



# PUBLIC NOTICE

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**DOMESTIC 214 APPLICATION AND WAIVERS GRANTED FOR THE  
TRANSFER OF CONNECT AMERICA FUND PHASE II AUCTION SUPPORT  
OBLIGATIONS FROM REDWIRE, INC. TO ATLINK SERVICES, LLC**

**WC Docket Nos. 22-55; 10-90; AU Docket No. 17-182**

**CONDITIONAL LETTER OF CREDIT WAIVER REVOKED FOR REDWIRE, INC.'S  
CONNECT AMERICA FUND PHASE II AUCTION SUPPORT OBLIGATIONS  
NOT BEING TRANSFERRED TO ATLINK SERVICES, LLC**

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

By this Public Notice, the Wireline Competition Bureau (Bureau) grants an application<sup>1</sup> filed by Redwire, Inc. (Redwire) and AtLink Services, LLC (AtLink) (together, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-63.04 of the Federal Communications Commission's (Commission or FCC) rules, requesting consent to transfer Redwire's Connect America Fund (CAF) Phase II Auction (Auction 903) support obligations for a portion of its census blocks in Oklahoma (Assigned Census Blocks)<sup>2</sup> to AtLink.<sup>3</sup>

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<sup>1</sup> See Domestic Section 214 Application of Redwire, Inc., Assignor, and AtLink Services, LLC, Assignee, For Consent for the Assignment of Certain Assets of Redwire, Inc. to AtLink Services, LLC Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 22-55 (filed Jan. 31, 2022), <https://ecfsapi.fcc.gov/file/10131299931816/Redwire%20214%20Application.pdf> (Application). Applicants filed a supplement to their Application on March 9, 2022. Letter from Stephen E. Coran, Counsel to Applicants, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 22-55 (filed Mar. 9, 2022) (Supplement). On March 17, 2022, the Bureau released a public notice seeking comment on the Application and did not receive comments or petitions in opposition. *Domestic Section 214 Application Filed for the Transfer of Certain Authorizations of Redwire, Inc. to AtLink Services, LLC*, WC Docket No. 22-55, Public Notice, DA 22-289 (WCB 2022).

<sup>2</sup> See Application at Exh. 1 (Assigned Census Blocks) and Exh. 2 (Legend and Map).

<sup>3</sup> See 47 U.S.C. § 214; 47 CFR §§ 63.03-04. Applicants explain that the Assigned Census Blocks include a portion of the census blocks for which Redwire was authorized to receive Auction 903 support, and that Redwire would convey the pro rata portion of the support it received for the Assigned Census Blocks to AtLink, and AtLink would be entitled to receive pro rata support going forward. Application at 5. They state that the pro rata portion of both received and future support, including the pro rata portion of Redwire's suspended support, represents approximately 41% of the total Redwire support. *Id.*

In order to permit the Applicants to move forward with this transaction, the Bureau finds good cause to grant two requests filed by the Applicants with respect to the Assigned Census Blocks. First, we grant Redwire's pending December 1, 2021 request filed in WC Docket No. 10-90 and AU Docket No. 17-182 to continue the conditional waiver of the Auction 903 letter of credit requirement for the Assigned Census Blocks *nunc pro tunc* so that Redwire may consummate its agreement with AtLink.<sup>4</sup> Second, because AtLink will begin deployment in the Assigned Census Blocks after the beginning of the support term, the Bureau also finds good cause exists to grant Applicants' requested waiver, filed with the section 214 Application in WC Docket No. 22-55, of the upcoming Auction 903 40% and 60% service milestones for the Assigned Census Blocks.<sup>5</sup>

In addition, consistent with the decision in the *Redwire Second Waiver Order*, the Bureau denies Redwire's December 1, 2021, January 31, 2022, and June 1, 2022 requests to continue the conditional waiver of the letter of credit requirement for the remaining areas covered by Redwire's authorized Auction 903 bids (*i.e.*, those census blocks that are not being transferred to AtLink).<sup>6</sup> As explained below, because Redwire failed to meet the conditions outlined in that decision, its previously granted conditional waiver for those census blocks is revoked, and Redwire must return to the Universal Service Administrative Company (USAC) the Auction 903 support it has already received for those areas within 30 days of the release of this Public Notice.

Pursuant to the *Redwire Second Waiver Order*, AtLink, as the service provider assuming the obligations in the Assigned Census Blocks, must obtain the necessary regulatory approvals, including eligible telecommunications carrier (ETC) approval and any required state approvals, and submit a letter of credit and bankruptcy opinion letter to USAC that meets the Commission's requirements by September 2, 2022.<sup>7</sup> Once AtLink obtains the regulatory approvals and the

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<sup>4</sup> Letter from Stephen E. Coran, Counsel to Redwire, to Kris Anne Monteith, Chief, Wireline Competition Bureau, FCC, AU Docket No. 17-182 et al., at 1-2 (filed Dec. 1, 2021) (Redwire Dec. 2021 Status Report) (citing *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, DA 21-1097 (WCB Sept. 2, 2021) (*Redwire Second Waiver Order*)). As explained more fully below, in 2020, the Bureau, in conjunction with the Rural Broadband Auctions Task Force and the Office of Economics and Analytics, waived the Auction 903 letter of credit requirement for Redwire for 12 months and authorized Redwire to begin receiving Auction 903 support. *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 35 FCC Rcd 5844 (WCB 2020) (*Redwire Waiver Order*); *Connect America Fund Phase II Auction Support Authorized for 169 Winning Bids*, AU Docket No. 17-182 et al., Public Notice, 35 FCC Rcd 5849 (WCB 2020) (*Redwire Authorization Public Notice*). The Bureau then granted Redwire an extension of this waiver for another 12-month period conditioned on Redwire entering into a binding agreement with another service provider within 90 days to assume all of the obligations associated with its Auction 903 support. *Redwire Second Waiver Order*. On the 90<sup>th</sup> day, December 1, 2021, Redwire notified the Bureau that it had not yet met the *Redwire Second Waiver Order* condition and requested a "continuing waiver" in order to enter a binding agreement with another service provider. Redwire Dec. 2021 Status Report at 1-2; *see also* Letter from Stephen E. Coran, Counsel to Redwire, to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, AU Docket No. 17-182 et al., at 1-2 (filed June 1, 2022) (Redwire June 2022 Status Report). On January 31, 2022, Redwire notified the Bureau that it had reached an agreement with AtLink to transfer Redwire's Auction 903 support obligations for the Assigned Census Blocks from Redwire to AtLink. *See* Letter from Stephen E. Coran, Counsel to Redwire, Inc., to Kris Anne Monteith, Chief, Wireline Competition Bureau, FCC, WC Docket No. 10-90 et al., at 1-2 (filed Jan. 31, 2022) (Redwire Jan. 2022 Status Report).

<sup>5</sup> Application at 9-13.

<sup>6</sup> *See* Redwire Jan. 2022 Status Report at 1-2; Redwire June 2022 Status Report at 1-2.

<sup>7</sup> *Redwire Second Waiver Order* at 4, para. 11.

proposed transaction is consummated, and provided that USAC has approved AtLink’s irrevocable letter of credit and bankruptcy opinion letter, Redwire may then transfer the previously disbursed support for these areas to AtLink. The Commission will then instruct USAC to begin making future Auction 903 payments to AtLink.

### **Background**

Redwire, an Oklahoma corporation and ETC, is owned by the Otoe-Missouria Development Authority, Inc., the economic development arm of the federally recognized Otoe-Missouria Tribe of Oklahoma.<sup>8</sup> On June 12, 2020, the Bureau authorized Redwire to receive Auction 903 support for 1,541 census blocks (8,041 locations) in Oklahoma with an assigned support amount over 10 years of \$4,766,845.60.<sup>9</sup> Redwire does not currently provide telecommunications services and has not expended any of the Auction 903 support it has already received to date.<sup>10</sup>

At the time that Redwire was authorized for Auction 903 support, the Bureau, in conjunction with the Rural Broadband Auctions Task Force and the Office of Economics and Analytics, granted a 12-month waiver of the requirement that Redwire obtain a letter of credit prior to being authorized to receive Auction 903 support.<sup>11</sup> After Redwire had received one year of support, the Bureau extended the waiver for an additional year, subject to certain conditions, and suspended Redwire’s further Auction 903 support payments.<sup>12</sup> Specifically, the Bureau required that within 90 days from the release of the *Redwire Second Waiver Order*, i.e., by December 1, 2021, Redwire enter into one or more binding agreements with a service provider(s) that agreed to assume all of the obligations associated with Redwire’s Auction 903 support.<sup>13</sup> The Bureau also required that within this 90-day period, the service provider assuming the obligations “apply to obtain approvals from Oklahoma and the Commission to obtain or expand an Oklahoma ETC designation to cover areas where Redwire is authorized to receive Auction 903 support and to transfer Redwire’s section 214 authorization.”<sup>14</sup> If either of these conditions were not satisfied within the 90-day period, the Bureau explained that “the waiver will be revoked, Redwire must

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<sup>8</sup> Application at 3 (citing Oklahoma Corporation Commission, Cause No. 201900009; Order No. 705772 (Dec. 3, 2019) (designating Redwire as an ETC for the Assigned Census Blocks)).

<sup>9</sup> Application at 3 (citing *Redwire Authorization Public Notice*, 35 FCC Rcd at 5851, 5855) (stating that ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Communications Act of 1934, as amended, or to engage in the sale of assets under section 214 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>10</sup> Application at 3; Letter from Stephen E. Coran, Counsel to Redwire, to Kris Anne Monteith, Chief, Wireline Competition Bureau, FCC, AU Docket No. 17-182 et al., at 2 (filed Mar. 1, 2022) (Redwire Mar. 2022 Status Report).

<sup>11</sup> *Redwire Waiver Order*, 35 FCC Rcd 5844 (finding that “the unprecedented pandemic’s impact on the hospitality industry, which uniquely impacts the Tribe and Redwire . . . has resulted in Redwire’s inability to secure a letter of credit at this time”).

<sup>12</sup> *Redwire Second Waiver Order* at 3-5, paras. 8-15.

<sup>13</sup> *Id.* at 3, para. 10.

<sup>14</sup> *Id.* at 3-4, para. 10.

return the Auction 903 support it has already received,” and Redwire could be subject to additional penalties.<sup>15</sup>

Moreover, the Bureau required that if Redwire did find a service provider(s) to assume its Auction 903 support obligations, that within one year from release of the *Redwire Second Waiver Order*, i.e., by September 2, 2022, the service provider(s) obtain all of the necessary regulatory approvals, including ETC and section 214 transactional approvals, all required state approvals,<sup>16</sup> and submit an irrevocable letter of credit and bankruptcy opinion letter to USAC that meets the Commission’s requirements.<sup>17</sup> If these conditions were met, the Bureau would then instruct USAC to resume Auction 903 payments, including the withheld support, to the acquiring service provider.<sup>18</sup> Additionally, the Auction 903 support that was disbursed to Redwire was not permitted to be transferred to and spent by the acquiring service provider until all regulatory approvals had been obtained and the transaction consummated.<sup>19</sup>

In a letter dated December 1, 2021, Redwire notified the Bureau that although it had not yet entered into a binding agreement to transfer its Auction 903 support to another party, it expected to do so within the next 60 days and would file the required applications with the FCC and the Oklahoma Corporation Commission within 30 days after that; it therefore requested a “continuing waiver” of the letter of credit requirement that the Bureau conditionally granted in the *Redwire Second Waiver Order*.<sup>20</sup> On January 31, 2022, Redwire notified the Bureau that it had entered into a binding agreement with AtLink for the Assigned Census Blocks, that AtLink had filed an ETC application with the Oklahoma Corporation Commission for the Assigned Census Blocks, and that Redwire and AtLink filed a section 214 transfer of control application with the Commission.<sup>21</sup> Redwire also sought a “continuing waiver” with respect to its remaining Auction 903 areas that would not be transferred as part of the proposed section 214 transaction.<sup>22</sup> On March 1, 2022, Redwire explained that it still had not entered into a binding agreement for its remaining Auction 903 census blocks (i.e., those not being transferred to AtLink) and reiterated its request for a “continuing waiver” for these areas.<sup>23</sup>

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<sup>15</sup> *Id.* at 4, para. 10. Redwire would also no longer have the obligation to serve the areas. *Id.*

<sup>16</sup> *Id.* at 4, para. 11.

<sup>17</sup> *Id.* See also 47 CFR § 54.315(c) (describing the letter of credit and bankruptcy opinion letter requirements).

<sup>18</sup> *Redwire Second Waiver Order* at 4, para. 11. The Bureau required Redwire to submit quarterly reports describing progress in meeting the waiver conditions. *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Redwire Dec. 2021 Status Report at 1-2. On January 31, 2022, Redwire filed for approval with the Oklahoma Corporation Commission to relinquish its Oklahoma ETC designation for the Assigned Census Blocks and for AtLink to expand its ETC designation to cover the Assigned Census Blocks. Redwire Jan. 2022 Status Report at 2.

<sup>21</sup> Redwire Jan. 2022 Status Report at 1-2.

<sup>22</sup> *Id.*

<sup>23</sup> Redwire Mar. 2022 Status Report at 1-2.

AtLink, an Oklahoma limited liability company, is an Internet service provider and an ETC in Oklahoma.<sup>24</sup> AtLink currently serves “more than 11,000 Oklahomans in rural communities and urban areas throughout the state using fixed wireless and fiber-to-the-home technologies.”<sup>25</sup> During Auction 903, AtLink won the rights to service 12,501 locations in Oklahoma.<sup>26</sup> Samuel T. Curtis (12.53%), a U.S. citizen, and the Hinton C A T V Company, Inc. (Hinton C A T V) (54.39%) and Communications Equipment Corporation (33.08%), both Oklahoma corporations, own AtLink.<sup>27</sup>

Pursuant to the terms of the proposed transaction, AtLink will acquire and assume Redwire’s CAF support and obligations for the Assigned Census Blocks.<sup>28</sup> Redwire has agreed to assign its CAF support and obligations in the Assigned Census Blocks to AtLink.<sup>29</sup> The Applicants also request a waiver of the 40% and 60% service milestones to give AtLink additional time to deploy service in the Assigned Census Blocks.<sup>30</sup> According to the Applicants, the Bureau’s grant of the requested waiver is a condition to the consummation of the proposed transaction.<sup>31</sup> After consummation of the proposed transaction, in the Assigned Census Blocks, “AtLink will undertake the deployment of the CAF-supported network and integrate such activities and operations into its own ongoing operations and its CAF deployment.”<sup>32</sup> AtLink “commits to meeting” the 80% and 100% Auction 903 service milestones for the Assigned Census Blocks as specified in the *Redwire Authorization Public Notice*.<sup>33</sup>

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<sup>24</sup> Application at 3 (citing Oklahoma Corporation Commission, Cause No. 201800107, Order No. 690248 (Jan. 24, 2019) (designating AtLink as an ETC)).

<sup>25</sup> Application at 3-4.

<sup>26</sup> *Id.* at 4. See *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Red 5966, Attach. A (Authorized Long Form Applicants and Winning Bids) (WCB/OEA 2019). AtLink’s assigned CAF II support amount over 10 years is \$4,762,674.20. Application at 4. On January 27, 2022, the Bureau granted the domestic 214 application to transfer Cherokee Telephone Company’s Auction 903 obligations and support for additional census blocks in Oklahoma to AtLink. *Domestic Section 214 Application Granted for the Transfer of Certain Authorizations of Cherokee Telephone Company to AtLink Services, LLC*, WC Docket No. 21-423, Public Notice, DA 22-90 (WCB 2022) (*Cherokee Approval Public Notice*).

<sup>27</sup> Application at 14-15. Applicants list four U.S. trusts, and their beneficiaries, each a U.S. citizen, which hold interests in Hinton C A T V, as well as four shareholders of Communications Equipment Corporation, each also a U.S. citizen. *Id.* at 15. Applicants state that Hinton C A T V holds a 25% interest in Terral Telephone Company, a rural incumbent local exchange carrier serving a single exchange in Terral, Oklahoma. Supplement at 2.

<sup>28</sup> Application at 4; Supplement at 1.

<sup>29</sup> Application at 5.

<sup>30</sup> *Id.* at 9-13.

<sup>31</sup> *Id.* at 5.

<sup>32</sup> *Id.* at 6.

<sup>33</sup> *Id.* at 8.

## Discussion

### A. Grant of the Domestic Section 214 Application

We find, upon consideration of the record, that grant of the Application will serve the public interest, convenience, and necessity.<sup>34</sup> To make this determination under Commission precedent, we consider whether the proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.<sup>35</sup> We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.<sup>36</sup> The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.<sup>37</sup>

We find that there are no potential public interest harms identified in the record, and no commenter has raised any potential harms. First, the proposed transaction likely will not adversely affect or reduce competition as Redwire is not currently providing services to any customers and does not have facilities in the CAF-supported areas.<sup>38</sup> Applicants state that, as proposed, “there will be no reduction in competitors in Redwire’s CAF-supported areas, there will be no negative impact on competition in the communications market anywhere in the United States.”<sup>39</sup> Further, Applicants state that the proposed transaction will not result in any harm to existing customers.<sup>40</sup> There is nothing in the record that would cause us to dispute these assertions.

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<sup>34</sup> 47 U.S.C. § 214(a); 47 CFR § 63.03; *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Order, 36 FCC Rcd 9384, para. 30 (WCB 2021).

<sup>35</sup> See, e.g., *Application of Verizon Communications Inc. and América Móvil S.A.B. de C.V. for Consent to Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112; IBFS File No. ITC-T/C-20200930-00173, Memorandum Opinion and Order, FCC 21-121, at para. 21 (rel. Nov. 22, 2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended*, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and subsidiaries, debtors-in-possession), Assignors, to Time Warner Cable Inc. (subsidiaries), Assignees; Adelphia Communications Corporation, (and subsidiaries, debtors-in-possession), Assignors and Transferors et al.*, MB Docket No. 05-192, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8219-21, paras. 27-28 (2006) (*Adelphia-TWC Order*)).

<sup>36</sup> See *Verizon-TracFone Order* at para. 21 (citing *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9140, para. 18 (2015) (*AT&T-DIRECTV Order*) (further internal citations omitted)).

<sup>37</sup> See *Verizon-TracFone Order* at para. 21 (citing *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 18; *Adelphia-TWC Order*, 21 FCC Rcd at 8217, para. 23; *Application of EchoStar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and EchoStar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002) (*EchoStar-DIRECTV HDO*) (further internal citations omitted)).

<sup>38</sup> Application at 2.

<sup>39</sup> *Id.* at 9.

<sup>40</sup> *Id.* at 6, 9.

Second, AtLink certifies that, with the exception of the 40% and 60% service milestones waiver request discussed below, it will meet all obligations associated with the receipt of CAF funding in the Assigned Census Blocks,<sup>41</sup> and we expect that the proposed transaction will not negatively impact these obligations, including the obligation to deploy to 100% of the required locations by the end of 2025. Applicants explain that “Redwire has continuously but unsuccessfully attempted to obtain a letter of credit for its CAF obligations from the Bank of Oklahoma, and its bank covenants prevent Redwire from obtaining a letter of credit from a bank other than the Bank of Oklahoma.”<sup>42</sup> Applicants state that “[w]ithout AtLink to acquire the CAF obligations in the Assigned Census Blocks, it is likely that locations in the Assigned Census Blocks would remain unserved.”<sup>43</sup> Notably, the Bureau has already found that AtLink is qualified to receive CAF funding in its own areas located adjacent to or near the Assigned Census Blocks, and AtLink maintains that it expects to fully meet its existing CAF obligations in these areas.<sup>44</sup> Moreover, AtLink confirmed that it “does not contemplate making any changes to Redwire’s buildout plans for the CAF census blocks being transferred,”<sup>45</sup> Applicants have confirmed that following consummation of the proposed transaction, AtLink will continue to have the necessary managerial and operational expertise to meet the additional CAF commitments it acquires from Redwire.<sup>46</sup> They further state that the proposed transaction will not result in AtLink assuming additional debt that could compromise its support obligations in either its existing CAF deployments or the deployment in the Assigned Census Blocks.<sup>47</sup> In addition, AtLink will be subject to ongoing oversight and must comply with annual reporting and certification requirements. Therefore, we expect no harm to existing customers to result from the proposed transaction.

We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.<sup>48</sup> Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.<sup>49</sup> Where potential harms appear unlikely, as is the case with the Application before us here, the Commission accepts a lesser degree of magnitude and likelihood than when harms are present.<sup>50</sup>

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<sup>41</sup> Supplement at 1 (Certification of Samuel T. Curtis, AtLink President & Manager).

<sup>42</sup> Application at 8; *see Redwire Waiver Order*, 35 FCC Rcd at 5845-46 (granting, in part, Redwire’s first waiver petition for a letter of credit for the first twelve months of its support term); *Redwire Second Waiver Order* at 2-3, paras. 5-6.

<sup>43</sup> Application at 8.

<sup>44</sup> *See Cherokee Approval Public Notice* at 4-5; Application at 4, 7-8 (stating that “AtLink has expended CAF support funds in connection with deployment in its CAF-supported area, and expects to meet its upcoming 40 percent buildout milestone well ahead of the December 31, 2022 milestone deadline.”).

<sup>45</sup> Supplement at 1.

<sup>46</sup> *See* Application at 7; Supplement at Attachs. (Certification of Matthew Larsen).

<sup>47</sup> Application at 9. AtLink acknowledges that it will need to submit and have approved by USAC an irrevocable letter of credit and bankruptcy opinion letter for the Assigned Census Blocks. *Id.* at 6.

<sup>48</sup> *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, para. 273-74.

<sup>49</sup> *See id.* at 9237-38, paras. 275-76.

<sup>50</sup> *See id.*

The Commission has specified that ensuring consumers receive new or additional services is an important public interest benefit,<sup>51</sup> and accelerating private sector deployment of advanced services is one of the aims of the Act.<sup>52</sup> Applicants “anticipate that with the financial and human resources and operational efficiencies AtLink will provide, consumers will be able to receive CAF services in the Assigned Census Blocks with much greater certainty than Redwire.”<sup>53</sup> Applicants state that “because Redwire’s CAF areas are adjacent to or nearby AtLink’s existing operations and AtLink’s existing CAF-supported areas, AtLink can achieve economies of scale and leverage its labor force, infrastructure and operational capabilities to rapidly and cost-effectively build out the Redwire CAF areas as it expands its broadband operations.”<sup>54</sup> Indeed, AtLink states that it “is ahead of schedule on its own CAF deployment and can absorb Redwire’s obligations to deploy voice and broadband service to 80% of the locations in the Assigned Census blocks by December 31, 2024 and 100% of the locations in the Assigned Census Blocks by December 31, 2025.”<sup>55</sup>

Based on the record of this proceeding, we find it likely that the proposed transaction will result in some public interest benefits, including increased efficiencies for AtLink to expand service offerings more quickly and better compete. Considering that the proposed transaction is likely to yield some benefits and cause no apparent potential harms, we find, on balance, that the proposed transaction serves the public interest.

**B. Grant of Redwire’s December 1, 2021 Continuing Waiver Request for the Assigned Census Blocks**

With respect to the Assigned Census Blocks, we find good cause exists to grant Redwire’s December 1, 2021 request for a “continuing waiver” of the letter of credit requirement that the Bureau conditionally granted in the *Redwire Second Waiver Order*.<sup>56</sup> As described above, Redwire was required to meet certain conditions by December 1, 2021, or its waiver would be revoked, Redwire would be required to return the Auction 903 support it already received, and Redwire could be subject to additional penalties.<sup>57</sup>

Generally, the Commission’s rules may be waived for good cause shown.<sup>58</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>59</sup> Waiver of the Commission’s rules is therefore

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<sup>51</sup> See, e.g., *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

<sup>52</sup> See *Verizon-TracFone Order* at para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Preamble, Pub. L. No. 104-104, 110 Stat. 56 (1996) (one purpose of the Act is to “accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services”)).

<sup>53</sup> Application at 8.

<sup>54</sup> *Id.* at 8.

<sup>55</sup> *Id.* at 16.

<sup>56</sup> Redwire Dec. 2021 Status Report at 2.

<sup>57</sup> *Redwire Second Waiver Order* at 4, para 10.

<sup>58</sup> 47 CFR § 1.3.

<sup>59</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>60</sup>

We continue to find that the special circumstances identified in the *Redwire Second Waiver Order*, including Redwire's inability to obtain a letter of credit despite its good faith efforts, warrant a grant of a continuing waiver for the limited purpose of allowing the Applicants to proceed with the proposed transaction.<sup>61</sup> In the initial *Redwire Waiver Order*, the Bureau found that "the unparalleled economic crisis diminishing the Tribe's livelihood presents special circumstances for this Tribe, making it impossible for Redwire to obtain a letter of credit for the first year of its term of support."<sup>62</sup> Subsequently, in the *Redwire Second Waiver Order*, the Bureau found that these conditions persisted.<sup>63</sup> In their Application, the Applicants explain that Redwire "has continuously but unsuccessfully attempted to obtain a letter of credit for its [Auction 903] obligations from the Bank of Oklahoma, and its bank covenants prevent Redwire from obtaining a letter of credit from a bank other than the Bank of Oklahoma."<sup>64</sup> There is nothing in the record that suggests these conditions have changed.

Moreover, we find that it serves the public interest to grant the waiver in these limited circumstances for all of the reasons we articulated above regarding the transfer of the section 214 authorization. AtLink has committed to take on Redwire's Auction 903 obligations in the Assigned Census Blocks and to serve 100% of the required locations by the 2025 deadline, and absent this waiver, it is likely that the locations in the Assigned Census Blocks would remain unserved.<sup>65</sup> Accordingly, with respect to the Assigned Census Blocks, we find good cause to continue the conditional waiver granted in the *Redwire Second Waiver Order nunc pro tunc* so that Redwire and Atlink can consummate their transaction for the Assigned Census Blocks.

We emphasize that all other conditions of the *Redwire Second Waiver Order* remain in effect, including the requirement that AtLink obtain the necessary regulatory approvals, including ETC designation from the Oklahoma Corporation Commission for the Assigned Census Blocks, and submit an irrevocable letter of credit and bankruptcy opinion letter to USAC meeting the Commission's requirements by September 2, 2022 and prior to receiving any previously disbursed or future Auction 903 support for the Assigned Census Blocks.<sup>66</sup>

### **C. Grant of Service Milestones Waiver Request in the Assigned Census Blocks**

We also find good cause to grant the Applicants' request for waiver of Redwire's current requirement to "deploy service to 40 percent of locations in its CAF-supported census blocks by the end of this year and to 60 percent of its CAF-supported census [blocks] by December 31, 2023."<sup>67</sup>

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<sup>60</sup> *Id.*

<sup>61</sup> *Redwire Second Waiver Order* at 4, para. 12.

<sup>62</sup> *Redwire Waiver Order*, 35 FCC Rcd at 5845-46, paras. 7-8.

<sup>63</sup> *Redwire Second Waiver Order* at 4, para. 12.

<sup>64</sup> Application at 8. *See also id.* at 2 (explaining that Redwire "has no means to obtain its letter of credit, leaving it with the sole alternative of assigning its [Auction 903] obligations to third parties").

<sup>65</sup> *Redwire Second Waiver Order* at 4, para. 11 (requiring that the acquiring service provider obtain ETC and section 214 transactional approvals, in addition to any required state approvals).

<sup>66</sup> *Id.*

Applicants state that, post-consummation of the proposed transaction, AtLink would have less than a year to meet the 40% service milestone and less than two years to meet the 60% service milestone, and would not be able to meet those milestones.<sup>68</sup> Applicants further state that a grant of the waiver is “a condition to consummation of AtLink’s acquisition and assumption of Redwire’s CAF obligations in the Assigned Census Blocks.”<sup>69</sup> Applicants assert that, absent a grant of the waiver, Oklahomans, including Tribal members, would continue to lack access to broadband services, contrary to the Commission’s goals.<sup>70</sup> Applicants maintain that granting the waiver is in the public interest because AtLink: 1) has the “technical, managerial and operational expertise” to construct the network; 2) has a track record of meeting its own CAF obligations, and 3) will “meet the ultimate requirement to serve 100 percent of the locations by the end of 2025” that is placed on all Auction 903 support recipients.<sup>71</sup>

We conclude that special circumstances warrant waiver of the 40% and 60% Auction 903 service milestones for the Assigned Census Blocks. While the Commission has indicated that it does “not expect to routinely grant waiver requests” of service milestones, it stated that “unique situations” could be addressed “through the waiver process where specific circumstances justify additional flexibility.”<sup>72</sup> Given the timing of this transaction, AtLink will have less than one year to meet the 40% service milestone and less than two years to meet the 60% service milestone.<sup>73</sup> Although AtLink explains that it will be able to take advantage of efficiencies to quickly deploy service due to the proximity of the areas at issue to its existing network and its familiarity with the Auction 903 requirements,<sup>74</sup> it indicated that it still needs more time to deploy service to the number of locations required by the 40% and 60% service milestones.<sup>75</sup>

We find that this situation presents special circumstances because AtLink will have significantly less time to plan and deploy its services than all other Auction 903 recipients. Pursuant to the conditions of the *Redwire Second Waiver Order*, Auction 903 support that has already been

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<sup>67</sup> Application at 9; *Redwire Authorization Public Notice*, 35 FCC Rcd at 5851. The Commission adopted service milestones that require each Auction 903 support recipient to offer service to a portion of the number of locations associated with the eligible census blocks included in its authorized winning bids in a state. 47 CFR § 54.310(c); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5964, paras. 40-41 (2016) (*Phase II Auction Order*). Specifically, all Auction 903 support recipients are required to build out to 40% of the requisite number of locations in a state by December 31, 2022; 60% by December 31, 2023; 80% by December 31, 2024; and 100% by December 31, 2025. *Phase II Auction Order*, 31 FCC Rcd at 5964, paras. 40-41; *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 35 FCC Rcd 109 (WCB 2020).

<sup>68</sup> Application at 10.

<sup>69</sup> *Id.* at 11.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 13.

<sup>72</sup> *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15660, para. 40 & n.93 (2014).

<sup>73</sup> Application at 10.

<sup>74</sup> *Id.* at 12-13.

<sup>75</sup> *Id.* at 10-13.

disbursed for the Assigned Census Blocks cannot be spent, and all future Auction 903 support payments for the Assigned Census Blocks have been suspended until AtLink obtains all the necessary regulatory approvals.<sup>76</sup> Thus, Redwire, a Tribal entity subject to unique banking covenants that prevented it from obtaining a letter of credit,<sup>77</sup> could not use the Auction 903 support that had already been disbursed to make progress on meeting the service milestones while it was still searching for a provider that would assume its Auction 903 obligations.<sup>78</sup> AtLink is similarly unable to use any Auction 903 support for the Assigned Census Blocks until it obtains all the necessary regulatory approvals. Moreover, unlike AtLink, all other Auction 903 support recipients have had the benefit of time to plan and start their deployments while bidding in the auction and completing the long-form application process, along with having several years post-authorization before having to meet the first service milestone.

We find that it serves the public interest to waive the 40% and 60% service milestones. The Applicants explain that a waiver of these service milestones is a condition to this transaction, and we found that this transaction will serve the public interest.<sup>79</sup> Moreover, AtLink committed to meet the 80% and 100% service milestones that apply to all other Auction 903 support recipients. While service may be delayed initially in some areas due to this waiver, ultimately all the requisite locations will be offered the required services by the final service milestone that applies to all Auction 903 support recipients. On balance, we conclude that the benefit of having a qualified service provider commit to deploy service efficiently to all the required locations in these areas outweighs the disadvantage of the initial delay in service to some locations, particularly given the risk that these areas may remain unserved for an even longer period of time if our failure to grant a waiver were to jeopardize the transaction between Redwire and AtLink.

We direct AtLink to keep the Bureau apprised of its progress in meeting the 80% service milestone for the Assigned Census Blocks. Specifically, within six months of the release of this Public Notice and on every March 1<sup>st</sup> thereafter, AtLink must file a report in AU Docket No. 17-182 detailing its efforts to meet the 80% service milestone until it certifies that the 80% service milestone has been met for the Assigned Census Blocks. AtLink will not have to meet a service milestone in these areas until December 31, 2024, and we conclude that it serves the public interest to require AtLink to provide an annual update on its progress until the 80% service milestone has been met so we have some visibility into how the Auction 903 support is being spent. As stewards of the public's funding, it is our responsibility to implement safeguards to ensure that Auction 903 funds are being used for their intended purpose.

#### **D. Denial of Redwire's December 1, 2021, January 31, 2022, and June 1, 2022 Continuing**

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<sup>76</sup> *Redwire Second Waiver Order* at 4, para. 11.

<sup>77</sup> *Id.* at 2, para. 5 (explaining that during Redwire's first year of support, the Tribe continued to face financial hardship because of the ongoing pandemic, the Bank of Oklahoma refused to issue it a letter of credit, and that due to the Tribe's covenants with the Bank of Oklahoma, it was prevented from obtaining a letter of credit from another bank).

<sup>78</sup> Because the Bureau prohibited Redwire from expending the CAF support necessary to begin meeting its buildout milestones, this circumstance differs from situations in which the Commission may deny a transferring party's request to extend or waive mandated construction milestones in order to enable it to assign its license to a third party. See *Wireless Telecommunications Bureau Reminds Wireless Licensees of Construction Obligations*, Public Notice, 32 FCC Rcd 4802, 4802-05 (WTB 2017); 47 CFR § 1.946(e)(3) (outlining enforcement of wireless construction requirements and the consideration of extension requests).

<sup>79</sup> Application at 11.

**Waiver Requests for Its Remaining Auction 903 Census Blocks and Revocation of the Conditional Waiver for the Remaining Census Blocks**

With respect to the areas covered by Redwire’s Auction 903 authorized bids that are not the subject of the proposed transaction, we deny Redwire’s request for a “continuing waiver” of the conditional waiver granted in the *Redwire Second Waiver Order*. Consistent with the *Redwire Second Waiver Order*, because Redwire failed to meet the conditions outlined in that decision, its conditional waiver for the remaining areas covered by its winning bids is revoked, and Redwire must return the Auction 903 support received for those areas to USAC within 30 days of the release of this Public Notice.<sup>80</sup> Redwire is well beyond the time period that was allotted in the *Redwire Second Waiver Order* to enter into an agreement with another service provider for the remaining areas, and it has not demonstrated that such an agreement is imminent.

Moreover, Redwire has failed to demonstrate that it serves the public interest to provide it more time to enter into an agreement with another service provider or providers for the remaining areas. As explained in the *Redwire Second Waiver Order*, the Commission imposed firm deadlines so it could “act quickly to recover support and make these areas eligible for other funding opportunities” if the conditions were not met.<sup>81</sup> Although Redwire contends in its March 2022 Status Report that it is “continuing to explore opportunities,”<sup>82</sup> there has already been a significant delay in entering into such an agreement.<sup>83</sup> Moreover, there is no guarantee that Redwire will successfully enter into such an agreement. By denying Redwire’s request, we will open these areas up to eligibility for future funding programs to the extent they remain unserved. Redwire asserts that currently there “are no federal or state broadband funding programs in place” that would offer support these areas.<sup>84</sup> However, we are not convinced that we should continue to tie up these areas and the funding that has already been disbursed for these areas for an indefinite period of time. Accordingly, insofar as Redwire failed to obtain a letter of credit for these areas, it failed to comply with section 54.320(c) of the Commission’s rules,<sup>85</sup> and consistent with the terms of the conditional waiver it was granted, it must return to USAC all of the Auction 903 support it has received for these areas within 30 days of the release of this Public Notice. We also refer the matter to Enforcement Bureau to determine if Redwire should be subject to additional penalties.<sup>86</sup> Should

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<sup>80</sup> Redwire Jan. 2022 Status Report at 1-2; Redwire Mar. 2022 Status Report at 1-2.

<sup>81</sup> *Second Redwire Waiver Order* at 5, para. 14.

<sup>82</sup> Redwire Mar. 2022 Status Report at 1. *See also* Redwire Jan. 2022 Status Report at 2 (stating that Redwire was “confident” it would “enter into a second binding agreement” with a service provider “by the time its next quarterly status report” was due in March).

<sup>83</sup> *See* Redwire June 2022 Status Report at 1-2 (indicating that as of June 1, 2022 Redwire has not entered into agreements with any other service providers to assume its Auction 903 support obligations for the remaining areas).

<sup>84</sup> Redwire Mar. 2022 Status Report at 2.

<sup>85</sup> 47 CFR § 54.320(c).

<sup>86</sup> *Id.*; *see Redwire Second Waiver Order* at 4, para. 10. As explained in the *Redwire Second Waiver Order*, the grant of the waiver was conditioned on the fact that none of the disbursed support could be spent until the necessary regulatory approvals had been obtained. The Bureau therefore concluded that because Redwire had not spent any of the funds distributed to it and because the Bureau had “suspended further Auction 903 payments and would not resume payments until and acceptable letter of credit” was in place, the Commission

Redwire fail to return the support within 30 days, we emphasize that it may be subject to additional penalties.<sup>87</sup>

### **Conclusion**

Pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants the Application discussed in this Public Notice under which the Auction 903 obligations and support for Redwire's Assigned Census Blocks in Oklahoma may be transferred to AtLink, after AtLink's compliance with all applicable regulatory obligations and the conditions adopted in the *Redwire Second Waiver Order*,<sup>88</sup> and subject to the requirements in this Public Notice and AtLink's compliance with all applicable Auction 903 obligations.

Further, pursuant to sections 1, 4(i), 5(c), 201, 202, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, 202, and 254, and the authority delegated in sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, the Bureau hereby grants the requested waiver of the 40% and 60% service milestones filed by the Applicants, grants the request to continue the conditional waiver granted in the *Redwire Second Waiver Order nunc pro tunc* so that Redwire and Atlink can consummate their transaction for the Assigned Census Blocks, and denies the same requests to continue the waiver for the remaining areas covered by Redwire's Auction 903 authorized bids, as discussed herein. Consistent with the terms of the *Redwire Second Waiver Order*, Redwire has 30 days from the release of this Public Notice to return to USAC all of the Auction 903 support it has received for the remaining support areas.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grants herein are effective upon release of this Public Notice.<sup>89</sup> Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

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had mitigated the financial risk of being able to recover all of the support distributed. *Redwire Second Waiver Order* at 5, paras. 14-15.

<sup>87</sup> 47 CFR § 54.320(c).

<sup>88</sup> See *Redwire Authorization Public Notice*, 35 FCC Rcd at 5850-55 (listing obligations for authorized Auction 903 recipients); *Redwire Second Waiver Order* at 3-5, paras. 8-15.

<sup>89</sup> We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 22-55 that the proposed transaction has closed with the consummation date, and also provide a courtesy copy of the notice to [hcinfo@usac.org](mailto:hcinfo@usac.org).