

to the Commission requests for review of an action of the Universal Service Administrative Company (Administrator) pursuant to section 54 of the Commission rules. We're deeming certain request filed after September 12, 2001 with the Commission as timely and we grant others a 60 day opportunity to resubmit their pleadings. The Commission takes this action to ensure that these parties are not prejudiced by continuing disruptions in the mail service.

DATES: Effective February 27, 2003.

FOR FURTHER INFORMATION CONTACT:

Sheryl Todd (202) 418-7400 TTY: (202) 418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 96-45 released on January 7, 2003. The full text of this document is available on the Commission's Web site Electronic Comment Filing System and for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In this Order, the Commission deems certain requests for review as timely filed with the Commission, and we grant other petitioners a 60-day opportunity to resubmit their pleadings electronically. Specifically, this relief is provided to parties who have, after September 12, 2001, mailed to the Commission requests for review of an action of the Universal Service Administrative Company (Administrator) pursuant to section 54 of our rules, or petitions for reconsideration or applications for review arising from such pleadings (hereinafter collectively referred to as "requests for review"). The Commission takes this action to ensure that these parties are not prejudiced by continuing disruptions in the mail service.

2. On December 24, 2001, we released the *Interim Filing Procedures Order*, 67 FR 3620, January 25, 2002, in response to disruptions in mail service arising from the events of September 11, 2001. In the *Interim Filing Procedures Order*, we established that, in addition to the then-available methods of filing requests for review with the Commission, including mail or electronic submission through the Commission's Electronic Comment Filing System (ECFS), parties could also file by facsimile or electronic mail. We instructed that, if requests for review were filed by electronic mail, pleadings should be filed at the following e-mail address: CCBSecretary@fcc.gov and could be

submitted in Adobe Portable Document Format (PDF), Word, WordPerfect, or any other widely used word processing format. We further instructed that, if filed by facsimile, pleadings should be faxed to 202-418-0187, and that the fax transmission should include a cover sheet listing contact name, phone number, and, if available, an e-mail address. We made these methods optional. Thus, parties could, if they wished, continue to file requests for review by mail, manual delivery, or overnight delivery.

3. The Commission further provided that, where a party had mailed a request for review to the Commission on or after September 12, 2001, and that request for review was timely as of the date of mailing, the party could resubmit its request for review electronically within 30 days of the effective date of the *Interim Filing Procedures Order*, and have the request for review treated as having been filed with the Commission on the date that it was originally mailed. We provided this refiling option so that parties who had submitted their requests for review prior to the issuance of the *Interim Filing Procedures Order* might take advantage of the new electronic filing methods to ensure that their requests for review were timely received despite delays with the mail.

4. Since the *Interim Filing Procedures Order* was published in the **Federal Register** on January 24, 2002, we have received many requests for review that were submitted via United States mail. These parties did not take advantage of the new electronic filing options or the existing option to file via ECFS.

5. Under Commission rules, documents are considered to be filed with the Commission only upon receipt. Upon receipt, the Office of the Secretary date-stamps the appeals as received. Based on our review of the FCC date-stamp of the appeals, many mailed requests for review arrived at the Commission more than 60 days from the issuance of the decision being appealed. Thus, even under our *Interim Filing Procedures Order*, these appeals would be considered untimely. When comparing the FCC date-stamp to the postmark date or the date of the pleading, however, it is evident that some of these mailed requests for review were substantially delayed in transit due to continuing disruptions in mail service to federal agencies.

6. In our *Interim Filing Procedures Order*, we granted certain relief based on our belief that the mail system would return to normal operation. We have reviewed appeals filed by mail that were received after the release of the *Interim Filing Procedures Order*. From that

review, we determined that there continued to be significant delays for appeals filed by mail. Only recently have we found that we are receiving requests for review within a reasonable time of the applicants' postmark. As such, we believe it is appropriate to extend the relief we originally ordered. Therefore, because of the unprecedented mail delays caused by the September 11, 2001 attacks and the subsequent appearance of anthrax in the United States mail system, we now conclude that it is appropriate to grant relief to certain parties that continued to rely on the United States mail to file pleadings with the FCC. The filings made by these petitioners fall into two categories. The first category of filings include petitions that are actually dated and/or have a postmarked date on the envelope that indicates that the petitioners took reasonable steps to ensure that its application would be timely filed. The second category of filings include requests that are not dated and arrived at the FCC secretary's office without proof of postmark.

7. Petitioners in the first category are set forth in Attachment C. Based on the dates of the requests for review and/or the postmarked dates on the envelopes when compared with the FCC-date stamp, we find that these petitioners reasonably complied with the terms of the *Interim Filing Procedures Order*. We find that these petitioners mailed their requests for review in a timely fashion. But for the disruptions in the mail service, their pleadings would have arrived at the Commission within the 60-day appeal period. Accordingly, we deem these requests for review as timely filed pursuant to this Order. Therefore, we direct that these requests for review shall be reviewed on their merits.

8. The Commission has also received several requests for review that either were not dated or did not have a postmark date. During the disruptions in the mail service and the implementation of the ensuing security measures, these pleadings were separated from their envelopes before they arrived in the FCC's Office of the Secretary. Thus, we do not have proof of postmark for these pleadings. We shall afford these petitioners an opportunity to resubmit their requests for review with proof that their original submissions were timely filed. These requests for review may be resubmitted electronically or by facsimile within 60 days of the release date of this Order. All requests for review re-submitted pursuant to this paragraph shall be accompanied by a signed affidavit or a declaration pursuant to Commission rule § 1.16 stating the date on which the