

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

In the Matter of
Connect America Fund
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WC Docket No. 10-90

ORDER

Adopted: February 9, 2023

Released: February 9, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. With the release of this Order, the Wireline Competition Bureau (Bureau) concludes the Eligible Locations Adjustment Process (ELAP) for the Connect America Fund (CAF) Phase II auction. We find that each of the support recipients specified in the Attachment (Participants) has met the burden of proof by demonstrating that it is more likely than not that the Participant has identified all eligible locations in its CAF Phase II auction service area. Accordingly, we adopt new deployment obligations for each of these support recipients and reduce each Participant’s authorized support on a pro rata basis as directed by the Commission.

2. The Bureau also addresses a petition filed by Douglas Services, Inc., d/b/a Douglas Fast Net (Douglas Services) seeking waiver of the August 3, 2021 deadline for all Participants to submit ELAP information so as to allow it to participate in the ELAP.1 We find that Douglas Services has failed to demonstrate good cause for waiver, and accordingly, deny Douglas Services its requested relief.

II. ELAP ADJUSTMENT

A. BACKGROUND

3. In the Phase II Auction Order, the Commission adopted a competitive bidding process to support deployment in price cap areas not already served by a price-cap carrier receiving high-cost support or by an unsubsidized provider.2 Pursuant to this process, winning bidders would, as a condition of receiving support, commit to offering service to a specific number of locations (funded locations) as determined by the Connect America Cost Model (CAM).3 The Commission set this defined deployment

1 See Connect America Fund Douglas Services, Inc., d/b/a Douglas Fast Net, Petition for Waiver to Permit Its Making Submissions to the Connect America Fund Phase II Eligible Locations Adjustment Process Module, Docket No. 10-90 (filed Aug. 23, 2022) (Douglas Services Waiver Petition).

2 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, 5968-74, 5974-79, paras. 51-73, 82-90 (2016) (excluding from eligibility areas served by unsubsidized providers offering at least 10/1 Mbps, with a minimum usage allowance of 150 GBs at a rate meeting the Commission’s reasonable comparability benchmark, with latency not exceeding 100 ms and establishing a challenge process for determining these areas) (Phase II Auction Order); see also Wireline Competition Bureau Releases List and Map of Eligible Census Blocks for the Connect America Fund Phase II Auction (Auction 903), AU Docket No. 17-182 et al., Public Notice, 32 FCC Rcd 10381 (WCB 2017) (explaining that “[a]s a general matter, census blocks eligible for the Phase II auction include those in price cap study areas where the price cap carriers declined the statewide offers of model-based support”).

obligation for each support recipient as the sum of the funded locations in all of the areas the recipient won in a state and required support recipients to meet service milestones over a six-year deployment term.⁴ The Commission also anticipated that CAF Phase II auction support recipients might face unexpected obstacles in building out their networks and, accordingly, provided recipients with the flexibility to deploy to 95% of their defined deployment obligation and refund a certain amount of support in lieu of being found in default.⁵ The Commission authorized 129 long-form applicants to receive a total of more than \$1.483 billion in CAF Phase II auction support over 10 years in exchange for their commitment to serve a total of more than 700,000 qualifying locations⁶ in 45 states.⁷

4. After the adoption of the *Phase II Auction Order*, several parties sought clarification on whether the Commission would give funding recipients the opportunity to bring to the Commission's attention any discrepancies between the number of funded locations and the number of actual locations in a state.⁸ Specifically, commenters sought to reduce their defined deployment obligations and associated support when a location discrepancy resulted in fewer actual locations than funded locations.⁹ To address these concerns, the Commission created a challenge process to facilitate adjustments to defined deployment obligations on a statewide basis.¹⁰ The Commission delegated to the Bureau the authority to decide, based on a preponderance of the evidence gathered during this process and on a state-by-state

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³ *Phase II Auction Order*, 31 FCC Rcd at 5964, 5966, paras. 40, 46; CostQuest Associates, Inc., Connect America Cost Model: Model Methodology 12-15 (Dec. 22, 2014), <https://transition.fcc.gov/wcb/CAM v.4.2 Methodology.pdf>.

⁴ *Phase II Auction Order*, 31 FCC Rcd at 5964, 5966, paras. 40-41, 46; 47 CFR § 54.310. Specifically, all CAF Phase II auction support recipients must deploy service 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, 112, para. 9 (WCB 2020) (waiving rule requirements basing milestone dates on date of authorization and aligning service milestones for all authorized CAF Phase II auction support recipients).

⁵ *Phase II Auction Order*, 31 FCC Rcd at 5965-66, paras. 44-47. To the extent that a support recipient chooses to avail itself of this 5% flexibility, the recipient must refund support, on a per location basis, as determined through one-half the average support for the top 5% of the highest cost funded locations nationwide. *Id.* at 5966, para. 45.

⁶ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 3964, 4031-32, para. 159 (WCB 2014) (*CAM Inputs Order*) (excluding the costs of extending fiber to community anchor locations from cost-to-serve calculations, and excluding the locations served by enterprise services from “the unitization of the total middle mile cost of a census block to avoid location counts that are a mixture of residences and small businesses intermingled with enterprise locations”); *id.* at 4032, n.458 (explaining that “[w]hen the total middle mile cost of serving the census block is divided by all locations passed, the locations passed only include residential as well as those business locations assumed to receive the same type of voice and broadband services as residential customers”).

⁷ *Connect America Fund Phase II Auction Application Review Concludes; Long-Form Applications Made Public*, AU Docket No. 17-182 et al., Public Notice, DA 23-49 (WCB Jan. 19, 2023) (citing “Authorized Auction 903 Long-Form Applicants,” <https://www.fcc.gov/auction/903> (under the “Data” tab)).

⁸ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order on Reconsideration, 33 FCC Rcd 1380, 1389, para. 22 (2018) (*Phase II Auction Reconsideration Order*); see also Request for Clarification or Partial Reconsideration of Southern Tier Wireless, Inc., WC Docket No. 10-90 et al., at 4-5 (filed July 20, 2016); Petition for Reconsideration of Broad Valley Micro Fiber Networks, Inc., WC Docket No. 10-90 et al., at 3 (filed July 20, 2016); Petition for Clarification or Reconsideration of Crocker Telecommunications, LLC, WC Docket No. 10-90 et al., at 3-4 (filed July 18, 2016).

⁹ *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389, para. 22.

¹⁰ *Id.* at 1389-90, paras. 23, 25-26. In creating this process, the Commission explained its intent to “prevent any cherry picking that might occur if support recipients only identify the easiest-to-serve locations and ignore harder-to-serve locations.” *Id.* at 1390, para. 25.

basis, whether the participant's total number of funded locations within the state exceeds the total number of actual eligible locations in the state, thus warranting a reduction in the participant's defined deployment obligation and a pro rata reduction in support based the average support awarded on a per location basis and the number of locations by which the Participant's original defined deployment obligation was reduced.¹¹ The Commission also specified that any data submitted by the Participant would be subject to future audit.¹²

5. While the Commission set some parameters for certain aspects of this process, it also directed the Bureau to adopt requirements and issue guidance necessary for implementation, consistent with prior Commission direction.¹³ Pursuant to this authority, the Bureau established the ELAP consistent with the parameters set forth in the *Phase II Auction Reconsideration Order* and prior Commission guidance for making adjustments to defined deployment obligations.¹⁴ As directed by the Commission, the Bureau permitted CAF Phase II auction support recipients to participate in ELAP on a voluntary basis by submitting to the Commission certain location information (e.g., geocoordinates, addresses) for all qualifying locations within their supported areas in a state.¹⁵ Recognizing that there could be certain limited fluctuations in the total number of qualifying locations in the state after the closure of the ELAP but before the end of these Participants' deployment term (ending December 31, 2025), the Bureau also permitted Participants to add to this total some number of additional locations less than the original defined deployment obligation (prospective locations).¹⁶ The Commission warned Participants that in submitting prospective locations, they should exercise reasonable due diligence in assessing the overall probability that they could meet any adjusted defined deployment obligation resulting from ELAP.¹⁷ Together, the total number of qualifying and prospective locations (collectively, eligible locations) constituted the total number of locations to which the Participant would commit to serving.¹⁸

¹¹ *Id.* at 1389, para. 24 & n.62 (explaining that the “new support amount in the state would be reduced by (total state support/model locations) x number of deficient locations”).

¹² *Id.* at 1389, para. 23. In the *Locations Adjustment Order*, the Bureau determined that the audit process referred to by the Commission would mirror that of the verifications process adopted to confirm deployment to the requisite number of locations and would be limited to the support term plus any additional time necessary to complete verification of the associated deployment information. *See Locations Adjustment Order*, 34 FCC Rcd at 10411, para. 46.

¹³ *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389, para. 24 (directing the Bureau “to implement this process, consistent with our prior direction to the Bureau concerning model location adjustments” and to “set the parameters of this review process, set the parameters for the audits, and adopt any other necessary implementation details”).

¹⁴ *Connect America Fund*, WC Docket No. 10-90, Order, 34 FCC Rcd 10395, 10396-97, paras. 4-5 (2019) (*Locations Adjustment Order*).

¹⁵ We note that the location information submitted as part of ELAP was intended to help the stakeholders and the Bureau evaluate the comprehensiveness of the Participant's review of actual locations and to facilitate overall adjustments to defined deployment obligations. ELAP Participants are free to serve any locations that become qualifying after the ELAP process in lieu of the reported ELAP locations. *See Locations Adjustment Order*, 34 FCC Rcd at 10402-03, para. 21.

¹⁶ *Id.* at 10402-10404, paras. 21-23.

¹⁷ *Id.*; *see also Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1390, para. 25 (declining to permit support applicants to identify additional locations to serve above their required state total with an accompanying increase in support).

¹⁸ *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389-90, paras. 23, 25-26; *Locations Adjustment Order*, 34 FCC Rcd at 10402-10404, paras. 21-23 (defining eligible locations to include prospective as well as qualifying locations).

6. To ensure that each of the Participants reporting locations had exercised due diligence in identifying all qualifying locations within the state, the Bureau also required that Participants include: 1) information regarding the relevant state and study area code (SAC); 2) location specific information, e.g., addresses, geocoordinates, and number of units; 3) a narrative description of the methodology(ies) used to identify every qualifying location, e.g., on the ground or aerial surveys, any sources used (such as county records or commercial services), and the “as-of” date that sources or surveys evaluated locations; 4) relevant supporting evidence (or show cause why such evidence need not or cannot be submitted) demonstrating the quality of the evidence collected; and 5) certification that the submission is true and accurate.¹⁹ The Bureau established a four-month filing window beginning April 1, 2021, and ending August 3, 2021 (Participant Filing Window), for Participants to submit all required information in an ELAP module created by the Commission in conjunction with the USAC.²⁰

7. By August 3, 2021 (Participant filing deadline), 25 Participants reporting for 23 states submitted all required ELAP information.²¹ After reviewing this information, the Bureau released a public notice announcing that all participants had satisfied the prima facie evidentiary standards for continuing the ELAP.²² The Bureau also made public certain non-confidential location information filed and certified by the Participants, e.g., data identifying locations reported and certain identifying information about the Participants and the relevant eligible areas,²³ so that interested parties, including individuals, governmental entities, and special interest groups, could decide whether they wanted to participate in ELAP as “stakeholders,” meaning parties with a verifiable interest in receiving broadband in the eligible areas either directly or on behalf of constituents and seeking to challenge the accuracy and/or completeness of the relevant Participant’s ELAP information.²⁴ While several stakeholders requested access to information filed by Participants, no stakeholders ultimately filed any information.²⁵

¹⁹ *Locations Adjustment Order*, 34 FCC Rcd at 10401-08, paras. 18-32.

²⁰ *Wireline Competition Bureau Announces the April 1, 2021 Opening of the Connect America Fund Phase II Auction Eligible Locations Adjustment Process*, WC Docket 10-90, Public Notice, 36 FCC Rcd 5612 (WCB 2021) (*ELAP Participant Window Public Notice*); *Locations Adjustment Order*, 34 FCC Rcd at 10398, para. 8 (stating that the Bureau would provide Participants with at least a three-month timeframe to upload information, correct any errors identified through verification, and certify such information).

²¹ *Connect America Fund Phase II Auction (Auction 903), “Summary of Eligible Locations Adjustment Process Prima Facie Participant Location Information by State and Study Area Code,”* <https://www.fcc.gov/auction/903> (identifying participants). We note that this summary originally included an erroneous reference to Cherokee Telephone Company due to an incorrect association of this entity with a SAC identification number assigned to Wisper ISP, Inc., which has been corrected.

²² *WCB Announces CAF Phase II Support Recipients Meeting Standards for Continuing with the Eligible Locations Adjustment Process; the Opening of the Stakeholder Registration Period; Extension of Deadline for Stakeholders to File Challenges; Identification of Potentially Affected Tribal Authorities*, WC Docket No. 10-90, Public Notice, 36 FCC Rcd 16493, 16494 (WCB 2021).

²³ More specifically, the Bureau disclosed to the public the Participant’s name, the SAC where the location sits, the reported type of location (qualifying, nonqualifying, prospective), the geocoordinates of the location, the postal address (or other physical identification of location if postal address is unavailable), and the number of separate dwelling units as relevant, e.g., apartments. *Id.* at 16495.

²⁴ To do so, these stakeholders were required to submit within their own filing window (May 20, 2022 to August 18, 2022), information about the eligible locations that they assert were omitted from Participant’s locations as well as a brief description of their methodology and any supporting evidence. *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1390, para. 25; *Locations Adjustment Order*, 34 FCC Rcd at 10399, paras. 11-12; *WCB Extends the Eligible Locations Adjustment Process Registration Deadline and Modifies Other Related Deadlines and Procedures*; WC Docket No. 10-90, Public Notice, DA 22-301, at 2 (WCB Mar. 22, 2022).

²⁵ If challenges had been filed, challenged Participants would have had the opportunity to submit replies with additional data and information to oppose specific information in the challenges. *Locations Adjustment Order*, 34

(continued....)

During the ELAP process, four participants reporting in five states reported more eligible locations than their original defined deployment obligation, rendering their participation in ELAP moot.²⁶

8. The Commission delegated to the Bureau the authority to decide, based on a preponderance of the evidence, whether a participant's total number of funded locations within the state exceeds the total number of eligible locations that the Participant was able to identify using reasonable efforts in the state, thus warranting a reduction in the participant's original defined deployment obligation and a corresponding reduction in support.²⁷ Participants carry the burden of proof.²⁸

B. DISCUSSION

9. In this Order, the Bureau makes its determination regarding adjustments to Participants' original defined deployment obligations. The preponderance of the evidence standard requires the Bureau in each instance to conclude, based on the totality of the evidence, that it is more likely than not that the original defined deployment obligation is greater than the number of eligible locations within the state by a specific number of locations.²⁹

1. Participant Adjustments Granted

10. We find that each of the Participants listed in the Attachment to this Order has demonstrated that it made reasonable efforts to identify every location within the supported areas for which they seek ELAP adjustment.³⁰ Based on the totality of the evidence for each Participant in each state, the Bureau concludes that each one has submitted evidence that makes it more likely than not that it has identified every eligible location within its study area and that such efforts have resulted in a reliable and accurate count of all qualifying locations.

11. Participants described various methodologies and submitted different types of evidence to prove they had found all eligible locations in the relevant areas. For example, certain Participants submitted methodologies that relied upon and reconciled multiple reasonably up-to-date data sources (e.g. Google Earth, E911 Database, ArcGIS mapping software, internal billing systems, County plat and tax records, etc.), and described multiple layers of review. Some Participants also described evaluating locations using aerial imagery and/or conducting extensive field research by driving to the majority of locations and visually inspecting locations, and in once instance, conducting helicopter surveys over the entire service area. Participants relied upon specific and articulated criteria to distinguish eligible from ineligible locations consistent with Commission and Bureau guidance. They also provided descriptions of how they used collected data and submitted evidence supporting their descriptions of methods and location information. This evidence included photographs used to illustrate the decision to deem a location ineligible, such as photographs of vacant, dilapidated homes with boarded windows and overgrown landscaping; or photographic evidence to illustrate eligible, prospective locations.

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FCC Rcd at 10399-40, paras. 13-14; *Wireline Competition Bureau Announces the August 23, 2022 Opening of the ELAP Participant Reply Filing Window*, WC Docket No. 10-90, Public Notice, DA 22-816 (WCB Aug. 10, 2022).

²⁶ We requested that these Participants withdraw from the process. More specifically, the following carrier/SAC combinations were withdrawn: AMG Technology Inc. (AMG) (SACs 379035, 449089), Co-Mo Comm, Inc. (429038), Verizon South LLC (SAC 190479), and Wisper ISP, Inc. (SAC 419047).

²⁷ *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389 para. 24; *Locations Adjustment Order*, 34 FCC Rcd at 10400-10401, paras. 15-17.

²⁸ *Locations Adjustment Order*, 34 FCC Rcd at 10400, para. 15.

²⁹ *Id.* at 10400, para. 15.

³⁰ Geolocation information for locations reported into the HUBB toward satisfaction of defined deployment obligations is available on the CAF Broadband Map, <https://data.usac.org/publicreports/caf-map/>. Such locations are displayed on a publicly accessible map that allows for optional overlays, including eligible areas.

12. With these showings, we find that all Participants listed in the Attachment have completed reasonable steps to identify every location in the state, and as a result we adjust each of their defined deployment obligations and associated support. As directed by the Commission, we have also reduced each Participant's CAF Phase II auction support on a pro rata basis.³¹ The Attachment to this Order provides, on a carrier-by-carrier basis, each Participant's adjusted defined deployment obligation and associated support amounts.³² The adjusted eligible location total will become the Participant's new defined deployment obligation that we will use to determine compliance with the CAF Phase II auction service milestones. We direct Universal Service Administrative Company (USAC) to prorate remaining support payments due to the Participants to reflect the new authorized funding amount identified in the Attachment.³³

13. As indicated in the *Locations Adjustment Order* and consistent with the Commission's indication that ELAP information is subject to review and audit, if the Bureau discovers that actual locations were not reported by the Participant after the release of this Order, we will add those locations to the Participant's defined deployment obligation but will not increase the Participant's support.³⁴ We may also refer cases to the FCC's Enforcement Bureau where it appears that the Participant may have intentionally or negligently misrepresented the number of actual locations in the ELAP.³⁵

2. Douglas Services Waiver Petition

14. On August 23, 2022, Douglas Services submitted its Petition seeking waiver of the Participant filing deadline so as to permit it to participate in the ELAP.³⁶ Douglas Services states it "dedicated considerable staff resources during the [Participant filing window]," to assemble various information relating to the number of eligible locations and to prepare the required certifications but could not meet the Participant filing deadline.³⁷ It asserts that waiver of this deadline serves the public interest

³¹ In the *Phase II Auction Reconsideration Order*, the Commission explained that the "new support amount in the state would be reduced by (total state support/model locations) x number of deficient locations." *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389, para. 24, n.62. In total, we have reduced the Participants' CAF Phase II auction support by over \$51 million.

³² Three Participants in a total of six states were authorized to receive support for multiple performance tiers in a state. For each Participant/state combination (six in total), we proportionally reduced the Participant's required number of locations in each tier to maintain the same ratio of locations across all performance tiers under the ELAP-adjusted deployment obligation as authorized under the initial deployment obligation. *See Phase II Auction Order*, 31 FCC Rcd at 5956-63, paras. 14-37 (adopting performance tiers for the CAF Phase II auction); "Authorized Auction 903 Long-Form Applicants," <https://www.fcc.gov/auction/903> (under the "Data" tab) (identifying the performance tiers applicable to each authorized recipient).

³³ *Locations Adjustment Order*, 34 FCC Rcd at 10401, para. 17. Participants may adjust the amount secured by their letters of credit according to the applicable rules. We note that until the end of 2023, the Bureau has waived section 54.315(c) of the Commission's rules for CAF Phase II auction recipients and directed them to comply with section 54.804(c) of the Commission's rules with regard to their letter of credit obligations. *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 35 FCC Rcd 6556 (WCB 2020) (waiving section 54.315(c) until the end of 2021); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 36 FCC Rcd 16633 (WCB 2021) (extending the waiver until the end of 2022); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, DA 22-1304 (WCB Dec. 12, 2022) (extending the waiver until the end of 2023); 47 CFR §§ 54.315(c), 54.804(c).

³⁴ *Phase II Auction Reconsideration Order*, 33 FCC Rcd at 1389, para. 23; *Locations Adjustment Order*, 34 FCC Rcd at 10412, para. 49.

³⁵ *Id.*

³⁶ *See generally*, Douglas Services Waiver Petition.

³⁷ *Id.* at 3-4.

because ELAP-related adjustments in support further the public interest by helping to ensure, ultimately, the best and most efficient use of high-cost support.³⁸

15. We find that Douglas Services has not demonstrated that there is good cause to waive the Participant filing deadline.³⁹ Generally, the Commission will waive high-cost deadlines only when the petitioner demonstrates unusual or compelling circumstances.⁴⁰ Douglas Services fails to meet this standard. Douglas Services has not demonstrated that it acted with all reasonable due diligence after the release of the *Locations Adjustment Order* in November 2019 to gather and compile all requisite ELAP information. The Bureau established a four-month Participant filing window five months after it released the *Locations Adjustment Order*, providing a collective nine months to complete the assessment. Further, in advance of the opening of the Participant filing window, USAC contacted CAF Phase II funding recipients regarding the development of the module and conducted an ELAP webinar on October 20, 2020 to help CAF Phase II support recipients better understand the ELAP process and requirements.⁴¹ As of the opening of the filing window, USAC published specific technical guidance for entering information into the system as well as direct technical support.⁴² Despite Douglas Services' claims that it devoted resources to compiling its ELAP information and completing the certifications during the four-month Participant filing window,⁴³ Douglas Services failed to access the system during this time frame. It also fails to explain why it could not meet the deadline and did not submit its waiver request until 20 days after the deadline.⁴⁴

16. Accordingly, we cannot conclude based on the record before us that Douglas Services' failure to meet the Participant deadline resulted from circumstances that were not within its control.⁴⁵

³⁸ See *id.* at 4.

³⁹ Generally, the Commission's rules may be waived for good cause shown. 47 CFR § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown."). The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). 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). Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-28 (D.C. Cir. 2008); *Ne. Cellular Tel. Co.*, 897 F.2d at 1166.

⁴⁰ *NetworkIP, LLC v. FCC*, 548 F.3d 116, 126-27 (D.C. Cir. 2008) (explaining that Commission deadlines, particularly those related to filings, are generally waived only in "unusual or compelling circumstances," because absent such circumstances, the Commission risks arbitrariness in its decisions related to meritorious claims).

⁴¹ See *ELAP Participant Window Public Notice*, 36 FCC Rcd at 5613 (referencing availability of recorded copy of USAC's October 20, 2020 ELAP webinar and associated slides available at <https://www.usac.org/high-cost/funds/caf-phase-ii-auction/eligible-locations-adjustment-process-elap/>).

⁴² See *id.* (indicating that USAC made available to carriers interested in participating in ELAP, an ELAP Module User Guide, available for download at <https://www.usac.org/high-cost/funds/caf-phase-ii-auction/eligible-locations-adjustment-process-elap/>; in addition, indicating that USAC could be contacted via direct email and phone to address any technical questions).

⁴³ Douglas Services Petition at 3-4.

⁴⁴ While we recognize that Douglas Services could not submit ELAP information after the Participant filing deadline, the delay in notifying the Bureau and submitting the waiver request further reinforces concerns regarding Douglas Services lack of due diligence.

⁴⁵ *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc. et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Order, 25 FCC Rcd 10861, 10864, para. 8 (WCB 2010) (explaining that the Bureau has generally denied waivers where claims of good cause rest on the petitioner's error or negligence, or circumstances "squarely within the petitioner's control").

Although Douglas Services asserts that grant of this waiver request would serve the public interest by expediting the return of support that cannot be utilized toward deployment to qualifying locations, the Bureau will have an opportunity to recover support at the end of the process in accordance with default rules should Douglas Services fail to meet its future milestones.⁴⁶ Accordingly, we find that Douglas Services has failed to meet its obligation to prove good cause for waiver relief, and we deny its Waiver Petition.

III. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 4(i), 5, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155, and 254, and sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and the authority delegated to the Wireline Competition Bureau in paragraphs 23 and 24 of the *Phase II Auction Reconsideration Order*, 33 FCC Rcd 1380 (2018), that this Order IS ADOPTED. We direct the Universal Service Administrative Company to take further action in accordance with the terms of this Order.

18. IT IS FURTHER ORDERED that, pursuant to the authority contained in section 1.3 of the Commission's rules, 47 CFR § 1.3, the Petition for Waiver filed by Douglas Services, Inc., d/b/a Douglas Fast Net IS DENIED.

19. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

⁴⁶ *Phase II Auction Order*, 31 FCC at 6017-18, paras. 190-193; 47 CFR § 54.320(d).

ATTACHMENT

Participant	State	Study Area Code	CAF II Funded Locations	CAF II Support Amount	Adjusted Eligible Locations	Adjusted Support Amount
AMG Technology Investment Group	IL	349039	15,022	\$35,329,965.90	13,478 ¹	\$31,698,660.66
AMG Technology Investment Group	IA	359146	15,097	\$50,614,528.00	11,157 ²	\$37,405,198.97
AMG Technology Investment Group	KS	419044	10,088	\$37,349,710.70	9,603 ³	\$35,554,051.53
AMG Technology Investment Group	OK	439073	17,883	\$41,285,224.30	16,677 ⁴	\$38,501,016.92
Farmers Mutual Telephone Company	MN	369020	65	\$217,992.80	51	\$171,040.50
Federated Telephone Cooperative	MN	366130	808	\$1,431,038.80	721	\$1,276,954.18
Frontier California Inc	CA	542302	23	\$51,552.60	18	\$40,345.51
IdeaTek Telcom, LLC	KS	419043	2,490	\$6,186,881.60	2,078	\$5,163,188.74
Independent Networks, L.C.	IA	359006	123	\$288,834.00	91	\$213,690.20
Maquoketa Valley Rural Electric Cooperative	IA	359148	1,107	\$2,262,038.60	882	\$1,802,274.66
Marshall County Fiber, LLC	IN	329027	1,203	\$1,326,394.00	981	\$1,081,623.04
Midcontinent Communications	MN	369015	7,410	\$27,977,283.80	5,948	\$22,457,339.28
NewMax, LLC dba Intermax Networks	WA	529027	823	\$2,160,450.60	635	\$1,666,933.33
PC Telecorp, Inc.	CO	469032	33	\$387,303.00	21	\$246,465.55
Point Broadband Fiber Holding, LLC	MI	319050	17,610	\$27,299,086.90	15,830 ⁵	\$24,539,724.34

¹ AMG's adjusted eligible location total for SAC 349039 includes offering service to 9,175 locations meeting the Above Baseline performance tier (Above Baseline) requirements and 4,303 locations meeting the Baseline performance tier (Baseline) requirements.

² AMG's adjusted eligible location total for SAC 359146 includes offering service to 5,685 locations meeting the Above Baseline requirements and 5,472 locations meeting the Baseline requirements.

³ AMG's adjusted eligible location total for SAC 419044 includes offering service to 5,134 locations meeting the Above Baseline requirements and 4,469 locations meeting the Baseline requirements.

⁴ AMG's adjusted eligible location total for SAC 439073 includes offering service 11,890 locations meeting the Above Baseline requirements and 4,787 locations meeting the Baseline requirements.

Participant	State	Study Area Code	CAF II Funded Locations	CAF II Support Amount	Adjusted Eligible Locations	Adjusted Support Amount
Slic Network Solutions, Inc.	NY	159038	5,516	\$13,695,349.00	5,286	\$13,124,295.65
Sunset Digital Communications, LLC	VA	199025	6,998	\$23,979,452.60	6,942	\$23,787,562.15
Sunset Digital Communications, LLC	TN	299033	2,095	\$5,595,554.80	2,049	\$5,472,692.98
Valley Communications Association, LLC	NV	559030	153	\$404,753.70	152	\$402,108.25
Verizon New England Inc.	MA	115112	305	\$948,305.20	247	\$767,971.75
Verizon New England Inc.	RI	585114	165	\$475,302.70	150	\$432,093.36
Verizon New Jersey Inc.	NJ	165120	510	\$1,621,782.20	427	\$1,357,845.10
Verizon Pennsylvania LLC ⁶	PA	175000	709	\$1,687,283.80	626	\$1,489,759.74
Verizon Maryland LLC	MD	185030	1,194	\$3,058,921.30	940	\$2,408,196.00
Verizon Virginia LLC ⁷	VA	195040	456	\$1,537,248.90	415	\$1,399,031.35
West Central Telephone Association	MN	369042	532	\$611,934.40	494	\$568,224.80
Wisper ISP, Inc	IN	329031	14	\$123,648.00	9	\$79,488.00
Wisper ISP, Inc	IL	349045	8,907	\$35,079,137.70	8,236	\$32,436,485.70
Wisper ISP, Inc	AR	409047	102	\$399,565.60	97	\$379,979.05
Wisper ISP, Inc	MO	429045	68,269	\$176,319,409.30	63,053 ⁸	\$162,847,964.88
Wisper ISP, Inc	OK	439082	2,443	\$6,790,089.80	2,135	\$5,934,032.63

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⁵ Point Broadband Fiber Holding LLC's adjusted eligible location total for SAC 319050 includes offering service to 2 locations meeting the Gigabit performance tier requirements, 15,780 locations meeting the Above Baseline requirements, and 48 locations meeting the Baseline requirements.

⁶ Verizon Communications Inc. is using SAC 175000 for both Verizon Pennsylvania LLC and Verizon North LLC's authorized winning bids in Pennsylvania. Verizon North LLC was originally assigned 170169 as its SAC.

⁷ Verizon Communications Inc. is using SAC 195040 for both Verizon Virginia LLC and Verizon South Inc.'s authorized winning bids in Virginia. Verizon South Inc. was originally assigned 190479 as its SAC.

⁸ Wisper ISP, Inc.'s adjusted eligible location total for SAC 429045 includes offering service to 62,461 locations meeting the Above Baseline performance tier requirements and 592 locations meeting the Baseline performance tier requirements.