advocates and the Motion for Extension of Time filed by the Rural Cellular Association *are granted*.

#### Comment Filing Procedures

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR sections 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• *Commercial* overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. *Postal Service* first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Federal Communications Commission.

**Dana R. Shaffer,**

*Chief, Wireline Competition Bureau.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. 2007-27027]

#### Conaway Hip-Hugger; Denial of Petition for Rulemaking

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This notice denies a petition for rulemaking submitted by Mr. Brian J. Conaway, which, among other things, requested that the NHTSA amend the language and definitions in Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child restraint systems," to apply the standard to products that are not yet defined by the standard, such as belt positioning devices. Alternatively, the petitioner asked the agency to adopt a new definition, which would allow his product, the Hip-Hugger, to be recognized and defined as a child restraint device under FMVSS No. 213. NHTSA is denying the petition because

it does not see a safety need to apply a FMVSS to seat belt positioners and it does not believe that a denial would hamper child restraint system innovation or design. Furthermore, the agency is concerned that applying FMVSS No. 213 to seat belt positioners may actually degrade child occupant protection by promoting premature graduation to lap/shoulder belts.

**FOR FURTHER INFORMATION CONTACT:** *For technical issues:* Mr. Sean Doyle, NHTSA Office of Crashworthiness Standards. Telephone: (202) 366-1740. Facsimile: (202) 493-2990.

*For legal issues:* Ms. Deirdre Fujita, NHTSA Office of the Chief Counsel. Telephone: (202) 366-2992. Facsimile: (202) 366-3820.

Both officials can be reached by mail at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. FMVSS No. 213

Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child restraint systems," has been in effect since January 1, 1970. It was established to "minimize the likelihood of death and injury to children in vehicle crashes or sudden stops. \* \* \*"<sup>1</sup> In 1979, the standard was upgraded to include certain dynamic performance requirements.<sup>2</sup> The standard applies to "child restraint systems" and stipulates several definitional requirements for the various child restraint systems used in motor vehicles. A "child restraint system" is defined in FMVSS No. 213 to be "any device except Type I or Type II seat belts, designed for use in a motor vehicle or aircraft to restrain, seat, or position children. \* \* \*"<sup>3</sup> Belt-positioning seats, built-in child restraint systems, backless child restraint systems, and car beds are among several of the applicable, defined "child restraint systems" covered by FMVSS No. 213. Seat belt positioning devices are not included in the definition of "child restraint system" in FMVSS No. 213, and are therefore not regulated by this standard.

<sup>1</sup> 34 FR 1172, January 24, 1969. Originally the standard was called "Child Seating Systems" and applied to motor vehicle equipment for seating and restraining a child being transported in a passenger car.

<sup>2</sup> 44 FR 72131, December 13, 1979.

<sup>3</sup> Standard No. 209 defines a Type I seat belt as "a lap belt for pelvic restraint," and a Type II seat belt as "a combination of pelvic and upper torso restraints."

##### B. The Petition

In a letter dated March 5, 2007, Mr. Brian Conaway petitioned the NHTSA to amend the language and definitional requirements of FMVSS No. 213 to permit what he said were advancements in child restraint design and to encourage new approaches to child protection. The petitioner believed that the effectiveness of the regulation is restricted by narrow definitions. The petitioner contended that there are many innovative child safety vehicle devices "which do not '\* \* \* restrain, seat, or position children \* \* \*' in a manner consistent with any of the current definitions," yet these devices are fully capable of complying with Standard 213's dynamic performance requirements. The petitioner further alleged that the "process of system 'definitions' \* \* \* limits innovation and advancements in child restraint design to those approaches which already exist and fit a product type already defined in the standard." Mr. Conaway went on to say, "this results in designing to a standard instead of designing to optimize a child's comfort and safety in the event of a crash." In particular, Mr. Conaway explained that the device which he developed, the *Hip-Hugger*, or *Conaway device*, is excluded from FMVSS No. 213, "not based on the crash data or protection it provides, but based on its inability to meet the definition of any of the recognized alternative and already existing approaches to child protection." The petitioner further noted, "this is in spite of the fact that it outperforms booster seats when crash tested under FMVSS-213 dynamic test standards." As a result, Mr. Conaway specifically requested that FMVSS No. 213 be "changed to allow for products not yet defined to be included as long as they meet the appropriate age, weight, and height related performance and labeling standards." Alternatively, Mr. Conaway petitioned the agency to adopt a new definition into FMVSS No. 213 that would permit his device to be recognized as a child restraint system.

Mr. Conaway's Hip Hugger device is a type of seat belt positioning device. Mr. Conaway first wrote to NHTSA about the Hip Hugger in 2001, asking whether it was a "child restraint system" under FMVSS No. 213. The following is a description of the device, taken from the agency's June 1, 2001, letter written in response to Mr. Conaway, in which we explained that the device was not a child restraint system:

You [Mr. Conaway] explained \* \* \* that one part of the product performs similarly to