

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

In the Matter of )
Telecommunications Carriers Eligible for ) WC Docket No. 09-197
Universal Service Support )
Connect America Fund ) WC Docket No. 10-90

ORDER

Adopted: June 8, 2021

Released: June 8, 2021

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) designates fifty-six (56) carriers (as identified in Attachment A) as eligible telecommunications carriers (ETCs) in eligible high-cost areas within the specified states. Designation in these areas is conditioned upon, limited to, and effective upon petitioners' authorization to receive support under the Rural Digital Opportunity Fund (RDOF) program.1 Any such ETC designation covering RDOF supported areas, however, should not be interpreted as an entitlement to support or an indication that the Commission will ultimately authorize the petitioner for support. Fourteen (14) of these petitioners (as identified in Attachment B) also request designation as an ETC outside of areas eligible for RDOF funding authorization. For such areas, we limit the ETC designation to eligibility for Lifeline support. In making these designations, the Bureau finds that each of these petitioners meets the eligibility requirements to receive universal service support, as set forth in section 214(e)(6) of the Communications Act of 1934, as amended (Act), and related Commission rules.2 If these or other entities are authorized for RDOF support, the Bureau will release separate public notices announcing funding authorizations.

II. BACKGROUND

A. Rural Digital Opportunity Fund Auction (Auction 904)

2. On January 30, 2020, the Commission adopted the framework for the Rural Digital Opportunity Fund, to award support through a reverse descending clock auction.3 At the conclusion of Auction 904, there were 180 winning bidders, with the 10-year support amount totaling \$9.23 billion and covering 5,220,833 locations in 49 states and one territory.4 In order to become authorized to receive support, each winning bidder, or entity assigned support through the division of winning bids, must complete a long-form application (FCC Form 683) designed to ensure that support recipients are technically and financially qualified to offer supported services and have met all regulatory prerequisites

1 See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021, WC Docket No. 19-126 et al., Public Notice, 35 FCC Rcd 13888 (RBATF, OEA, WCB 2020) (Auction 904 Closing Public Notice); Rural Digital Opportunity Fund et al., WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686 (2020) (Auction 904 Report and Order).

2 47 U.S.C. § 214(e)(6); 47 CFR § 54.202.

3 Auction 904 Report and Order, 35 FCC Rcd at 689-90, para. 8; see also Rural Digital Opportunity Fund, WC Docket No. 19-126, Order on Reconsideration, 35 FCC Rcd 10820 (2020).

4 Auction 904 Closing Public Notice, 35 FCC Rcd at 13888.

and conditions for receiving Universal Service Fund (USF) support.<sup>5</sup> Four-hundred seventeen (417) entities submitted long-form applications by the January 29, 2021 deadline.<sup>6</sup> As part of this application, applicants must also submit, by June 7, 2021, documentation of ETC designation(s) and a letter certifying that the designations cover all relevant census blocks in a state.<sup>7</sup>

3. The Lifeline—or low-income—program provides support to reimburse providers for offering supported services at discounted prices to qualifying low-income households, with more support directed at such households on Tribal lands.<sup>8</sup> Eligible services include voice and broadband Internet access service meeting certain requirements.<sup>9</sup> In a given geographic area, a carrier may be designated as an ETC and become eligible to receive funding from both the high-cost and low-income components of the USF, or it may be designated as a Lifeline-only ETC that is only eligible to receive USF support from the Lifeline program (Lifeline-only ETC designation).<sup>10</sup> Where, as with the petitioners identified in Attachment B, a petitioner indicates that it is seeking an ETC designation in areas not eligible for high-cost support, the Commission considers such areas for a Lifeline-only ETC designation.<sup>11</sup> ETCs are generally obligated to offer Lifeline-supported services throughout their designated service areas.<sup>12</sup>

### C. Requirements for FCC ETC Designation

4. Section 254(e) of the Communications Act of 1934, as amended (the Act), provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.”<sup>13</sup> Congress gives primary authority for ETC designations to state commissions.<sup>14</sup> The Commission has authority only when “a common carrier [is] providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”<sup>15</sup> The petitioning carrier must demonstrate that the Commission has jurisdiction and may do so by submitting an “affirmative statement from the state commission or a court of competent

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<sup>5</sup> 47 CFR § 1.21004; *Auction 904 Report and Order*, 35 FCC Rcd at 696, para. 22. Winning bidders had the opportunity to assign some or all their winning bids to one or more related entities. *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6164-65, paras. 288-93 (2020) (*Auction 904 Procedures Public Notice*).

<sup>6</sup> See Long-Form Applicants Spreadsheet, Long Form Applicants tab, [www.fcc.gov/auction/904/](http://www.fcc.gov/auction/904/).

<sup>7</sup> 47 CFR § 54.804(b)(5); *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13894, 13900-01.

<sup>8</sup> See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket Nos. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6663, para. 14 (2012).

<sup>9</sup> 47 CFR § 54.101; see also 47 CFR § 54.401(a).

<sup>10</sup> 47 CFR § 54.201(a)(1); *id.* § 54.101(d).

<sup>11</sup> *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13901 n.72 (explaining that petitioners may, in addition to seeking a high-cost designation in winning bid areas, seek a Lifeline-only ETC designation in areas not eligible for high-cost support for the limited purpose of becoming eligible to receive only Lifeline support in such areas and requiring these petitioners to submit with their ETC application a map or other information delineating these Lifeline-only areas, and other information specifically required by the Commission’s Lifeline rules).

<sup>12</sup> See 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.101(a) (providing that voice service is the supported service); 47 CFR § 54.403(a) (setting forth Lifeline support eligibility requirements).

<sup>13</sup> 47 U.S.C. § 254(e).

<sup>14</sup> *Id.* § 214(e)(2).

<sup>15</sup> *Id.* § 214(e)(6).

jurisdiction that the carrier is not subject to the state commission's jurisdiction."<sup>16</sup> The Bureau has also stated, as to all ETC designations, that "[i]f a state law expressly articulates that it does not have jurisdiction over a relevant type of technology, Commission staff would consider such a statute relevant in its determination of Commission jurisdiction."<sup>17</sup> The Commission has delegated authority to the Bureau to consider appropriate ETC designation requests.<sup>18</sup>

5. A petition for ETC designation by the Commission must include: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act; (2) a certification that the petitioner offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services;<sup>19</sup> (3) a description of how the petitioner advertises the availability of the supported services and the charges therefor using media of general distribution;<sup>20</sup> (4) a detailed description of the geographic service area for which the petitioner requests to be designated as an ETC;<sup>21</sup> and (5) a certification that neither the petitioner, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.<sup>22</sup>

6. In addition, a petitioner must demonstrate its ability to meet certain service standards. A petitioner seeking an ETC designation for purposes of becoming eligible to receive RDOF support must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) demonstrate its ability to remain functional in emergency situations; and (3) demonstrate its ability to satisfy applicable consumer protection and service quality standards.<sup>23</sup> An ETC seeking Lifeline-only designation must also: (1) demonstrate its financial and technical capability to provide Lifeline-supported services in accordance with applicable Commission rules; and (2) submit information describing the terms and conditions of any voice telephony plans offered to Lifeline subscribers.<sup>24</sup>

7. We note that for petitioners seeking ETC designation for the purpose of becoming authorized to receive RDOF support, the Commission has waived the same section 54.202 requirements that it previously waived for CAF Phase II auction support recipients, specifically, the requirement that the petitioner submit a five-year service plan and proof of compliance with consumer protection and

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<sup>16</sup> See *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12267, para. 120 (2000); 47 U.S.C. § 214(e)(6).

<sup>17</sup> *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6697 (WCB 2018) (*Auction 903 ETC Public Notice*).

<sup>18</sup> See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

<sup>19</sup> 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(1).

<sup>20</sup> 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(2).

<sup>21</sup> An ETC's "service area" is set by the designating authority and is the geographic area within which an ETC has universal service obligations and may receive universal service support. 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a). Although section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), requires conformance of a competitive ETC's service area and an incumbent rural telephone company's service area, the Commission has separately forbore from imposing such requirements on RDOF support recipients. See *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126, 10-90, Report and Order, 35 FCC Rcd 686, 728, para. 93-94 (2000).

<sup>22</sup> 21 U.S.C. § 862; 47 CFR § 1.2002(a)-(b).

<sup>23</sup> 47 CFR § 54.202(a).

<sup>24</sup> *Id.* § 54.202(a)(4)-(6).

service quality standards.<sup>25</sup> These waivers are predicated upon the finding that the need for such requirements is obviated by the specific service quality standards applicable to support recipients and specific reporting obligations relating to such standards.<sup>26</sup> Accordingly, petitioners subject to this Order only need demonstrate their ability to meet applicable consumer protection and service quality standards for Lifeline-supported services in Lifeline-only eligible areas.<sup>27</sup>

8. Prior to designating a carrier as an ETC pursuant to section 214(e)(6) of the Act, the Commission must determine whether such designation is in the public interest.<sup>28</sup> When making a public interest determination, the Commission historically has considered the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering.<sup>29</sup> Because, however, designation of long-form applicants is conditioned upon, limited to, and effective upon petitioners' authorization to receive support under the RDOF program, designation in these areas is presumed to serve the public interest.<sup>30</sup> To be ultimately authorized, petitioners will have to complete a competitive bidding process that demonstrates their ability to provide service efficiently in unserved high-cost areas and to complete applications that demonstrate their technical and financial ability to meet their public interest obligations.<sup>31</sup>

#### **D. Petitions for ETC Designation**

9. Each petitioner that is the subject of this Order seeks an ETC designation to become eligible to receive RDOF support.<sup>32</sup> We specify with respect to every petitioner that all such designations will cover all eligible census blocks covered by the award (as published by the Commission on its website) for the state indicated and for which the petitioner is authorized to receive support, regardless of any discrepancies in the description of such areas in individual petitions.<sup>33</sup> An exception is made when the petitioner demonstrates certain Auction 904 areas that are partially covered by a pre-existing ETC

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<sup>25</sup> *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13901, n.71 (extending to Auction 904 long-form applicants the same waivers of 54.202 requirements as provided to Auction 903 long-form applicants under the same rationales); *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6699-6700 (WCB 2019).

<sup>26</sup> *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6699-6700 (WCB 2019); 47 CFR § 54.804; *id.* at § 54.806.

<sup>27</sup> 47 U.S.C. § 214(e)(6); 47 CFR § 54.202; *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13901, n.71. The requirement that a carrier submit a five-year plan is not applicable to petitioners seeking designation solely for the purpose of receiving Lifeline support. 47 CFR § 54.202(a)(1)(ii).

<sup>28</sup> 47 U.S.C. § 214(e)(6); 47 CFR § 54.202(b).

<sup>29</sup> *See, e.g., Virgin Mobile ETC Designation Order in the States of Alabama, Connecticut, Delaware, New Hampshire and the District of Columbia*, WC Docket 09-197, Order, 25 FCC Rcd 17797, 17799, para. 6 (WCB 2010).

<sup>30</sup> Accordingly, only those petitioners that seek designation for areas for which they not eligible for high-cost support need demonstrate that Lifeline-only ETC designations in those areas would serve the public interest.

<sup>31</sup> *Auction 904 Closing Public Notice*, 35 FCC Rcd at 13901, n.71 (extending to Auction 904 long-form applicants the same presumption that designation will serve the public interest under the same rationales justifying the application of such presumption to Auction 903 support recipients); *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6699-6700 (WCB 2019) (explaining the basis for this presumption).

<sup>32</sup> In the Attachments to this Order, the Bureau has identified these petitioners and among them, which petitioners seek a Lifeline-only designation in areas not eligible for RDOF support. *See* Attachments A and B.

<sup>33</sup> *See* Results, Long Form Applicants Spreadsheet at <https://www.fcc.gov/auction/904/round-results>.

state designation or subject to a pending state designation, which areas will be excluded from the Commission's ETC designation.<sup>34</sup> Several petitioners have also included in their descriptions of their service areas, areas not eligible for RDOF support.<sup>35</sup> In these adjacent areas, these petitioners can only receive a Lifeline-only designation.

10. The Bureau has released public notices soliciting comments on each of the petitions that is the subject of this Order.<sup>36</sup> With the exception of a comment submitted by Granite State Telephone Company, Inc. (GST) addressing the petition submitted by New Hampshire Electric Cooperative, Inc. (NHEC), no comments addressing the merits of the subject petitions or the associated ETC designations were filed.<sup>37</sup> Moreover, GST's concerns that NHEC's petition may have included a description of a service area that potentially overlapped with GST's rural study area were resolved in NHEC's supplement to its petition clarifying that it is seeking ETC designation only in areas outside of GST's study area.<sup>38</sup>

### III. DISCUSSION

11. We find that each of the petitioners listed in the Attachments to this order satisfies the Commission's requirements for ETC designation.<sup>39</sup> We therefore designate each petitioner listed in Attachment A as a high-cost ETC in the specified state(s), conditioned upon and limited to the high-cost areas where the Commission authorizes the petitioner to receive RDOF support and effective only upon such authorization. In these areas, petitioners must meet Auction 904 requirements, Lifeline requirements, and other service obligations attendant to their high-cost designations, as specified in the Act and the Commission's rules.<sup>40</sup> In all other areas included in these petitions that are not eligible for high-cost support and where the petitioner has demonstrated its ability to meet Lifeline requirements, we designate the petitioners as Lifeline-only ETCs.<sup>41</sup> In these areas, petitioners must offer Lifeline-supported services to low-income consumers consistent with the requirements of the Act and the Commission's rules and in accordance with all representations and commitments made in their ETC petitions.

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<sup>34</sup> See, e.g., Consolidated Communications of Northern New England Company, LLC (filed Jan. 5, 2021), as amended, Amended and Restated Petition for Eligible Telecommunications Carrier Designation (filed Jan. 12, 2021).

<sup>35</sup> See Attachment B.

<sup>36</sup> *Wireline Competition Bureau Seeks Comment on Rural Digital Opportunity Fund Petitions for Designation as an Eligible Telecommunications Carrier*, Docket No. 09-197, Public Notice, DA 21-515 (WCB rel. May 4, 2021); *Wireline Competition Bureau Seeks Comment on Rural Digital Opportunity Fund Petitions for Designation as an Eligible Telecommunications Carrier*, Docket No. 09-197, Public Notice, DA 21-418 (WCB rel. Apr. 13, 2021); *Wireline Competition Bureau Seeks Comment on Rural Digital Opportunity Fund Petitions for Designation as an Eligible Telecommunications Carrier*, Docket No. 09-197, Public Notice, DA 21-279 (WCB rel. Mar. 8, 2021).

<sup>37</sup> Comments of Granite State Telephone Company, Inc. at 4 (Apr. 7, 2021). NTCA-The Rural Broadband Association filed a comment in which it makes several requests relating to the Commission's process for evaluating ETC petitions filed by RDOF support recipients but does not specifically comment on any individual petition. See NTCA-The Rural Broadband Association, Comment (filed Apr. 7, 2021). Accordingly, we do not address this comment here.

<sup>38</sup> Letter from Paul J. Phillips, Counsel to New Hampshire Electric Cooperative, Inc. to Marlene K. Dortch, Secretary, FCC (filed May 21, 2021) (noting that GST "joins NHEC in this supplemental filing").

<sup>39</sup> We note that several other petitions for ETC designation remain pending before the Bureau.

<sup>40</sup> 47 CFR § 54.202(a)(1)(i); *id.* § 54.101.

<sup>41</sup> We note that in a limited number of cases, we have granted the petitioner's request for a high-cost ETC designation for the RDOF-supported areas but have not yet acted on their request for Lifeline-only ETC designation in certain other areas. These requests for Lifeline ETC designations will be addressed subsequently.

### A. Commission Authority

12. Each petitioner demonstrates that the Commission has the requisite authority to designate it as an ETC pursuant to section 214(e)(6) of the Act. With the exception of Northern Arapaho Tribal Industries, Inc. dba Wind River Internet (Wind River Internet), each petitioner has submitted an affirmative statement of the relevant state authority declining to assert jurisdiction<sup>42</sup> and/or relevant state regulations specifically excluding from state regulatory authority the services offered by the petitioners.<sup>43</sup> As a Tribally owned and operated carrier, Wind River Internet asserts that the Commission has jurisdiction over its designation in accordance with its May 2019 ETC designation order determining that Wyoming lacks jurisdiction to designate Wind River Internet for service on the Wind River Indian Reservation.<sup>44</sup> There have been no apparent changes to federal or state law or the operating authority of Wind River Internet that would otherwise convince us that this determination no longer applies. Further, we note that copies of Wind River's ETC petition were served on the Wyoming Public Services Commission, the Eastern Shoshone Business Council, and the Northern Arapaho Business Council, and that none of these entities has challenged the FCC's authority to designate Wind River in this proceeding.<sup>45</sup> Accordingly, we find that the Bureau, acting under the Commission's delegation of

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<sup>42</sup> See, e.g., Cebridge Telecom WV, LLC dba Suddenlink Communications, WC Docket No. 09-197, at Ex. B (filed Apr. 6, 2021) (Public Service Commission of West Virginia Charleston, Case No. 21-0008-T-PC, Cebridge Telecom WV, LLC dba Suddenlink Commissions, Order (Mar. 5, 2021) (Order issued by the Public Service Commission of West Virginia Charleston dismissing Cebridge petition for ETC designation based on a lack of jurisdiction)); Petition of United Communications, Inc. for Designation as an Eligible Telecommunications Carrier at Ex. B (filed Jan. 6, 2021) (Letter from Kelly Cashman Grams, General Counsel, Tennessee Public Utility Commission, to Terri K. Firestein, Senior Director, CGC Consulting, Counsel for United Communications, Inc. (dated Jan. 5, 2021) (confirming that Tennessee Public Utility Commission does not regulate cellular wireless, internet broadband, or VoIP providers)).

<sup>43</sup> See, e.g., Talkie Communications Inc., Petition for Designation as an Eligible Telecommunications Carrier at 3-4 (filed Jan. 5, 2021) (citing 26 Del. Code Ann. § 202(i)(1) (West 2013) (providing that the Delaware Public Services Commission has no jurisdiction or regulatory authority over VoIP service or IP-enabled service) and Maryland Code Ann., Public Utilities, § 8-602(a) (West 2007) (providing that the Maryland Public Utilities Commission has no jurisdiction over VoIP services); North Alabama Electric Cooperative, Petition for Eligible Telecommunications Carrier Status, WC Docket No. 09-197 (filed Feb. 4, 2020) (citing Ala. Code § 37-2A-4(a) (West 2021), providing that the Alabama Public Service Commission lacks regulatory jurisdiction over broadband service, broadband enabled services, VoIP services, or information services); Mediacom Wireless of North Carolina LLC Petition for Designation as an Eligible Telecommunications Carrier in North Carolina, Petition for Eligible Telecommunications Carrier Designation (filed Mar. 30, 2021) (citing N.C. Gen. Stat. Ann. § 62-2(b1) (West 2008), providing that the North Carolina Public Utilities Commission shall have no jurisdiction over broadband services).

<sup>44</sup> *Telecommunications Carriers Eligible for Universal Service Support et al.*, WC Docket 09-197, 34 FCC Rcd 2934, 2938-39, para. 13 (WCB 2019) (explaining that Wind River Internet is a tribally-owned and operated entity operating on Tribal Lands, that it is governed by the laws, regulations, and authority of the Arapaho Tribe, and accordingly, that it is not subject to Wyoming's regulatory authority to designate ETCs). The Eastern Shoshone Tribe and the Northern Arapaho Tribe each have an undivided, shared interest in the Reservation and inherent Tribal sovereignty over Tribal commercial activities within the Reservation. See *id.*

<sup>45</sup> Northern Arapaho Tribal Industries, Inc. d/b/a Wind River Internet, Petition for Designation Northern Arapaho Tribal Industries, Inc. d/b/a Wind River Internet as an Eligible Telecommunications Carrier for Additional Areas within the Wind River Reservation, WC Docket No. 09-197 (filed Jan. 6, 2021, as amended, Jan. 8, 2021), (Certificate of Service of the Petition (dated January 7, 2021)); see also *Telecommunications Carriers Eligible for Universal Service Support; Standing Rock Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier; Petition of Standing Rock Telecommunications, Inc. to Redefine Rural Service Areas; Petition for Reconsideration of Standing Rock Telecommunications, Inc.'s Designation as an Eligible Telecommunications Carrier on the Standing Rock Sioux Reservation*, WC Docket No. 09-197, Memorandum Opinion and Order on Reconsideration, 26 FCC Rcd 9160, 9163, para. 10 n.27 (2011) ("No party argues that either the North Dakota Commission or the South Dakota Public Utilities Commission has jurisdiction to designate Standing Rock, a Tribally owned, Tribally operated carrier that seeks to serve its own reservation as an ETC").

authority, may designate the petitioners listed in Attachment A as ETCs for purposes of eligibility for RDOF support.

**B. Eligibility Requirements**

13. *Offering the Services Supported by the Universal Service Support Mechanisms.* We find that each of the petitioners establishes through the required certifications and related filings that it will offer the services supported by the federal universal service support mechanisms.<sup>46</sup> Specifically, each petitioner has committed to offering services on a common carrier basis and has specified that their voice service meets the requirements of section 54.101(a) of the Commission's rules.<sup>47</sup>

14. *Compliance with the Service Requirements Applicable to RDOF Support.* We find that each of the petitioners establishes its ability to comply with service requirements applicable to the support that it receives.<sup>48</sup> This determination takes into account that, prior to being authorized to receive RDOF support, the petitioners must certify and demonstrate, as part of their short- and long-form applications, the technical and financial ability to provide voice and broadband services meeting or exceeding Rural Digital Opportunity Fund standards,<sup>49</sup> certify their commitment to meeting relevant public interest obligations,<sup>50</sup> and certify their compliance with all statutory and regulatory requirements for receiving the universal service support or alternatively, certify their acknowledgement that they must be in compliance with these requirements prior to being authorized to receive RDOF support.<sup>51</sup> Moreover, once authorized, the petitioners must satisfy certain reporting obligations to ensure that the support received is being used efficiently and appropriately and that service requirements are being met.<sup>52</sup>

15. *Compliance with Service Requirements Applicable to Lifeline Services.* Each petitioner commits to offering Lifeline discounts to qualifying low-income consumers, consistent with the Commission's rules, in all high-cost areas where it is authorized to receive support.<sup>53</sup> In addition, each petitioner seeking a Lifeline-only designation in Lifeline-only eligible areas specifically commits to meeting Lifeline consumer enforcement and certification standards and describes how it intends to meet such standards.<sup>54</sup> We emphasize that all ETCs receiving Lifeline support must report certain information to the Commission, USAC, and the local regulatory authority, pursuant to section 54.422 of the Commission's rules.<sup>55</sup>

16. *Offering the Supported Services Using a Carrier's Own Facilities.* Each petitioner certifies that it will offer supported services using its own facilities or a combination of its own facilities

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<sup>46</sup> 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.201(d)(1); *see also* Attachment A.

<sup>47</sup> 47 U.S.C. § 214(e)(1), (6); 47 CFR § 54.101(a) (eligible voice telephony service must provide voice grade access to the public switched network or its functional equivalent).

<sup>48</sup> 47 CFR §§54.101(d), 54.202(a)(1)(i).

<sup>49</sup> *Id.* § 54.804(a),(b); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 726, para. 88, 90.

<sup>50</sup> 47 CFR § 54.804(b)(2)(iii); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 726, para. 89.

<sup>51</sup> 47 CFR § 1.21001(b)(6).

<sup>52</sup> *Id.* § 54.806 (providing that RDOF support recipients are subject to 54.313, 54.314, 54.316); *id.* § 54.313 (requiring annual report including certifications as to rates, functionality, and deployment, among other things); *id.* § 54.314 (requiring annual certification stating that all federal high-cost support provided was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended); *id.* § 54.316 (requiring build-out milestone reporting).

<sup>53</sup> *Id.* § 54.400 et seq.

<sup>54</sup> *Id.* § 54.410 (setting forth the Commission's rules on subscriber eligibility determination and certification).

<sup>55</sup> 47 CFR § 54.422; *see also id.* § 54.410.

and resale of another carrier's services.<sup>56</sup> Facilities are the ETC's "own" if the ETC has an exclusive right to use the facilities to provide the supported services or when service is provided by any affiliate within the holding company structure.<sup>57</sup> An ETC may satisfy its obligation to "offer" supported voice service (or its functional equivalent, including VoIP) through a third-party vendor but cannot simply rely on the availability of over-the-top voice options.<sup>58</sup> Instead, the ETC must remain legally responsible, through a managed service solution, that ensures that the service meets consumer protection and service quality standards.<sup>59</sup>

17. *Advertising Supported Services.* Each petitioner commits to advertising the availability of the supported services and related charges using media of general distribution.<sup>60</sup> We emphasize that, as part of this commitment, an ETC must advertise the availability of its services and charges in a manner reasonably designed to reach Lifeline-eligible consumers.<sup>61</sup>

18. *Ability to Remain Functional in Emergency Situations.* Each petitioner states that it can remain functional in emergency situations.<sup>62</sup> Each petitioner states that it has sufficient back-up power to ensure functionality in the designated service area without an external power source, can re-route traffic around damaged facilities, and can manage traffic spikes resulting from emergency situations.<sup>63</sup>

19. *Anti-Drug Abuse Act Certification.* Each petitioner submits a certification that satisfies the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001-1.2003 of the Commission's rules.<sup>64</sup>

20. *Consumer Protection and Service Quality Standards in Lifeline-Only Eligible Areas.* Each petitioner seeking a Lifeline-only designation in Lifeline-only eligible areas commits to abiding by all applicable state and federal consumer protection and service quality standards, including specific obligations under the Act and its implementing rules, in Lifeline-only eligible areas.<sup>65</sup>

21. *Technical and Financial Ability to Offer Lifeline Services in Lifeline-Only Eligible Areas.* Each petitioner seeking a Lifeline-only designation in Lifeline-only eligible areas demonstrates the technical and financial ability to offer Lifeline-supported voice and broadband Internet access services in

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<sup>56</sup> 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.201(d)(1).

<sup>57</sup> *Auction 903 ETC Public Notice*, 33 FCC Rcd at 6698; *see also* 47 U.S.C. § 153(2) (defining an affiliate as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person").

<sup>58</sup> *Id.* at 6699 (citing *Connect America Fund et al.*, WC Docket Nos. 10-90, 14-58, 14-259, Order on Reconsideration, 33 FCC Rcd 1380, 1387-88, para. 20 (2018) (rejecting arguments contending that "because VoIP is provided over broadband networks and over-the-top voice options are available, broadband service providers need only offer broadband as a standalone service," and requiring carriers to "offer VoIP over their broadband network on a standalone basis"); *cf. Phase II Challenge Process Order*, 28 FCC Rcd 7224, n.21 (explaining that a broadband provider would be considered to be providing voice service if it did so through an affiliated competitive local exchange company or "through a managed voice solution obtained from a third party vendor . . . , so long as the broadband provider is the entity responsible for dealing with any customer problems, and it provides quality of service guarantees to end user customers").

<sup>59</sup> *Auction 903 ETC Public Notice*, 33 FCC Rcd at 6699.

<sup>60</sup> 47 U.S.C. § 214(e)(1)(B); 47 CFR § 54.201(d)(2); *see also* Attachment A.

<sup>61</sup> 47 CFR § 54.405.

<sup>62</sup> *See* Attachment A.

<sup>63</sup> *Id.* § 54.202(a)(2).

<sup>64</sup> *Id.* § 1.2002; *see also* Attachment A.

<sup>65</sup> *Id.* § 54.202(a)(3).



Lifeline-only eligible areas.<sup>66</sup> This determination is informed by the technical and financial information filed by the petitioner in its Auction 904 application for the high-cost eligible areas generally contiguous with the Lifeline-only eligible area.<sup>67</sup>

22. *Terms and Conditions of Service Plans in Lifeline-only Eligible Areas.* Each petitioner seeking a Lifeline-only designation in Lifeline-only eligible areas sufficiently describes the terms and conditions of service plans that it will make available to the public in Lifeline-only eligible areas.<sup>68</sup>

### C. Public Interest Analysis

23. We conclude that the petitioners' participation in universal service programs would be in the public interest and would provide numerous benefits to consumers. As noted above, these designations are conditioned upon, limited to, and effective upon petitioners' authorization to receive support under the RDOF program, and if they are ultimately authorized, we presume that the designation will serve the public interest.

24. We further find that granting the petitions to serve additional areas not eligible for RDOF support serves the public interest. These petitioners will offer advanced services to underserved areas at competitive prices.<sup>69</sup> Pursuant to the grant of their Lifeline-only designations, the petitioners commit to offering Lifeline-supported services and to meeting or exceeding Lifeline requirements. Given these commitments and all associated representations made in the petitions, granting the Lifeline-only ETC designations will help ensure increased consumer choice, affordability, and improved quality of service in these areas.

25. Accordingly, based on the information, representations, and certifications in their petitions, we find that the petitioners have met all applicable conditions and prerequisites for ETC designation and that conditionally granting these petitions serves the public interest.

### D. Regulatory Oversight

26. Under section 254(e) of the Act, each petitioner must use universal service support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."<sup>70</sup> Under section 214(e) of the Act, each petitioner must provide supported services throughout the service area for which it receives an ETC designation.<sup>71</sup> When authorized to receive high-cost support, each petitioner must file an annual certification that all federal high-cost support received was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.<sup>72</sup> The Commission conditions future support awarded through the high-cost program on the filing of such certification.<sup>73</sup>

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<sup>66</sup> *Id.* § 54.202(a)(4); *see also* Attachment B.

<sup>67</sup> *Id.* § 54.804(a) (requiring applicants seeking to participate in Auction 904 to submit certifications and supporting information regarding their technical and financial ability to provide service); *id.* § 54.804(b)(2)(ii) (requiring further certifications and information in the long-form application regarding the winning bidders' technical and financial ability to provide service).

<sup>68</sup> *Id.* § 54.202(a)(5), (6); *see also* Attachment B.

<sup>69</sup> *Id.*; *see also* Attachment B.

<sup>70</sup> 47 U.S.C. § 254(e).

<sup>71</sup> *Id.* § 214(e).

<sup>72</sup> 47 CFR § 54.314(b).

<sup>73</sup> *Id.*

27. An ETC receiving Lifeline support uses that support as intended when it reduces the price of its telecommunications services by the amount of the support for the eligible consumer.<sup>74</sup> In addition, the ETC must file annual reports that include, among other things, a certification of compliance with applicable minimum service standards, service quality standards, and consumer protection rules.<sup>75</sup>

28. We find that reliance on petitioners' commitments to meet these and other regulatory requirements in their applications, as well as representations and commitments made in their petitions, is reasonable and consistent with the public interest and the Act. We conclude that fulfillment of these additional reporting requirements will further the Commission's goal of ensuring that petitioners satisfy their obligation under section 214(e) of the Act to provide supported services throughout their respective designated service areas.

29. The Commission may initiate an inquiry on its own motion to examine any ETC's records and documentation to ensure that the universal service support the ETC receives is being used "only for the provision, maintenance, and upgrading of facilities and services" in the areas in which it is designated as an ETC.<sup>76</sup> Petitioners must provide such records and documentation to the Commission and USAC upon request.<sup>77</sup> If a petitioner fails to fulfill the requirements of the Act, the Commission's rules, and the terms of this Order after it begins receiving universal service support, the Commission has authority to revoke the petitioner's ETC designation.<sup>78</sup> The Commission also may assess forfeitures for violations of Commission rules and orders.<sup>79</sup>

30. As the Bureau has previously explained, a carrier that cannot appropriately use universal service support must relinquish its ETC designation pursuant to section 214(e)(4) of the Act and section 54.205 of the Commission's rules.<sup>80</sup> For ETCs designated by the Commission, the ETC must file a notice of relinquishment in WC Docket No. 09-197, Telecommunications Carriers Eligible for Universal Service Support, using the Commission's Electronic Comment Filing System (ECFS). The Bureau will release an order approving the relinquishment if the relinquishing ETC demonstrates that the affected area will continue to be served by at least one ETC.<sup>81</sup> The ETC must then send a copy of its relinquishment notice and a copy of the relinquishment order (within one week of its release) to USAC at [hcorders@usac.org](mailto:hcorders@usac.org). A carrier that intends to discontinue service must first seek authorization to discontinue service under section 63.71 of the Commission's rules.<sup>82</sup> In addition, ETCs seeking to transfer control of their domestic

<sup>74</sup> See *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15105-06, para. 26 (2005).

<sup>75</sup> 47 CFR § 54.422(b)(3); see also *id.* §§ 54.416, 54.422 (requiring an officer of the company to certify that the ETC has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services and that will comply with all federal Lifeline certification procedures).

<sup>76</sup> 47 U.S.C. §§ 220, 403.

<sup>77</sup> 47 CFR § 54.417.

<sup>78</sup> *Id.* § 54.806(b) (providing that RDOF support recipients are subject to the compliance measures, recordkeeping requirements and audit requirements set forth in section 54.320(a)-(c) of the Commission's rules); *id.* § 54.320(c); *Federal-State Joint Board on Universal Service; Western Wireless Corp. Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Declaratory Ruling, 15 FCC Rcd 15168, 15174, para. 15 (2000).

<sup>79</sup> See 47 U.S.C. § 503(b).

<sup>80</sup> 47 U.S.C. § 214(a); 47 CFR § 54.205. See, e.g., *Connect America Phase II Support Authorized for Six Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 12869, 12874 (RBAFT, OEA, WCB 2020) (summarizing ETC obligations relating to relinquishment); *Connect America Phase II Support Authorized for 856 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 4725, 4720-30 (RBAFT, OEA, WCB 2019).

<sup>81</sup> 47 U.S.C. § 214(e)(4).

<sup>82</sup> 47 CFR § 63.71.

authorizations to operate pursuant to section 214 of the Act or to engage in the sale of assets under section 214 (including any authorization to receive RDOF support) must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission's rules governing the procedures for domestic transfer of control/asset applications.<sup>83</sup> Transfers of control and assignments of international section 214 authorizations are separately subject to section 63.24 of the Commission's rules.<sup>84</sup> Except where the Commission has forborne from the application of section 214, this requirement applies to all transfers of control or asset acquisitions involving ETCs.

#### IV. ORDERING CLAUSES

31. Accordingly, IT IS ORDERED, pursuant to the authority contained in section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6), and the authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, that EACH OF THE PETITIONERS SPECIFIED IN ATTACHMENT A TO THIS ORDER IS CONDITIONALLY DESIGNATED AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN ALL CENSUS BLOCKS IN THE SPECIFIED STATES FOR WHICH IT IS ELIGIBLE TO RECEIVE SUPPORT AWARDED THROUGH THE RURAL DIGITAL OPPORTUNITY FUND PHASE I AUCTION (AUCTION 904). These designations are contingent upon the petitioners becoming authorized to receive such support, are limited to those areas where support is authorized, and are effective only upon authorization.

32. IT IS FURTHER ORDERED that, pursuant to the authority contained in section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6), and the authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, that EACH PETITIONER SPECIFIED IN ATTACHMENT B TO THIS ORDER THAT IS SEEKING DESIGNATION IN AREAS NOT ELIGIBLE FOR HIGH-COST SUPPORT IS DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER ELIGIBLE ONLY FOR LIFELINE SUPPORT IN SUCH AREAS, to the extent described in this Order.

33. IT IS FURTHER ORDERED that a copy of this Order SHALL BE TRANSMITTED to the relevant state commissions, the relevant tribal authorities, and to the Universal Service Administrative Company.

34. 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

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<sup>83</sup> 47 U.S.C. § 214; 47 CFR §§ 63.03; 63.04; *Connect America Phase II Support Authorized for Six Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 12869, 12874-75 (RBAFT, OEA, WCB 2020) (summarizing ETC obligations relating to transfers of control); *Connect America Phase II Support Authorized for 856 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 4725, 4730 (RBAFT, OEA, WCB 2020). Regardless of whether an applicant for RDOF support has received ETC designation during the resubmission period, transfers of control constitute major modifications requiring waiver. Absent such waiver, the application may be dismissed. 47 CFR § 1.21001(d)(5) (prohibiting major modifications to an application during a resubmission period, including any changes in the ownership of the applicant that constitute an assignment or transfer of control); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6140-41, para. 182 n.407.

<sup>84</sup> 47 CFR § 63.24.

**ATTACHMENT A**  
**ETC PETITIONS GRANTED FOR AUCTION 904 ELIGIBLE AREAS**

<b>Petitioner Name(s)</b>	<b>Date Filed</b>	<b>State</b>
Broadlife Communications, LLC	1/21/2021	AL
Central Alabama Electric Cooperative	2/4/2021	AL
Coosa Valley Technologies, Inc.	2/4/2021	AL
Covington Electric Cooperative, Inc.	2/4/2021	AL
Joe Wheeler Electric Company	1/28/2021	AL
Mediacom Wireless of Alabama LLC	1/6/2021	AL
North Alabama Electric Cooperative	2/4/2021	AL
Pine Belt RDOF Holdings, L.L.C.	2/10/2021	AL
Point Broadband Fiber Holding, LLC	1/6/2021	AL
Roanoke Telephone Company, Inc.	1/19/2021	AL
Troy Cablevision, Inc.	4/16/2021	AL
Mediacom Wireless of Florida, LLC	1/6/2021	FL
Carolina West Wireless, Inc.	2/17/2021	NC
Mediacom Wireless of North Carolina	3/30/2021	NC
Roanoke Connect Holdings, LLC	3/26/2021	NC
Consolidated Communications of Northern New England Company, LLC	1/5/2021	NH
East Central Vermont Telecommunications District dba EC Fiber	1/6/2021	NH
New Hampshire Electric Cooperative, Inc.	1/4/2021	NH
Castle Cable TV, Inc	3/8/2021	NY

DTC Cable, Inc.	1/6/2021	NY
Heart of the Catskills Communication Inc., dba MTC Cable	1/6/2021	NY
OEConnect, LLC	1/5/2021	NY
Point Broadband Fiber Holding, LLC	1/6/2021	NY
Snake River Solutions, LLC	1/6/2021	OR
Advantage Cellular Systems, Inc.	1/29/2021	TN
Aeneas Communications, LLC	1/19/2021	TN
Cumberland Connect, LLC	12/29/2020	TN
Forked Deer Connect, LLC	1/5/2021	TN
Foursight Communications, LLC d/b/a Trilight	2/10/2021	TN
Gibson Connect, LLC	1/5/2021	TN
HolstonConnect, LLC	12/31/2020	TN
Megawatt Communications, LLC	1/4/2021	TN
Meriwether Lewis Connect, LLC	2/4/2021	TN
Peoples Telephone Company	1/19/2021	TN
Scott County Telephone Cooperative, Inc.	1/29/2021	TN
SVE Connect, LLC	2/4/2021	TN
TEPA Connect, LLC	1/6/2021	TN
Twin Lakes Communications, Inc.	2/12/2021	TN
United Communications, Inc.	1/6/2021	TN
West Kentucky Rural Telephone Cooperative Corporation, Inc.	1/22/2021	TN

West Tennessee Telephone Company, Inc.	1/19/2021	TN
All Points Northern Neck, LLC	12/23/2020	VA
Atlantic Broadband (Delmar), LLC	1/7/2021	VA
BARConnects, LLC	2/25/2021	VA
Central Virginia Services, Inc.	1/6/2021	VA
Empower Broadband Inc.	1/8/2021	VA
Fiberlight of Virginia, LLC	1/5/2021	VA
KINEX Telecom, Inc.	12/28/2020	VA
PGEC Enterprises, LLC	1/5/2021	VA
Point Broadband Fiber Holding, LLC	1/6/2021	VA
Scott County Telephone Cooperative, Inc.	1/29/2021	VA
Cebridge Telecom WV, LLC d/b/a Suddenlink Communications	4/6/2021	WV
Gigabeam Networks, LLC	3/17/2021	WV
Micrologic Inc.	1/4/2021	WV
Shenandoah Cable Television, LLC	3/3/2021	WV
Northern Arapaho Tribal Industries, Inc. d/b/a Wind River Internet	1/6/2021	WY

## ATTACHMENT B

## ETC PETITIONS GRANTED FOR LIFELINE SUPPORT IN AREAS NOT ELIGIBLE FOR HIGH-COST SUPPORT

Petitioner Name(s)	Date Filed	State
Joe Wheeler Electric Company	1/28/2021	AL
Roanoke Connect Holdings, LLC	3/26/2021	NC
OEConnect, LLC	1/5/2021	NY
Aeneas Communications, LLC	1/19/2021	TN
Cumberland Connect, LLC	12/30/2020	TN
Forked Deer Connect, LLC	1/5/2021	TN
Foursight Communications, LLC d/b/a Trilight	2/10/2021	TN
Gibson Connect, LLC	1/5/2021	TN
TEPA Connect, LLC	1/6/2021	TN
Twin Lakes Communications, Inc.	2/12/2021	TN
West Kentucky Rural Telephone Cooperative Corporation, Inc.	1/22/2021	TN
Central Virginia Services, Inc.	1/5/2021	VA
Shenandoah Cable Television, LLC	3/3/2021	WV
Northern Arapaho Tribal Industries, Inc. d/b/a Wind River Internet	1/6/2021	WY