

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

In the Matter of)	
)	
East Kentucky Network, LLC)	
d/b/a Appalachian Wireless)	WT Docket No. 10-208
)	
United States Cellular Corporation)	
)	
GCI Communication Corp.)	
)	
Union Telephone Company)	
)	
Requests for Waiver of the Performance Rules for)	
Mobility Fund Phase I and Tribal Mobility Fund)	
Phase I)	

ORDER

Adopted: January 13, 2021

Released: January 13, 2021

By the Chief, Wireline Competition Bureau; Chief, Wireless Telecommunications Bureau; and the Chief, Office of Economics and Analytics:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau, the Wireless Telecommunications Bureau (the Bureaus), and the Office of Economics and Analytics (OEA), grant petitions filed individually by East Kentucky Network, LLC, d/b/a Appalachian Wireless (Appalachian Wireless); United States Cellular Corporation (U.S. Cellular); GCI Communication Corp. (GCI); and Union Telephone Company (Union Telephone), seeking waivers of the deadlines for the construction, drive testing, and reporting requirements associated with the receipt of final disbursements of Mobility Fund Phase I (MF-I) or Tribal Mobility Fund Phase I support.¹ We find that these petitions, as amended, present special

¹ See East Kentucky Network, LLC d/b/a Appalachian Wireless Petition for Limited Waiver and Request for Extension of Compliance Deadlines for Mobility Fund Phase I Public Interest Obligations, WC Docket No. 10-90, WT Docket No. 10-208 (filed July 19, 2016) (Appalachian Wireless Petition); East Kentucky Network, LLC d/b/a Appalachian Wireless Amendment to Petition for Limited Waiver and Request for Extension of Compliance Deadlines for Mobility Fund Phase I Public Interest Obligations, WC Docket No. 10-90, WT Docket No. 10-208 (filed Oct. 17, 2016) (Appalachian Wireless Amended Petition); United States Cellular Corporation Petition for Limited Waiver and Request for Extension of Dates for Compliance with Mobility Fund Phase I Public Interest Obligations, WC Docket No. 10-90, WT Docket No. 10-208 (filed May 5, 2016) (U.S. Cellular Petition); United States Cellular Corporation Amendment to Petition for Limited Waiver and Request for Extension of Dates for Compliance with Mobility Fund Phase I Public Interest Obligations, WC Docket No. 10-90, WT Docket No. 10-208 (filed June 23, 2017) (U.S. Cellular Amended Petition); General Communication, Inc. Petition for Waiver, WT Docket No. 10-208 (dated Nov. 21, 2016) (GCI Petition); GCI Communication Corp. Amendment to Petition for Waiver, WT Docket No. 10-208 (dated Mar. 14, 2018) (GCI Amended Petition); Union Telephone Company Petition for Limited Waiver and Request for Extension of Compliance Deadlines for Mobility Fund Phase I Public Interest Obligations, WC Docket No. 10-90, WT Docket No. 10-208 (filed July 29, 2016) (Union Telephone

(continued....)

circumstances warranting extension of the MF-I and Tribal Mobility Fund Phase I performance deadlines and that the grant of these petitions serves the public interest.

II. BACKGROUND

A. Mobility Fund I and Tribal Mobility Fund I

2. In the *USF/ICC Transformation Order*, the Commission comprehensively reformed and modernized the high-cost component of the Universal Service Fund by, among other things, establishing the Mobility Fund, a universal service support mechanism dedicated expressly to mobile services.² Phase I of the Mobility Fund comprises both MF-I and Tribal Mobility Fund Phase I.³ For MF-I, the Commission designated a fund of up to \$300 million in one-time universal service support, to be allocated through a reverse auction (Auction 901), for the deployment of mobile voice and broadband services.⁴ For Tribal Mobility Fund Phase I, the Commission designated a separate fund of up to \$50 million, to be allocated through a second reverse auction (Auction 902), and determined that this support generally would “be awarded on the same terms and subject to the same rules as general Mobility Fund Phase I support.”⁵ Under these rules, winning bidders in Auctions 901 and 902 committed to extend the availability of mobile voice and broadband services on networks that provide third-generation (3G) or better performance or to accelerate the deployment of fourth-generation (4G) wireless networks in areas that lacked such services.⁶

3. Before the start of Auctions 901 and 902, each potential bidder was reminded that it was responsible “for investigating and evaluating all technical and marketplace factors that may have a bearing on the level of . . . support it submits as a bid”⁷ Bidders were further advised that “[e]ach bidder is responsible for assuring that, if it wins the support, it will be able to build and operate facilities in accordance with the Mobility Fund obligations and the Commission’s rules generally.”⁸ The MF-I rules require winning bidders to provide service to at least 75% of the designated eligible road miles

Petition); Union Telephone Company Amendment to Petition for Limited Waiver and Request for Extension of Compliance Deadlines for Mobility Fund Phase I Public Interest Obligations, WC Docket No. 10-90, WT Docket No. 10-208 (filed Oct. 31, 2016) (Union Telephone Amended Petition). The filer of the original GCI petition was “General Communication, Inc.,” but before the filing of the corresponding amended petition, the name of the filing entity was changed to “GCI Communication Corp.” See GCI Amended Petition at 1 n.1.

² *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, 17773, para. 299 (2011), *aff’d sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (*USF/ICC Transformation Order*).

³ *Id.*

⁴ See *id.*

⁵ *Id.* at 17819-21, paras. 481-82, 484 & n.799 (incorporating for Tribal Mobility Fund Phase I “by reference the eligible geographic area, provider eligibility, public interest obligations, auction and post-auction processes, and program management and oversight measures established for Phase I of the Mobility Fund.”) See generally 47 CFR §§ 54.1001-1010.

⁶ See *USF/ICC Transformation Order* at 17674-75, para. 28.

⁷ *Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901*, AU Docket No. 12-25, *Public Notice*, 27 FCC Rcd 4725, 4748, para. 71 (WTB/WCB 2012) (*Auction 901 Procedures Public Notice*); *Tribal Mobility Fund Phase I Auction Rescheduled for December 19, 2013; Notice and Filing Requirements and Other Procedures for Auction 902*, AU Docket No. 13-53, *Public Notice*, 28 FCC Rcd 11628, 11655, para. 81 (WTB/WCB 2013) (*Auction 902 Procedures Public Notice*).

⁸ *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4748, para. 71; *Auction 902 Procedures Public Notice*, 28 FCC at 11655, para. 81.

within the relevant area covered by their winning bids,⁹ while the Tribal Mobility Fund Phase I rules require providing service to at least 75% of the population within eligible areas.¹⁰ Winning bidders committing to provide service over a 3G network are required to meet their performance requirements within two years of being authorized to receive support,¹¹ while winning bidders committing to provide service over a 4G network must meet their performance requirements within three years of authorization.¹²

4. The rules further provide that MF-I and Tribal Mobility Fund Phase I support be disbursed to authorized winning bidders in up to three stages: the first disbursement of one-third of the total winning bid amount is made when the winning bidder is authorized to receive support;¹³ a recipient becomes eligible to receive a second disbursement when it submits a report demonstrating coverage of 50% of the applicable coverage requirements;¹⁴ and it becomes eligible to receive the final disbursement when it meets the final construction, testing, and reporting requirements by the applicable deadline.¹⁵

B. The Parties

5. *Appalachian Wireless*. On July 18, 2013, the Bureaus authorized Appalachian Wireless to receive up to approximately \$4.41 million in MF-I support for its 19 winning bids in Auction 901.¹⁶ The

⁹An Auction 901 winning bidder is required to provide service covering at least 75% of the eligible road miles within the area covered by its winning bid, and it will receive Mobility Fund support only for the actual road miles covered, up to 100%, within that area. *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4736-37, paras. 26, 28; see *USF/ICC Transformation Order*, 26 FCC Rcd at 17792, para. 365; see also 47 CFR § 54.1006.

¹⁰ Auction 902 winning bidders are required to provide service covering at least 75% of the population within the area covered by their winning bids. *Auction 902 Procedures Public Notice*, 28 FCC Rcd at 11642-44, paras. 37 n.85, 39; see *USF/ICC Transformation Order*, 26 FCC Rcd at 17822, para. 488; 47 CFR §§ 54.1004(b), 54.1006(a), (b).

¹¹ 47 CFR § 54.1006(a).

¹² 47 CFR § 54.1006(b).

¹³ 47 CFR § 54.1008(b)(1).

¹⁴ 47 CFR § 54.1008(b)(2). Recipients may request “the remainder of their total support” as a final disbursement upon completion of construction, after demonstrating coverage that meets the applicable requirements of section 54.1006 (a) or (b), as applicable. 47 CFR § 54.1008(b)(3)

¹⁵ 47 CFR § 54.1008(b)(3); see also *id.* §§ 54.1004(d)(1), 54.1008(d) (requiring that before each disbursement request, a winning bidder for support in a Tribal land certify that it has substantively engaged appropriate Tribal officials regarding relevant issues). Absent a waiver, a winning bidder that has been authorized to receive MF-I or Tribal Mobility Fund I support will be required to repay the support it has received together with an additional performance default payment if it fails to meet its minimum coverage requirement by the specified deadline, fails to meet other service requirements, or fails to fulfill any other term or condition of support. See *USF/ICC Transformation Order*, 26 FCC Rcd at 17814, para. 461; *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4777, para. 189; *Auction 902 Procedures Public Notice*, 28 FCC Rcd at 11692, para. 216; 47 CFR § 54.1006(f). For Auctions 901 and 902 the additional performance default payment was set at 10% of the total level of support for which the winning bidder is eligible. *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4777-78, paras. 189-92; *Auction 902 Procedures Public Notice*, 28 FCC Rcd at 11692-93, paras. 216-19. A winning bidder also could be disqualified from receiving Mobility Fund Phase I support or other USF support. 47 CFR § 54.1006(f); see also *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4777, para. 190; *Auction 902 Procedures Public Notice*, 28 FCC Rcd at 11692, para. 217.

¹⁶ See *Mobility Fund Phase I Support Authorized for 54 Winning Bids; Default on One Auction 901 Winning Bid Determined*, AU Docket No. 12-25, Public Notice, 28 FCC Rcd 10310 (WTB/WCB 2013) (*Appalachian Wireless Authorization Public Notice*); see *Mobility Fund Phase I Auction Closes; Winning Bidders Announced for Auction 901*, AU Docket No. 12-25, Public Notice, 27 FCC Rcd 12031, 12045 (WTB/WCB 2012) (*Auction 901 Closing Public Notice*).

deadline for Appalachian Wireless to complete construction of a 3G network, drive testing, and submission of reports demonstrating coverage was July 19, 2015. Appalachian Wireless timely completed the performance requirements for seven of the census tracts covered by its winning bids.¹⁷ For the remaining 12 census tracts, Appalachian Wireless sought and was granted a change in its deployment commitment from a 3G to a 4G network, with an associated revision of its deadline to July 19, 2016, to construct, drive test, and report its testing data.¹⁸ Appalachian Wireless met its revised deadline for five of the 12 census tracts.¹⁹

6. For the other seven census tracts, Appalachian Wireless explains that it encountered unforeseen and unexpected delays, which included, among other complications, prolonged regulatory approval processes that extended far longer than it had anticipated.²⁰ Appalachian Wireless states that, despite such obstacles, it timely constructed a 4G network in five of the seven remaining census tracts by the July 19, 2016 deadline, but that it requires an extension of approximately three months to conclude drive testing and reporting of data for those tracts.²¹ For the remaining two census tracts, Appalachian Wireless seeks a nine-month extension of the construction, testing, and reporting deadline, to April 19, 2017.²²

7. According to Appalachian Wireless, the FAA's regulatory approval process took longer than it had anticipated and significantly longer than it had experienced in past projects; the delays in the approval process in turn delayed construction, which delayed its ability to drive test and report its data in these census tracts.²³ For example, according to Appalachian Wireless, the FAA's regulatory process for tower review took more than two-and-a-half times as long for some of these sites as it took on average for the other MF-I sites that it was constructing.²⁴ In addition, Appalachian Wireless states that it encountered other unexpected circumstances, including record-setting snowfall and flooding rain, complex terrain issues, and the lack of available, specialized contractors.²⁵ Appalachian Wireless

¹⁷ See Appalachian Wireless Petition at 3 n.12.

¹⁸ See Letter from Todd Slamowitz and Marc A. Paul, Attorneys for Appalachian Wireless, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, at 2 (filed July 16, 2015). The Bureaus approved the reauthorization and the revised completion date of July 19, 2016. See *Revised Construction Deadline Approved for Recipient of Mobility Fund Phase I Support*, Public Notice, 30 FCC Rcd 13421,13421 (WTB/WCB 2015); see also Appalachian Wireless Petition at [v] n.2, 3 nn.8, 9.

¹⁹ See Appalachian Wireless Petition at 1-24.

²⁰ *Id.* at ii-iii, 18.

²¹ See *id.* at 1-2, 14-15 (initially seeking a 90-day extension of the construction, testing, and reporting deadline, to October 17, 2016 for five census tracts—Census Tracts T21025920600 (SAC 268001) T21095971300 (SAC 268008), T21153970300 (SAC 268012), T21153970400 (SAC 268013), and T21175950100 (SAC 268014)). As the requested 90-day extension period drew to a close, Appalachian Wireless requested an additional two-week reporting extension, to October 31, 2016, to submit drive test data reports for two of these five census tracts—T21095971300 (SAC 268008) and T21153970300 (SAC 268012). See Appalachian Wireless Amended Petition at 1-2.

²² See Appalachian Wireless Petition at 1-2 (seeking a nine-month extension of the construction and reporting deadline, to April 19, 2017, for Census Tracts T21071920900 (SAC 268005) and T21095970100 (SAC 268006)).

²³ *Id.* at 17-19.

²⁴ *Id.* at 17-18. According Appalachian Wireless, all five census tracts experienced longer than normal FAA processing times, noting that “[t]he longest duration of FAA processing was (1) 124 days for a site in Census Tract T21025920600; (2) 56 days for a site in Census Tract T21095971300; (3) 108 days for a site in Census Tract T21153970300; (4) 113 days for a site in Census Tract T21153970400; and (5) 66 days for a site in Census Tract T21175950100.” *Id.* at 17 n.31.

²⁵ *Id.* at 16.

explains that, although it had begun its work on the tower sites in sufficient time to meet its MF-I deadlines, including building in reasonable margins for unexpected delays, the combination of these unexpected circumstances and delays in the regulatory approval process impeded its network construction, which prevented it from timely concluding its drive testing and reporting its data.²⁶ Appalachian Wireless certified to the Universal Service Administrative Company (USAC) that it had completed its drive testing and reporting of data for all five of these census tracts on October 17 and 31, 2016, approximately three months after the applicable deadline.

8. For the remaining two census tracts (Harlan County and Floyd County), Appalachian Wireless requests a nine-month extension of its July 19, 2016 deadline for completing construction, drive testing, and submission of its testing data.²⁷ Appalachian Wireless explains that it needs additional time for these two census tracts to meet the network coverage requirements; it further explains that alternative sites for the undertaking are not available without requiring the construction of multiple towers to achieve coverage requirements.²⁸ Appalachian Wireless asserts that, due to historic preservation concerns, it faced unanticipated and unpreventable regulatory delays at both the state and federal levels related to the construction of two sites in its Harlan County census tract.²⁹ For the Lynch site in the Harlan County census tract, Appalachian Wireless explains that the delay resulting from historic preservation issues had spanned almost three years, by the time it filed its petition.³⁰ Appalachian Wireless maintains that, in November 2013, a local citizen raised concerns about the impact of the proposed tower construction to historic properties with the Kentucky State Historic Preservation Office (SHPO).³¹ After Appalachian Wireless successfully addressed the concerns raised by the Kentucky SHPO, the same individual filed a complaint with the Commission in May 2016, in which he objected to the tower registration on the same historic impact grounds.³² Appalachian Wireless claims that it could not have reasonably anticipated the delays that resulted from having this individual's concerns considered and addressed by both the SHPO and the Commission.³³

9. For the Benham site in the Harlan County census tract,³⁴ Appalachian Wireless claims that the regulatory delay for this census tract resulted primarily from Kentucky SHPO concerns that construction of a tower would adversely affect historic properties in surrounding residential areas,³⁵ and that it took 16 months for it to develop a mitigation plan that was acceptable to the SHPO. It further claims that it took another 10 months of regulatory negotiations, until July 1, 2016, before all local and federal governmental approvals had been obtained so that Appalachian Wireless could commence construction of that site. According to Appalachian Wireless, this left insufficient time for it to meet the

²⁶ *Id.* at 5, 11, 16-18.

²⁷ *Id.* at ii, 1, 5, 9, 12, 13.

²⁸ *Id.* at 5-6, 9.

²⁹ *Id.* at 5-11.

³⁰ *Id.* at 5-9 (explaining the delays associated with Census Tract T21095971300 (Harlan County, SAC 268006)).

³¹ *Id.* at 7.

³² *Id.* at 7-9.

³³ *Id.* at 5-8.

³⁴ *Id.* at 9 (The Benham site is also in Census Tract T21095971300 (Harlan County, SAC 268006).)

³⁵ *Id.* at 9-10.

July 19, 2016, deadline for its performance requirements.³⁶ Thus, with respect to both the sites in this census tract, Appalachian Wireless attributes its delays to “significant and unforeseen encumbrances.”³⁷

10. For its remaining census tract in Floyd County, Appalachian Wireless also claims that it faced unforeseen construction delays.³⁸ Appalachian Wireless explains, although it was not originally part of its construction plans, it later determined that it needed to add an additional site one mile north of the community of Hippo (the Hippo site) when its “engineering analysis” revealed that it needed an additional tower to meet the Commission’s performance requirements.³⁹ Appalachian Wireless states that after it added the Hippo site to its construction plan it realized it could better meet the Commission’s performance requirements if it increased the height of the tower it was building there, but that doing so required further FAA review, which delayed its ability to meet its deadlines. Appalachian Wireless certified to USAC that it had concluded its construction, drive testing, and submission of its data for these last two census tracts on February 21, 2017, almost two months earlier than the April 19, 2017, extension deadline it requests.

11. *U.S. Cellular*. On June 24, 2013, the Bureaus authorized U.S. Cellular to receive up to approximately \$30.9 million in MF-I support for its 21 winning bids in Auction 901.⁴⁰ U.S. Cellular had a deadline of June 25, 2016, to complete construction of a 4G network, drive testing, and submission of reports demonstrating coverage.⁴¹ U.S. Cellular successfully completed construction and submitted testing data for 18 of the census tracts covered by its winning bids by that deadline and received the final payments for those census tracts.

12. On May 5, 2016, U.S. Cellular filed its Petition for Limited Waiver indicating that while it would meet its June 25, 2016 deadline for eighteen of the census tracts covered by its winning bids, for its remaining three census tracts it would need an extension of the deadline for the completion of construction, drive testing, and submission of testing data.⁴² In these three census tracts, it seeks an additional one hundred-eighty days for the census tract covering Lewis County,⁴³ one year for the census tract covering its Dougan Falls North and Dougan Falls South sites,⁴⁴ and approximately eighteen months for the census tract covering its Cannavinna Road site.⁴⁵ According to U.S. Cellular, it commenced work for these census tracts in sufficient time to meet its deadlines, factoring in a reasonable margin for delay.⁴⁶ U.S. Cellular claims, however, that with each of these census tracts, it encountered

³⁶ *Id.* at 9-12.

³⁷ *Id.* at 5.

³⁸ *Id.* at 12-13.

³⁹ *Id.*

⁴⁰ *Mobility Fund Phase I Support Authorized for 42 Winning Bids*, AU Docket 12-25, Public Notice, 28 FCC Rcd 9001, 9003-05 (WTB/WCB 2013) (*U.S. Cellular Authorization Public Notice*) (modified by Erratum, 28 FCC Rcd 12825 (2013)); *see also Auction 901 Closing Public Notice*, 27 FCC Rcd at 12046.

⁴¹ *U.S. Cellular Authorization Public Notice*, 28 FCC Rcd at 9003-05.

⁴² *See* U.S. Cellular Petition at 3-4; U.S. Cellular Amended Petition at 3.

⁴³ *See* U.S. Cellular Petition at 2. The Lewis County site is in census tract T53041970100. *Id.*

⁴⁴ *See id.* at 2 (requesting an extension for one year for Dougan Falls North and Dougan Falls South, which are in census tract T53059950200).

⁴⁵ For the Cannavinna Road site, which is in census tract T53059950500, U.S. Cellular initially requested an extension of one year, until June 25, 2017, but later amended its request to lengthen the deadline extension for this site to December 31, 2017. *Id.* at 2, 8-10; U.S. Cellular Amended Petition at iii, 1-2, 10.

⁴⁶ U.S. Cellular Petition at 5.

unexpected circumstances that caused delays beyond its control.⁴⁷ U.S. Cellular maintains that it worked diligently to complete construction in a timely fashion⁴⁸ and that a grant of its request will advance the goals of the Mobility Fund and serve the public interest because service will be provided to these remote areas far more quickly than if its petition were denied.⁴⁹

13. Regarding the Lewis County tract, U.S. Cellular claims that it had anticipated concluding the project on a one-year to eighteen-month schedule, but that it faced unexpected delays in regulatory review processes that were beyond its control.⁵⁰ U.S. Cellular asserts that its site-acquisition vendor had difficulties for more than a year working through leasing and zoning issues with the Washington Department of Natural Resources and the Lewis County Community Development Planning Division, each of which demanded that the other entity complete its part of the regulatory approval process first.⁵¹ Despite having resolved regulatory issues relating to tree clearances, road layout, and utility design, U.S. Cellular explains that it was still awaiting the final leasing approvals from the Washington Department of Natural Resources when it filed its request for waiver.⁵² In support of its request, U.S. Cellular contends that while lease negotiations normally take 2-3 months, for this census tract they took over a year.⁵³ U.S. Cellular maintains that a 180-day extension would allow it to meet its performance requirements for this census tract.⁵⁴ U.S. Cellular certified to USAC that it had completed construction, drive testing, and submission of testing data for this census tract by the requested deadline extension.

14. For the census tract covering the Dougan Falls North and Dougan Falls South sites, U.S. Cellular claims that, despite its best efforts over six months, it could not reach agreement with a neighboring carrier along Interstate 84 on a contour extension and that this failure required it to redesign its construction project.⁵⁵ U.S. Cellular further claims that the redesigned project then faced regulatory delays and other complicating factors that U.S. Cellular could not control.⁵⁶ U.S. Cellular contends that, for the Dougan Falls North site, steep terrain, heavy snows, and roads eroded by melting snow all exacerbated the delay in constructing the tower.⁵⁷ As to the Dougan Falls South site, U.S. Cellular asserts that it encountered unanticipated permitting delays, including requirements for a nesting bird survey and a revised National Environmental Policy Act statement, and that, at the time of the filing, it anticipated additional delays resulting from vegetation preservation requirements and from mitigation and remediation requirements if it unearthed Tribal artifacts at the site.⁵⁸ U.S. Cellular maintains that it could not have anticipated these delays, particularly the terrain issues, because these sites were not part

⁴⁷ *Id.* at 3, 6-11.

⁴⁸ U.S. Cellular Petition at ii, 6-11; U.S. Cellular Amended Petition at 5-11.

⁴⁹ U.S. Cellular Petition at iii, 14-15; *see* U.S. Cellular Amended Petition at 12.

⁵⁰ U.S. Cellular Petition at 10-11.

⁵¹ U.S. Cellular Petition at 10. These continuing difficulties ultimately forced U.S. Cellular to replace its site acquisition vendor. *Id.*

⁵² *Id.* at 10-11.

⁵³ *Id.* According to U.S. Cellular, it took the DNR almost five months just to give U.S. Cellular comments on the lease, and then DNR requested significant language changes to lease terms that had previously been acceptable. *Id.* at 11.

⁵⁴ *Id.* at 2.

⁵⁵ *Id.* at 6.

⁵⁶ *Id.* at 6-8.

⁵⁷ *Id.* at 7.

⁵⁸ *Id.* at 7-8.

of its original construction plan.⁵⁹ U.S. Cellular further maintains that a one-year extension until June 25, 2017, would allow it to complete construction, drive testing, and submission of testing data for this entire census tract.⁶⁰ U.S. Cellular certified to USAC that it had completed these requirements on December 19, 2016, more than six months ahead of its requested extension deadline.

15. As for the census tract covering the Cannavinna Road site, U.S. Cellular details several unanticipated regulatory processing and permitting delays associated with the construction of the site's backhaul facilities, all of which it claims were beyond its control. U.S. Cellular contends that delays in negotiating a site lease and in obtaining permits required by the public utility authority and the United States Forest Service to install its backhaul facilities warrant an extension until December 31, 2017, to allow it to complete construction, drive testing, and submission of testing data for this census tract.⁶¹ U.S. Cellular certified to USAC that it had completed construction and drive testing and had submitted the testing data for this census tract, by the requested extension.

16. *GCI*. On March 13, 2015, the Bureaus authorized GCI to receive up to approximately \$41.4 million in Tribal Mobility Fund Phase I support for its 51 winning bids in Auction 902.⁶² GCI's deadline for completion of construction, drive testing, and submission of testing data for the 3G networks it committed to building was March 14, 2017, and its deadline for completion of construction, drive testing, and submission of testing data for the 4G networks it committed to building was March 14, 2018.⁶³

17. For one of its fifty-one winning bids, GCI seeks an extension of approximately one year, from March 14, 2017, to March 9, 2018, to complete construction, drive testing, and submission of testing data for a 3G network covering Pitkas Point, Alaska.⁶⁴ GCI contends that it already provides 2G service for Pitkas Point and that it had planned to locate its equipment for its 3G network at its existing 2G site, which was located at a local school.⁶⁵ GCI claims that its plans for the census tract were complicated even before it was authorized for support when it learned in November 2014 that a fuel spill had contaminated the entire area of its planned 3G construction site.⁶⁶ GCI adds that because of the fuel spill, the local authority would not allow GCI to add 3G equipment to the site and, indeed, planned to demolish the school.⁶⁷ According to GCI, it was therefore forced to find a new location at the right elevation for effective propagation and with a relatively large amount of space and power sufficient for

⁵⁹ *Id.* at 6-7.

⁶⁰ *Id.* at 8. As U.S. Cellular explains, this one-year extension would apply to both sites in the census tract, even though Dougan Falls North is expected to be completed earlier, because drive testing to demonstrate satisfaction of the 75% coverage requirement would be done at one time. *Id.* U.S. Cellular refers to its desired extended deadline for this tract as both June 24, 2017, and June 25, 2017. *Id.* at 2, 8; U.S. Cellular Amended Petition at 3. We will treat the request as seeking a new deadline of June 25, 2017, i.e., one year after the original deadline.

⁶¹ U.S. Cellular Amended Petition at ii-iii, 2-7, 10.

⁶² *Tribal Mobility Fund Phase I Support Authorized for Final Fifty-One Winning Bids*, Public Notice, 30 FCC Rcd 2226, Attach. A at 2228-30 (WTB/WCB 2015) (*GCI Authorization Public Notice*); see also *Tribal Mobility Fund Phase I Auction Closes; Winning Bidders Announced for Auction 902*, AU Docket No. 13-53, Public Notice, 29 FCC Rcd 1974, Attach. A at 1986 (WTB/WCB 2014).

⁶³ *GCI Authorization Public Notice*, 30 FCC Rcd at 2228-30; accord GCI Petition at 1, 2.

⁶⁴ Initially, GCI had sought a seven-month extension, until October 14, 2017, but amended its petition, asking to extend the requested extension to March 9, 2018. GCI Petition at 2; GCI Amended Petition at 1-2.

⁶⁵ GCI Petition at 2-4.

⁶⁶ *Id.* at 1-2, 4-5.

⁶⁷ *Id.* at 5.

both GCI's 2G switch and its 3G equipment.⁶⁸ GCI notes that this task was particularly daunting in Pitkas Point, a small and remote community with a hilly and extremely wet and marshy terrain where only a short construction window exists each year.⁶⁹ GCI maintains that, in 2016, after two years of failed efforts and multiple unsuccessful lease negotiations to secure a suitable relocation site, it was able to change its approach and adopt a previously unavailable technical solution that allowed it to provide reliable 3G service without needing extra space for 2G fallback equipment.⁷⁰ In support of its requested extension, GCI states that it experienced unique and unusual circumstances in the construction process that it could not have reasonably anticipated and that were beyond its control, but that it nevertheless diligently kept working to find a solution.⁷¹ GCI certified to USAC that it had completed construction, drive testing, and submission of testing data for the Pitkas Point tract by March 9, 2018, the extended deadline requested in GCI's Amended Petition.⁷²

19. *Union Telephone.* On July 29, 2013, the Bureaus authorized Union Telephone to receive up to approximately \$22.8 million in MF-I support for its six winning bids in Auction 901.⁷³ Union Telephone completed the construction of, and the submission of testing data for, four of the six census tracts covered by its winning bids by the July 30, 2015 deadline for 3G network construction, and received the final payments for those census tracts.⁷⁴

20. For the remaining two census tracts, for which Union Telephone committed to building a 4G network, it seeks an extension to conclude its drive testing and submission of testing data.⁷⁵ Union Telephone explains that although it completed the construction of 4G networks servicing these census tracts in Carbon County and Fremont County, by the required deadline of July 29, 2016, it needs a three-month extension for Carbon County and a four-month extension for Fremont County to conclude the collection and submission of its drive testing data for those tracts.⁷⁶ Union Telephone states that these two tracts cover extremely remote and rural areas of Wyoming and that grant of its request would serve the public interest because Union Telephone has already exceeded the coverage requirements for these areas and requires additional time only to collect and submit its reporting data.⁷⁷ Union Telephone contends that, while it commenced work in both of the census tracts in time to meet its performance deadlines, and even allowed for reasonable margins for unexpected delays, its efforts to construct the two tracts were slowed by a series of unanticipated regulatory obstacles that were beyond its control followed by difficulties in accessing eligible and drivable roads left insufficient time to compile, review,

⁶⁸ *Id.* at 2, 5.

⁶⁹ *Id.* at 2, 4-7.

⁷⁰ *Id.* at 2, 5-6.

⁷¹ *Id.* at 2-6.

⁷² *Id.* at 2.

⁷³ *Mobility Fund Phase I Support Authorized for 40 Winning Bids*, Public Notice, 28 FCC Rcd 11040, Attach. A at 11043-44 (WTB/WCB 2013); *see also Auction 901 Closing Public Notice*, 27 FCC Rcd 12031, Attach. A at 12046.

⁷⁴ *See* Union Telephone Petition at 1 n.3.

⁷⁵ *Id.* at 1-5.

⁷⁶ Union initially requested a three-month extension, until October 31, 2016, for both census tracts but subsequently amended its request to seek an additional month for the Fremont County Census Tract, i.e., until November 30, 2016. *See id.* at ii, 2-5, 7-9; Union Telephone Amended Petition at 1-2, 3, 5. We note that, in its petition, Union Telephone refers to its original deadline as July 30, 2016 but that, in its amended petition, Union Telephone refers to that deadline as July 29, 2016. As we are granting the waiver request, we consider this inconsistency inconsequential.

⁷⁷ Union Telephone Petition at 2-4, 11.

and submit sufficient drive testing data to demonstrate compliance with the Commission's coverage requirements.⁷⁸

21. As part of its plans for the Carbon County tract, Union Telephone explains, it intended to construct four new cellular sites primarily within the Medicine Bow Routt National Forest in Wyoming with as little impact on the forest as possible.⁷⁹ Union Telephone explains that it encountered unanticipated regulatory obstacles when the Forest Service informed it that it would not approve any tower sites in the National Forest unless all private and state options had been exhausted.⁸⁰ Union Telephone further explains that over the next year it unsuccessfully pursued private options with three landowners.⁸¹ Union Telephone asserts that it then tried to lease land owned by the State of Wyoming, but that obtaining access required not only a lease with the state but a prior survey, as well as access agreements with people who had grazing rights to the property.⁸² Permission from the grazing-rights holders took longer than Union Telephone anticipated, and the survey was then further delayed by snowpack.⁸³ Union Telephone states that it did not receive the fully executed lease from the state until late June 2016.⁸⁴ Thus, although Union Telephone began its efforts in May of 2014, it claims that it was not able to begin its construction until more than 2 years later.⁸⁵ Union Telephone points out that despite all its unanticipated delays, it constructed its site within the required time frame.⁸⁶ According to Union Telephone, grant of its petition for a short three-month extension would allow it to complete the testing and reporting of its drive testing data for this census tract.⁸⁷ Union Telephone certified to USAC that it had completed its drive testing and submitted its data for this census tract by its requested extension of October 30, 2016.

22. Regarding the Fremont County census tract, Union Telephone claims that it encountered unexpected and protracted negotiations with the Northern Arapaho and Eastern Shoshone Tribal Nations, the two Tribal Nations that share management of the Wind River Indian Reservation, where this tract was located.⁸⁸ Union Telephone maintains that it faced additional challenges finalizing its agreements, and the process took longer than usual because it was negotiating with two separate Tribal Nations.⁸⁹ Union Telephone claims that it first approached the Northern Arapaho Business Council on October 30, 2012, and the Eastern Shoshone Business Council on January 15, 2013, but given the time it took to negotiate all necessary private leases and easements as well as the cultural approvals that were necessary to build in these areas, it was not until February 2016 that Union Telephone entered into a separate lease agreement with each Tribal Nation and not until March 16, 2016—over three years later—that the Tribal

⁷⁸ *Id.* at 5-9, 11.

⁷⁹ *Id.* at 5.

⁸⁰ *Id.* at 6.

⁸¹ *Id.* at 5-6.

⁸² *Id.* at 6-7.

⁸³ *Id.* at 6-7.

⁸⁴ *Id.* at 6-7.

⁸⁵ *Id.* at 3-6.

⁸⁶ *Id.* at 3-6.

⁸⁷ *Id.* at 7.

⁸⁸ *Id.* at 7-9.

⁸⁹ *Id.* at 8.

Nations finally issued a business license to Union Telephone.⁹⁰ According to Union Telephone, from mid-September 2015 until early February 2016, it met with the Tribal business councils and engaged in Tribal workshops with both Tribes to obtain the approvals it needed to implement its Mobility Fund construction plans and to drive test its sites.⁹¹

23. Union Telephone further maintains that it faced additional unanticipated delays in obtaining a lease from the Wyoming Department of Transportation that was necessary for it to construct one of its three towers on the Reservation.⁹² Union Telephone states that even though it initiated negotiations with the Wyoming Department of Transportation in April of 2016, it took until July 1, 2016, for Union Telephone to secure the fully executed lease it needed.⁹³ And a few days later, Union Telephone commenced construction.⁹⁴ While Union Telephone timely met its construction requirement for this census tract, it requires a brief four-month extension to conclude its drive testing and reporting.⁹⁵ Union Telephone certified to USAC that it had completed its drive testing and data reporting within the four-month extension period requested in its amended petition.

III. DISCUSSION

24. Generally, the Commission's rules may be waived for good cause shown.⁹⁶ Good cause is shown, and thus a waiver is appropriate, only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁹⁷

25. Applying the general rule to requests for waiver of the MF-I and Tribal Mobility Fund Phase I rules, we note that we advised prospective bidders before Auctions 901 and 902 that, as part of performing advance due diligence research and analysis, they should confirm the availability of prospective transmitter sites and assure themselves that, if they became winning bidders, they would be able to build and operate facilities that comply with all applicable technical and legal requirements, which, of course include performance deadlines.⁹⁸ Furthermore, the Commission has consistently held that requests to waive or extend construction obligations will not be routinely granted.⁹⁹ When considering waiver requests involving MF-I construction, drive testing, and reporting deadlines, we

⁹⁰ *Id.* at 7-9.

⁹¹ *Id.* at 8.

⁹² *Id.* at 7-9.

⁹³ *Id.* at 7-9.

⁹⁴ *Id.* at 7-9.

⁹⁵ Union Telephone Amended Petition at 11.

⁹⁶ 47 CFR § 1.3.

⁹⁷ See *Standing Rock Telecommunications, Inc., Amended Request for Limited Waiver and Extension of Mobility Fund Phase I Public Interest Obligations*, WT Docket No. 10-208, Order, 34 FCC Rcd 9598, 9603-04, para. 11 (WCB/WTB/OEA 2019) (*Standing Rock Order*); *Leaco Rural Telephone Cooperative, Inc. and Pine Belt Cellular, Inc.*, WT Docket No. 10-208, Order, 31 FCC Rcd 9001, 9006-07, para. 15 (WTB 2016) (*Leaco/Pine Belt Order*); *Ne. 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)); see also *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008).

⁹⁸ *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4748-49, paras. 71-77; *Auction 902 Procedures Public Notice*, 28 FCC Rcd at 11655, paras. 84.

⁹⁹ See *Skybridge Spectrum Foundation*, Order, 33 FCC Rcd 8138, 8145, para. 17 (WTB-MD 2018); *Wireless Telecommunications Bureau Reminds Wireless Licensees of Construction Obligations*, Public Notice, 32 FCC Rcd 4802, 4802-05 (WTB 2017).

therefore have made clear that justifications based on impediments that could reasonably have been foreseen, such as employee issues, vendor problems, inclement weather, and last-minute delays, would not in themselves warrant waiver of a performance deadline.¹⁰⁰

26. Consistent with Commission precedent, prospective recipients of support should be aware that employee issues, vendor problems, equipment issues, inclement weather, and last minute delays occur in the regular course of business, and that these circumstances alone will not support waiver of Commission deadlines.¹⁰¹ Rather, waivers of MF-I performance obligations have been granted only where the support recipient has shown that it was delayed by special circumstances that could not have been foreseen and were beyond its control.¹⁰² Accordingly, we are not persuaded by Appalachian Wireless's claims that its unexpected circumstances included record-setting snowfall and flooding rain; complex terrain issues; software malfunctions and the lack of available, specialized contractors.¹⁰³

¹⁰⁰ See, e.g., *Standing Rock Order*, 34 FCC Rcd at 9603-04, para. 13 & n.51; *Leaco/Pine Belt Order*, 31 FCC Rcd at 9006-07, para. 17 & n.47.

¹⁰¹ See, e.g., *1998 Biennial Regulatory Review--Streamlining of Mass Media Applications, Rules, And Processes et al.*, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17539, para. 35 (1999) (finding that the effects of delays due to inclement weather on construction timelines are adequately overcome by a three-year construction term making additional time unwarranted); *Redwood Wireless Minnesota, LLC, and Redwood Wireless Wisconsin LLC Request for a Waiver and Extension of the Broadband PCS Construction Requirements*, Order, 17 FCC Rcd 22416, 22419-20 (WTB 2002) (construction delays resulting from business disputes were exercise of business judgment and were not outside Petitioner's control); *Eldorado Communications LLC Request for a Waiver and Extension of the Broadband PCS Construction Requirements*, Order, 17 FCC Rcd 24613, 24616, para. 7 (WTB 2002) (licensee's determination to initially deploy TDMA system and subsequently to adopt GSM with months remaining before construction deadline was business decision within its control); *Bristol MAS Partners Request for Extension of Time in Which to Construct and Place into Operation Multiple Address System Stations WPJF864 Through WPJF87*, Order, 14 FCC Rcd 5007, 5010, para. 8 (WTB 1999) (equipment installation or delivery not delayed for some unique reason, and licensee's failing to obtain equipment was business decision); *Application for Review of Specialized Mobile Radio Station WAY-671, Licensed to AAT Electronics Corporation, Staten Island, New York*, Memorandum Opinion and Order, 93 FCC 2d 1034, 1047, para. 46 (1983) (decision not to market service aggressively because of equipment uncertainties is within licensee's control); *Application for Review of Business Radio Communications Systems, Inc., Licensee of 800 MHz SMR System WZF-975, Laurel, Maryland*, Memorandum Opinion and Order, 102 FCC 2d 714, 716-17, paras. 6-7 (1985) (construction delay caused by zoning challenge not a circumstance beyond licensee's control); *Application for Review of Specialized Mobile Radio Station WQA-505, Licensed to Texas Two-Way, Inc., Fort Worth, Texas*, Memorandum Opinion and Order, 98 FCC 2d 1300, 1303, para. 8 (1984), *aff'd sub nom., Texas Two-Way, Inc. v. FCC*, 762 F.2d 138 (D.C. Cir. 1985) (licensee is responsible for the delay resulting from interference caused by construction adjacent to construction site because site selection was an independent business decision).

¹⁰² *Leaco/Pinebelt Order*, 31 FCC Rcd at 9006, para. 16; *Standing Rock Order*, 34 FCC Rcd at 9603, para. 12

¹⁰³ Appalachian Wireless Petition at 17-18; Appalachian Wireless Amended Petition at 4-7. We also note that with regard to its Floyd County census tract, the delays Appalachian Wireless encountered at its Hippo construction site stemmed largely from its own flawed and evolving engineering studies. These circumstances were within Appalachian Wireless's control and do not provide the basis for the waiver we grant today. See Appalachian Wireless Petition at 12-13. We further note that Appalachian Wireless erroneously argues that the Commission adopted a rule change during its construction period that led to delays in the tower registration process. See *id.* This argument is without merit, because the Commission adopted section 17.4(d), requiring applicants to submit an FAA "no hazard" determination with their Form 854 applications, almost twenty years before the MF-I auction. See *Streamlining the Commission's Antenna Structure Clearance Procedure et al.*, Report and Order, 11 FCC Rcd 4272, 4310-11 (1995). Although Appalachian Wireless claims that the Commission adopted this rule in August 2014 (i.e., after the MF-I auction and the *Authorization Public Notice*), the 2014 Order amended other aspects of the FCC's rules but did not amend section 17.4(d). See *2004 and 2006 Biennial Regulatory Reviews—Streamlining and Other Revisions of Parts 1 and 17 of the Commission's Rules Governing Construction, Marking, and Lighting of Antenna Structures et al.*, Report and Order, 29 FCC Rcd 9787, 9817-20 (2014). Thus, we limit our consideration of

(continued....)

Likewise, we find meritless U.S. Cellular's contention that steep terrain, heavy snows, and roads eroded by melting snow all compounded its delay in the construction of its towers.¹⁰⁴ Equally unavailing are GCI's statements that hilly and extremely wet and marshy terrain limited it to only a short construction window as well as its claims that problems associated with technical solutions and vendors added to its delays.¹⁰⁵ Similarly, Union Telephone's argument that it encountered many more undrivable and private roads than expected is not a basis on which we grant today's petitions.¹⁰⁶ All these arguments proffered by the petitioners were foreseeable and involve circumstances that should have been anticipated as those that occur in the normal course of business, especially given the areas covered by these winning bids, and therefore do not support the grant of a waiver of the Commission's performance requirements.

27. Instead, we have found that the first prong of the waiver standard may be met for granting a waiver of MF-I construction, drive testing, and reporting deadlines where a petitioner demonstrates that it faced delays because of special circumstances that it could not reasonably have foreseen, controlled, or avoided.¹⁰⁷ While today's petitioners were not free from certain predictable causes of delay, each petitioner faced other, unforeseeable and unavoidable circumstances beyond its control that prevented the timely completion of its performance requirements. Three of the petitioners—Appalachian Wireless, U.S. Cellular, and Union Telephone—each encountered special circumstances in the form of permitting or other unusual regulatory delays of such nature, number, or duration that they could not have been foreseen, controlled, or circumvented by petitioners. Likewise, while trying to maintain and improve the provision of service at its Pitkas Point, Alaska site GCI encountered special circumstances after it faced an environmental disaster that it could not have foreseen, controlled, or circumvented.

28. Our decision today should not be construed to diminish the important role of federal, state, and local regulatory processes. These regulatory processes play a critical function in ensuring the lawfulness of tower construction, and Mobility Fund support recipients have an obligation to factor sufficient time into their construction schedules to allow for completion of regulatory reviews. Rather, our grant of waivers here, where petitioners have demonstrated special circumstances, recognizes that even with proper planning, unforeseeable delays can sometimes occur that can neither be avoided nor controlled, particularly in some of the hardest to serve areas. Appalachian Wireless, for example, faced regulatory tower approval processing delays and historic preservation challenges that lasted for almost as long as Appalachian Wireless's three-year construction period. U.S. Cellular had unforeseen, difficult, and time-consuming issues to resolve before both local and state regulatory authorities and, on top of that, had to overcome unexpected environmental permitting delays, such as requirements to conduct a nesting bird survey and to revise its environmental statement. Union Telephone could neither have anticipated nor unilaterally avoided the more than three years that it took to secure necessary lease agreements with two Tribal Nations and with the Wyoming Department of Transportation. GCI faced catastrophic events in the form of a fuel spill and the consequent destruction of its planned construction

Appalachian Wireless's arguments for waiver to only its claims that the FAA approval process took an "exceptionally long time to complete." Appalachian Wireless Petition at 18.

¹⁰⁴ U.S. Cellular Petition at 7. We are not persuaded by the circumstances that U.S. Cellular offered as the basis for delay for its Dougan Falls North site; however, we grant a waiver for the census tract as a whole (T53059950200) because of the unforeseen circumstances that U.S. Cellular experienced due to permitting and regulatory delays at the Dougan Falls South site. *Id.* at 7-8.

¹⁰⁵ GCI Petition at 2, 4-7; GCI Amended Petition at 3-4.

¹⁰⁶ Union Telephone Amended Petition at 4-5.

¹⁰⁷ See *Standing Rock Order*, 34 FCC Rcd at 9604-05, paras. 14-15; *Leaco/Pine Belt Order*, 31 FCC Rcd at 9006-07, paras. 17-18.

site, which it could not have anticipated when it bid for support for this census tract and therefore had no way to avoid.

29. Based on their filings, we find that these petitioners made reasonable plans and diligent efforts to timely fulfill their MF-I and Tribal Mobility Fund obligations but that special circumstances beyond their control prevented them from meeting their respective deadlines. We note that in many cases these special circumstances lasted for a substantial portion of the time period afforded to MF-I and Tribal Mobility Fund Phase I winning bidders to complete their performance obligations. Despite these circumstances, however, each of the four petitioners worked diligently from the time it encountered these obstacles to mitigate and overcome them. Each one sought an extension of a reasonable length in light of the duration and scale of the delays it encountered. And, having timely completed construction of a large majority of the tracts for which it was awarded support, each petitioner requested additional time for only a small percentage of its winning bids. Moreover, each petitioner completed its construction, drive testing, and reporting requirements within the additional time that it had requested, and each one is currently fulfilling the goal of the MF-I and Tribal Mobility Fund Phase I program to extend the availability of mobile voice and broadband services in areas that lack such services. For all these reasons, we find that each petitioner has demonstrated special circumstances that warrant a deviation from the general rule, thereby satisfying the first part of the waiver standard.

30. We further find that the second part of the waiver standard has also been satisfied. Each of the four petitioners has demonstrated that deviation from the rules will serve the public interest because the grant of a waiver will ensure that each continues to provide mobile broadband service in some of the most remote areas of the nation, areas that did not have, and without Mobility Fund support would not now have, advanced mobile telecommunications service.¹⁰⁸

31. In sum, each petitioner has made a sufficient good cause showing to meet the waiver standard specified in the rules and under applicable precedent.¹⁰⁹ These waivers will ensure the continued operation of a mobile voice and data network in rural and underserved areas that previously lacked basic communications infrastructure. Each petitioner was diligent in making advances to meet its performance requirements throughout the period leading up to its requested extensions, ensuring that the additional time sought after the deadlines would be as brief as possible. Each of these petitioners ultimately met all of their requirements within the time frame each requested. We therefore conclude that grant of these waiver requests is consistent with the objectives of MF-I and Tribal Mobility Fund Phase I and that waiver does not undermine the Commission's policy of ensuring adherence to their performance requirements.¹¹⁰

32. Accordingly, we grant the extensions of performance deadlines requested in the respective petitions, as amended, of Appalachian Wireless, U.S. Cellular, GCI, and Union Telephone.

IV. ORDERING CLAUSES

33. Accordingly, IT IS ORDERED that, under the authority contained in sections 1, 4(i), 4(j), 5(c), 201, 254, and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155(c), 201, 254, 303(r), and sections 0.21, 0.91, 0.131, 0.271, 0.291, 0.331, and 1.3 of the Commission's rules, 47 CFR §§ 0.21, 0.91, 0.131, 0.331, 0.271, 0.291, and 1.3, the Petition for Limited Waiver and Request for Extension of Compliance Deadlines for Mobility Fund Phase I Public Interest Obligations, as amended, of East Kentucky Network, LLC, d/b/a Appalachian Wireless, is HEREBY

¹⁰⁸ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17673, para. 20.

¹⁰⁹ *Standing Rock Order* at 9602-03, para 12.

¹¹⁰ See *Standing Rock Order*, 34 FCC Rcd at 9604-05, para 15.

GRANTED to permit extension of the construction, drive testing, and reporting deadlines for the requested period for census tracts T21071920900 (SAC 268005) and T21095970100 (SAC 268006), through April 19, 2017; for the requested period for census tracts T21025920600 (SAC 268001), T21153970400 (SAC 268013), and T21175950100 (SAC 268014), through October 17, 2016; and for the requested period for census tracts T21095971300 (SAC 268008) and T21153970300 (SAC 268012) through October 31, 2016.

34. IT IS FURTHER ORDERED that, under the authority contained in sections 1, 4(i), 4(j), 5(c), 201, 254, and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155(c), 201, 254, 303(r), and sections 0.21, 0.91, 0.131, 0.271, 0.291, 0.331, and 1.3 of the Commission's rules, 47 CFR §§ 0.21, 0.91, 0.131, 0.331, 0.271, 0.291, and 1.3, the Petition for Limited Waiver and Request for Extension of Dates for Compliance with Mobility Fund Phase I Public Interest Obligations, as amended, of United States Cellular Corporation is HEREBY GRANTED to permit extension of the construction, drive testing, and reporting deadlines for the requested period for census tract T53041970100 (SAC 528005), through December 22, 2016; for the requested period for census tract T53059950200 (SAC 528006), through June 25, 2017; and for the requested period for census tract T53059950500 (SAC 528007), through December 31, 2017.

35. IT IS FURTHER ORDERED that, under the authority contained in sections 1, 4(i), 4(j), 5(c), 201, 254, and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155(c), 201, 254, 303(r), and sections 0.21, 0.91, 0.131, 0.271, 0.291, 0.331, and 1.3 of the Commission's rules, 47 CFR §§ 0.21, 0.91, 0.131, 0.331, 0.271, 0.291, and 1.3, the Petition for Waiver, as amended, of GCI Communication Corp. is HEREBY GRANTED to permit extension of the construction, drive testing, and reporting deadline for the requested period for SAC 618350, through March 9, 2018.

36. IT IS FURTHER ORDERED that, under the authority contained in sections 1, 4(i), 4(j), 5(c), 201, 254, and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155(c), 201, 254, 303(r), and sections 0.21, 0.91, 0.131, 0.271, 0.291, 0.331, and 1.3 of the Commission's rules, 47 CFR §§ 0.21, 0.91, 0.131, 0.331, 0.271, 0.291, and 1.3, the Petition for Limited Waiver and Request for Extension of Compliance Deadlines for Mobility Fund Phase I Public Interest Obligations, as amended, of Union Telephone Company is HEREBY GRANTED to permit extension of the construction, drive testing, and reporting deadline for the requested period for census tract T56007968000 (SAC 518001), through October 31, 2016; and to permit extension of the construction, drive testing, and reporting deadline for the requested period for census tract T56013940100-4610 (SAC 518005), through November 30, 2016.

37. IT IS FURTHER ORDERED that a copy of this Order SHALL BE transmitted to the Universal Service Administrative Company.

38. IT IS FURTHER ORDERED that, under 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 A. Monteith
Chief
Wireline Competition Bureau

Donald K. Stockdale
Chief
Wireless Telecommunications Bureau

Giulia McHenry
Chief
Office of Economics and Analytics