

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

In the Matter of
Telecommunications Carriers Eligible for
Universal Service Support
Connect America Fund
WC Docket No. 09-197
WC Docket No. 10-90

ORDER

Adopted: June 21, 2023

Released: June 21, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) designates R.M. Greene, Inc. aka Beam (Beam) as an eligible telecommunications carrier (ETC) for purposes of receiving Rural Digital Opportunity Fund (RDOF) support, conditioned upon, and limited by, its authorization to receive this support, and effective only upon such authorization.1 In making this ETC designation, the Bureau finds that Beam meets the eligibility requirements to receive universal service support, as set forth in section 214(e)(6) of the Communications Act of 1934, as amended (Act), and related Federal Communications Commission (Commission) rules.2

II. BACKGROUND

A. Section 214 Transfer of Assets to Beam

2. The Bureau takes this action in conjunction with the Bureau’s approval of an application filed by Point Broadband Fiber Holding, LLC (Point Broadband) and Beam (collectively, Applicants), pursuant to section 214 of the Act, and sections 63.03-63.04 of the Commission’s rules, requesting consent for the partial transfer of Point Broadband’s domestic section 214 authorization, in connection with Point Broadband’s RDOF support for certain census blocks in Alabama in Study Area Code (259050) (Assigned Census Blocks) and related facilities in addition to all rights, obligations, and conditions associated with the receipt of the support.3 Pursuant to the terms of the approved transaction

1 See R.M. Greene, Inc., Petition for Designation as a Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act of 1934, Docket No. 09-197 (Sept. 21, 2022) (ETC Petition), as supplemented, Letter to Marlene H. Dortch, Secretary, FCC from Joan Budd, General Counsel, R.M. Greene, Inc. and K.C. Halm and John C. Nelson, Jr., Counsel, Davis Wright Tremaine LLP (Oct. 14, 2022) (ETC Supplement).

2 47 U.S.C. § 214(e)(6); 47 CFR § 54.202.

3 See Domestic Section 214 Application Granted for the Acquisition of Certain Authorizations of Point Broadband Fiber Holdings, LLC by R.M. Greene, Inc. aka Beam, WC Docket No. 22-344, Public Notice, DA 23-537 (WCB rel. Jun. 21, 2023) (214 Transfer Public Notice); Application of Point Broadband Fiber Holding, LLC and R.M. Greene, Inc. aka Beam for Partial Assignment of Domestic Section 214 Authorization, WC Docket No. 22-344 (filed Sept. 21, 2022) (214 Transfer Application). Applicants filed supplements to the Application on December 6, 2022, December 13, 2022, December 22, 2022, and March 6, 2023. Letter from K.C. Halm, Counsel for R.M. Greene, Inc. aka Beam, and Stephen Coran, Counsel for Point Broadband Fiber Holding, LLC, to Marlene H. Dortch, Secretary, FCC (filed Dec. 6, 2022); Letter from Stephen Coran, Counsel for Point Broadband Fiber Holding, LLC,

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and conditioned upon Beam's future authorization, Beam will acquire \$892,797.21 in annual RDOF support in exchange for a commitment to serve 3,420 locations in the Assigned Census Blocks.⁴

3. This support was originally part of a larger RDOF award that the Bureau authorized Point Broadband to receive, and accordingly, Point Broadband will, after the consummation of the transaction, retain all RDOF-and ETC-related obligations in all authorized areas not assigned to Beam.⁵ In its ETC petition, Point Broadband states that it will relinquish its ETC designation for the Assigned Census Blocks (but retain its ETC designation in Alabama for other supported areas) upon Beam's assumption of RDOF obligations in the Assigned Census Blocks.⁶ In their 214 Transfer Application, Applicants state that after the consummation of the transaction, Beam will undertake deployment of the RDOF-supported network in the Assigned Census Blocks and integrate such activities and operations into its operations in eastern Alabama.⁷

B. Lifeline Requirements

4. The Lifeline program provides support to reimburse providers for offering supported services at discounted prices to qualifying low-income households, with more support available for households on Tribal lands.⁸ Eligible services include voice and broadband Internet access service meeting certain requirements.⁹ In a given geographic area, a carrier may be designated as an ETC and become eligible to receive funding from both the high-cost and low-income components of the Universal Service Fund (USF).¹⁰ All ETCs must offer Lifeline-supported services throughout their designated service areas.¹¹

C. Requirements for FCC ETC Designation

5. Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support."¹² Under section 214(e), an ETC is a "common carrier" that "offer[s] the services that are supported by the Federal universal service support mechanisms under section 254(c),"¹³ as established by the

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to Marlene H. Dortch, Secretary, FCC (filed Dec. 13, 2022); Letter from K.C. Halm, Counsel for R.M. Greene, Inc. aka Beam, to Marlene H. Dortch, Secretary, FCC (filed Dec. 22, 2022); Letter from K.C. Halm, Counsel for R.M. Greene, Inc. aka Beam, to Marlene H. Dortch, Secretary, FCC (filed Mar. 6, 2023).

⁴ See 214 Transfer Application at 2 and Exh. 1, List of Assigned Census Blocks. The Bureau has confirmed that this is the correct amount of RDOF support and the correct defined deployment obligations associated with the Assigned Census Blocks, which comprise 21 census block groups.

⁵ Rural Digital Opportunity Fund Support Authorized for 466 Winning Bids, Public Notice, DA 21-1158 (WCB/OEA/RBATF Sept. 15, 2021).

⁶ See ETC Petition at 1.

⁷ See 214 Transfer Application at 6.

⁸ See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket Nos. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6663, para. 14 (2012).

⁹ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3972, paras. 30-32 (2016) (*Lifeline Modernization Order*).

¹⁰ *Id.* at 3974, 4074-75, paras. 35, 311-12 (requiring all high-cost support recipients to meet Lifeline obligations in all areas where they deploy a network pursuant to a broadband service obligation and are commercially offering qualifying service).

¹¹ See 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.101(a) (as amended by the *Lifeline Modernization Order*); see also *Lifeline Modernization Order*, 31 FCC Rcd at 3972, 4071-72, paras. 30-32, 297, 299-301.

¹² 47 U.S.C. § 254(e).

Commission.¹⁴ A petitioner offering voice service, regardless of the technology used to provision that service, may be treated as a “telecommunications carrier” under Title II of the Act (and so become eligible to receive an ETC designation) if it “voluntarily ‘holds itself out as a telecommunications carrier and complies with appropriate federal and state requirements.’”¹⁵

6. Section 214 of the Act gives primary authority for ETC designations to state commissions.¹⁶ The Commission has authority to designate a carrier as an ETC only when “a common carrier [is] providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”¹⁷ The petitioning carrier must demonstrate that the Commission has jurisdiction and may do so by submitting an “affirmative statement from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission’s jurisdiction.”¹⁸ However, “[i]f a state law expressly articulates that it does not have jurisdiction over a relevant type of technology, Commission staff [will] consider such a statute relevant” in determining Commission jurisdiction.¹⁹

7. A petition for ETC designation by the Commission must include: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act (which service must be offered on a common carriage basis); (2) a certification that the petitioner offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services;²⁰ (3) a description of how the petitioner advertises the availability of the supported services and the charges therefor using media of

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¹³ *Id.* at § 214(e); *id.* § 153(11) (defining “common carrier” or “carrier” in relevant part, as “any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy”).

¹⁴ 47 U.S.C. § 254(c). Section 254(c) requires that the Commission “establish periodically,” the services supported by universal service, “taking into account advances in telecommunications and information technologies and services.” *Id.* The Commission has defined voice as the only supported service. 47 CFR § 54.101(a). This definition is “technologically neutral,” allowing “ETCs to provision voice service over many platforms.” *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692, paras. 77-78 (2011).

¹⁵ *IP-Enabled Services; E9-1-1 requirements for IP-Enabled Service Providers*, WC Docket Nos. 04-36 and 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10268, para. 38 n.128 (2005), *aff’d sub nom. Nuvio Corp. v. FCC*, 473 F.3d 302 (D.C. Cir. 2006).

¹⁶ 47 U.S.C. § 214(e)(2) (providing, in relevant part, that a state commission “shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission”); *id.* § 214(e)(1) (providing that “a common carrier designated under section 214(e)(2), (3), or (6) . . . shall, throughout the service area for which the designation is received—(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title”).

¹⁷ *Id.* § 214(e)(6).

¹⁸ *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12255, para. 93 (2000); *see* 47 U.S.C. § 214(e)(6).

¹⁹ *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6697 (WCB 2018) (*Phase II Auction ETC Guidance Public Notice*). The Commission has delegated authority to the Bureau to consider appropriate ETC designation requests. *See Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

²⁰ 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(1).

general distribution;²¹ (4) a detailed description of the geographic service area for which the petitioner requests to be designated as an ETC;²² and (5) a certification that neither the petitioner, nor any party to the petitioner's application for any new, modified, and/or renewed instrument of authorization from the Commission, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.²³

8. In addition, a petitioner must demonstrate its ability to meet certain service standards. A petitioner seeking an ETC designation for purposes of becoming eligible to receive RDOF support must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) demonstrate its ability to remain functional in emergency situations; and (3) demonstrate its ability to satisfy applicable consumer protection and service quality standards.²⁴

9. Prior to designating a carrier as an ETC pursuant to section 214(e)(6) of the Act, the Commission must also determine whether such designation is in the public interest.²⁵ When making a public interest determination, the Commission historically has considered the benefits of increased consumer choice and the unique advantages and disadvantages of the petitioner's service offering.²⁶

D. Petition for ETC Designation

10. We specify that Beam's ETC designation will cover all eligible census blocks approved for assignment to Beam in the *214 Transfer Public Notice* and assigned to Beam upon consummation of the transaction, subject to and limited by its authorization to receive support (designated service area).²⁷ On October 20, 2022, the Bureau released a Public Notice seeking comment on the 214 Transfer Application and the ETC Petition.²⁸ The Bureau did not receive comments or petitions in opposition to the ETC Petition.

²¹ 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(2).

²² An ETC's "service area" is set by the designating authority and is the geographic area within which an ETC has universal service obligations and may receive universal service support. 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a). Although section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), requires conformance of a competitive ETC's service area and an incumbent rural telephone company's service area, the Commission has separately forborne from imposing such requirements on RDOF support recipients. *See RDOF Order*, 35 FCC Rcd at 728, paras. 93-94. These waivers are predicated upon the finding that the need for such requirements is obviated by the specific service quality standards applicable to support recipients and specific reporting obligations relating to such standards.

²³ 21 U.S.C. § 862; 47 CFR § 1.2002(a)-(b).

²⁴ 47 CFR § 54.202(a). We note that, for petitioners seeking ETC designation for the purpose of becoming authorized to receive RDOF support, the Commission has waived certain section 54.202 requirements, including the requirement that the petitioner submit a five-year service plan and proof of compliance with consumer protection and service quality standards. *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888, 13901 n.71 (RBATF, OEA, WCB 2020) (extending to RDOF long form applicants the same waivers of section 54.202 requirements as provided to Auction 903 long form applicants under the same rationales); *Phase II Auction ETC Guidance Public Notice*, 33 FCC Rcd at 6699-700; 47 CFR §§ 54.804, 54.806. Because Beam is subject to RDOF reporting obligations and other requirements pursuant to this designation conditioned upon its authorization for RDOF support, we extend this same waiver to Beam.

²⁵ 47 U.S.C. § 214(e)(6); 47 CFR § 54.202(b).

²⁶ *See, e.g., Virgin Mobile ETC Designation Order in the States of Alabama, Connecticut, Delaware, New Hampshire and the District of Columbia*, WC Docket 09-197, Order, 25 FCC Rcd 17797, 17799, para. 6 (WCB 2010).

²⁷ *See Results, Long-Form Applicants Spreadsheet* at <https://www.fcc.gov/auction/904/round-results>.

²⁸ *See Wireline Competition Bureau Seeks Comment on R.M. Greene, Inc. aka Beam's Rural Digital Opportunity Fund Petition for Designation as an Eligible Telecommunications Carrier*, WC Docket 09-197, DA 22-1110 (WCB rel. Oct. 20, 2022).

III. DISCUSSION

11. After considering all arguments raised in its ETC Petition, we find that Beam has satisfied the statutory requirements of sections 254 and 214(e) of the Act for designation as an ETC, and the Commission's requirements for ETC designation. We therefore designate Beam as an ETC in the designated service area. In this area, Beam must meet RDOF requirements, Lifeline requirements, and all other requirements attendant to its ETC designation, as specified in the Act and the Commission's rules.²⁹

A. Satisfaction of ETC Requirements

12. *Commission Authority.* Beam demonstrates that the Commission has the requisite authority to designate it as an ETC pursuant to section 214(e)(6) of the Act. It has submitted an affirmative statement from the Alabama Public Service Commission declining to assert jurisdiction over this ETC designation in the designated service area because state regulation specifically excludes from state jurisdiction the regulation of broadband and Voice over Internet Protocol (VoIP) services (the services that Beam will use to meet its public interest obligations).³⁰ Accordingly, we find that the Bureau, acting under the Commission's delegation of authority, may designate Beam as an ETC upon a finding that Beam meets all eligibility requirements for ETC designation.

13. *Offering the Service Supported by the Universal Service Support Mechanisms.* Beam establishes through the required certifications and related filings that it qualifies as a telecommunications provider for purposes of receiving universal service support for which it may become eligible pursuant to the requested designation and that it will offer the service supported by the federal universal service support mechanisms.³¹ Specifically, Beam has committed to offering voice service on a common carrier basis and has specified that its voice service meets the requirements of section 54.101(a) of the Commission's rules.³² Consistent with Commission guidance to authorized RDOF support recipients, Beam must offer this service as of the first day of the month following the authorization.³³

14. *Compliance with the Service Requirements Applicable to RDOF Support Recipients.* Beam establishes its ability to comply with service requirements applicable to the support that it receives.³⁴ This determination considers the Bureau's findings in the *214 Transfer Public Notice* that Beam has demonstrated the technical, financial, and managerial capability to provide voice and broadband services meeting or exceeding RDOF standards, as well as its commitments in its ETC Petition to meeting relevant public interest obligations and complying with all statutory and regulatory requirements for receiving universal service support.³⁵ As a condition of authorization, Beam must satisfy

²⁹ 47 CFR § 54.202(a)(1)(i); *id.* § 54.101.

³⁰ ETC Supplement at Exh.1, Copy of Letter from Alabama Public Service Commission (Letter from John A. Gardner, Exec. Dir., Alabama Public Serv. Comm'n, to Joan Budd, General Counsel, R.M. Greene, Inc. aka Beam) (Oct. 13, 2022)) (declining to exercise jurisdiction over Beam's ETC designation)); *see also* Ala. Code § 37-2A-4 (stating that "the Alabama Public Service Commission shall not have any jurisdiction, right, power, authority, or duty to regulate, supervise, control, oversee, or monitor, directly or indirectly, the rates, charges, classifications, provision, or any aspect of broadband service, broadband enabled services, VoIP services, or information services").

³¹ *Id.* at 4-5; 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.201(d)(1).

³² ETC Petition at 5-6; 47 U.S.C. § 214(e)(1), (6); 47 CFR § 54.101(a) (eligible voice telephony service must provide voice grade access to the public switched telephone network or its functional equivalent).

³³ *See Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 745, para. 139 (2020) (*RDOF Order*) (stating that a newly-authorized recipient of RDOF support should be prepared to provide voice service throughout its service areas, either through its own facilities or a combination of its own and other ETC's facilities, on the first day of the month after authorization).

³⁴ 47 CFR §§ 54.101(d), 54.202(a)(1)(i), 54.805.

³⁵ *See 214 Transfer Public Notice* at 4-5; ETC Petition at 4-5, 8.

certain reporting obligations to ensure that the support received is being used efficiently and appropriately and that service requirements are being met.³⁶

15. *Compliance with Service Requirements Applicable to Lifeline Services.* Beam commits to offering Lifeline discounts to qualifying low-income consumers, consistent with the Commission's rules, in all high-cost areas where it is authorized to receive support.³⁷ We emphasize that all ETCs receiving Lifeline support must report certain information to the Commission, the Universal Service Administrative Company (USAC), and the local regulatory authority, pursuant to section 54.422 of the Commission's rules.³⁸

16. *Offering the Supported Services Using a Carrier's Own Facilities.* Beam certifies that it will offer supported services using its own facilities or a combination of its own facilities and resale of another carrier's services.³⁹ Facilities are the ETC's "own" if the ETC has an exclusive right to use the facilities to provide the supported services or when service is provided by any affiliate within the same holding company structure.⁴⁰ An ETC may satisfy its obligation to "offer" supported voice service (or its functional equivalent, including interconnected VoIP) through a third-party vendor but cannot simply rely on the availability of over-the-top voice options.⁴¹ Instead, the ETC must remain legally responsible, through a managed service solution, for ensuring that the service meets consumer protection and service quality standards.⁴²

17. *Advertising Supported Services.* Beam commits to advertising the availability of the supported services and related charges using media of general distribution.⁴³ We emphasize that, as part of this commitment, Beam must advertise the availability of its services and charges in a manner reasonably designed to reach Lifeline-eligible consumers.⁴⁴

³⁶ *Id.* § 54.806 (providing that RDOF support recipients are subject to sections 54.313, 54.314, and 54.316 of the Commission's rules); *id.* § 54.313 (requiring annual report including certifications as to rates, functionality, and deployment, among other things); *id.* § 54.314 (requiring annual certification stating that all federal high-cost support provided was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended); *id.* § 54.316 (requiring build-out milestone reporting).

³⁷ ETC Petition at 7; 47 CFR § 54.400 et seq.

³⁸ 47 CFR § 54.422; *see also id.* § 54.410.

³⁹ ETC Petition at 8; 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.201(d)(1).

⁴⁰ *See Phase II Auction ETC Guidance Public Notice*, 33 FCC Rcd at 6698; *see also* 47 U.S.C. § 153(2) (defining an affiliate as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person").

⁴¹ *Phase II Auction ETC Public Notice*, 33 FCC Rcd at 6699 (citing *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order on Reconsideration, 33 FCC Rcd 1380, 1387-88, para. 20 (2018) (rejecting arguments contending that "because VoIP is provided over broadband networks and over-the-top voice options are available, broadband service providers need only offer broadband as a standalone service," and requiring carriers to "offer VoIP over their broadband network on a standalone basis")); *cf.* *Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 7211, 7224 n.21 (WCB 2013) (explaining that a broadband provider would be considered to be providing voice service if it did so through an affiliated competitive local exchange company or "through a managed voice solution obtained from a third party vendor . . . , so long as the broadband provider is the entity responsible for dealing with any customer problems, and it provides quality of service guarantees to end user customers").

⁴² *Phase II Auction ETC Public Notice*, 33 FCC Rcd at 6699.

⁴³ ETC Petition at 8; 47 U.S.C. § 214(e)(1)(B); 47 CFR § 54.201(d)(2).

⁴⁴ 47 CFR § 54.405.

18. *Ability to Remain Functional in Emergency Situations.* Beam states that it can remain functional in emergency situations.⁴⁵ Beam states that it has sufficient back-up power to ensure functionality in the designated service area without an external power source, can re-route traffic around damaged facilities, and can manage traffic spikes resulting from emergency situations.⁴⁶

19. *Anti-Drug Abuse Act Certification.* Beam submits a certification that satisfies the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001-1.2003 of the Commission's rules.⁴⁷

B. Public Interest Analysis

20. Based on the information, representations, and certifications in the ETC Petition and consistent with the Bureau's findings in the *214 Transfer Public Notice*, we find that Beam has demonstrated that its designation as an ETC serves the public interest and would provide numerous benefits to consumers.⁴⁸ Long-standing Commission precedent has explained that the public interest inquiry in the ETC context is a cost-benefit analysis focusing on the petitioner's efficiencies, the benefits of competition, the public benefits of service, and the fundamental principles of USF, all of which we find are sufficiently addressed in the 214 Transfer Application and the ETC Petition.⁴⁹ The Bureau has determined that service to the designated service area will bring social and economic benefits in terms of accelerated access to advanced services meeting specific performance requirements.⁵⁰ In addition, Beam will provide service and meet program requirements, subject to close oversight,⁵¹ default consequences, and potentially, forfeiture and other penalties;⁵² this helps ensure that Beam will meet its obligation to provide ubiquitous service throughout the study area at rates and on terms that are reasonably comparable to those associated with comparable service offerings in urban areas.

21. In conclusion, and based on the information, representations, and certifications in its 214 Transfer Application and ETC Petition, we find that Beam has met all applicable conditions and prerequisites for ETC designation and that designation serves the public interest. Accordingly, we

⁴⁵ ETC Petition at 7.

⁴⁶ *Id.*; 47 CFR § 54.202(a)(2).

⁴⁷ ETC Petition at 9; 47 CFR § 1.2002.

⁴⁸ *See* ETC Petition at 8-9; *214 Transfer Public Notice* at 3, 5-6.

⁴⁹ *See* ETC Petition at 8-9; *214 Transfer Public Notice* at 3, 5-6; *Federal-State Joint Board on Universal Service*, CC Docket No. 95-45, Report and Order, 20 FCC Rcd 6371, 6388-89, para. 40 (2005) ("The public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas."); *id.* at 6389, para. 41 (where the Commission has jurisdiction, it will conduct a cost-benefit analysis that includes consideration of a variety of factors, including "the benefits of increased consumer choice, and the unique advantages and disadvantages of the competitor's service offering.").

⁵⁰ *See 214 Transfer Public Notice* at 5-6.

⁵¹ *See RDOF Order*, 35 FCC Rcd at 702-04, paras. 31-36 (setting public interest obligations for RDOF support recipients); *id.* at 709-712, paras. 45-55 (adopting service milestone requirements); *id.* at 712-713, paras. 56-57 (adopting reporting requirements); 47 §§ CFR 54.802, 805-806.

⁵² *See RDOF Order*, 35 FCC Rcd at 713-716, paras. 58-64 (adopting non-compliance measures); *id.* at 715-716, para. 63 (stating that in addition to default consequences, RDOF support recipients are subject to sanctions "including but not limited to the Commission's existing enforcement procedures and penalties, reductions in support amounts, potential revocation of ETC designations, and suspension or debarment"); 47 CFR §§ 54.320(c), 54.803(c).

designate Beam as an ETC for purposes of becoming eligible to receive RDOF support associated with the designated service area.

C. Regulatory Oversight

22. Under section 254(e) of the Act, an ETC must use universal service support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”⁵³ Under section 214(e) of the Act, an ETC must provide supported services throughout the designated service area for which it receives an ETC designation.⁵⁴ When and if the ETC is authorized to receive high-cost support, it must file an annual certification for each state in which it receives support that all federal high-cost support received was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.⁵⁵ The Commission conditions future support awarded through the high-cost program on the filing of such certification.⁵⁶

23. An ETC receiving Lifeline support uses that support as intended when it reduces the price of its qualifying voice or broadband services by the amount of the support for the eligible consumer.⁵⁷ In addition, it must file annual reports that include, among other things, a certification of compliance with applicable minimum service standards, service quality standards, and consumer protection rules.⁵⁸

24. We find that reliance on Beam’s commitments to meet these and other regulatory requirements in its 214 Transfer Application and in its ETC Petition is reasonable and consistent with the public interest and the Act. We conclude that fulfillment of these additional reporting requirements will further the Commission’s goal of ensuring that Beam and will commit to satisfying its obligation under section 214(e) of the Act to provide supported services throughout its designated service area.

25. The Commission may initiate an inquiry on its own motion to examine any ETC’s records and documentation to ensure that the universal service support received is being used “only for the provision, maintenance, and upgrading of facilities and services” in the areas for which the relevant ETC(s) have been designated.⁵⁹ The ETC must provide such records and documentation to the Commission and USAC upon request.⁶⁰ If Beam fails to fulfill the requirements of the Act, the Commission’s rules, or the terms of this Order after it begins receiving universal service support, the Commission has authority to revoke its ETC designation.⁶¹ The Commission also may assess forfeitures for violations of Commission rules and orders.⁶² We note that the Commission has recently announced a

⁵³ 47 U.S.C. § 254(e).

⁵⁴ *Id.* § 214(e).

⁵⁵ 47 CFR § 54.314(b).

⁵⁶ *Id.*

⁵⁷ See *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15105-06, para. 26 (2005).

⁵⁸ 47 CFR § 54.422(b)(3); see also *id.* §§ 54.416, 54.422 (requiring an officer of the company to certify that the ETC has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services and that it will comply with all federal Lifeline certification procedures).

⁵⁹ 47 U.S.C. §§ 220, 403.

⁶⁰ 47 CFR § 54.417.

⁶¹ *Id.* § 54.806(b) (providing that RDOF support recipients are subject to the compliance measures, recordkeeping requirements, and audit requirements set forth in section 54.320(a)-(c) of the Commission’s rules); *id.* § 54.320(c); *Federal-State Joint Board on Universal Service; Western Wireless Corp. Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Declaratory Ruling, 15 FCC Rcd 15168, 15174, para. 15 (2000).

new program, the Rural Broadband Accountability Plan (RBAP), that will increase audits, verifications, and transparency for USF high-cost programs, including RDOF.⁶³ With the establishment of RBAP, RDOF recipients, like other high-cost recipients, will be subject to a high level of accountability as they work to meet applicable performance requirements and benchmarks.

26. As the Bureau has previously explained, a carrier that cannot appropriately use universal service support must relinquish its ETC designation pursuant to section 214(e)(4) of the Act and section 54.205 of the Commission's rules.⁶⁴ For ETCs designated by the Commission, the ETC must file a notice of relinquishment in WC Docket No. 09-197, Telecommunications Carriers Eligible for Universal Service Support, using the Commission's Electronic Comment Filing System (ECFS). The Bureau will release an order approving the relinquishment if the relinquishing ETC demonstrates that the affected area will continue to be served by at least one ETC.⁶⁵ The ETC must then send a copy of its relinquishment notice and a copy of the relinquishment order (within one week of its release) to USAC at hcorders@usac.org. A carrier that intends to discontinue service must first seek authorization to discontinue service under section 63.71 of the Commission's rules.⁶⁶ In addition, ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act or to engage in the sale of assets under section 214 (including any authorization to receive RDOF support) 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.⁶⁷ Transfers of control and assignments of international section 214 authorizations are separately subject to section 63.24 of the Commission's rules.⁶⁸ Except where the Commission has forborne from the application of section 214, this requirement applies to all transfers of control or asset acquisitions involving ETCs.

IV. ORDERING CLAUSES

27. Accordingly, IT IS ORDERED, pursuant to the authority contained in section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6), and the authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, R.M. GREENE, INC. AKA BEAM IS DESIGNATED an Eligible Telecommunications Carrier in its designated service area.

28. IT IS FURTHER ORDERED that a copy of this Order SHALL BE TRANSMITTED to the Universal Service Administrative Company and to the Alabama Public Service Commission.

(Continued from previous page) _____

⁶² See 47 U.S.C. § 503(b).

⁶³ Fact Sheet: Rural Broadband Accountability Plan (rel. Jan. 28, 2022).

⁶⁴ *Id.* § 214(a); 47 CFR § 54.205. See, e.g., *Connect America Phase II Support Authorized for Six Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 12869, 12874 (RBAFT, OEA, WCB 2020) (summarizing ETC obligations relating to relinquishment); *Connect America Phase II Support Authorized for 856 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 4725, 4720-30 (RBAFT, OEA, WCB 2019).

⁶⁵ 47 U.S.C. § 214(e)(4).

⁶⁶ 47 CFR § 63.71.

⁶⁷ 47 U.S.C. § 214; 47 CFR §§ 63.03, 63.04; *Connect America Phase II Support Authorized for Six Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 35 FCC Rcd 12869, 12874-75 (RBAFT, OEA, WCB 2020) (summarizing ETC obligations relating to transfers of control); *Connect America Phase II Support Authorized for 856 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 4725, 4730 (RBAFT, OEA, WCB 2020).

⁶⁸ 47 CFR § 63.24.

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

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau