

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

In the Matter of )  
 )  
Connect America Fund ) WC Docket No 10-90  
 )

**ORDER**

**Adopted: July 1, 2015**

**Released: July 1, 2015**

By the Deputy Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, the Wireline Competition Bureau (Bureau) grants a limited, partial waiver of the July 1, 2015 filing deadline for two eligible telecommunications carriers (ETCs) to file a portion of their annual reports, FCC Form 481. First, on our own motion, we waive the requirement that Frontier Communications Corporation (Frontier) file a five-year build-out plan (five-year plan) by July 1, 2015 for each of the 28 states where it has accepted Connect America Phase II model-based support. Second, we grant a petition filed by Comporium, Inc. (Comporium) requesting a two month limited waiver of the requirement to file audited financial statements,<sup>1</sup> conditioned on its filing draft, unaudited statements with its FCC Form 481.

**II. BACKGROUND**

2. In the *USF/ICC Transformation Order*, the Commission adopted several reforms to harmonize and update annual ETC reporting requirements.<sup>2</sup> Among other things, in order to account for the new broadband obligations established in the *USF/ICC Transformation Order*, the Commission mandated that all eligible telecommunications carriers (ETCs) subject to those obligations file a new five-year plan in a manner consistent with section 54.202(a)(1)(ii) of the Commission's rules, and annual progress reports thereafter.<sup>3</sup> In 2014, the Bureau waived the five-year plan filing deadline for price cap carriers until the July 1<sup>st</sup> following their acceptance of model-based support.<sup>4</sup>

3. On April 29, 2015, the Bureau released a public notice announcing the offers of model-based Phase II support to each price cap carrier to fund the deployment of voice and broadband-capable

<sup>1</sup> 47 C.F.R. § 54.313(f)(2)(ii).

<sup>2</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17852, para. 579 (2011) (*USF/ICC Transformation Order*), *pets. for review denied sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

<sup>3</sup> *Id.* at 17854, para. 587; *see also* 47 C.F.R. §§ 54.313(a)(1), 54.202(a)(1)(ii) (requiring that five-year plans “describe[] with specificity proposed improvements or upgrades to the applicant’s network throughout its proposed service area” and “estimate the area and population that will be served as a result of the improvements”).

<sup>4</sup> *Connect America Fund*, WC Docket No. 10-90, Order, 29 FCC Rcd 4898, 4898-99, para. 3 (Wireline Comp. Bur. 2014).

networks in their service territories.<sup>5</sup> The Bureau gave the carriers until August 27, 2015 (120 days) to decide whether to accept the offers on a state-by-state basis.<sup>6</sup> On June 15, 2015, Frontier submitted a letter to the Commission accepting model-based support for each of the 28 states it serves and committing to satisfy the service obligations for Phase II.<sup>7</sup>

4. In addition, the *USF/ICC Transformation Order* adopted financial reporting obligations for ETCs that are privately-held rate-of-return companies.<sup>8</sup> It stated that all privately-held rate-of-return carriers must file a full and complete annual audited financial report with the Commission.<sup>9</sup> The Commission revised these requirements in the *Fifth Order on Reconsideration*, among other changes allowing privately held carriers with study areas under common ownership or control to prepare a consolidated audit report.<sup>10</sup> Comporium has since been filing a consolidated audit report, pursuant to section 54.313(f)(2)(ii), prepared by an external auditing firm, KPMP, LLP (KPMG).<sup>11</sup>

5. On June 22, 2015, Comporium filed a petition to waive section 54.313(f)(2)(ii) due to delays in obtaining audited financial statements from a joint investment, Tide Mobility, LLC (Tide).<sup>12</sup> Tide is audited by a different auditing firm, which has not provided pertinent financial information to KPMG in order for KPMG to complete the audit for Comporium.<sup>13</sup> As a result, KPMG is unable to finalize the financial statement for Comporium to file before the July 1, 2015 deadline. Thus, Comporium is seeking a two month limited waiver of the July 1, 2015 to submit a consolidated audit report, pursuant to 54.313(f)(2)(ii).<sup>14</sup> In the meantime, Comporium committed to include draft audited financials with its July 1 filing.<sup>15</sup>

### III. DISCUSSION

6. We find that there is good cause to grant a limited, partial waiver to both ETCs.<sup>16</sup> First, we find that there is good cause to waive for Frontier the requirement to file five-year plans because

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<sup>5</sup> *Wireline Competition Bureau Announces Connect America Phase II Support Amounts Offered to Price Cap Carriers to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, 30 FCC Rcd 3905 (Wireline Comp. Bur. 2015).

<sup>6</sup> *Id.*

<sup>7</sup> Letter from John Lass, Executive Vice President, Field Operations, Frontier Communications Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed June 15, 2015) (Frontier Phase II Acceptance Letter).

<sup>8</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17857, para. 599.

<sup>9</sup> *Id.* at 17857, para. 598.

<sup>10</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Fifth Order on Reconsideration, 27 FCC 14549, 14554, para. 14 (2012) (*Fifth Order on Reconsideration*).

<sup>11</sup> Petition for Limited Waiver of Section 54.313(f)(2)(ii) by Comporium, Inc., WC Docket No. 14-58, at 2 (filed June 22, 2015) (Comporium Petition).

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 1.

<sup>15</sup> *See id.* at 2-3.

<sup>16</sup> Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate if special

Frontier submitted its Phase II support acceptance 12 business days before the July 1, 2015 filing deadline for annual reports.<sup>17</sup> If Frontier had waited two weeks to accept, it would be subject to the July 1, 2016 deadline, like any other price cap carrier that accepts after July 1, 2015. For administrative ease, we allow Frontier to file in 2016 like other price cap carriers that accept Phase II support. The Bureau therefore waives the July 1, 2015 deadline for Frontier's five-year plans and directs Frontier to file its five-year plans in its next annual report due July 1, 2016 pursuant to section 54.313 of the Commission's rules.<sup>18</sup>

7. Second, we grant Comporium's petition for limited waiver as it has demonstrated special circumstances beyond its control that preclude it from filing a full and complete audited financial statement by the July 1, 2015 deadline.<sup>19</sup> The Bureau therefore grants a limited waiver of section 54.313(f)(2)(ii) conditioned on Comporium filing its draft financial statements with its FCC Form 481 on July 1<sup>st</sup> and extends Comporium's filing deadline for the audited statements to September 1, 2015. Both ETCs must comply with all other elements of their annual reporting obligations by July 1, 2015.

#### IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, the requirement that Frontier Communications Corporation file a new five-year build-out plan by July 1, 2015, IS WAIVED, to the extent described herein.

9. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, Comporium's Petition for Waiver IS GRANTED, to the extent described herein.

10. IT IS FURTHER ORDERED that, pursuant to the authority contained in section 1.102 of the Commission's rules, 47 C.F.R. § 1.102, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey  
Deputy Chief  
Wireline Competition Bureau

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circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

<sup>17</sup> See Frontier Phase II Acceptance Letter.

<sup>18</sup> 47 C.F.R. § 54.313(a)(1).

<sup>19</sup> See *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.