

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

In the Matter of
The Uniendo a Puerto Rico Fund and Connect
USVI Fund
WC Docket No. 18-143

ORDER

Adopted: September 2, 2020

Released: September 2, 2020

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) resolves the request filed by Aeronet Wireless Broadband LLC (Aeronet) and Critical Hub Networks, Inc. (Critical Hub) seeking an extension of the application filing deadline for the Stage 2 competitive process of the Uniendo a Puerto Rico Fund. These prospective applicants request the Commission to extend the application deadline by 30 days or, alternatively, provide a 30-day extension for submitting the letter of credit commitment letter and allow the applicants to change the areas in which they would bid in their applications. Based on the record before us, we find that Aeronet and Critical Hub have not established good cause for us to deviate from the application deadlines or to permit major modifications to the bid areas. Therefore, we deny the requested relief.

II. BACKGROUND

2. In 2019, the Commission adopted Stage 2 of the Uniendo a Puerto Rico Fund, which will distribute up to \$504.7 million in high-cost support over 10 years to providers of fixed voice and broadband services. To ensure the continued expansion and improvement of voice and broadband services, the Commission adopted a single-round competitive proposal process and will select a winner based on price, network performance, and network resiliency and redundancy. The Commission explained that the single-round competitive process would avoid significant delay to providing needed telecommunication services to all areas by facilitating more prompt funding and deployment in the aftermath of the 2017 hurricanes. The Stage 2 competitive process best implements the Commission's policy goals of promoting efficiency, certainty, transparency, and impartiality for the particular circumstances of Puerto Rico and the U.S. Virgin Islands.

1 Request for Extension of Time to File Application or in Lieu Thereof Additional Time to File Letter of Credit Commitment Letter and Schedule B of Critical Hub Networks and Aeronet Wireless Broadband, WC Docket 18-143 (filed Aug. 31, 2020) (Application Extension Request).

2 Schedule B, Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 Fixed Support Application Form, FCC Form 5634 (Form 5634).

3 The Uniendo a Puerto Rico and the Connect USVI Fund, et al., Report and Order and Order on Reconsideration, 34 FCC Rcd 9109, 9146, para. 67 (2019) (PR-USVI Stage 2 Order).

4 Id. at 9114-15, paras. 10-11.

5 Id. at 9115, para. 11.

3. For the Stage 2 competitive process, eligible providers may compete to serve one or more areas of Puerto Rico by submitting FCC Form 5634 along with all required information used to determine whether an applicant has the legal, technical, and financial qualifications to participate in the Stage 2 competitive process for universal service support.⁷ Each application represents an irrevocable offer to meet the terms of the application if it becomes the winning application.⁸ When it adopted the Stage 2 competitive process nearly one year ago, the Commission also notified prospective applicants that the oversight and accountability measures for support are similar to those implemented in other recent high-cost proceedings.⁹ Specifically, as to the letter of credit rules, the Commission required applicants to obtain a letter of credit bank commitment letter, following the same eligibility criteria for the issuing bank as other high-cost funding programs, for submission with their FCC Form 5634.¹⁰

4. On August 6, 2020, the Bureau released an order that resolved, among other issues, a separate waiver petition brought by Aeronet, Critical Hub, and others seeking to waive the letter of credit rules for the Stage 2 competitive process.¹¹ In that order, the Bureau granted relief to potential applicants by reducing the required value of letters of credit,¹² but also found it would not be in the public interest to eliminate other letter of credit requirements.¹³ In declining to waive these requirements, the Bureau reaffirmed the long-standing importance of the submission of the bank commitment letter and other safeguards to protect the Universal Service Fund.¹⁴ That same day, the Bureau also released the public notice announcing Thursday, September 3, 2020 at 6:00 p.m. ET as the deadline for all application materials for the Stage 2 competitive process.¹⁵

5. On August 31, 2020, Aeronet and Critical Hub requested a 30-day extension of the application deadline or, alternatively, a 30-day extension to submit their letter of credit commitment letter and a modified Schedule B.¹⁶ According to requesting parties, two recent tropical storms and the

(Continued from previous page) _____

⁶ *Id.*

⁷ 47 CFR §§ 1.21001, 54.1501-1515. The Office of Management and Budget provided Paperwork Reduction Act approval for the information collection of FCC Form 5634 effective on July 30, 2020. The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al., 85 Fed. Reg. 45,793 (July 30, 2020).

⁸ *Uniendo a Puerto Rico Fund and Connect USVI Fund Notice and Filing Requirements and Other Procedures for Stage 2 Fixed Competitive Proposal Process*, Public Notice, 35 FCC Rcd 218, 226, para. 22 (WCB 2020) (*Procedures Public Notice*).

⁹ *PR-USVI Stage 2 Order*, 34 FCC Rcd. at 9114, para. 10.

¹⁰ *Id.* at 9151-52, paras. 76-80.

¹¹ *The Uniendo a Puerto Rico and the Connect USVI Fund, et al.*, Order on Reconsideration and Order, WC Docket No. 18-143 et al., DA 20-838 (WCB Aug. 6, 2020) (*Letter of Credit Waiver Order*); Emergency Request for Waiver of PR-USVI Fund Coalition, WC Docket No. 18-143 (filed Apr. 7, 2020).

¹² *Letter of Credit Waiver Order* at paras. 29-34.

¹³ *Letter of Credit Waiver Order* at paras. 37-42.

¹⁴ *Letter of Credit Waiver Order* at para. 41.

¹⁵ *Wireline Competition Bureau Announces Application Window for Stage 2 of the Uniendo a Puerto Rico Fund and the Connect USVI Fund*, Public Notice, WC Docket Nos. 18-143 et al., DA 20-844 (rel. Aug. 6, 2020). In the *Procedures Public Notice*, the Bureau notified the public that following the availability and announcement of the Stage 2 application form, the application window of approximately 30 days for all Stage 2 competitive applications will be announced by public notice. *Procedures Public Notice*, 35 FCC Rcd at 220, para.1, n.3.

¹⁶ Application Extension Request at 6-7.

COVID-19 pandemic resulted in disruptions to banking services and have prevented them from obtaining the letter of credit commitment letter.¹⁷

III. DISCUSSION

6. Based on the record, we deny the request by Aeronet and Critical Hub to extend the deadline to file Stage 2 applications, finding that good cause does not justify delaying the Stage 2 application deadline, nor would the public interest be served by such a delay. It is the policy of the Commission that extensions of time shall not be routinely granted.¹⁸

7. First, we find that a delay of the Stage 2 competitive process application deadline would also unnecessarily delay the selection of winners and thus the deployment of robust and resilient fixed voice and broadband services. We further find that the requested delay would, if allowed, disrupt other prospective Stage 2 applicants hoping to participate and would negatively impact a fair and effective competitive process.¹⁹

8. Second, while the Bureau acknowledges the impact of recent storms and the COVID-19 pandemic on business services, prospective applicants have known for almost a full year that a letter of credit commitment letter would be required in order to apply for Stage 2 funding.²⁰ It is unclear to us that additional time will permit potential applicants to secure bank commitments they have not already obtained. We expect that prospective applicants would have taken all necessary actions to secure the letter of credit commitment letter prior to the week applications are due. Aeronet and Critical Hub do acknowledge that they have been “working for many months” to secure the letter of credit commitment letter from an eligible bank, but even at this late stage, can make no assurances that an eligible bank will issue such a letter in the next 30 days.²¹ As the Bureau found when declining to eliminate the commitment letter requirement, “the commitment letter provides the Commission additional indicia that an applicant has sought a letter of credit from a eligible bank to ensure it will meet its application commitments and the program requirements, rather than default prior to the authorization of support.”²² We find it is not in the public interest to provide additional time for only two prospective applicants based on the mere possibility they may be able to secure a critical component of an application for Stage 2 support.

9. Finally, we likewise find that the alternative request to allow additional time to submit the letter of credit commitment letter and to allow the applicants to modify their bid areas is unwarranted. This request, couched as an alternative request by Aeronet and Critical Hub, is effectively a request to extend the filing deadline because allowing more time for the letter of commitment letters delays our ability to finalize the participants willing to bid. Moreover, allowing these two prospective applicants additional time to modify the areas in which they plan to bid also delays the competitive process and the selection of winners. In the *Procedures Public Notice*, the Bureau announced that major modifications to an application are impermissible, including the addition or subtraction of a proposal to serve particular geographic areas.²³ The request by Aeronet and Critical Hub to submit a major modification to their respective applications by subsequently removing proposals to serve geographic areas would undermine

¹⁷ *Id.* at 4-5.

¹⁸ 47 CFR § 1.46(a).

¹⁹ *Ex Parte* Letter from Edgar Class, Counsel to Puerto Rico Telephone Company, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-143 (Sept. 1, 2020) (explaining that a delay would increase bank fees for other applicants that have already complied with letter of credit requirements).

²⁰ *See generally PR-USVI Stage 2 Order*, 34 FCC Rcd 9109 (rel. Sept. 30, 2019).

²¹ Application Extension Request at 5.

²² *Letter of Credit Waiver Order* at para. 41.

²³ *Procedures Public Notice*, 35 FCC Rcd at 229, para. 37 (citing 47 CFR § 1.21001(d)(5)).

the fair and open competitive process adopted for Stage 2, creating an uneven playing field against all other prospective applicants. In this regard, we believe the public interest in the transparency and impartiality for this competitive process weigh heavily against allowing Aeronet and Critical Hub to modify their applications in light of the real, or perceived, detriment to all other applicants. Aeronet and Critical Hub have failed to demonstrate good cause for the extension or modification of these Stage 2 application rules, and we thus conclude that granting the requests would frustrate the integrity of the Stage 2 competitive process.

10. Accordingly, for these reasons, we deny the request by Aeronet and Critical Hub to extend the application deadline by 30 days and submit a modified Schedule B.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 254, and sections 0.91, 0.291, and 1.46 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.46, that this Order IS ADOPTED.

12. IT IS FURTHER ORDERED that the Request for Extension of Time to File Application or in Lieu Thereof Additional Time to File Letter of Credit Commitment Letter and Schedule B of Critical Hub Networks and Aeronet Wireless Broadband filed on August 31, 2020 is DENIED.

13. 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

Kris Anne Monteith
Chief
Wireline Competition Bureau