

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

In the Matter of)
)
)
Petition for Waiver of Wireless Partners, LLC) WT Docket No. 10-208
to Participate in Mobility Fund II Challenge)
Process)

ORDER

Adopted: March 30, 2018

Released: March 30, 2018

By the Chief, Auctions and Spectrum Access Division:

I. INTRODUCTION

1. In this Order, we grant Wireless Partners, LLC (Wireless Partners), a waiver to participate as a challenger in the Mobility Fund Phase II (MF-II) challenge process. For the reasons discussed below, we instruct the Universal Service Administrative Company (USAC) to grant access to the challenge process portal to the users identified in the Wireless Partners' Petition for Waiver.

II. BACKGROUND

2. In the MF-II Challenge Process Order, the Commission established the framework for a robust and efficient challenge process to resolve disputes about areas found to be presumptively ineligible for MF-II support. The Commission concluded that government entities (state, local, and Tribal) and all service providers required to file Form 477 data with the Commission are best suited to participate as challengers in the MF-II challenge process. The Commission found that limiting participation to these interested parties would satisfy its policy goal of administrative efficiency because they are the entities that are most likely to have access to and be able to provide data relevant to the Commission's consideration of a challenge. The Commission explained, however, that other entities wishing to participate in the process as a challenger could request a waiver of this rule.

3. On March 21, 2018, Wireless Partners filed a petition for a waiver of the rule limiting participation in the MF-II challenge process. Wireless Partners states that it is neither a governmental

1 Petition of Wireless Partners, LLC for Waiver to Participate in the Challenge Process, WT Docket No. 10-208 (filed Mar. 21, 2018) (Petition for Waiver).

2 Connect America Fund; Universal Service Reform – Mobility Fund, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282, 6282, 6296-314, paras. 1, 27-64 (2017) (MF-II Challenge Process Order).

3 Id. at 6303, para. 42.

4 Id. at 6303-04, para. 42 & n.115.

5 Id. at 6304, para. 43 n.119 (citing 47 CFR § 1.3); see also Mobility Fund Phase II Challenge Process Handsets and Access Procedures for the Challenge Process Portal, Public Notice, 32 FCC Rcd 10372, 10376, para. 10 & n.33 (WCB/WTB 2017).

6 Petition for Waiver at 3.

entity nor a service provider required to file Form 477 data with the Commission and, thus, has no right to participate as a challenger.⁷ However, Wireless Partners contends that it qualifies for a rule waiver because it has a bona fide interest in the MF-II challenge process and a plausible ability to submit a valid challenge.⁸

III. DISCUSSION

4. The Commission may waive its rules and requirements where there is “good cause shown” to do so.⁹ Good cause, in turn, may be found “where particular facts would make strict compliance inconsistent with the public interest.”¹⁰ A waiver is therefore “appropriate only if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”¹¹ For the rule limiting participation in the MF-II challenge process, the Commission anticipated that this good-cause standard would be met “in cases in which a[] . . . business demonstrates a bona fide interest in the challenge process and a plausible ability to submit a valid challenge.”¹²

5. We conclude that there is good cause for granting the requested waiver. Wireless Partners asserts it has a bona fide interest in the challenge process because it is a mobile telecommunications company that holds Commission licenses and designs, builds, owns, and operates 4G LTE networks that provide voice and broadband data services in unserved and underserved markets.¹³ It further claims that its networks currently support the subscribers of other service providers through roaming and other commercial arrangements.¹⁴ In its capacity as a provider of wholesale 4G LTE wireless voice and broadband services in unserved and underserved areas, Wireless Partners states that it “has concrete information regarding areas where wireless service is available and where it is not” that is relevant to the MF-II challenge process.¹⁵ Furthermore, Wireless Partners has demonstrated its interest in the MF-II challenge process by participating in the associated rulemaking proceeding.¹⁶

6. Wireless Partners also has plausible ability to submit the data necessary to support a valid challenge. In particular, Wireless Partners asserts that it has the resources of a facilities-based provider of 4G LTE voice and broadband data services.¹⁷ Wireless Partners also claims to have experience with wireless network performance testing.¹⁸ Moreover, as indicated above, Wireless Partners states that it has “concrete information regarding areas where wireless service is available and where it is not.”¹⁹ Thus, we

⁷ *Id.* at 1.

⁸ *Id.* at 1-2.

⁹ 47 CFR § 1.3 (“Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.”).

¹⁰ *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In making this determination, the Commission may “take into account considerations of hardship, equity, or more effective implementation of overall policy.” *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

¹¹ *Ne. Cellular Tel. Co.*, 897 F.2d at 1166.

¹² *MF-II Challenge Process Order* at 6304, para. 43 & n.119.

¹³ Petition for Waiver at 1-2.

¹⁴ *Id.* at 2.

¹⁵ *Id.*

¹⁶ Letter from Robert Parsloe, President & CEO, Wireless Partners, LLC, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90, at 1 (June 21, 2017); Wireless Partners, LLC, Reply at 1-3.

¹⁷ Petition for Waiver at 2.

¹⁸ *Id.*

¹⁹ *Id.*

conclude that there is good cause for granting the requested waiver and instruct USAC to grant the users included in Wireless Partners' Petition for Waiver access to the MF-II challenge portal.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 4(i), 254, 303(r), and 332 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. §§ 154(i), 254, 303(r), 332, 1302, and sections 0.131(a), 0.331, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.131(a), 0.331, and 1.3, that the Petition for Waiver of Wireless Partners, LLC, is HEREBY GRANTED to permit it to participate in the MF-II challenge process.

8. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Margaret W. Wiener
Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau