

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

In the Matter of
PTI Pacifica, Inc.
Petition for Reconsideration
GN Docket No. 20-104

ORDER ON RECONSIDERATION

Adopted: February 1, 2024

Released: February 1, 2024

By the Chief, Office of Economics and Analytics; Chief, Wireline Competition Bureau; and the Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order, the Office of Economics and Analytics (OEA), the Wireline Competition Bureau, and the Wireless Telecommunications Bureau (the Bureaus), deny a petition for reconsideration filed by PTI Pacifica, Inc. (PTI Pacifica) of the denial in part of its request to waive deadlines for the construction, drive testing, and reporting requirements associated with the receipt of final disbursements of Mobility Fund Phase I (MF-I) support.

II. BACKGROUND

2. In the USF/ICC Transformation Order, the Commission comprehensively reformed and modernized the high-cost component of the Universal Service Fund by, among other things, establishing the Mobility Fund, a universal service support mechanism dedicated expressly to mobile services. For MF-I, the Commission designated a fund of up to \$300 million in one-time universal service support, to be allocated through a reverse auction (Auction 901), for the deployment of mobile voice and broadband services. Under these rules, winning bidders in Auction 901 committed to extend the availability of mobile voice and broadband services on networks that provide third-generation (3G) or better performance or to accelerate the deployment of fourth-generation (4G) wireless networks in areas that lacked such services. The MF-I rules require winning bidders to provide service to at least 75% of the

1 PTI Pacifica, Inc. Petition for Reconsideration, GN Docket No. 20-104 (filed May 1, 2023) (Petition). PTI Pacifica requested a waiver with respect to the Rota, Marpi, and Tinian census tracts located in the Commonwealth of the Northern Mariana Islands (CNMI). OEA and the Bureaus' decision addressed PTI Pacifica's request only with respect to the Tinian census tract.

2 See PTI Pacifica, Inc. Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline, GN Docket No. 20-104, Order, DA 23-276 (OEA/WCB/WTB Mar. 31, 2023) (Order); 47 CFR § 1.1106(p)(3).

3 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, 17773, para. 299 (2011), aff'd sub nom., In re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (USF/ICC Transformation Order).

4 See id.

5 See id. at 17674-75, para. 28.

designated eligible road miles within the relevant area covered by their winning bids.⁶ Winning bidders committing to provide service over a 3G network were required to meet their performance requirements within two years of being authorized to receive support,⁷ while winning bidders committing to provide service over a 4G network were required to meet their performance requirements within three years of authorization.⁸

3. PTI Pacifica was the winning bidder for seven census tracts in the Commonwealth of the Northern Mariana Islands (CNMI).⁹ On August 16, 2013, the Bureaus authorized PTI Pacifica to receive up to approximately \$1.26 million in MF-I support for those areas.¹⁰ The deadline for PTI Pacifica to complete construction of 4G networks, drive testing, and submission of reports demonstrating coverage was August 16, 2016.¹¹

A. PTI Pacifica's Waiver Request

4. On May 16, 2016, three months before the deadline for PTI Pacifica to submit reports demonstrating that it had completed construction of 4G networks in each of the census tracts for which it was the winning bidder, PTI Pacifica filed a request for a waiver of section 54.1006(a)¹² of the FCC's rules and a one-year extension of deadline with respect to three of those areas.¹³ PTI Pacifica explained

⁶ An Auction 901 winning bidder is required to provide service covering at least 75% of the eligible road miles within the area covered by its winning bid, and it will receive Mobility Fund support only for the actual road miles covered, up to 100%, within that area. Absent a waiver, a winning bidder that has been authorized to receive MF-I support will be required to repay any support it has received together with an additional performance default payment if it fails to meet its minimum coverage requirement by the specified deadline, fails to meet other service requirements, or fails to fulfill any other term or condition of support. *See USF/ICC Transformation Order*, 26 FCC Rcd at 17814, para. 461; *Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901*, AU Docket No. 12-25, Public Notice, 27 FCC Rcd 4725, 4777, para. 189 (WTB/WCB 2012) (*Auction 901 Procedures Public Notice*); 47 CFR § 54.1006(f).

⁷ 47 CFR § 54.1006(a).

⁸ 47 CFR § 54.1006(b).

⁹ *Mobility Fund Phase I Auction – Winning Bids Sorted by Bidder*, https://www.fcc.gov/sites/default/files/wireless/auctions/901/reports/901winning_bids_by_bidder.pdf (last visited Dec. 20, 2023).

¹⁰ *Mobility Fund Phase I Support Authorized for 50 Winning Bids; Default on Six Auction 901 Winning Bids Determined*, AU Docket No. 12-25, Public Notice, 28 FCC Rcd 12284, 12286 (WTB/WCB 2013).

¹¹ 47 CFR § 54.1006(b).

¹² PTI Pacifica's Request and its Supplements seek waiver and extension of the deadlines contained in 47 CFR § 54.1006(a). The deadlines in 47 CFR § 54.1006(a) apply to Auction 901 winning bidders who committed to construct 3G networks; winning bidders who committed to construct 4G networks are bound by the deadlines in 47 CFR § 54.1006(b). Because PTI Pacifica committed to construct 4G networks, the deadlines for which it has sought waiver lie within 47 CFR § 54.1006(b).

¹³ PTI Pacifica, Inc. Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline for Three Census Tracts, WT Docket No. 10-208 at 2 (filed May 16, 2016) (Request); *see also* PTI Pacifica, Inc. Supplement To Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline For Three Census Tracts, WT Docket No. 10-208 (filed Aug. 15, 2017) (First Supplement); PTI Pacifica, Inc. Second Supplement to Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline For Three Census Tracts, WT Docket No. 10-208 (filed Aug. 7, 2018) (Second Supplement); PTI Pacifica, Inc. Third Supplement to Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline For Three Census Tracts, WT Docket No. 10-208 (filed Aug. 9, 2019); PTI Pacifica, Inc. Fourth Supplement to Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline For Three Census Tracts, WT Docket No. 10-208 (filed July 30, 2020) (Fourth Supplement); PTI Pacifica, Inc. Fifth Supplement to Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline For Three Census Tracts, WT

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that, although construction of its mobile networks in four of the seven census tracts was complete, it would not meet its obligations in the remaining tracts—Tinian, Rota, and Marpi.¹⁴ In subsequent supplemental filings, PTI Pacifica explained that the network in the Rota census tract was complete and operational in October 2016, roughly two months after the initial deadline.¹⁵ A temporary network on Marpi was operational before the deadline passed, and PTI Pacifica has stated that it will eventually transition to a permanent network with no interruption to service on the tract.¹⁶

5. For the Tinian tract, PTI Pacifica at first requested an extension of one year to meet its performance obligations, explaining that it faced numerous allegedly unforeseeable delays in its negotiations with the United States Department of Defense (DoD) to construct a final essential cell site on DoD-administered land in the North Field, and that it was seeking alternative solutions.¹⁷ In a supplemental filing submitted in 2017, PTI Pacifica asked for a further extension to August 16, 2018, explaining that it had found a potential site on Mount Lasso while it awaited DoD’s approval of the North Field location. PTI Pacifica stated, however, that the Mount Lasso area is also subject to DoD administration and that DoD and the CNMI Historic Preservation Office might require environmental and historic site assessment surveys before they would issue any construction approvals. In a second supplemental filing, PTI Pacifica informed the Commission that DoD had not approved the North Field site, and that two prospective sites on Mount Lasso were found to be unsuitable because of their historical significance.¹⁸ PTI Pacifica therefore asked for an additional year—until August 16, 2019—to complete historic surveys of a third potential Mount Lasso location, citing the unpredictability of the approval process timeline.¹⁹

6. A year later, DoD had not yet issued the long-term lease that PTI Pacifica needed to construct its cell site, so it asked for another extension to August 16, 2020,²⁰ then once again sought an additional one-year extension in July of 2020 because DoD approval was still pending.²¹ PTI Pacifica explained that the “process has been mired by additional requests for information, multi-step reviews by various divisions and offices within DoD, and other unexpected delays.”²²

7. In 2021, PTI Pacifica filed again, citing additional steps that it would need to take before it could sign the lease with DoD and explaining that the COVID-19 pandemic had delayed this process.²³ Because it could not be certain of the government’s timeline to complete these final steps, PTI Pacifica requested a sixth extension of the deadline to August 16, 2022.²⁴ A year later the lease had still not been

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Docket No. 10-208 (filed July 27, 2021) (Fifth Supplement); PTI Pacifica, Inc. Sixth Supplement to Request for Waiver and Extension of Time of Mobility Fund Phase I Construction Deadline For Three Census Tracts, WT Docket No. 10-208 (filed Aug. 1, 2022) (Sixth Supplement).

¹⁴ These census tracts are T69100950100 (SAC 658001) (Rota), T69110000100 (SAC 658002) (Marpi), and T69120950200 (SAC 658007) (Tinian).

¹⁵ *See, e.g.*, First Supplement at 1–2.

¹⁶ *See, e.g., id.* at 3.

¹⁷ Request at 7.

¹⁸ Second Supplement at 4.

¹⁹ *Id.* at 2, 4.

²⁰ Third Supplement at 2, 4.

²¹ Fourth Supplement at 2–4

²² *Id.* at 4.

²³ Fifth Supplement at 4–5.

²⁴ *Id.* at 2, 6.

finalized, although PTI Pacifica expressed its hope that it would be in short order, and requested a further extension of the deadline to August 16, 2023.²⁵ PTI Pacifica stated that it expected construction of the final site to be complete “within months of receiving the necessary Government approvals.”²⁶

8. All in all, PTI Pacifica filed six supplements to its initial waiver request, ultimately seeking an additional seven years to meet the MF-I obligations that were subject to an original deadline of August 16, 2016.

B. The PTI Pacifica Waiver Order

9. On March 31, 2023, OEA and the Bureaus denied PTI Pacifica’s request with respect to the Tinian census tract only.²⁷ After noting that the MF-I rules were crafted to provide 3G or better wireless networks in areas where additional investment could make a substantial difference in a transparent, simple, speedy, and effective way,²⁸ the Order found that PTI Pacifica’s case did not present special circumstances warranting deviation from the general rule, and that any such deviation would not be in the public interest.²⁹ Critically, the length of PTI Pacifica’s request distinguished it from prior granted requests for waivers of MF-I construction deadlines that ranged in length from three to eighteen months.³⁰ The Order emphasized that PTI Pacifica’s requested deadline would extend to ten years after the Bureaus first authorized its support, and that such a result would be “at odds with the express purpose for which the Commission awarded MF-I support to provide ‘one-time support to immediately accelerate deployment of networks for mobile voice and broadband services in unserved areas.’”³¹ PTI Pacifica’s request therefore did not present the requisite special circumstances that might animate a waiver grant. For similar reasons, the Order concluded that deviation from the general rule would not serve the public interest in this case. Namely, deviation here would conflict with the Commission’s objectives in extending MF-I support, and undermine its ability to enforce future high-cost support recipients’ performance obligations.³²

C. PTI Pacifica’s Petition for Reconsideration

10. PTI Pacifica contends that the Order did not “consider or give proper weight to the evidence in the record” because PTI Pacifica’s inability to meet the deadline was not within its control.³³

²⁵ Sixth Supplement at 4–7.

²⁶ *Id.* at 7.

²⁷ See generally Order.

²⁸ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17781, para. 322; see also *Auction 901 Procedures Public Notice*, 27 FCC Rcd at 4729, para. 8.

²⁹ See Order at 5–8.

³⁰ See Order at 6–7 (citing *East Kentucky Network, LLC d/b/a Appalachian Wireless, United States Cellular Corporation, GCI Communication Corp., Union Telephone Company, Requests for Waiver of the Performance rules for Mobility Fund Phase I and Tribal Mobility Fund Phase I*, WT Docket No. 10-208, Order, 36 FCC Rcd 178, 180–88, 190–91, paras. 5–23, 27–31 (WCB/WTB/OEA 2021) (*Appalachian Wireless Order*) (granting requests for extensions ranging from three to eighteen months after the initial deadline); *Standing Rock Telecommunications, Inc., Amended Request for Limited Waiver and Extension of Mobility Fund Phase I Public Interest Obligations*, WT Docket No. 10-208, Order, 34 FCC Rcd 9598, 9600, 9604–05, paras. 6, 14–16 (WCB/WTB/OEA 2019) (*Standing Rock Order*) (granting a six-month request for waiver and extension); *Leaco Rural Telephone Cooperative, Inc. and Pine Belt Cellular, Inc.*, WT Docket No. 10-208, Order, 31 FCC Rcd 9001, 9003–04, 9006–07, paras. 7, 11, 16–18 (WTB 2016) (*Leaco/Pine Belt Order*) (granting two-month and six-month requests for waiver and extension)).

³¹ Order at 7 (quoting *USF/ICC Transformation Order*, 26 FCC Rcd at 17674–75, para. 28); see also 26 FCC Rcd at 17816, para. 469 (explaining that the Commission’s purpose “is to aggressively extend coverage”).

³² Order at 8.

The Petition describes PTI Pacifica's investment on the Tinian tract, notes that it is likely the only provider that would develop 4G networks on the island, and claims that it has worked hard to meet its obligations but has fallen just short of the 75% coverage requirement.³⁴ PTI Pacifica repeatedly emphasizes its diligence and lack of control over the various delays that arose out of its negotiations with DoD, including "requests for information, multi-step reviews by various divisions and offices within DoD, and other unexpected delays, including the COVID-19 pandemic."³⁵ The Petition contends that the length of PTI Pacifica's request in fact "reveals the very essence of 'special circumstances' that were not reasonably foreseeable and that warrant a deviation from the general rule," and that the Order therefore did not give sufficient weight to the record.³⁶ PTI Pacifica submits that its case merits a waiver at least as much as those from which it was distinguished in the Order.³⁷ While it argues that the length of the request makes its case more compelling, PTI Pacifica also notes that it initially requested an extension of just one year, that its subsequent "incremental" requests have come in six annual supplements, and that it therefore has presented "a perfectly proportional delay based on the series of unique, uncontrollable, and unforeseeable circumstances PTI [Pacifica] has faced in obtaining DoD's approval."³⁸ The Petition likens this situation to cases in which the Commission granted waivers for delays as long as or longer than PTI Pacifica's, and where the requesting party also showed progress but faced delays that were beyond its control.³⁹ PTI Pacifica also submits that granting its request would not undermine future enforcement of high-cost support obligations because its case is unique and "highly unlikely" to be seen again.⁴⁰ Denying the waiver, by contrast, might disincentivize future potential recipients from undertaking to provide coverage in similarly challenging locations.⁴¹ Finally, the Petition argues that waiver would serve the public interest because no other provider will serve the area, which is important for government and military operations but lacks any residences or businesses.⁴²

III. DISCUSSION

11. Generally, the Commission's rules may be waived for good cause shown.⁴³ Good cause is shown, and thus a waiver is appropriate, only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.⁴⁴ Further, the Commission may reconsider the record and change its decision if the facts in the record demonstrate a waiver is warranted and in the

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³³ Petition at 2.

³⁴ *Id.* at 3–5, 9.

³⁵ *Id.* at 9.

³⁶ *Id.* at 11.

³⁷ *Id.* at 12–14 (citing *Appalachian Wireless Order*, 36 FCC Rcd at 190–91, paras. 27–29; *Leaco/Pine Belt Order*, 31 FCC Rcd at 9006, para. 16).

³⁸ Petition at 15.

³⁹ *Id.* at 15, n.23.

⁴⁰ *Id.* at 17.

⁴¹ *Id.*

⁴² *Id.* at 18.

⁴³ 47 CFR § 1.3.

⁴⁴ See *Appalachian Wireless Order*, 36 FCC Rcd at 188, para. 24; *Standing Rock Order*, 34 FCC Rcd at 9602, para. 11; *Leaco/Pine Belt Order*, 31 FCC Rcd at 9006, para. 15; *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972)); see also *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125–28 (D.C. Cir. 2008).

public interest.⁴⁵ However, a petition that relies on facts or arguments not previously presented may only be granted in certain circumstances.⁴⁶ A petition that fails to identify any material error, omission, or reason warranting reconsideration, or that relies on arguments that have been fully considered and rejected within the same proceeding may be dismissed.⁴⁷ We conclude that PTI Pacifica has failed to identify any errors made by OEA and the Bureaus in their determination that PTI Pacifica did not meet the standard for grant of a waiver and relies solely on arguments that previously have been fully considered and rejected by OEA and the Bureaus. Accordingly, we deny PTI Pacifica's Petition.⁴⁸

12. PTI Pacifica's already rejected arguments include: (i) that unforeseeable delays and the length of the requested extension together create special circumstances that merit deviation from the general rule, making PTI Pacifica's case similar to those in which we have granted waivers in the past;⁴⁹ (ii) that the delay in meeting the coverage deadlines was reasonable and justified under the circumstances;⁵⁰ (iii) that granting the Request would not undermine future enforcement;⁵¹ and (iv) that granting the Request would be in the public interest because PTI Pacifica has nearly met its obligations and continues to make progress.⁵²

13. In its initial Request and annual supplements, PTI Pacifica asserted that its case involves special circumstances in light of its diligence, significant progress, and the unforeseeable nature of the delays that it faced in trying to meet its coverage obligation on Tinian.⁵³ PTI Pacifica now contends that OEA and the Bureaus erred in determining that it did not present special circumstances supporting a waiver, and that its case is at least as compelling as those for which we have previously granted extensions of MF-I construction deadlines.⁵⁴ However, the Order considered carefully and rejected the argument that PTI Pacifica was situated similarly to those MF-I recipients; OEA and the Bureaus instead found them to be distinguishable because they were granted comparatively modest extensions of their deadlines.⁵⁵ OEA and the Bureaus made clear that the circumstances leading up to PTI Pacifica's delay in

⁴⁵ See 47 CFR § 1.106(c)(2).

⁴⁶ See 47 CFR § 1.106(b)(2), (c).

⁴⁷ 47 CFR § 1.106(b)(2), (c)(2).

⁴⁸ See, e.g., *Qwest Communications Company, LLC v. N. Valley Communications, LLC*, Order on Reconsideration, 26 FCC Rcd 14520, 14522–23, paras. 5–6 (2011) (“It is ‘settled Commission policy that petitions for reconsideration are not to be used for the mere reargument of points previously advanced and rejected.’”) (quoting *S&L Teen Hospital Shuttle*, Order on Reconsideration, 17 FCC Rcd 7899, 7900, para. 3 (2002)).

⁴⁹ See Petition at 12–14; Order at 6–7.

⁵⁰ See Petition at 14–16; Order at 7–8.

⁵¹ See Petition at 16–17; Order at 7–8.

⁵² See Petition at 18; Order at 8.

⁵³ See, e.g., Request at 5 (“PTI [Pacifica] has diligently and aggressively pursued meeting the [MF-I] requirements in the Rota, Marpi and Tinian Census Tracts and remains committed to providing 4G LTE mobile service to these remote areas with very sparse populations.”); First Supplement at 4; Second Supplement at 5; Sixth Supplement at 4.

⁵⁴ PTI Pacifica attempts to turn the Commission's waiver standard on its head, arguing that the length of their delay in meeting the construction and other performance deadlines for which it seeks a waiver is the special circumstance that justifies waiver of those deadlines. See, e.g., Petition at 11 (arguing that “the very magnitude of delay by DoD reveals the very essence of ‘special circumstances’ that were not reasonably foreseeable . . .”); Petition at 12–13 (describing the unexpected delays and arguing that “[n]o reasonable applicant for [MF-I] support could have predicted this outcome, which is the very definition of a ‘special circumstance’ that warrants deviation from the general rule.”). Adopting PTI Pacifica's interpretation of the waiver standard could lead to the incongruous outcome that waiver petitioners with lengthy delays would be more likely to obtain a waiver than those with minimal or modest delays.

obtaining a tower site cannot be viewed in a vacuum, and the totality of the circumstances, including the extreme and unprecedented length of PTI Pacifica's delay in providing 4G service that meets the MF-I requirements, "are not of the type that warrant a waiver of the MF-I deadlines and the resulting disbursement of USF funds."⁵⁶

14. PTI Pacifica disagrees with OEA's and the Bureau's determination that the overall length of its delay doomed its case to establish special circumstances that might animate a waiver grant. PTI Pacifica argues that "the Commission has previously granted a waiver of construction or build out deadlines for more than a decade where the licensee demonstrated consistent progress toward achieving those deadlines but faced obstacles beyond their control."⁵⁷ Specifically, the Petition compares PTI Pacifica's case to that of Progeny LMS, LLC (Progeny), which received multiple extensions of the buildout deadlines for its location and monitoring services licenses in the 902–928 MHz band.⁵⁸ We do not find that situation to be analogous. Progeny provides services that wireless carriers may use, for example, to meet Enhanced 911 (E911) location accuracy requirements and was not seeking to receive a disbursement of funds that had been conditioned upon having met the very deadline it missed.⁵⁹ WTB granted Progeny's request for reasons wholly inapplicable to MF-I's rules and policies, including that the purposes of the program to provide location-based services would not be frustrated by the grant, and that the public interest would be well-served by Progeny's "potential of offering significant public safety benefits through improved E911 indoor location accuracy . . ."⁶⁰ The bases that PTI Pacifica offers for concluding that its case is akin to Progeny's are that Progeny, too, maintained that it was "actively and diligently" working to meet its obligations, and that Progeny filed multiple requests for extensions.⁶¹ Although we acknowledge PTI Pacifica's progress on Tinian, as detailed above, the Order expressly considered PTI Pacifica's efforts and concluded that the significant length of its extension request(s) was

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⁵⁵ Compare Order at 7 ("PTI Pacifica's delay in meeting its MF-I performance requirements in the Tinian tract far exceeds any for which we have previously granted an MF-I recipient a waiver. . . . While our decision is not intended to disregard PTI Pacifica's effort to complete the required construction of the Tinian network, we cannot look merely at the circumstances leading to its delay in obtaining a tower site while ignoring the other circumstances present here, which include the extreme length of its delay in providing 4G service that meets MF-I requirements."), with Petition at 12–14 ("PTI's request for a waiver and extension of time to construct its network in the Tinian census tract – as a result of the fact that DoD has delayed approval for years – are *more compelling* than the circumstances the Bureau relied on to grant extensions of time to other [MF-I] recipients.") (emphasis in original).

⁵⁶ Order at 7, para. 17.

⁵⁷ Petition at 15, citing *Request of Progeny LMS, LLC for Waiver and Limited Extension of Time*, WT Docket No. 12-202, Order, 32 FCC Rcd 122, 132, para. 20 (WTB 2017) (*Progeny Order*).

⁵⁸ See generally *Progeny Order*.

⁵⁹ *Id.* at 122, para. 1; see also *USF/ICC Transformation Order*, 26 FCC Rcd at 17777–78, 17781, 17785, 17805, paras. 313, 322, 324, 337, 421.

⁶⁰ *Id.* at 136, para. 28.

⁶¹ Petition at 15, n.23 (citing *Progeny Order*, 32 FCC Rcd at 132, para. 20). PTI Pacifica contrasts itself with parties whose requests to extend the same deadlines for which Progeny received an extension were denied because "it would be contrary to the public interest to grant extensions and waivers in perpetuity where our buildout requirements have not been met and there is no assurance that they will ever be met." Petition at 15-16 (quoting *Helen Wong-Armijo, Applications for Waiver and Limited Extension of Time*, WT Docket No. 16-385, Order, 32 FCC Rcd 9458, 9471, para. 28 (WTB 2017) (*Wong-Armijo Order*)). WTB there explained that, unlike Progeny, the requesting parties had not invested in the technology that was necessary to operate in the band. *Wong-Armijo Order*, 32 FCC Rcd at 9471, para 28 ("Despite acknowledging Progeny's equipment development efforts in this same band, [requesters] continued to make the business decision not to invest in developing equipment capable of operating in the M-LMS band. Thus, it would not serve the underlying purpose of the construction requirements to grant another waiver of our rules.").

at odds with the purposes of MF-I support and did not warrant deviation.⁶² The Petition's new citations to the Progeny waiver orders offer old arguments, and we remain unpersuaded that PTI Pacifica has demonstrated special circumstances justifying waiver of the MF-I performance deadlines and the disbursement of USF support.

15. The Order also concluded that PTI Pacifica's request was not in the public interest because the substantial length of the delay conflicts with the Commission's MF-I objectives, and waiver here could undermine enforcement of the performance obligations of future recipients of USF high-cost support.⁶³ PTI Pacifica argues in its Petition that it is just three percentage points short of its 75% coverage requirement on Tinian, again notes the unique and unforeseeable nature of its delays, observes that the Commission is not likely to see a similar situation from a future support recipient, and submits that denying PTI Pacifica's request could undermine future enforcement because applicants might be disincentivized from attempting to cover "hard to reach areas that involving obtaining access to federal land or require permitting approvals."⁶⁴ The Petition submits that no other provider will construct a network in the area and that the military supports the network's completion.⁶⁵ As explained above, OEA and the Bureaus previously considered PTI Pacifica's diligence and substantial progress, but nevertheless concluded that strict enforcement of the level of service requirements attendant to MF-I support is the best way to fulfill the program's goal "to aggressively extend coverage."⁶⁶ However close it may have come, PTI Pacifica has not met the performance requirement on the Tinian tract more than seven years after the initial deadline and ten years after being authorized to receive MF-I support. As such, we affirm our determination that a grant of PTI Pacifica's waiver request does not serve the public interest.

IV. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED that, under the authority contained in sections 1, 4(i), 4(j), 5(c), 201, 254, and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155(c), 201, 254, and 303(r), and sections 0.21, 0.91, 0.131, 0.271, 0.291, 0.331, 1.106, and 1.3 of the Commission's rules, 47 CFR §§ 0.21, 0.91, 0.131, 0.271, 0.291, 0.331, 1.106, and 1.3, that the Petition for Reconsideration filed May 1, 2023, by PTI Pacifica, Inc. is DENIED.

17. IT IS FURTHER ORDERED that a copy of this Order SHALL BE transmitted to the Universal Service Administrative Company.

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

⁶² Order at 7–8.

⁶³ *Id.* at 8.

⁶⁴ Petition at 17.

⁶⁵ *Id.* at 18.

⁶⁶ Order at 8. OEA and the Bureaus further noted that in establishing the MF-I rules, the Commission's objective of aggressively extending coverage led it to reject the idea of providing MF-I support where the recipient's level of service falls short of the required percentage of coverage. *Id.* (citing the *USF/ICC Transformation Order*, 26 FCC Rcd at 17816, para. 469).

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