

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

In the Matter of
Protecting Against National Security Threats to the
Communications Supply Chain Through FCC
Programs
WC Docket No. 18-89

ORDER

Adopted: October 27, 2023

Released: October 27, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) addresses the Petitions filed by Point Broadband Fiber Holding, LLC (Point Broadband) and SI Wireless, LLC (SI Wireless) (collectively, Petitioners) requesting an extension of their respective removal, replacement, and disposal terms under the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program).1 For the reasons stated below, the Bureau grants Petitioners' extension requests pursuant to Commission rule 1.50004(h)(2).2 The Bureau thus extends the term for Point Broadband from October 29, 2023 to April 29, 2024 and for SI Wireless from November 24, 2023 to May 24, 2024.

II. BACKGROUND

2. As directed by the Secure and Trusted Communications Networks Act of 2019, as amended (Secure Networks Act), the Commission established the Reimbursement Program to reimburse providers of advanced communications services with ten million or fewer customers for reasonable costs incurred in the removal, replacement, and disposal of covered communications equipment or services from their networks that pose a national security risk, i.e., communications equipment or services produced or provided by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE), that were obtained by providers on or before June 30, 2020.3 The Reimbursement Program was later funded by a

1 Request of Point Broadband for Extension of Time, WC Docket No. 18-89 (filed Oct. 11, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/10112454901646 (Point Broadband Petition); Request of SI Wireless for Extension of Time, WC Docket No. 18-89 (filed Oct. 16, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/1080443652495 (SI Wireless Petition).

2 47 CFR § 1.50004(h)(2) (explaining that "[t]he Wireline Competition Bureau may grant an extension for up to six months after finding that due to no fault of [a] recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the [removal, replacement, and disposal] term.").

3 Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, § 4(a)-(c), 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601-1609) (for purposes of the Secure Networks Act, defining "advanced communications services," by reference to 47 U.S.C. § 1302(d)(1), as "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology"). The Commission adopted rules implementing the Secure Networks Act on December 10, 2020. Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284 (2020) (2020

\$1.9 billion congressional appropriation,<sup>4</sup> which is less than the \$5.6 billion in collective funds requested by applicants.<sup>5</sup> Because demand exceeded available funding, the Secure Networks Act required the Bureau to implement a prioritization scheme where funding was allocated first to approved applicants with 2,000,000 or fewer customers (Priority 1 applicants).<sup>6</sup> Demand from Priority 1 applicants alone exceeded the congressional appropriation, and these applicants consequently received a partial, pro-rated funding allocation of approximately 39.5% of their reasonable and supported estimated costs for removing, replacing, and disposing of covered communications equipment and services.<sup>7</sup>

3. Consistent with the Secure Networks Act, the Commission's rules require that Reimbursement Program recipients complete the removal, replacement, and disposal of covered communications equipment and services within one year from the initial disbursement of funds to the recipient.<sup>8</sup> Pursuant to section 4(d)(6)(C) of the Secure Networks Act, the Commission may grant recipients extensions of this term on an individual basis.<sup>9</sup> The Commission delegated authority to the Bureau to grant or deny individual petitions for an extension.<sup>10</sup> According to Commission rule 1.50004(h)(2), a recipient may petition the Bureau for an extension of time prior to the expiration of their term, and the Bureau "may grant an extension for up to six months after finding, that due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by

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*Supply Chain Order*). On July 13, 2021, the Commission amended its rules, consistent with amendments to the Secure Networks Act included in the Consolidated Appropriations Act, 2021. *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Third Report and Order, 36 FCC Rcd 11958, 11959, Appx. A (2021) (*2021 Supply Chain Order*). The Commission later clarified that, for purposes of the Reimbursement Program, covered communications equipment or services is limited to the communications equipment or services produced or provided by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE) that were obtained by providers on or before June 30, 2020. *See 2021 Supply Chain Order*, 36 FCC Rcd at 11965, Appx. A; *see also generally Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – Huawei Designation*, PS Docket No. 19-351, Order, 35 FCC Rcd 6604 (PSHSB 2020) (*Huawei Designation Order*); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – ZTE Designation*, PS Docket No. 19-352, Order, 35 FCC Rcd 6633 (PSHSB 2020) (*ZTE Designation Order*).

<sup>4</sup> 47 U.S.C. § 1603(k) ("In carrying out [the Reimbursement Program], the Commission may not expend more than \$1,900,000,000.").

<sup>5</sup> *See Wireline Competition Bureau Announces the Grant of Applications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 22-774, at 1-2 (WCB July 18, 2022) (*SCRIP Granted Applications Public Notice*) (explaining that "[e]ach applicant was required to include in its application estimates for the costs that it will reasonably incur for the permanent removal, replacement, and disposal of covered communications equipment and services" and identifying that, across all filed applications, applicants sought a total of "approximately \$5.6 billion in gross program support").

<sup>6</sup> *See* 47 U.S.C. § 1603(d)(5)(C); *see also* 47 CFR § 1.50004(f)(1) (requiring the Bureau to "issue full funding allocations for all eligible providers in the Priority 1 prioritization category before issuing funding allocations in any subsequent prioritization categories"); *SCRIP Granted Applications Public Notice* at 2-3.

<sup>7</sup> *See* 47 CFR § 1.50004(f)(1) (stating that "[i]f there is insufficient funding to fully fund all requests in a particular prioritization category, then the Wireline Competition Bureau will pro-rate the available funding among all eligible providers in that prioritization category."); *see also SCRIP Granted Applications Public Notice* at 2-3 (noting that Priority 1 applicants received a pro-rated 39.5% share of their reasonable and supported estimated costs for carrying out their removal, replacement, and disposal).

<sup>8</sup> *2020 Supply Chain Order*, 35 FCC Rcd at 14331, para. 169 (establishing a one-year timeline for removal, replacement, and disposal).

<sup>9</sup> *See* 47 U.S.C. § 1603(d)(6)(C).

<sup>10</sup> 47 CFR § 1.50004(h)(2).

the end of the term.”<sup>11</sup> The Commission noted that extensions will be granted only where a recipient “demonstrates the delay is due to factors beyond its control” and directed the Bureau “to be guided by the Commission’s precedent in dealing with similar requests involving wireless facilities under section 1.946 of the Commission’s rules,”<sup>12</sup> which requires licensees of wireless spectrum to meet certain construction and coverage requirements within specified time periods.<sup>13</sup>

4. *Point Broadband Petition.* On October 11, 2023, Point Broadband filed a Petition in the Commission’s Electronic Comment Filing System (ECFS) requesting an extension of its removal, replacement, and disposal term from October 29, 2023 to April 29, 2024.<sup>14</sup> In its petition, Point Broadband states that its progress has been delayed due to (1) the funding shortfall, (2) labor shortages, (3) time needed to coordinate its work with customers and other third-parties and (4) a lack of space for equipment.<sup>15</sup>

5. Point Broadband claims that the completion of its removal, replacement, and disposal obligations is delayed due to the partial funding of the Reimbursement Program.<sup>16</sup> Point Broadband remarks that the available funding is “only 40% of the funds needed” and that the “the lack of funding [is] outside of [its] control.”<sup>17</sup> Point Broadband contends that it may be forced to slow its project schedule due to the lack of full funding and the impact of the funding shortfall on its financing abilities as a small rural entity.<sup>18</sup> Point Broadband further states that “[w]ith no assurances of additional funding,” its inability to complete its removal, replacement, and disposal obligations within its originally assigned term is “due to no fault of Point Broadband.”<sup>19</sup>

6. Point Broadband also contends that its progress has been delayed due to a lack of available contractors and “internal resources” to perform needed work, including data contractors to perform migration work, the time needed to coordinate its work with other “businesses and carriers,” a lack of space for the replacement equipment, and a need to avoid impacting its day-to-day operations and

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<sup>11</sup> *Id.*; see also *2020 Supply Chain Order*, 35 FCC Rcd at 14354-56, paras. 171, 173.

<sup>12</sup> *2020 Supply Chain Order*, 35 FCC Rcd at 14356, para. 173 and n.501 (citing 47 CFR § 1.946(e) (allowing for an extension of time “if the licensee shows that failure to meet the construction or coverage deadline is due to involuntary loss of site or other causes beyond its control” and establishing that requests will not be granted (1) “for failure to meet a construction or coverage deadline due to delays caused by a failure to obtain financing, to obtain an antenna site, or to order equipment in a timely manner”; (2) “because the licensee undergoes a transfer of control or because the licensee intends to assign the authorization”; or (3) “solely to allow a transferee or assignee to complete facilities that the transferor or assignor failed to construct”).

<sup>13</sup> Section 1.946 is generally enforced when a wireless licensee has applied to build a microwave link. See generally 47 CFR § 1.946. See also 47 CFR § 1.946(a)-(b), (e) (describing requirements related to construction and coverage periods and deadlines). The rule permits the Wireless Telecommunications Bureau (WTB) to extend a licensee’s construction or coverage period when the licensee shows that additional time is needed due to “causes beyond its control.” See 47 CFR § 1.946(e)(1); see also 47 CFR § 1.946(e)(4). In determining whether to grant such requests, WTB looks to see if the delay is caused by circumstances beyond the licensee’s control and whether the licensee has acted diligently.

<sup>14</sup> See generally *Point Broadband Petition*.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 1-2.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 2.

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

its customers.<sup>20</sup> As a result of all these claimed issues, Point Broadband requests a six-month extension, to April 29, 2024.<sup>21</sup>

7. *SI Wireless Petition.* On October 16, 2023, SI Wireless filed a Petition in ECFS requesting an extension of its removal, replacement, and disposal term from November 24, 2023 to May 24, 2024.<sup>22</sup> SI Wireless requests that the Commission withhold portions of its Petition from public inspection pursuant to sections 0.457 and 0.459 of the Commission's rules.<sup>23</sup> In its Petition, SI Wireless states that its progress has been delayed due to (1) the funding shortfall, (2) ongoing supply chain issues and (3) issues complying with the Reimbursement Program's administrative processes.<sup>24</sup>

8. SI Wireless contends that the funding shortfall required it to "revise" its planned network compared to its originally intended scope.<sup>25</sup> According to SI Wireless, this revision resulted in it receiving "no payments for 5 months" from the Reimbursement Program, rendering it "unable to pay [its] vendors on a timely basis for the work they had performed or [have them] continue working."<sup>26</sup> SI Wireless states that it was required to pursue the modification to its plans due to "the shortfall in funding for the overall program," which it contends was beyond its control and over which it bears no fault.<sup>27</sup> SI Wireless contends that it has attempted to expedite work and mitigate issues related to the funding shortfall, including by using "outside financing" to keep vendors working on the removal, replacement, and disposal of covered equipment while it sought reimbursement for its expenses.<sup>28</sup>

9. SI Wireless further contends that it has been significantly impacted by supply chain issues. Specifically, SI Wireless states that it has "encountered significant delays" in obtaining replacement equipment despite its efforts to do so from three separate vendors.<sup>29</sup> SI Wireless claims it has now sourced equipment, but delays mean that it is unable to comply with its originally assigned term.<sup>30</sup>

10. SI Wireless also claims that the Reimbursement Program's administrative processes to receive reimbursement have taken more time to resolve than it expected.<sup>31</sup> As a result of all these claimed issues, SI Wireless requests a six-month extension, to May 24, 2024.<sup>32</sup>

### III. DISCUSSION

11. For the reasons described below, and consistent with our prior findings as to similar extension requests,<sup>33</sup> we find that each Petitioner has established that lack of funding or supply chain

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *See generally* SI Wireless Petition. On October 23, 2023, SI Wireless filed a supplement to correct a small amount of illegible text in the SI Wireless Petition. Supplement to Request of SI Wireless for Extension of Time, WC Docket No. 18-89 (filed Oct. 23, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/1023179385708>.

<sup>23</sup> SI Wireless Petition at 1.

<sup>24</sup> *Id.* at 3-4.

<sup>25</sup> *Id.* at 3.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

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

<sup>32</sup> *Id.* at 4.

issues have impacted it so that, “due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term,” as required by Commission rule 1.50004(h)(2).<sup>34</sup> We therefore grant each Petitioner’s extension request for the reasons explained below. To the extent Petitioners raise additional, independent bases in support of their requests, we find it unnecessary to address their merits in this Order.

12. *Lack of Funding.* We find that Point Broadband and SI Wireless have each made a sufficient showing that they have been impacted by the funding shortfall to an extent sufficient to warrant an extension under Commission rule 1.50004(h)(2). Each Petitioner explains that the lack of full funding has delayed its ability to take necessary actions towards the completion of its respective removal, replacement, and disposal processes. The funding shortfall caused Point Broadband to slow its project schedule based on the status of its “cash flow” and has rendered Point Broadband unable to meet its originally assigned removal, replacement, and disposal term.<sup>35</sup> Similarly, the funding shortfall caused SI Wireless to revise and modify its network replacement plans, which delayed its ability to complete its removal, replacement, and disposal obligations within its originally assigned term.<sup>36</sup> We agree that the funding shortfall required Point Broadband and SI Wireless to modify the scope and/or pace of their network buildout plans. Moreover, we find that Point Broadband and SI Wireless bear no fault for the existence of a funding shortfall and its impact on their ability to meet their deadlines.<sup>37</sup>

13. Point Broadband’s and SI Wireless’s quarterly status updates provide additional context and further support for our finding that extensions of their removal, replacement, and disposal terms are appropriate.<sup>38</sup> In their status updates, Point Broadband and SI Wireless raised the funding shortfall as an issue that did, or that had the potential to, impact the completion of their removal, replacement, and disposal obligations in a manner that is consistent with their extension requests. For example, Point Broadband previously reported to the Commission that the partial funding required it to make decisions on how and when it would move forward on its project, and that it may need an extension to comply with its obligations.<sup>39</sup> SI Wireless also previously raised the partial funding as a “major challenge[] in moving

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<sup>33</sup> *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-875 (WCB Sept. 22, 2023) (granting an extension to Stealth Communications Services, LLC); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-938 (WCB Oct. 10, 2023) (granting extensions to WorldCell Solutions, LLC, Mediacom Communications Corporation, Virginia Everywhere, LLC, James Valley Cooperative Telephone Company, and NE Colorado Cellular, Inc. d/b/a Viera Wireless).

<sup>34</sup> 47 CFR § 1.50004(h)(2).

<sup>35</sup> Point Broadband Petition at 1-2.

<sup>36</sup> SI Wireless Petition at 3.

<sup>37</sup> In making this determination, we have followed the Commission’s direction and considered any “Commission[] precedent in dealing with similar requests involving wireless facilities under section 1.946 of the Commission’s rules.” *2020 Supply Chain Order*, 35 FCC Rcd at 14356, para. 173. We did not identify any requests that would have precedential value in the present circumstances. Further, while section 1.946 generally prohibits an extension when delays are “caused by a failure to obtain financing,” we find this prohibition of section 1.946 inapplicable in the present context. Reimbursement Program recipients received a limited amount of funding at the outset of the program for carrying out their removal, replacement, and disposal activities and the delays associated with the funding shortfall are beyond the Petitioners’ control.

<sup>38</sup> 47 CFR § 1.50004(k). For clarity, we note that statements made in status reports or spending updates filed in connection with the Reimbursement Program do not, by themselves, constitute official requests for an extension of a removal, replacement, and disposal term or any other relief. Entities seeking an extension of their removal, replacement, and disposal terms should file a formal request in the Commission’s ECFS.

<sup>39</sup> *E.g.*, Point Broadband Reimbursement Program Status Update, at 3 (Oct. 13, 2022), <https://www.fcc.gov/sites/default/files/scrp-point-broadband-fiber-holding-04-10122022.pdf>.

forward with replacing [its] network.”<sup>40</sup>

14. Accordingly, for these reasons, we find that Point Broadband and SI Wireless have each established that “due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term,” as required by Commission rule 1.50004(h)(2). We grant Point Broadband’s and SI Wireless’s requests based on the lack of funding.<sup>41</sup>

15. *Supply Chain Issues.* In addition to the finding in the prior section, we find that Point Broadband and SI Wireless have each made a sufficient showing that they have been impacted by supply chain issues to warrant an extension under Commission rule 1.50004(h)(2). Point Broadband states that the time it will need to replace almost 200 routers in its network will exceed the time allotted because of, in part, “the difficulties of finding contractors” and, in particular, that it is still “looking for data contractors who could be trained and perform at least part of the migrations[.]”<sup>42</sup> These workforce shortages affect its ability to remove the 200 routers within the time allowed. SI Wireless explains that supply chain issues have made it unable to take specific necessary actions towards the completion of its removal, replacement, and disposal obligations. In this regard, we are persuaded by SI Wireless’s explanation that it has been unable to obtain necessary replacement equipment despite its efforts to procure equipment from three vendors, and that this has slowed down its removal, replacement, and disposal work as compared to its initial timeline.<sup>43</sup> Accordingly, we conclude that, due to supply chain issues, Point Broadband and SI Wireless are unable to complete the removal, replacement, and disposal by the end of their current removal, replacement, and disposal term.<sup>44</sup>

16. We also find that Point Broadband and SI Wireless bear no fault for failing to comply with their removal, replacement, and disposal obligations by their current removal replacement, and disposal term deadlines. Point Broadband has sought to find the necessary qualified contractors but faced difficulties in doing so,<sup>45</sup> and SI Wireless has acted diligently to mitigate delays caused by the supply chain issues by engaging with three vendors in an attempt mitigate equipment shortages.<sup>46</sup> We agree that Point Broadband and SI Wireless lack control over delays stemming from supply chain issues and find that they have demonstrated that the delays are due to factors beyond their control.<sup>47</sup>

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<sup>40</sup> *E.g.*, SI Wireless Reimbursement Program Status Update, at 2 (Jan. 11, 2022), <https://www.fcc.gov/sites/default/files/scrp-si-wireless-01112023.pdf>.

<sup>41</sup> While we grant SI Wireless’s extension request based on the lack of funding, we expressly reject its suggestion that it will only meet its statutorily mandated removal, replacement, and disposal obligations if “full funding is made available.” SI Wireless Petition at 3. A recipient’s obligation to complete the permanent replacement, removal, and disposal of covered communications equipment or services exists regardless of the amount of funding it may receive through the Reimbursement Program, pursuant to the Secure Networks Act. Within 10 days following the expiration of the removal, replacement, and disposal term, recipients must file a final certification with the Commission indicating whether it has fully complied with all terms and conditions of the Reimbursement Program. 47 U.S.C. § 1603(e)(4)(A); 47 CFR § 1.50004(m)(1). In addition, while we grant SI Wireless’s extension request based on lack of funding, we do so without relying on its claims regarding alleged delays in the reimbursement process.

<sup>42</sup> Point Broadband Petition at 2.

<sup>43</sup> SI Wireless Petition at 3.

<sup>44</sup> 47 CFR § 1.50004(h)(2).

<sup>45</sup> Point Broadband Petition at 2.

<sup>46</sup> SI Wireless Petition at 3.

<sup>47</sup> We note that granting Petitioners the requested extensions on the basis of the supply chain issues is consistent with the principles of Commission rule 1.946. 47 CFR § 1.946. For the reasons already described above, we find that each Petitioner has established that it requires additional time to meet its removal, replacement, and disposal

(continued....)

17. SI Wireless’s quarterly status updates support its claims of supply chain issues impeding its ability to meet its current removal, replacement, and disposal term. For example, SI previously reported to the Commission that needed equipment was backordered “4-6 months which makes it challenging to complete this project in the one year time frame.”<sup>48</sup> Similarly, Point Broadband’s latest status update notes that it has been “plagued with problems obtaining the necessary switches to connect the wireless core to the network. Equipment that was ordered months ago has not yet arrived and is due at the end of October. This pushes our start date on our wireless change out to at least the end of November.”<sup>49</sup>

18. Accordingly, for these reasons, we conclude that Point Broadband and SI Wireless have established, based on the ongoing supply chain issues, that “due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term” as required by Commission rule 1.50004(h)(2). We grant their extension requests on this ground, independent of the funding shortfall issue addressed above.

#### IV. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED that, pursuant to section 4(i)-(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i)-(j), and sections 0.204, 0.291, and 1.50004(h)(2) of the Commission’s rules, 47 CFR §§ 0.204, 0.291, 1.50004(h)(2), the Petitions for Extensions of term filed by Point Broadband and SI Wireless are each GRANTED.

20. IT IS FURTHER ORDERED that the removal, replacement, and disposal term for Point Broadband under 47 CFR § 1.50004(h)(2) IS EXTENDED to April 29, 2024.

21. IT IS FURTHER ORDERED that the removal, replacement, and disposal term for SI Wireless under 47 CFR § 1.50004(h)(2) IS EXTENDED to May 24, 2024.

FEDERAL COMMUNICATIONS COMMISSION

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Chief  
Wireline Competition Bureau

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obligations due to “causes beyond its control” despite having acted diligently in an attempt to meet its obligations within its originally assigned removal, replacement, and disposal term. *See* 47 CFR § 1.946(e)(1)-(2), (4).

<sup>48</sup> *See* SI Wireless Reimbursement Program Status Update, at 3 (July 11, 2023), <https://www.fcc.gov/sites/default/files/scrp-si-wireless-07112023.pdf>; *see also* SI Wireless Reimbursement Program Status Update, at 3 (Jan. 11, 2023), <https://www.fcc.gov/sites/default/files/scrp-si-wireless-01112023.pdf>; SI Wireless Reimbursement Program Status Update, at 3 (Apr. 11, 2023), <https://www.fcc.gov/sites/default/files/scrp-si-wireless-04122023.pdf>.

<sup>49</sup> *See* Point Broadband Reimbursement Program Status Update, at 3 (Oct. 13, 2022), <https://www.fcc.gov/sites/default/files/scrp-point-broadband-fiber-holding-04-10122022.pdf>.