



PUBLIC NOTICE

Federal Communications Commission
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WIRELINE COMPETITION BUREAU SEEKS COMMENT ON EXTENDING WAIVER OF LETTER OF CREDIT RULES FOR CONNECT AMERICA FUND PHASE II AUCTION (AUCTION 903)

WC Docket Nos. 10-90, 14-58
AU Docket No. 17-182

Comments Due: September 21, 2022
Reply Comments Due: October 6, 2022

Recognizing the impact of the coronavirus (COVID-19) pandemic on financial markets and on the ability of providers to successfully conduct their operations, in the summer of 2020 the Wireline Competition Bureau (Bureau), in conjunction with the Rural Broadband Auctions Task Force and the Office of Economics and Analytics, waived the Commission's letter of credit rules for Connect America Fund Phase II auction (Auction 903) and Rural Broadband Experiments (RBE) support recipients;¹ last summer, the Bureau extended that waiver until the end of 2022.²

Providers were directed to comply with the less extensive letter of credit rules established by the Commission for the Rural Digital Opportunity Fund (RDOF).³ The Bureau, however, limited the waiver until the end of 2022, explaining that it would "reevaluate the scope and impact of this waiver prior to that time to determine whether this relief should be extended again."⁴ In support of this determination,⁵ the Bureau concluded that the conditions that led to the initial waiver of the letter of credit rules had "not substantially improved," and that an extension of the waiver would "allow the Commission to reevaluate the condition of financial markets and supply chains and determine whether the waiver should be extended further."⁶

With this Public Notice, the Bureau seeks comment on the merits of extending the waiver of the letter of credit rules for Auction 903 support recipients beyond December 31, 2022 and whether, and to what extent, the ongoing nature of the pandemic has affected the operations of telecommunications

¹ See *Connect America Fund, et al.*, Order, 35 FCC Rcd 6556 (WCB 2020) (*2020 Letter of Credit Waiver Order*).

² See *Connect America Fund, et al.*, Order, DA 21-1502 (WCB 2021) (*2021 Letter of Credit Waiver Extension Order*).

³ *2020 Letter of Credit Waiver Order*, 35 FCC Rcd at 6558, para. 7.

⁴ *2021 Letter of Credit Waiver Extension Order* at 3-4, para. 8.

⁵ *Wireline Competition Bureau Seeks Comment on Waiver of Letter of Credit Rules for Connect America Fund Phase II* (Auction 903) and Rural Broadband Experiments Support Recipients, Public Notice, 36 FCC Rcd 10387 (WCB 2021) (*Letter of Credit Public Notice*).

⁶ *2021 Letter of Credit Waiver Extension Order* at 3, para. 8.

services providers and the condition of financial markets and supply chains. Although the pandemic remains ongoing, since 2020 pandemic-related economic disruptions have significantly decreased and financial conditions have greatly improved. Despite these improved conditions, are there still unique financial challenges that providers are facing that interfere with their ability to obtain the letters of credit required under the Auction 903 rules? Are there additional dynamics now that may not have been present when we first granted the letter of credit waiver? If so, we encourage commenters to provide specific details about the experiences they face and how these have or have not changed since the original waiver was granted.

All Auction 903 recipients were required to submit their first annual location report by March 1, 2021 and are required to file updated location information by March 1 each year thereafter. These carriers are also required to have built out to 40% of their locations in a state by December 31, 2022.⁷ In light of the upcoming first required deployment milestone, we believe that a more tailored approach is justified now, one that distinguishes between those recipients that have deployed as required and those that have not. Therefore, we propose that we should extend the waiver of the Auction 903 letter of credit requirements only for Auction 903 support recipients that meet the first mandatory build out deadline, as demonstrated by reporting in the HUBB by March 1, 2023, of deployment to at least 40% of their locations as of December 31, 2022. We would require those that do not meet the 40% milestone to have a letter of credit meeting the original Auction 903 requirements by April 1, 2023. Similarly, we propose that Auction 903 support recipients that do not timely file their first location report or that fail to timely file a subsequent location report be automatically excluded from any waiver of the Auction 903 letter of credit requirements. Further, we propose that Auction 903 support recipients who maintain a reduced (e.g., at one year of support) letter of credit in accordance with the RDOF rules be required to increase the letter of credit's value to comply with the Auction 903 rules if they do not pass a USAC verification.

We seek comment on this approach and any other related issues regarding balancing the risk of lessening the Auction 903 letter of credit requirements while protecting the integrity of the Universal Service Fund.

Filing Requirements. Interested parties may file comments on or before **September 21, 2022** and reply comments on or before **October 6, 2022**.⁸ All filings should refer to **WC Docket Nos. 10-90, 14-58, and AU Docket No. 17-182**. Comments may be filed by paper or by using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments and replies may be filed electronically using the internet by accessing ECFS: <http://www.fcc.gov/ecfs>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail. Filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

⁷ *Connect America Fund; Connect America Fund Phase II Auction*, Order, 35 FCC Rcd 109, 112-13, paras. 9-11 (WCB 2020) (aligning deployment milestones and reporting obligations for all CAF-II/Auction 903 support recipients).

⁸ See 47 CFR § 1.4(j) (filing dates that would otherwise fall on a holiday shall be filed on the next business day).

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L St, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.⁹

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

Ex Parte Rules. Proceedings in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission’s *ex parte* rules.

For further information, please contact Nathan Eagan, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or by email at Nathan.Eagan@fcc.gov.

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⁹ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (2020). In response to the COVID-19 pandemic, the FCC has closed its current hand-delivery filing location at FCC Headquarters. We encourage outside parties to take full advantage of the Commission’s electronic filing system. Any party that is unable to meet the filing deadline due to the building closure may request a waiver of the comment or reply comment deadline, to the extent permitted by law.

¹⁰ See 47 CFR §§ 1.1200(a), 1.1206.