PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

DA 20-585
June 4, 2020

CONNECT AMERICA FUND PHASE II AUCTION SUPPORT
FOR 480 WINNING BIDS READY TO BE AUTHORIZED

Listed Auction 903 Long-Form Applicants Must Submit Letters of Credit and
Legal Counsel’s Opinion Letters by Thursday, June 18, 2020

AU Docket No. 17-182
WC Docket No. 10-90

By this Public Notice, the Rural Broadband Auctions Task Force, Wireline Competition Bureau,
and the Office of Economics and Analytics (Bureaus) announce they are ready to authorize Connect
America Fund Phase II auction (Auction 903) support for the Auction 903 winning bids identified in
Attachment A of this Public Notice. To be authorized to receive the total 10-year support amounts listed
in Attachment A, the long-form applicants identified in that attachment are required to submit acceptable
irrevocable stand-by letter(s) of credit and Bankruptcy Code opinion letter(s) from their legal counsel for
each state where they have winning bids that are ready to be authorized in accordance with the
instructions provided below by the applicable deadline – prior to 6:00 p.m. ET on Thursday, June 18,
2020.

On August 28, 2018, we announced that there were 103 winning bidders in the auction and
established the deadlines for winning bidders to submit their long-form applications for Connect America
Fund Phase II support.1 On October 30, 2018, after an opportunity for winning bidders to assign some or
all of their winning bids to related entities, we announced that there were 134 long-form applicants.2 We
have reviewed the long-form applications associated with each of the winning bids identified in
Attachment A. Based on the representations and certifications in each relevant long-form application, we
are prepared to authorize support, subject to submission of the required letter(s) of credit and Bankruptcy
Code opinion letter(s), for each of the winning bids identified in Attachment A.3

Auction 903 long-form applicants were required to certify that they are eligible
telecommunications carriers (ETCs) in all bid areas and to submit appropriate documentation supporting
such certification on or before February 25, 2019.4 We find good cause to waive this deadline for Viasat

1 Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683

2 134 Long-Form Applicants in the Connect America Fund Phase II Auction (Auction 903), Public Notice, 33 FCC
Rcd 10967 (WTB and WCB 2018).

3 See 47 CFR § 54.315(b)(6)(v).

4 47 CFR § 54.315(b)(5) (requiring winning bidders to submit within 180 days of the announcement of winning
bids, a certification of ETC designation in all relevant areas and supporting documentation for that certification);
Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other
Notice); see also Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 31
FCC Rcd 5949, 5999, 6002-05, paras. 141, 149-56 (2016) (Phase II Auction Order).
Carrier Services, Inc. (Pennsylvania). Generally, the Commission’s rules may be waived for good cause shown. The Commission has found that waiver of this deadline is appropriate when an ETC designation proceeding is not yet complete by the deadline despite the good faith efforts of the long-form applicant. The Commission has explained that it would presume such good faith efforts when the petitioner submitted its petition to the relevant authority within 30 days of the release of the Auction 903 Closing Public Notice. Because Viasat Carrier Services, Inc. filed its petition with the Pennsylvania Public Utility Commission within this 30-day time frame, we find Viasat Carrier Services, Inc. demonstrated due diligence and acted in good faith. Thus, there is good cause to waive the deadline.

Commission staff are reviewing information that is submitted with long-form applications on a rolling basis. Accordingly, a long-form applicant that was not included in this Public Notice but that has submitted all of the required information will be included in a future Public Notice once Commission staff finalizes its review of the long-form application.

Pursuant to section 54.315(b)(6)(v) of the Commission’s rules, the long-form applicants identified in Attachment A that may be authorized to receive Connect America Fund Phase II auction support, must submit an irrevocable stand-by letter(s) of credit, issued in substantially the same form as set forth in the model letter of credit provided in Appendix B of the Phase II Auction Order by a bank that is acceptable to the Commission by 6:00 p.m. ET on Thursday, June 18, 2020. Prior to submitting their letters of credit, we encourage long-form applicants to view and share with their issuing banks the Letter of Credit Common Errors List available on USAC’s website: https://www.usac.org/hc/funds/caf-phase-ii-auction.aspx.

A separate letter(s) of credit must be submitted for each state where the long-form applicant has winning bids that are ready to be authorized in an amount equal to at least the first year of support in the state. Before a support recipient can receive its next year’s support and each year’s support thereafter, it must modify, renew, or obtain a new letter of credit to ensure that it is valued at a minimum at the total

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5 The Commission has delegated to the Wireline Competition Bureau the authority to grant waivers of the filing deadline. See Phase II Auction Order, 31 FCC Rcd at 6003, para. 153 & n.315. Viasat Carrier Services, Inc. filed a petition for waiver of the ETC designation deadline on February 25, 2019.

6 47 CFR § 1.3. Waiver of the Commission’s rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest. See Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing WAIT Radio v. FCC, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), cert. denied, 93 S.Ct. 461 (1972)).


8 Id.

9 Viasat Carrier Services, Inc. filed its ETC application with the Pennsylvania Public Utility Commission on September 27, 2018. Viasat Carrier Services, Inc. Petition at 5.

10 See also Telecommunications Carriers Eligible for Universal Service Support et al., WC Docket No. 09-197, Order, DA 19-394, at 9-10, paras. 31-32 (WCB May. 6, 2019) (May 2019 ETC Order); Telecommunications Carriers Eligible for Universal Service Support et al., WC Docket No. 09-197, Order, DA 19-226, at 9-10, para. 31 (WCB Mar. 28, 2019) (waiving the Auction 903 deadline for submitting proof of ETC designation for certain ETCs designated by the Wireline Competition Bureau).

11 Phase II Auction Order, 31 FCC Rcd at 6045-49, App. B.

12 The Commission’s rules list specific requirements for a bank to be acceptable to the Commission to issue the letter of credit. Those requirements vary for United States banks and non-U.S. banks. See 47 CFR § 54.315(c)(2); Phase II Auction Order, 31 FCC Rcd at 5992-97, paras. 126-33.

13 Phase II Auction Order, 31 FCC Rcd at 5991, para. 122.
amount of support that has already been disbursed plus the amount of support that is going to be provided in the next year, subject to certain reductions when the support recipient has substantially met its service milestones.\textsuperscript{14}

An applicant may obtain multiple letters of credit to cover all the bids in the state, but compliance with service milestones will be reviewed on a state-wide basis. Accordingly, if a long-form applicant chooses to obtain a letter of credit for each of its winning bids in a state and defaults, a draw on all of the letters of credit covering all of the bids in the state will be authorized.\textsuperscript{15}

In addition, a long-form applicant is required to provide with the letter of credit an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the long-form applicant’s bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.\textsuperscript{16}

By future public notice, we will authorize support for specific winning bids for which all requirements, including submission of the letter of credit and opinion letter, have been met.

Details concerning the next steps are set forth below.

Instructions for Submission of Letter of Credit and Opinion Letter

Long-form applicants identified in Attachment A of this Public Notice must submit a letter(s) of credit and opinion letter(s) for each state where it has winning bids identified in Attachment A. The minimum amount of the first letter of credit for each state is determined by adding up the first year of support listed in Attachment A for each winning bid in the state. The letter(s) of credit and opinion letter(s) submitted to the Universal Service Administrative Company (USAC) must reference the relevant study area code as listed in Attachment A.

The original of the letter of credit and opinion letter must be submitted to USAC by the applicable deadline—prior to 6:00 p.m. ET on Thursday, June 18, 2020, at the following address: Universal Service Administrative Company (USAC), High Cost Program, CAF Phase II Auction LOC, 700 12th Street, NW, Suite 900, Washington, DC 20005. We recommend that each long-form applicant send the originals of both the letter of credit and the opinion letter by means of delivery requiring signature. These documents may be sent to the attention of Joanne Kim.

A copy of the letter of credit and opinion letter must also be submitted in the FCC Auction System by the applicable deadline—prior to 6:00 p.m. ET on Thursday, June 18, 2020. An applicant must provide this required information in two attachments. The letter of credit attachment should be uploaded using the “Letter of Credit” attachment type, and the opinion letter attachment should be uploaded using the “Letter of Credit Opinion Letter” attachment type. Each attachment must be uploaded within the applicant’s long-form application to each relevant winning bid identified in Attachment A of this public notice. Such attachments will be treated as confidential trade secrets and/or commercial information and

\textsuperscript{14} 47 CFR § 54.315(c)(1); \textit{Phase II Auction Order}, 31 FCC Rcd at 5991, 5997, paras. 122, 135. Once an Auction 903 support recipient has met its 60 percent service milestone, its letter of credit may be valued at 90 percent of the total support amount already disbursed plus the amount that will be disbursed in the coming year. Once an Auction 903 support recipient has met its 80 percent service milestone, its letter of credit may be valued at 60 percent of the total support amount already disbursed plus the amount that will be disbursed in the coming year. \textit{See} 47 CFR § 54.315(c)(1); \textit{Connect America Fund et al.}, Order on Reconsideration, 33 FCC Rcd 1380, 1405, para. 64; \textit{Phase II Auction Order}, 31 FCC Rcd at 5997-98, para. 136.

\textsuperscript{15} \textit{Phase II Auction Order}, 31 FCC Rcd at 5991, para. 122 & n.242.

withheld from routine public inspection.\textsuperscript{17} As such, a long-form applicant need not submit a separate section 0.459 confidentiality request for this information with its FCC Form 683.\textsuperscript{18}

Any long-form applicant identified in Attachment A that fails to file the required documents\textsuperscript{19} for any of the identified winning bids by the applicable deadline – prior to 6:00 p.m. ET on Thursday, June 18, 2020 – will be in default on such bid(s) and subject to forfeiture.\textsuperscript{20}

Further Information Contact:

**Technical Support**
- Electronic Filing
- Auction Application System and CAF II Bidding System (Hardware/Software Issues)

**FCC Auctions Technical Support Hotline**
- (877) 480-3201, option nine; or (202) 414-1250
- (202) 414-1255 (TTY)
- Hours of service: 8:00 a.m. – 6:00 p.m. ET, Monday through Friday

**Press Information**
- Office of Media Relations, (202) 418-0500

**General Universal Service Information**
- Wireline Competition Bureau, Telecommunications Access Policy Division
- Alexander Minard
- Lauren Garry
- Katie King
- Heidi Lankau
- (202) 418-7400

**Universal Service Administrative Company**
- Stephen Snowman
- (202) 263-1600

\textsuperscript{17} If a request for public inspection under section 0.461 is made for the long-form applicant’s letter of credit or attorney opinion letter, the long-form applicant will be notified and then must justify the continued confidential treatment of the information if it objects to the disclosure. 47 CFR §§ 0.459, 0.461.

\textsuperscript{18} 47 CFR § 0.459.

\textsuperscript{19} 47 CFR § 54.313(b)(6)(v).

## Auction 903 Information

General Auction Information, Process, and Procedures  
Office of Economics and Analytics, Auctions Division  
(717) 338-2868

Post-Auction Rules, Policies, and Regulations  
Rural Broadband Auctions Task Force  
Michael Janson, (202) 418-0627  
Kirk Burgee, (202) 418-1599  
Nathan Eagan, (202) 418-0991  
Jonathan McCormack, (202) 418-1065

## Small Businesses

Additional information for small and disadvantaged businesses  
Office of Communications Business Opportunities  
(202) 418-0990  

## Accessible Formats

Braille, large print, electronic files, or audio format for people with disabilities  
Consumer and Governmental Affairs Bureau  
(202) 418-0530 or (202) 418-0432 (TTY)  
[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

## FCC Internet Sites

[http://www.fcc.gov](http://www.fcc.gov)  
[www.fcc.gov/auction/903](http://www.fcc.gov/auction/903)

This Public Notice contains the following Attachments:

Attachment A: Ready to Authorize Long-Form Applicants and Bids

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