



# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> St., S.W.  
Washington, D.C. 20554

News Media Information 202 / 418-0500  
Internet: <https://www.fcc.gov>  
TTY: 1-888-835-5322

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## WIRESLINE COMPETITION BUREAU AND OFFICE OF ECONOMICS AND ANALYTICS RELEASE FINAL LIST AND MAP OF ELIGIBLE AREAS FOR THE RURAL DIGITAL OPPORTUNITY FUND PHASE I AUCTION (AUCTION 904)

AU Docket No. 20-34  
WC Docket No. 19-126  
WC Docket No. 10-90

The Wireline Competition Bureau (Bureau) and the Office of Economics and Analytics (Office), in coordination with the Rural Broadband Auctions Task Force, announce the release of the final list of census blocks and a map of areas that are eligible for the Rural Digital Opportunity Fund Phase I auction (Auction 904).<sup>1</sup> For illustrative purposes, we also release a list of the associated census block groups and reserve prices. The list of eligible census blocks, the list of census block groups, and the map can be found on the Auction 904 website at [www.fcc.gov/auction/904](http://www.fcc.gov/auction/904). These census block groups will be available for bidding in Auction 904, which will begin on October 29, 2020.

Today we release the final list of eligible areas which (1) excludes areas that were awarded ReConnect Round 2 grants and grant/loan combinations as identified by the U.S. Department of Agriculture's Rural Utilities Service (RUS); (2) makes corrections to challenge process results for Cox Communications, DigitalPath, and Savage Communications; and (3) removes certain rate-of-return census blocks based on two revised study area boundary filings.

In the *Rural Digital Opportunity Fund Report and Order*, the Commission determined which areas would be eligible to receive support through Auction 904, and directed the Bureau to identify for the auction census blocks that are wholly unserved with fixed voice and broadband at speeds of at least 25/3 Mbps by a terrestrial provider.<sup>2</sup> The Commission further directed the Bureau to compile a preliminary list of eligible areas and conduct a limited challenge process.<sup>3</sup> In addition, the Commission directed the Bureau to consult with RUS prior to publication of the final eligible areas and exclude the portions of any census blocks from eligibility for Auction 904 that are substantially overlapped by a ReConnect awardee as of a date certain.<sup>4</sup>

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<sup>1</sup> *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, 35 FCC Rcd 6077, 6088, para. 26 (2020) (*Auction 904 Procedures Public Notice*) (directing the Bureau to publish a final list of eligible areas at least 14 days prior to the October 29 auction start date).

<sup>2</sup> *Rural Digital Opportunity Fund; Connect America Fund*, Report and Order, 35 FCC Rcd 686, 690-94, paras. 9-16 (2020) (*Rural Digital Opportunity Fund Report and Order*).

<sup>3</sup> *Id.* at 691-93, paras. 12-14.

<sup>4</sup> *Id.* at 692, para. 13 & n.31.

On March 17, 2020, the Bureau released the preliminary list of census blocks and a map of areas that were initially identified as eligible for Auction 904, and initiated the limited challenge process, with comments due on April 10, 2020.<sup>5</sup> The limited challenge process provided an opportunity for parties to identify (1) census blocks that had become served with voice and 25/3 Mbps or better broadband services since June 30, 2019, and (2) census blocks that had been awarded funding by a federal or state broadband subsidy to offer broadband service at 25/3 Mbps or better and for which funding had already been paid or a formal commitment had been executed.<sup>6</sup>

On June 25, 2020, the Bureau and Office, in coordination with the Rural Broadband Auctions Task Force, announced the release of an updated list of eligible census blocks incorporating the results of the challenge process, and an updated map.<sup>7</sup> The majority of challenges were submitted by FCC Form 477 filers identifying census blocks that had received voice and 25/3 Mbps or better broadband service since June 30, 2019. These challenges were generally accepted, with limited exceptions, and were reflected in the updated eligible areas list.<sup>8</sup> Commission staff verified that the census blocks that challengers identified as served as of December 31, 2019, were included in the challengers' certified December 2019 FCC Form 477 filings and confirmed that each provider reported voice subscribers for that state. We removed these blocks from the eligible areas list. Census blocks identified as served in 2020, and thus not reflected in the December 2019 filing, were generally accepted as served if the challenger reported voice subscriptions in the state in its December 2019 filing.<sup>9</sup>

Challenges filed by states and broadband providers identifying census blocks receiving state broadband grants were generally accepted and the relevant areas removed from the updated eligible areas list after Commission staff verified that the grant recipient had previously secured a binding commitment to provide 25/3 Mbps or better broadband. In addition, the updated list excluded areas that were awarded ReConnect Round 1 grants and grant/loan combinations as identified by a shapefile provided to the Commission by RUS, but included census blocks and portions of census blocks that were awarded 100% loans in ReConnect Round 1. In the *Updated Eligible Areas Public Notice*, we indicated that we would finalize the eligible areas by removing Round 2 RUS awards and making any needed corrections.<sup>10</sup>

Accordingly, we make the following changes to the eligible areas in order to finalize the eligible areas for Auction 904:

First, as directed by the Commission, we exclude from Auction 904 eligibility areas that were included in a shapefile provided by RUS on September 4, 2020, identifying census blocks and portions of blocks that were awarded ReConnect Round 2 grants and grant/loan combinations.

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<sup>5</sup> *Wireline Competition Bureau Releases Preliminary List of and Map of Eligible Areas for the Rural Digital Opportunity Fund Auction*, 35 FCC Rcd 2685 (2020) (*Auction 904 Preliminary Eligible Areas Public Notice*).

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

<sup>7</sup> *Wireline Competition Bureau and Office of Economics and Analytics Announce Release of Updated List and Map of Eligible Areas for the Rural Digital Opportunity Fund Phase I Auction*, 35 FCC Rcd 6499 (2020) (*Updated Eligible Areas Public Notice*).

<sup>8</sup> *Updated Eligible Areas Public Notice*, Appendix, 35 FCC Rcd at 6505.

<sup>9</sup> Auction 904 excludes those census blocks where a terrestrial provider offers voice and 25/3 Mbps broadband service. The Commission defined an unsubsidized competitor as a “facilities-based provider of residential terrestrial fixed voice and broadband service that does not receive high-cost support.” *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17701, para. 103 (2011), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10<sup>th</sup> Cir. 2014); *see also* 47 CFR § 54.5 (defining “unsubsidized competitor”). Whether or not a broadband provider offers voice is based on FCC Form 477 subscription data and determined at the state level. *Rural Digital Opportunity Fund Order*, 33 FCC Rcd at 692, para. 13 & n.30.

<sup>10</sup> *Updated Eligible Areas Public Notice*, 35 FCC Rcd at 6504.

Second, we make the following three corrections to challenges by FCC Form 477 filers:

- Savage Communications submitted a challenge via postal mail delivered to FCC Headquarters on April 7, 2020.<sup>11</sup> The filing was not uploaded into ECFS because Commission staff were unable to access hard copy filings after Headquarters closed due to the pandemic. We now remove Savage's challenged and verified census blocks from the eligible areas list.
- Cox Communications filed a letter withdrawing its challenge for two census blocks in New Shoreham, Rhode Island and stating that it had revised its December 2019 FCC Form 477 filing to remove these blocks from its reported deployment.<sup>12</sup> As a result, we remove these two blocks from Cox's challenge and place them back on the eligible areas list.
- DigitalPath submitted a challenge but Commission staff inadvertently overlooked some of the challenged census blocks in California served by DigitalPath when updating the list of eligible areas.<sup>13</sup> We now remove these additional challenged and verified census blocks from the eligible areas list.

These challenges were adjudicated and incorporated into the eligible areas the same as the Form 477 filers challenges addressed in the *Updated Eligible Areas Public Notice*.<sup>14</sup> See the appendix to this Public Notice.

Third, and finally, we remove from the final list of eligible areas the census blocks within the boundaries of two rate-of-return incumbents' study areas. Range Telephone Cooperative, Inc. a rate-of-return carrier in Wyoming, and Dubois Telephone Exchange, Inc., a wholly owned Range subsidiary in Montana, submitted timely comments in the challenge process identifying certain census blocks in their study areas that should not have been included in the initial list of eligible areas.<sup>15</sup> Both companies receive federal high-cost support from the Alternative Connect America Cost Model support mechanism. The Range companies submitted and certified corrections to their study area boundaries and we now exclude the challenged census blocks from the final eligible areas list.

For each census block, the final list identifies the relevant state abbreviation, county name and the census block identification number (15-digit Federal Information Processing Standard code). For each census block group or census tract, the final list identifies the census block group or census tract identification number, the relevant state abbreviation, the county name, the number of locations that are

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<sup>11</sup> Comments of Savage Communications, Inc., WC Docket No. 19-126 (Apr. 7, 2020).

<sup>12</sup> Letter to Marlene H. Dortch, Secretary, FCC, WC Docket No. 19-126, from Diane Law-Hsu, Senior Corporate Counsel, Regulatory Operations, Cox Communications (July 14, 2020); *see also* Comments of Cox Communications, Inc., WC Docket No. 19-126 (Apr. 10, 2020).

<sup>13</sup> Letter to Marlene H. Dortch, Secretary, FCC, WC Docket No. 19-126, from Andrew Cardin, S.V.P. Operations, DigitalPath, Inc., WC Docket 19-126 (Apr. 3, 2020).

<sup>14</sup> *Updated Eligible Areas Public Notice*, 35 FCC Rcd at 6500.

<sup>15</sup> Comments of Range Telephone Cooperative, Inc., WC Docket No. 19-126 (filed Apr. 10, 2020); Comments of DuBois Telephone Exchange, Inc., WC Docket No. 19-126 (filed Apr. 10, 2020).

eligible for Rural Digital Opportunity Fund Phase I support, and the reserve price rounded to the nearest dollar.<sup>16</sup> These model-calculated amounts are provided for illustrative purposes.

For further information, please contact Katie King, Telecommunications Access Policy Division, Wireline Competition Bureau, at [katie.king@fcc.gov](mailto:katie.king@fcc.gov) or (202) 418-7400; TTY (202) 418-0484.

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<sup>16</sup> An Auction 904 recipient must complete deployment to all model locations within its awarded areas by the end of the sixth year, and to all actual locations by the end of the eighth year. In areas where there are fewer locations than identified by the model, the carrier must notify the Bureau no later than March 1 following the fifth year. Upon confirmation by the Bureau of the fewer number of locations, the carrier must complete deployment to the actual number of locations by the end of the sixth year. For any state in which the actual location count is less than 65% of the model locations within its awarded area in that state, the carrier's support amount will be reduced pro rata for each location below 65% of the model location count. *See* 47 CFR 54.802(c); *Rural Digital Opportunity Fund Order*, 33 FCC Rcd at 711, para. 51. For example, if a carrier was authorized to receive \$3 million per year for 1,000 model locations in a state, but the Bureau confirms that there are only 600 actual locations (fewer than 650 locations, or 65%), the Bureau would reduce that carrier's support to \$2,769,231 (or \$3,000,000 \* (600/650)).

## APPENDIX

Challenger Name	Challenge Type		Blocks (Successful)	Blocks (Rejected)	Blocks (Total)
Cox Communications, Inc.	Form 477	<b>Original</b>	4,296	0	<b>4,296</b>
		<b>Revised</b>	4,294	0	<b>4,294</b>
		<b>Delta</b>	-2	0	<b>-2</b>
DigitalPath, Inc.	Form 477	<b>Original</b>	1,261	68	<b>1,329</b>
		<b>Revised</b>	5,463	341	<b>5,804</b>
		<b>Delta</b>	4,202	273	<b>4,475</b>
Savage Communications	Form 477	<b>Original</b>	0	0	<b>0</b>
		<b>Revised</b>	239	24	<b>263</b>
		<b>Delta</b>	239	24	<b>263</b>