

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58

ORDER

Adopted: June 28, 2022

Released: June 28, 2022

By the Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau) amends section 54.313(f)(2)(i) of the Commission’s rules to align our high-cost filing requirements with changes to the Rural Utilities Service (RUS) rules. Specifically, we require companies subject to 54.313(f)(2)(i), high-cost support recipients that are privately held rate-of-return carriers and recipients of loans from the Rural Utilities Service (RUS), to submit the functional equivalent of the Operating Report for Telecommunications Borrowers (Borrowers Report) when filing the FCC Form 481 if they no longer file the Borrowers Report with RUS.¹ This rule change will be effective 30 days after publication in the Federal Register, which will be after the deadline for the upcoming FCC Form 481 covering calendar year 2021. Consequently, the Bureau also waives, on its own motion, section 54.313(f)(2)(i) of the Commission’s rules,² so that high-cost support recipients subject to the requirement may submit the functional equivalent of the Borrowers Report for the FCC Form 481 filing covering the calendar year 2021.³

2. Section 54.313(f)(2)(i) requires in relevant part that privately held rate-of-return “recipients of loans” from RUS to “provide copies of their RUS Operating Report for Telecommunications Borrowers as filed with the RUS.”⁴ Certain RUS loan recipients are no longer required to submit the Borrowers Report. Rather, as part of RUS’s efforts to streamline reporting for its borrowers, certain RUS loan recipients must now submit the information previously collected in the Borrowers Report, in the RUS Reporting & Compliance (R&C) system. The R&C system collects, in part, a Financial Report and a System Data Report, which together collect the functional equivalent of the information that had been submitted in the Borrowers Report.⁵ We therefore find it necessary to modify

¹ 47 CFR § 54.313(f)(2)(i).

² *Id.*

³ See *Wireline Competition Bureau Announces Availability of FCC Form 481 on the Universal Service Administrative Company’s One Portal*, WC Docket No. 10-90, Public Notice, DA 22-352 (WCB 2022) (granting a limited waiver of the July 1, 2022 deadline—new filing deadline will be announced in a subsequent public notice).

⁴ 47 CFR § 54.313(f)(2)(i).

⁵ See Rural Development Reporting & Compliance User Guide, Section 3.2.1, 3.2.3, <https://www.usda.gov/sites/default/files/documents/rural-development-reporting-compliance-user-guide.pdf> (R&C System User Guide) (“The Reporting & Compliance (R&C) system is a reporting system that streamlines the reporting process for entities receiving financial assistance from the Rural Utilities Service.”). Bureau staff coordinated with RUS staff on how to address RUS’s reporting changes for the purposes of the FCC Form 481 filing.

the Commission's reporting rule to require any carriers that submit the "functional equivalent" of the Borrowers Report to RUS to submit the same as part of their Form 481 filings.⁶

3. Generally, the Commission's rules may be waived for good cause shown.⁷ Since certain RUS loan recipients no longer submit the Borrowers Report but do submit the same information in the R&C system and the rule change we adopt herein will not be effective until after the deadline for the next FCC Form 481, we find there are special circumstances warranting grant of a limited waiver of the requirement in 54.313(f)(2)(i). With this waiver, the Bureau allows RUS loan recipients to submit, as part of their upcoming FCC Form 481 filing, the functional equivalent of the Borrowers Report filed with RUS. Moreover, we find that this waiver is in the public interest because it will reduce the burden on RUS loan recipients while ensuring that we continue to receive all of the same information from them.⁸

4. ACCORDINGLY, IT IS ORDERED that, pursuant to Sections 4(i), 4(j), 254, of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 254, and sections 0.91 and 0.291, of the Commission's rules, 47 CFR §§ 0.91, 0.291, that the rule set forth in the attached Appendix IS ADOPTED and will be effective 30 days after publication in the Federal Register.

5. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that section 54.313(f)(2)(i) of the Commission's rules is waived to the extent described herein, and IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 0.91, 0.291, and 1.102 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.102, this waiver SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

⁶ Interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice are exempt from the notice and comment requirement. Procedural rules include those where there is no substantial impact on the substantive rights and interest of the filers. *See, e.g., Texas v. United States*, 787 F.3d 733, 775-77 (5th Cir. 2015). Here, because filers will, once rule the change is effective, be able to provide the functional equivalent of the Borrowers Report, there is no impact on the substantive rights and interest of the filers. This rule change is therefore procedural, and accordingly, notice and comment is not required. *See* 5 U.S.C. § 553(b)(A).

⁷ 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁸ For the upcoming FCC Form 481 filing, on the FCC Form 481, Line 3014, support recipients subject to 54.313(f)(2)(i) shall respond "yes" for Line 3014; check the box for Line 3015 and Line 3016; and for Line 3017, a copy of the Financial Report generated by using the Export Financial Report function, *see* R&C System User Guide, Section 3.2.2, and a copy of the System Data Report generated through print screens would be considered the functional equivalent of the Borrowers Report. The Bureau and the Universal Service Administrative Company will contemplate changes to the FCC Form 481 and instructions for future years.

**APPENDIX
FINAL RULE**

The Wireline Competition Bureau of the Federal Communications Commission amends 47 CFR parts 54 as follows:

PART 54—UNIVERSAL SERVICE

- 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

- 2. Amend § 54.313 by revising the first sentence of paragraph (f)(2)(i) to read as follows:

§ 54.313 Annual reporting requirements for high-cost recipients.

* * * * *

(f) * * *

(2) * * *

(i) Recipients of loans from the Rural Utilities Service (RUS) shall provide copies of their RUS Operating Report for Telecommunications Borrowers or its functional equivalent as filed with the RUS.* * *

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