

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
22 Applicants for Rural Digital Opportunity Fund
in Default
File No. [Provided in Appendix A]
FRN No. [Provided in Appendix A]
NAL/Acct. No. [Provided in Appendix A]

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 27, 2023

Released: May 1, 2023

By the Commission: Commissioner Starks issuing a statement.

I. INTRODUCTION

1. In this Notice of Apparent Liability (NAL), the Federal Communications Commission (FCC or Commission) identifies 22 Rural Digital Opportunity Fund (RDOF) Phase I Auction (Auction 904) applicants that apparently defaulted on their bids for support between May 3, 2022, and December 16, 2022, in apparent violation of section 1.21004(a) of the Commission’s rules.1 As detailed below, each applicant defaulted on its respective bid for support by withdrawing its application with respect to certain areas, or by its failure to meet deadlines and requirements to which it agreed when it participated in

1 47 CFR § 1.21004(a). This NAL addresses Auction 904 defaults determined by the Commission between May 3, 2022 and December 16, 2022. See Rural Digital Opportunity Fund Support for 2,061 Winning Bids Ready to be Authorized; Bid Defaults Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-483, Attach. B: Bids in Default (WCB/OEA May 3, 2022) (May 3, 2022 Default Public Notice); Rural Digital Opportunity Fund Support for 88 Winning Bids Ready to be Authorized; Bid Defaults Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-581 (WCB/OEA May 25, 2022) (May 25, 2022 Default Public Notice); Rural Digital Opportunity Fund Support Authorized for 513 Winning Bids; Bid Defaults Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-634, Attach. B: Bids in Default (WCB/OEA June 14, 2022) (June 2022 Default Public Notice); Rural Digital Opportunity Fund Support for 80 Winning Bids Ready to be Authorized; Bid Defaults Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-848, Attach. B: Bids in Default (WCB/OEA Aug. 10, 2022) (August 10, 2022 Default Public Notice); FCC Announces Nearly \$800 Million For Broadband Through The Rural Digital Opportunity Fund, DA 22-911, Attach. B: Bids in Default (August 31, 2022 Public Default Notice); Rural Digital Opportunity Fund Support Authorized for 1,865 Winning Bids; Bid Defaults Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-1086 (WCB/OEA Oct. 12, 2022) (October 2022 Default Public Notice); Rural Digital Opportunity Fund Support Authorized for 497 Winning Bids; Bid Defaults Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-1181 (WCB/OEA Nov. 10, 2022) (November 2022 Default Public Notice); Rural Digital Opportunity Fund Support for 1,764 Winning Bids Ready to be Authorized; Bid Defaults Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-1321, Attach. B: Bids in Default (WCB/OEA Dec. 16, 2022) (December 2022 Default Public Notice). Auction 904 defaults determined by the Commission after December 16, 2022, and those defaults identified between May 3, 2022, and December 16, 2022, that were not waived or included in this NAL, will be addressed in a future enforcement action.

Auction 904. This NAL relates only to those areas, deadlines, and requirements for which the Commission did not determine, in a prior release, that waiver was appropriate. By defaulting on their bids, these applicants hindered the disbursement of Universal Service Fund (USF) support that could have otherwise been expended for the advancement of broadband access across primarily rural areas in the United States.

2. The objective of Auction 904 was to facilitate the provision of broadband service to Americans in wholly unserved areas.² The Commission took steps to protect the integrity, mission, and functionality of Auction 904 by advising auction participants to adhere strictly to all auction requirements and by providing for forfeitures for violations of those rules.³ In light of the applicants' defaults spanning 2,994 Census Block Groups (CBGs), this item proposes forfeitures as described herein for each of the 22 Auction 904 defaulters. As such, the forfeitures assessed here total \$8,778,527.39.

II. BACKGROUND

3. The Commission conducted competitive bidding for Auction 904 between the dates of October 29, 2020, and November 25, 2020, to assign USF support to winning bidders seeking to serve eligible areas.⁴ Auction 904 made available up to \$16 billion in financial support over the span of 10 years to winning bidders that deploy high-speed broadband and voice services to eligible areas.⁵ The Commission used a multi-round, reverse auction to determine winning bids,⁶ and established clear filing deadlines for companies applying for support.⁷

4. The Commission explicitly warned Auction 904 applicants that failure to conform to the auction's deadlines and procedures would produce consequences, including but not limited to forfeiture penalties for default.⁸ Companies interested in bidding in Auction 904 were required to file an FCC Form 183 (Short-Form Application) no later than July 15, 2020.⁹ This Short-Form Application was the first phase of a two-phase application process in Auction 904.¹⁰ Bidders were required to provide information in the Short-Form Application that demonstrated their baseline legal, financial, and technical capabilities in order to establish eligibility to participate in a Commission auction for USF support.¹¹ The second application phase required bidders or their assignees to file an FCC Form 683 (Long-Form Application),

² *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, 688-89, paras. 5-6 (2020) (*Rural Digital Opportunity Fund Order*).

³ See, e.g., *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, 735, paras. 80, 114.

⁴ See *Rural Digital Opportunity Fund Phase I Auction Scheduled For October 29, 2020; Notice and Filing Requirements and Other Procedures For Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6079, para. 1 (2020) (*Auction 904 Procedures Public Notice*).

⁵ See *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6069, paras. 1-2.

⁶ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 688, para. 5.

⁷ See *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6082, paras. 12-13.

⁸ See, e.g., *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 114 (explaining that a winning bidder will be "considered in default and will be subject to forfeiture if it fails to timely file a Long-Form Application, fails to meet the document submission deadlines outlined above, is found ineligible or unqualified to receive support, or otherwise defaults on its bid or is disqualified for any reason prior to the authorization of support" and "subject to forfeiture" for the default).

⁹ See *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6082, para. 12.

¹⁰ *Id.* at 6088, para. 27.

¹¹ *Id.*

which the Commission reviewed to “determine if the application should be authorized to receive support for winning bids.”¹² The Long-Form Application was due no later than January 29, 2021.¹³

5. The minimum geographic areas established by the Commission for bidding in Auction 904 were CBGs that contained one or more eligible census blocks, identified in a list released by the Commission’s Wireline Competition Bureau (WCB) and the Office of Economics and Analytics (OEA), in coordination with the Rural Broadband Auctions Task Force (RBATF), in October 2020.¹⁴ Auction 904 included nearly 787,000 eligible census blocks, located in nearly 62,000 CBGs.¹⁵ WCB and OEA identified 386 applicants that were qualified to bid for support in those CBGs on October 13, 2020, and declared that bidding would start on October 29, 2020.¹⁶

6. On December 7, 2020, the RBATF, WCB, and OEA released a Public Notice announcing the 180 winning bidders, who won approximately \$9.23 billion in support over a 10-year period, geographically spanning approximately 99 percent of the eligible CBGs.¹⁷ Winning bidders were required to file a Long-Form Application, which the Commission reviewed to “determine if the application should be authorized to receive support for winning bids.”¹⁸ As noted above, the Long-Form Application was due no later than January 29, 2021.¹⁹ Winning bidders were also given until December 22, 2020, to assign any or all of their winning bids to related entities.²⁰ A winning bidder that assigned a winning bid to a related entity was required to certify and acknowledge in its application that it would inform each related entity “of its filing obligation and cause each entity to submit a timely” Long-Form Application, and that the winning bidder would be “at risk for default” if any related entity did not “submit a timely” Long-Form Application.²¹

7. All applicants had to submit additional information to their Long-Form Applications by certain deadlines. By February 15, 2021, an applicant was required to upload to its Long-Form Application a detailed technology and system design description and a letter from a qualified bank committing to issue an irrevocable stand-by letter of credit meeting the Commission’s requirements.²² Moreover, by June 7, 2021, an applicant was required to submit with its Long-Form Application certain documentation demonstrating that it had been designated as an eligible telecommunications carrier in

¹² See *id.*

¹³ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., 35 FCC Rcd 13888, para. 2 (WCB/OEA 2020) (*Winning Bidders Public Notice*).

¹⁴ See *Wireline Competition Bureau and Office of Economics and Analytics Release Final List and Map of Eligible Areas for the Rural Digital Opportunity Fund Phase I Auction (Auction 904)*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 11283 (WCB/OEA 2020) (*Eligible Census Block List Public Notice*), maps available at <https://www.fcc.gov/auction/904>.

¹⁵ See *Eligible Census Block List Public Notice*, 35 FCC Rcd at 11283, maps available at <https://www.fcc.gov/auction/904>.

¹⁶ See *386 Applicants Qualified to Bid In the Rural Digital Opportunity Fund Phase I Auction (Auction 904); Bidding to Begin on October 29, 2020*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 11356, 11356, paras. 1-2 (WCB/OEA 2020) (*Qualified Bidders Public Notice*).

¹⁷ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13888, para. 1.

¹⁸ See *id.* at 13891, para. 14; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6165, para. 293.

¹⁹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13888, para. 2.

²⁰ See *id.*

²¹ See *supra* note 18.

²² 47 CFR § 54.804(b)(2)(iv), (3); *Winning Bidders Public Notice*, 35 FCC Rcd at 13893-94.

each of the geographic areas for which it sought to be authorized for Auction 904 support.²³ Additionally, if an applicant or a related entity had not filed audited financial statements with the relevant Short-Form Application, the applicant was required by June 7, 2021, to upload to its Long-Form Application financial statements from the prior fiscal year that were audited by an independent certified public accountant.²⁴

8. On July 26, 2021, the RBATF, WCB, and OEA sent a letter to certain long-form applicants identifying census blocks where there were concerns about whether funding those areas would be the best use of limited universal service funds.²⁵

9. In response to the letter, some applicants informed the Commission that they wished to default on the census blocks identified by the Commission. WCB, in conjunction with RBATF and OEA, found good cause to waive the forfeiture penalties that would be otherwise associated with the default on the specific census blocks that were identified in the letter, i.e., “letter-identified census blocks.”²⁶ The July letter identified only urban census blocks as areas of concern.²⁷ WCB, in conjunction with RBATF and OEA, also found good cause to waive the forfeiture penalties for specific non-urban census blocks that were similar to the urban blocks identified in the July letter.²⁸ For simplicity, we refer to these census blocks and the letter-identified census blocks collectively as “waiver census blocks.”

10. Appendix A, below, sets forth the relevant, unique facts pertaining to each entity identified in the caption of this item, and describes with specificity each entity’s conduct in relation to Auction 904.²⁹ This includes such facts as the dates of their Short- and Long-Form Application filings and any default-related correspondence between the entity and the Commission. WCB referred the entities listed in Appendix A to the Enforcement Bureau (EB) on May 3, 2022; May 25, 2022; June 14, 2022; August 10, 2022; August 31, 2022; October 12, 2022; November 10, 2022, and December 16, 2022.³⁰ Appendix B, below, identifies the specific CBGs in default that were subject to forfeiture and the attendant assigned USF support. Appendix C, below, identifies mailing addresses for the entities.

²³ 47 CFR § 54.804(b)(5); *Winning Bidders Public Notice*, 35 FCC Rcd at 13894. Only eligible telecommunications carriers designated pursuant to 47 U.S.C. § 214(e) “shall be eligible to receive specific Federal universal service support.” 47 U.S.C. § 254(e).

²⁴ 47 CFR § 54.804(b)(4); *Winning Bidders Public Notice*, 35 FCC Rcd at 13894-95.

²⁵ See “Letters to Long-Form Applicants about Identified Census Blocks,” <https://www.fcc.gov/auction/904/releases/Identified-Census-Block-Letter>.

²⁶ *Rural Digital Opportunity Fund Support Authorized for 2,008 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, DA 21-1560, at 9 (WCB/OEA Dec. 14, 2021) (*Fourth Auction 904 Authorization Public Notice*). WCB, in conjunction with the RBATF and OEA, waived the Commission’s rules to the extent they define a default with respect to any area covered by a winning bid as a default on that entire winning bid, effectively permitting applicants to default only on the letter-identified census blocks within a CBG and to become authorized in the remaining eligible census blocks within that CBG. *Id.* at 6-7.

²⁷ *Identified Census Block Letter* at 1, n.4.

²⁸ *Rural Digital Opportunity Fund Support Authorized for 1,345 Winning Bids*, AU Docket No. 20-34, et al., Public Notice, DA 22-402, at 6, n.38 (WCB/OEA Apr. 15, 2022) (*Eighth Auction 904 Authorization Public Notice*).

²⁹ In the *Ninth Auction 904 Ready to Authorize Public Notice*, WCB, in conjunction with the RBATF and OEA, dismissed petitions filed by applicants seeking waiver of the default forfeiture and other non-compliance measures filed. WCB, in conjunction with RBATF and OEA, also denied petitions from applicants requesting waiver of the default penalty framework to be relieved from the obligation of all winning bidders (or their assignees) to apply for Auction 904 support. *Rural Digital Opportunity Fund Support for 2,061 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-483, at 5, n.51 (WCB/OEA May 3, 2022).

³⁰ See *May 3, 2022 Default Public Notice*, 3, Attach. B: Bids in Default; *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default; *June 2022 Default Public Notice*, Attach. B: Bids in Default; *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 31, 2022 Default Public Notice*, Attach. B: Bids in Default,

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III. DISCUSSION

11. The Commission established unambiguous requirements that each Auction 904 bidder must meet and warned participants that failure to meet such requirements would result in consequences:

Any Auction 904 winning bidder or long-form applicant will be subject to a forfeiture in the event of a default before it is authorized to begin receiving support. A winning bidder or long-form applicant will be considered in default and will be subject to forfeiture if it fails to timely file a long-form application, fails to meet the document submission deadlines, is found ineligible or unqualified to receive Rural Digital Opportunity Fund support by the Bureau on delegated authority, and/or otherwise defaults on its winning bids or is disqualified for any reason prior to the authorization of support. Any such determination by the Bureau shall be final, and a winning bidder or long-form applicant shall have no opportunity to cure through additional submissions, negotiations, or otherwise. Agreeing to such payment in the event of a default is a condition for participating in bidding in Auction 904.³¹

Because each entity listed in Appendix A failed to meet at least one of these requirements, we find that these 22 entities apparently willfully violated the Commission's rules and orders governing Auction 904.

12. By withdrawing an application for support or missing a Long-Form Application deadline, a bidder defaults on its winning bids for Auction 904 in apparent violation of section 1.21004(a) of the Commission's rules and the requirements established specifically for Auction 904.³² Under the rules in effect at the time Auction 904 was conducted, a winning bidder of a Commission auction that, *for any reason*, is not subsequently authorized to receive support has defaulted on its bid and is liable for a default payment.³³ A bidder notifying the Commission of its intent to default because of logistical and/or financial hardships as the basis for its withdrawal does not absolve the bidder from default. In general, for Auction 904, the Commission determined that a defaulting bidder would be subject to a forfeiture payment under section 503 of the Communications Act of 1934, as amended (the Act),³⁴ in lieu of a default payment.³⁵ The forfeiture penalties for default were clearly stated in both the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice* before bidding ever began.³⁶

13. Under section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.³⁷ In order to impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received by the person against whom the notice has been issued or be sent to the last known address of the person by certified mail, and the person must have an opportunity to show, in writing, within a reasonable amount of time, why no such forfeiture penalty should be imposed.³⁸ The Commission will

October 2022 Default Public Notice, Attach. B: Bids in Default; *November 2022 Default Public Notice*, Attach. B: Bids in Default; *December 2022 Default Public Notice*, Attach. B: Bids in Default.

³¹ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

³² 47 CFR § 1.21004(a); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 114; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

³³ 47 CFR § 1.21004(a), (b); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

³⁴ 47 U.S.C. § 503.

³⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 114 & n.314.

³⁶ *Id.* at 735-36, paras. 115, 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

³⁷ See 47 U.S.C. § 503(b)(1)(B); 47 CFR § 1.80(a)(2).

³⁸ See 47 U.S.C. § 503(b)(4); 47 CFR § 1.80(f).

then issue a forfeiture if it finds, by a preponderance of the evidence, that the person has willfully or repeatedly violated the Act or a Commission rule.³⁹

14. The Commission's *Forfeiture Policy Statement*⁴⁰ specifies that the Commission shall impose a forfeiture based upon consideration of the factors enumerated in section 503(b)(2)(E) of the Act, i.e., "the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."⁴¹ Moreover, section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of such act, *irrespective of any intent* to violate . . . any rule or regulation of the Commission . . ."⁴²

15. Each applicant agreed, prior to participating in Auction 904, to be subject to a forfeiture in the event of default, or upon its failure to satisfy the requirements of the *Auction 904 Procedures Public Notice*.⁴³ Additionally, each applicant was cautioned to craft its plans carefully to meet all auction requirements and to prepare for any complications that could occur.⁴⁴ In considering these factors, as well as the section 1.21004 rule establishing liability for payment in the event of default and the procedures established for Auction 904 and the *Forfeiture Policy Statement*, a forfeiture is warranted against each entity cited in Appendix A for its apparent willful violations of section 1.21004(a) of the Commission's rules and the procedures established for Auction 904.

16. In Auction 904, the Commission established a base forfeiture of \$3,000 per violation in the event of an auction default for each geographic unit subject to a bid.⁴⁵ Consistent with the approach taken in previous universal service support auctions, the Commission deemed a \$3,000 base forfeiture appropriate, explaining that \$3,000 is equivalent to the base forfeiture usually imposed for failing to file required forms or information with the Commission.⁴⁶ To prevent the base forfeiture amount from being disproportionate to the amount of a winning bidder's bid, however, the Commission limits the total base forfeiture for Auction 904 to 15 percent of the bidder's total assigned support for the CBGs in which it is defaulting.⁴⁷ The Commission regarded 15 percent of the total bid amount as not unduly punitive, while

³⁹ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, para. 4 (2002) (forfeiture paid).

⁴⁰ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17100-101, para. 27 (1997), *recons. denied* 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*); 47 CFR § 1.80(b).

⁴¹ 47 U.S.C. § 503(b)(2)(E); see also 47 CFR § 1.80(b)(10); *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-101, para. 27.

⁴² 47 U.S.C. § 312(f)(1) (emphasis added). The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the section 503(b) context. See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

⁴³ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

⁴⁴ See, e.g., *id.* at 6125-27, paras. 128-134.

⁴⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 115. In other words, there is a separate violation for each CBG assigned in a bid. *Id.*; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁴⁶ *Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments*, WC Docket Nos. 10-90 and 14-58, Report & Order & Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6000-6001, para. 144 (2016).

⁴⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117. This would occur in situations where the dollar amount associated with the bid is low. For example, assume Bidder A bids to serve 100 CBGs for \$100,000 over the support term. We may impose a total base forfeiture of \$15,000 (15 percent of \$100,000) because otherwise the base forfeiture would be \$300,000 (\$3,000 x 100 CBGs), three times the entire bid amount. In

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providing sufficient incentive for auction participants to inform themselves diligently of the obligations associated with participation in the auction.⁴⁸ This constituted an increase from the five percent base forfeiture cap adopted for the Connect America Phase II Auction (Auction 903),⁴⁹ in order to satisfy commenters who worried that the total forfeitures for defaults lacked a sufficient deterrent effect.⁵⁰

17. Furthermore, an applicant that failed to submit audited financial statements to the Commission as required by the applicable deadline during the Long-Form Application process is subject to an additional \$50,000 base forfeiture, if the applicant or a related entity did not submit audited financial statements with the Short-Form Application.⁵¹ This \$50,000 base forfeiture is not limited to 15 percent of the bidder's total assigned support.⁵² Unlike the penalties assigned for default, forfeitures assessed for failing to submit audited financials are not tethered to the bidder's amount of assigned support in a specific location. The omission of the audited financial information is instead a violation affecting the trustworthiness of the applicant.⁵³ Indeed, the separate base \$50,000 forfeiture was adopted to "create an incentive" for winning bidders to "actually go out and obtain those financial statements" and to disincentivize their gaming the auctions process.⁵⁴

18. WCB's decision, in coordination with the RBATF and OEA, to waive forfeiture penalties for defaulting on the waiver census blocks has the following impact on the calculation of the total base forfeiture.⁵⁵ If an applicant defaulted on a CBG for which all the eligible census blocks are waiver census blocks, that CBG is not subject to the \$3,000 base forfeiture. Similarly, if an applicant defaulted on only the letter-identified census blocks within a CBG but is pursuing support in the remaining eligible census blocks covered by that CBG, based on the scope of the waiver the CBG is not subject to the \$3,000 base

contrast, if Bidder B bids to serve 50 CBGs for \$1,000,000 over the support term, we may impose a total base forfeiture of \$150,000 (\$3,000 x 50 CBGs), which is 15 percent of the total bid. *See id.* at 736, para. 117 & n.322.

⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁴⁹ *Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, AU Docket No. 17-182, WC Docket No. 10-90, 33 FCC Rcd 1428, (2018) (Auction 903).

⁵⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, paras. 116-117.

⁵¹ *Id.* at 722-23, para. 80 ("We will require each applicant that has certified that it has at least two years of operational experience to submit financial statements that have been audited by an independent certified public accountant from the prior fiscal year. . . . Applicants that certify that they have at least two years of operational experience and fail to submit audited financial statements as required, will be subject to the same base forfeiture of \$50,000 that we adopted for the CAF Phase II auction."); *Winning Bidders Public Notice*, 35 FCC Rcd at 13894.

⁵² *Cf. ClearSKY Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 36 FCC Rcd 4121, 4127 (EB 2021) (imposing a \$50,000 base forfeiture for failure to submitted audited financials in addition to a forfeiture of \$6,370.71 for bid defaults for nine CBGs, which was capped at five percent of the bidder's total assigned support for the nine CBGs in Auction 903, and noting that "[u]nlike the penalties assigned for default, the size of this [\$50,000] forfeiture is not connected to the bidder's total amount of assigned support").

⁵³ *See Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, n.225 (explaining that the unique requirement for bidders to submit audited financials is tethered to a desire for the Commission to gain insight into the long-term financial health of applicants).

⁵⁴ *See Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments*, WC Docket Nos. 10-90, 14-58, and 14-259, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5984-85, paras. 104-105 (2016) (explaining the original rationale for adopting the \$50,000 forfeiture in Auction 903, which was later re-adopted into Auction 904).

⁵⁵ Fourth Auction 904 Authorization Public Notice at 9; Eighth Auction 904 Authorization Public Notice at 6, n.38.

forfeiture.⁵⁶ In contrast, if an applicant defaulted on a CBG that contains both waiver census blocks and non-waiver eligible census blocks, the CBG is subject to the \$3,000 base forfeiture.⁵⁷ However, when calculating the 15 percent cap on the base forfeiture for such CBGs, the defaulted support subject to forfeiture is calculated by subtracting the support associated with the waiver census blocks from the total support associated with the CBG so that only the support associated with the non-waiver eligible census blocks within the CBG remains. The 15 percent forfeiture cap is then determined by calculating 15 percent of an applicant's defaulted support subject to forfeiture.⁵⁸

19. As seen in Appendix A, this item proposes a cumulative forfeiture of \$8,778,527.39 apportioned amongst the 22 defaulting Auction 904 applicants. Appendix A explains in specific detail the proposed amount applied to each defaulter, and the relevant factual background pertaining to its individual circumstances of default. In accordance with the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice*, none of the proposed base default forfeitures exceed 15 percent of any single bidder's total bid amount for CBGs subject to forfeiture.⁵⁹

20. Finally, after considering all the circumstances presented in the instant case, we conclude that a departure from the base forfeiture is not warranted for any of the Auction 904 applicants identified in Appendix A. For Auction 904 defaults, the Commission allows adjustment of the total base forfeiture, upward or downward, based on the criteria set forth in section 503(b)(2)(E) of the Act, notwithstanding the 15 percent limitation on base forfeitures as discussed above.⁶⁰ However, on balance, we find that there are no other factors present in the instant case that justify a departure from the established base forfeiture for any of the defaulters identified in Appendix A. Accordingly, we find the proposed forfeiture amounts listed in the Appendix A are appropriate here.⁶¹

IV. ORDERING CLAUSES

21. **ACCORDINGLY, IT IS ORDERED**, pursuant to section 503(b) of the Communications Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, that all entities identified in the Appendix A are hereby **NOTIFIED** of their **APPARENT LIABILITY FOR FORFEITURE** in the amount specified in the Appendix A for their apparently willful violations of section 1.21004(a) of the Commission's rules, 47 CFR § 1.21004(a), and the orders specifically prescribing procedures for Auction 904 (the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice*).

⁵⁶ See also *id.* at 6-7 (permitting applicants to partially default on a CBG by defaulting on letter-identified census blocks within the CBG and becoming authorized on the remaining eligible census blocks within the CBG).

⁵⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 & n.322.

⁵⁸ We used the same methodology for calculating the base forfeiture for an applicant that defaulted in only some of the eligible census blocks within a CBG when WCB waived for that applicant the requirement that a default encompass the entire winning bid, but did not waive forfeiture penalties for the defaulted census blocks. See *August 10, 2022 Default Public Notice* at 9-10. For this applicant, the defaulted support subject to forfeiture is calculated by subtracting the support associated with the applicant's authorized eligible census blocks from the total support associated with the CBG, so that only the support associated with the applicant's defaulted eligible census blocks within the CBG remains.

⁵⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁶⁰ See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, paras. 116-17.

⁶¹ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

22. **IT IS FURTHER ORDERED**, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, that within thirty (30) calendar days of the release date of this Notice, each recipient of this Notice of Apparent Liability **SHALL PAY** the full amount of the proposed forfeiture identified with respect to such recipient in Appendix A or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 25 below.

23. In order for each defaulter to pay the proposed forfeiture, it shall notify Pamela Gallant at Pamela.Gallant@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, and Georgina Feigen at Georgina.Feigen@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Upon payment, each defaulter shall send electronic notification of payment to the Enforcement Bureau of the Federal Communications Commission at EnforcementBureauHD@fcc.gov, Pamela Gallant at Pamela.Gallant@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, and Georgina Feigen at Georgina.Feigen@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁶²

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159⁶³ or printed CORES form⁶⁴ must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁶⁵ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing

⁶² For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

⁶³ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

⁶⁴ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

⁶⁵ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

24. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.⁶⁶ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

25. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(f)(3) of the rules.⁶⁷ The written statement must be mailed to Pamela Gallant, Acting Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, and must include the NAL account number referenced in the caption. The statement must also be e-mailed to the Enforcement Bureau at EnforcementBureauIHD@fcc.gov, Pamela Gallant at Pamela.Gallant@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, and Georgina Feigen at Georgina.Feigen@fcc.gov. Until further notice, the Commission will not accept any hand or messenger delivered filings.

26. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status.⁶⁸ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.⁶⁹

⁶⁶ See 47 CFR § 1.1914.

⁶⁷ *Id.* §§ 1.16, 1.80(f)(3).

⁶⁸ 47 U.S.C. § 503(b)(2)(E).

⁶⁹ See, e.g., *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18–21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21–25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-904, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

27. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by certified mail, return receipt requested to each entity at the address listed in Appendix C below.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

The apparent violations identified in this Appendix generally arise from the applicant submitting a Long-Form Application but subsequently withdrawing its application by notifying the Commission of its intent to default on one or more CBGs. To the extent that an entry below involves a different fact pattern, the relevant facts are described in the entry. Unless otherwise specially stated below, all of the fact patterns described in this Appendix represent apparent violations of section 1.21004(a) of the Commission's rules and the requirements established specifically for Auction 904 in the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice*.¹

1. **AB Indiana, LLC (AB Indiana); FRN: 0021994686; File No.: EB-IHD-23-00034737; NAL/Acct No.: 202332080009.** AB Indiana is a fixed wireless broadband provider headquartered in Hunt Valley, Maryland.² AB Indiana timely submitted its Short-Form Application to participate in Auction 904³ and was a successful bidder.⁴ WCB declared AB Indiana to be in default on August 10, 2022, and referred the company to EB for enforcement action, after AB Indiana failed to timely complete its Long-Form Application when it failed to submit appropriate documentation verifying its eligible telecommunications carrier designation in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁵ The Commission finds that AB Indiana apparently committed one violation by defaulting on one CBG subject to forfeiture, which places the company's base default forfeiture at \$3,000.00.⁶ The Commission further finds that AB Indiana apparently committed a separate violation when it failed to file audited financial paperwork with WCB during the Long-Form Application process, which subjects AB Indiana to an additional \$50,000.00 base forfeiture.⁷ AB Indiana's total

¹ 47 CFR § 1.21004(a); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, paras. 114-15; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, paras. 321-22.

² See Maryland Secretary of State, *Business Entity Search: AB Indiana, LLC*, <https://egov.maryland.gov/businessexpress/entitysearch> (last visited Nov. 16, 2022).

³ See AB Indiana, Auction 904 FCC Form 175 Application, File No. 0009148967 (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/detail_ownership_frb.htm?searchLevel=B&application_id=12169028&file_num=0009148967&version=2&PStart=1&auction_id=904&all_ind=N&FrbId=191292.

⁴ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888, 13904, Attach. A: Winning Bidder Summary (WCB/OEA 2020) (*Winning Bidders Public Notice*).

⁵ 47 CFR § 54.804(b)(5); *August 10, 2022 Default Public Notice*, at 8, n.63 & Attach. B: Bids in Default.

⁶ See *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, 735-36, para. 115 (2020) (*Rural Digital Opportunity Fund Order*).

⁷ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722-23, para. 80. On June 4, 2021, AB Indiana requested a waiver of the requirement to file audited financial statements by June 7, 2021. AB Indiana Request for Waiver (filed June 4, 2021) (AB Indiana Petition). WCB dismissed that request as moot on July 26, 2021. See *Rural Digital Opportunity Fund (Auction 904); Rural Digital Opportunity Fund*, AU Docket No. 20-34 et al., Order, 36 FCC Rcd 11564, 11564 n.1 (WCB 2021). In light of the proposed forfeiture, we no longer consider the request to be moot and now deny the requested waiver. Generally, the Commission's rules may be waived for good cause shown. 47 CFR § 1.3. Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest. See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), cert. denied, 93 S. Ct. 461 (1972)). AB Indiana provided no explanation for its delay in obtaining audited financial statements, and thus has presented no special circumstances warranting a waiver. See AB Indiana Petition at 1 (noting only that it was "requesting an extension to provide audited financials," and that it had "engaged [its] Certified Public Accountant and hope[d] to provide such documents in a timely [manner].") Compare *Rural Digital Opportunity Fund Support for 2,072 Winning Bids Ready to Be Authorized; Bid Defaults*

(continued...)

assigned support for the CBG in default subject to forfeiture amounted to \$614,532.50, thereby capping the maximum possible default forfeiture at \$92,179.88, which is 15% of AB Indiana's defaulted support subject to forfeiture in Auction 904.⁸ The \$3,000.00 base default forfeiture is below the 15% cap established in the *Rural Digital Opportunity Fund Order*.⁹ Combining the audited financials forfeiture of \$50,000.00 with the \$3,000.00 default forfeiture, the Commission finds that the total forfeiture of \$53,000.00 against AB Indiana is appropriate here.

2. **Cable One VoIP, LLC (Cable One); FRN: 0007690258; File No.: EB-IHD-23-00034738; NAL/Acct No.: 202332080022.** Cable One is an interconnected VoIP provider located in Phoenix, Arizona.¹⁰ Cable One is owned by Cable One, Inc., which was a member of the Wisper-CABO 904 Consortium (Wisper-CABO).¹¹ Wisper-CABO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹² In turn, Wisper-CABO assigned 153 CBGs to Cable One.¹³ On August 16 and August 24, 2021, Cable One notified the Commission of its intent to default on 113 CBGs subject to forfeiture.¹⁴ WCB declared Cable One to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁵ The Commission finds that Cable One apparently committed 113 violations by defaulting on 113 CBGs subject to forfeiture, which places the company's base forfeiture at \$339,000.00.¹⁶ Cable One's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$308,580.20, thereby capping the maximum possible forfeiture at \$46,287.03, which is 15% of Cable One's defaulted support subject to forfeiture in Auction 904.¹⁷ Because the base forfeiture exceeds the 15% cap established in the *Rural Digital Opportunity Fund*

Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-911, at 5-6 (WCB Aug. 31, 2022) (finding good cause to waive the audited financial statements deadline where the applicant "faced unforeseeable, pandemic-created obstacles in hiring staff that were qualified to help complete the audit").

⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice*, at 8, n.63, Attach. B: Bids in Default (describing the total amount of AB Indiana's won support that is in default for the identified CBGs).

⁹ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁰ See Arizona Corporation Commission, *Entity Search: Cable One VoIP, LLC*, <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=R19740953> (last visited Nov. 16, 2022).

¹¹ See Wisper-CABO 904 Consortium, Auction 904 FCC Form 175 Application, File No. 0009149272 (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12176125&file_num=0009149272&version=2&PStart=1&auction_id=904.

¹² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13932-33, Attach. A: Winning Bidder Summary.

¹³ See *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁴ See E-mail from Patrick Caron, General Counsel, Cable One, Inc. to Auction904@fcc.gov, Federal Communications Commission (Aug. 16, 2021, 18:35 EDT); E-mail from Patrick Caron, General Counsel, Cable One, Inc. to Auction904@fcc.gov, Federal Communications Commission (Aug. 24, 2021, 13:28 EDT); CableOne VoIP LLC Petition for a Waiver, AU Docket No. 20-34 et al. (filed Aug. 24, 2021); CableOne VoIP LLC Amended Petition for Waiver, AU Docket No. 20-34 et al. (filed May 11, 2022).

¹⁵ See *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁶ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁷ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Cable One's won support that is in default for the identified CBGs).

Order,¹⁸ the Commission finds that the forfeiture amount of \$46,287.03 against Cable One is appropriate here.

3. **Cal.net, Inc. (Cal.net); FRN: 0020855656; File No.: EB-IHD-23-00034739; NAL/Acct No.: 202332080005.** Cal.net, located in Shingle Springs, CA, offers broadband internet options for rural and urban communities.¹⁹ Cal.net timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.²⁰ WCB declared Cal.net to be in default on October 12, 2022, and referred the company to EB for enforcement action, after Cal.net missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.²¹ The Commission finds that Cal.net apparently committed 180 violations by defaulting on 180 CBGs subject to forfeiture, which places the company's base forfeiture at \$540,000.00.²² Cal.net's total assigned support for the CBGs in default subject to forfeiture amounted to \$27,174,275.40, thereby capping the maximum possible forfeiture at \$4,076,141.13, which is 15% of Cal.net's defaulted support subject to forfeiture in Auction 904.²³ Because the base forfeiture does not exceed the 15% cap established by the *Rural Digital Opportunity Fund Order*,²⁴ the Commission finds the forfeiture amount of \$540,000.00 against Cal.net is appropriate here.

4. **California Internet, L.P. dba GeoLinks (California Internet); FRN: 0023707953; File No.: EB-IHD-23-00034740; NAL/Acct No.: 202332080006.** California Internet is a competitive local exchange carrier (CLEC) and fiber internet provider headquartered in Camarillo, CA.²⁵ California Internet timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.²⁶ WCB declared California Internet to be in default on October 12, 2022, and referred the company to EB for enforcement action, after California Internet missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.²⁷ The Commission finds that California Internet apparently committed 1,025 violations by defaulting on 1,025 CBGs subject to forfeiture, which places the company's base forfeiture at \$3,075,000.00.²⁸ California Internet's total assigned support for the CBGs in default subject to forfeiture amounted to \$129,659,238.20, thereby capping the maximum possible forfeiture at \$19,448,885.73, which is 15% of

¹⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁹ See Cal.net, *About Us*, <https://www.cal.net/about-us/> (last visited Jan. 5, 2023).

²⁰ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13906, Attach. A: Winning Bidder Summary.

²¹ 47 CFR § 54.804(b)(5); *October 2022 Default Public Notice* at 9, n.57, Attach. B: Bids in Default.

²² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

²³ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *October 2022 Default Public Notice* Attach. B: Bids in Default (describing the total amount of Cal.net's won support in default for the identified CBGs).

²⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

²⁵ See Geolinks, *About*, <https://geolinks.com/innovative-telecom-solutions/> (last visited Jan. 5, 2023).

²⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13906-907, Attach. A: Winning Bidder Summary.

²⁷ 47 CFR § 54.804(b)(5); *October 2022 Default Public Notice* at 9, n.57, Attach. B: Bids in Default. California Internet also received a partial waiver for an additional two bid defaults because those defaults stemmed from interagency coordination pursuant to the Broadband Interagency Coordination Act of 2020. See *August 31, 2022 Public Default Notice*, at 7, n.49; E-mail from Ryan Adams, President and COO, California Internet, L.P., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (August 27, 2022, 2:23 EDT).

²⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

California Internet's defaulted support subject to forfeiture in Auction 904.²⁹ Because the base forfeiture does not exceed the 15% cap established by the *Rural Digital Opportunity Fund Order*,³⁰ the Commission finds the forfeiture amount of \$3,075,000.00 against California Internet is appropriate here.

5. **Cebridge Telecom ID, LLC (Cebridge); FRN 0016746802; File No.: EB-IHD-23-00034741; NAL/Acct No.: 202332080018.** Cebridge is a wholly owned subsidiary of Altice USA, Inc. (Altice),³¹ which offers broadband internet service spanning 21 states.³² Altice submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.³³ In turn, Altice assigned bids covering two CBGs to Cebridge.³⁴ On August 30, 2021, on behalf of its subsidiaries, Altice notified the Commission of Cebridge's intent to default on two CBGs subject to forfeiture.³⁵ WCB declared Cebridge to be in default on May 3, 2022, and referred the company to EB for enforcement action.³⁶ The Commission finds that Cebridge apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.³⁷ Cebridge's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$8,240.00, thereby capping the maximum possible forfeiture at \$1,236.00, which is 15% of Cebridge's defaulted support subject to forfeiture in Auction 904.³⁸ Because the base forfeiture exceeds the 15% cap established in the *Rural Digital Opportunity Fund Order*,³⁹ the Commission finds that the forfeiture amount of \$1,236.00 against Cebridge is appropriate here.

6. **Charter Fiberlink – Missouri, LLC (CF Missouri); FRN: 0005793922; File No.: EB-IHD-23-00034742; NAL/Acct No.: 202332080023.** CF Missouri is a limited liability company formed in Delaware.⁴⁰ CF Missouri and CCO Holdings, LLC (CCO) are subsidiaries of Charter Communications, Inc. (Charter).⁴¹ CCO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁴² In turn, CCO assigned CF Missouri 276 CBGs.⁴³ In a series

²⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *October 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of California Internet's won support that is in default for the identified CBGs).

³⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

³¹ See Altice USA, Inc., Auction 904 FCC Form 175 Application, File No. 0009149206 (filed Oct. 20, 2020); https://auctionfiling.fcc.gov/form175/search175/detail_ownership_frb.htm?searchLevel=B&application_id=12170697&file_num=0009149206&version=2&PStart=1&auction_id=904&all_ind=N&FrbId=1083356.

³² Altice, *About*, <https://www.alticeusa.com/about> (last visited Jan. 5, 2023).

³³ See *Winning Bidders Public Notice*, 35 FCC Red at 13904, Attach. A: Winning Bidder Summary.

³⁴ *417 Long-Form Applicants Public Notice*, 36 FCC Red at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

³⁵ See E-mail from Cristina Chou, Vice President, Federal Affairs, Altice USA, to Auction904@fcc.gov, Federal Communications Commission (Aug. 30, 2021, 13:54 EDT).

³⁶ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

³⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 735-36, para. 115.

³⁸ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (showing the total amount of Cebridge's won support in default for the identified CBGs).

³⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

⁴⁰ United States Securities and Exchange Commission, *Form 10-K*, Exhibit 21-1, <https://ir.charter.com/static-files/63606f63-1b11-4d60-91a0-5395f1552592> (last visited Nov. 16, 2022).

⁴¹ *Id.*

⁴² See *Winning Bidders Public Notice*, 35 FCC Red at 13907-08, Attach. A: Winning Bidder Summary.

of e-mails on behalf of its subsidiaries, Charter notified the Commission of their intent to default on certain winning bids, including two CBGs subject to forfeiture assigned to CF Missouri.⁴⁴ WCB declared CF Missouri to be in default on May 3, 2022, and referred the company to EB for enforcement action.⁴⁵ The Commission finds that CF Missouri apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁴⁶ CF Missouri's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$126,249.50, thereby capping the maximum possible forfeiture at \$18,937.42, which is 15% of CF Missouri's defaulted support subject to forfeiture in Auction 904.⁴⁷ Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,⁴⁸ the Commission finds the forfeiture amount of \$6,000.00 against CF Missouri appropriate here.

7. **Conexon Connect, LLC (Conexon Connect) (Conexon); FRN: 0029721511; File No.: EB-IHD-23-00034743; NAL/Acct No.: 202332080021.** Conexon Connect is a subsidiary of Conexon LLC based in Kansas City, Missouri that works with rural electric cooperatives to bring fiber internet to their communities.⁴⁹ Conexon Connect was a member of the Rural Electric Cooperative Consortium (RECC).⁵⁰ RECC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁵¹ In turn, RECC assigned bids covering 1,156 CBGs to Conexon Connect.⁵² On May 3, 2022, WCB declared Conexon Connect to be in default in eight CBGs along with certain other census blocks, and referred the company to EB for enforcement action, after Conexon Connect missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁵³ On May 26, 2022, Conexon Connect notified the Commission of its intent to default on an additional 35 CBGs subject to forfeiture.⁵⁴ WCB declared Conexon Connect to be in

⁴³ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁴⁴ See, e.g., E-mail from Maureen A. O'Connell, Vice President, Regulatory Affairs, Charter Communications, to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (Mar. 20, 2022, 16:13 EDT) (summarizing the intended defaults for the applicants assigned winning bids by CCO); see *May 3, 2022 Default Public Notice*, at 6, n.44.

⁴⁵ May 3, 2022 Default Public Notice, at 6, n.44.

⁴⁶ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁴⁷ See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures).

⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁴⁹ Conexon, Home, <https://conexon.us> (last visited Nov. 16, 2022).

⁵⁰ Rural Electric Cooperative Consortium, Auction 904 FCC Form 175 Application, File No. 0009148768, at Attach. 2, p. 13 (filed July 14, 2020); https://auctionnextfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12165528&file_num=0009148768&version=2&Pstart=1&auction_id=904.

⁵¹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13925-26, Attach. A: Winning Bidder Summary.

⁵² *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁵³ 47 CFR § 54.804(b)(5); *May 3, 2022 Default Public Notice*, DA 22-483, at 7-8, Attach. B: Bids in Default.

⁵⁴ Letter from Todd B. Lantor, Counsel to Conexon Connect, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 26, 2022). These CBGs included some census blocks that WCB had previously announced as defaulted. *May 3, 2022 Default Public Notice*, DA22-483, at 7-8

default for the 35 CBGs on June 14, 2022, and referred the company to EB for enforcement action.⁵⁵ The Commission finds that Conexon Connect apparently committed 43 violations by defaulting on 43 CBGs subject to forfeiture which places the company's base forfeiture at \$129,000.00.⁵⁶ Conexon Connect's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$36,127,642.00, thereby capping the maximum possible forfeiture at \$5,419,146.30, which is 15% of Conexon Connect's defaulted support subject to forfeiture in Auction 904.⁵⁷ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁵⁸ the Commission finds that the forfeiture amount of \$129,000.00 against Conexon Connect is appropriate here.

8. **Connect Everyone, LLC (Connect Everyone); FRN: 0029746260; File No.: EB-IHD-23-00034744; NAL/Acct No.: 202332080007.** Connect Everyone is a wholly owned subsidiary of Starry, Inc., which offers high speed fixed wireless internet service.⁵⁹ Connect Everyone submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁶⁰ On September 15, 2022 and October 12, 2022, Connect Everyone notified the Commission of its intent to default on 1,282 CBGs subject to forfeiture.⁶¹ WCB declared Connect Everyone to be in default on October 12, 2022, and referred the company to EB for enforcement action.⁶² The Commission finds that Connect Everyone apparently committed 1,282 violations by defaulting on 1,282 CBGs subject to forfeiture, which places the company's base forfeiture at \$3,846,000.00.⁶³ Connect Everyone's total assigned support for the CBGs in default subject to forfeiture amounted to \$245,241,987.90, thereby capping the maximum possible forfeiture at \$36,786,298.18, which is 15% of Connect Everyone's defaulted support subject to forfeiture in Auction 904.⁶⁴ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁶⁵ the Commission finds that the forfeiture amount of \$3,846,000.00 against Connect Everyone is appropriate here.

⁵⁵ *June 2022 Default Public Notice*, Attach. B: Bids in Default.

⁵⁶ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 735-36, para. 115.

⁵⁷ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default; *June 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Conexon Connect's won support that is in default for the identified CBGs).

⁵⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

⁵⁹ Starry, Inc., Home, <https://starry.com/> (last visited Nov. 16, 2022).

⁶⁰ *See Winning Bidders Public Notice*, 35 FCC Red at 13919, Attach. A: Winning Bidder Summary.

⁶¹ *See* Letter from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 15, 2022); Letter from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 16, 2022). Connect Everyone also received a partial waiver for an additional six bid defaults because those defaults stemmed from interagency coordination pursuant to the Broadband Interagency Coordination Act of 2020. *See August 31, 2022 Public Default Notice*, at 7, n.49; E-mail from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Auction904@fcc.gov, Federal Communications Commission (August 29, 2022, 21:58 EDT).

⁶² *October 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default.

⁶³ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 735-36, para. 115.

⁶⁴ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *October 2022 Default Public Notice*, Attach. B: Bids in Default, *May 25, 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default (describing the total amount of Connect Everyone's won support that is in default for the identified CBGs).

⁶⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

9. **E Fiber San Juan (E San Juan); FRN: 0030298442; File No.: EB-IHD-23-00034745; NAL/Acct No.: 202332080011.** E San Juan is a local exchange carrier located in Orangeville, Utah.⁶⁶ E San Juan is a wholly owned subsidiary of Emery Telephone (Emery).⁶⁷ Emery timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁶⁸ In turn, Emery assigned bids covering three CBGs to E San Juan.⁶⁹ On June 13, 2022, E San Juan notified the Commission of its intent to default in certain census blocks within one CBG subject to forfeiture.⁷⁰ WCB declared E San Juan to be in default on August 10, 2022, and referred the company to EB for enforcement action.⁷¹ The Commission finds that E San Juan apparently committed one violation by defaulting on one CBG subject to forfeiture, which places the company's base forfeiture at \$3,000.00.⁷² E San Juan's total assigned support for the assigned CBG in default subject to forfeiture amounted to \$582,313.50 for the defaulted census blocks,⁷³ thereby capping the maximum possible forfeiture at \$87,347.02, which is 15% of E San Juan's defaulted support subject to forfeiture in Auction 904.⁷⁴ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁷⁵ the Commission finds that the forfeiture amount of \$3,000.00 against E San Juan is appropriate here.

10. **Farmers Mutual Cooperative Telephone Company (FMCTC); FRN: 0004776464; File No.: EB-IHD-23-00034746; NAL/Acct No.: 202332080016.** FMCTC, located in Fruitland, Idaho, offers residential and business options for internet, phone, voice, and business services.⁷⁶ FMCTC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁷⁷ WCB declared FMCTC to be in default on May 25, 2022, and referred the company to EB for enforcement action, after FMCTC failed to upload required information and documentation to its Long-Form

⁶⁶ See Emery Telephone dba Emery Telcom, Auction 904 FCC Form 175 Application, File No. 0009147474, (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12165535&file_num=0009147474&version=2&PStart=1&auction_id=904.

⁶⁷ Petition of E Fiber Moab, LLC and E Fiber San Juan, LLC for a Waiver of Section 54.804(b)(5) of the Commission's Rules, AU Docket No. 20-34 et al., Petition for Waiver at 1 (filed June 2, 2021).

⁶⁸ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

⁶⁹ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁷⁰ Letter from Brock Johansen, Chief Executive Officer, E San Juan Fiber, LLC, to Trent Harkrader, Chief, Wireline Competition Bureau, Federal Communications Commission (June 13, 2022).

⁷¹ *August 10, 2022 Default Public Notice* at 9-10. For E San Juan, WCB waived on its own motion the requirement that a default encompass an entire CBG, but did not waive the forfeiture for the defaulting census blocks. *Id.* at 10.

⁷² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁷³ The \$582,313.50 does not include the census blocks within the CBG where E San Juan was later authorized for support. *August 10, 2022 Default Public Notice*, at 10; *Rural Digital Opportunity Fund Support Authorized for 49 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, DA 22-944, Attach. A: Authorized Long-Form Applicants and Winning Bids (WCB/OEA Sept. 13, 2022).

⁷⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice*, at 9-10 (describing the total amount of E San Juan's won support that is in default for the identified CBG).

⁷⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁷⁶ See Farmers Mutual Cooperative Telephone Company, *Home*, <https://fmc.com> (last visited Nov. 16, 2022).

⁷⁷ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

Application by a stated deadline.⁷⁸ The Commission finds that FMCTC apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁷⁹ FMCTC's total assigned support for the CBGs in default subject to forfeiture amounted to \$12,447.00, thereby capping the maximum possible forfeiture at \$1,867.05, which is 15% of FMCTC's defaulted support subject to forfeiture in Auction 904.⁸⁰ Because the base forfeiture exceeds the 15% cap established by the *Rural Digital Opportunity Fund Order*,⁸¹ the Commission finds the forfeiture amount of \$1,867.05 against FMCTC is appropriate here.

11. **Fond du Lac Communications Inc. (Fond du Lac); FRN: 0029745213; File No.: EB-IHD-23-00034747; NAL/Acct No.: 202332080010.** Fond du Lac provides fiber internet and telephone services to individuals living on the Fond du Lac reservation.⁸² Fond du Lac timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁸³ WCB declared Fond du Lac to be in default on August 10, 2022, and referred the company to EB for enforcement action, after Fond du Lac missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁸⁴ The Commission finds that Fond du Lac apparently committed four violations by defaulting on four CBGs subject to forfeiture, which places the company's base forfeiture at \$12,000.00.⁸⁵ Fond du Lac's total assigned support for the CBGs in default subject to forfeiture amounted to \$934,066.30, thereby capping the maximum possible forfeiture at \$140,109.94, which is 15% of Fond du Lac's defaulted support subject to forfeiture in Auction 904.⁸⁶ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁸⁷ the Commission finds that the forfeiture amount of \$12,000.00 against Fond du Lac is appropriate here.

12. **GigaBeam Networks, LLC (GigaBeam); FRN: 0018473223; File No.: EB-IHD-23-00034748; NAL/Acct No.: 202332080015.** GigaBeam offers broadband internet services throughout southern West Virginia and southwestern Virginia.⁸⁸ GigaBeam timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁸⁹ On May 13, 2022, GigaBeam

⁷⁸ 47 CFR § 1.21004(b) ("The Commission may dismiss a winning bidder's application with prejudice for . . . failure of the winning bidder to respond substantially within the time period specified in official correspondence or requests for additional information . . ."); 47 CFR § 54.804(b)(2)(vi), (b)(3) (requiring a Long-Form applicant to submit a project funding description meeting certain requirements and a letter from a qualified bank committing to issue an irrevocable standby letter of credit); *May 25, 2022 Default Public Notice*, at 5, n.22, Attach. B: Bids in Default.

⁷⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁸⁰ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice* at 8, n.22, *see also* Attach. B: Bids in Default (describing the total amount of Farmers Mutual Cooperative's won support that is in default for the identified CBGS).

⁸¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁸² Fond du Lac, *About Us*, <https://www.aaniin.net/aboutus.html> (last visited Nov. 16, 2022).

⁸³ *See Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

⁸⁴ 47 CFR § 54.804(b)(5); *August 10, 2022 Default Public Notice* at 5, n.63, Attach. B: Bids in Default.

⁸⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁸⁶ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice* at 5, n.63, *see also* Attach. B: Bids in Default (describing the total amount of Fond du Lac's won support that is in default for the identified CBGS).

⁸⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁸⁸ GigaBeam, *Home*, <https://www.gigabeam.net/> (last visited Nov. 16, 2022).

⁸⁹ *See Winning Bidders Public Notice*, 35 FCC Rcd at 13915, Attach. A: Winning Bidder Summary.

notified the Commission of its intent to default on two CBGs subject to forfeiture.⁹⁰ WCB declared GigaBeam to be in default on May 25, 2022, and referred the company to EB for enforcement action.⁹¹ The Commission finds that GigaBeam apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁹² GigaBeam's total assigned support for the CBGs in default subject to forfeiture amounted to \$92,328.40, thereby capping the maximum possible forfeiture at \$13,849.26, which is 15% of GigaBeam's defaulted support subject to forfeiture in Auction 904.⁹³ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*, the Commission finds that the forfeiture amount of \$6,000.00 against GigaBeam appropriate here.

13. **Mercury Wireless Indiana, LLC (Mercury IN); FRN: 0025151754; File No.: EB-IHD-23-00034749; NAL/Acct No.: 202332080025.** Mercury IN is a wholly owned subsidiary of Mercury Broadband, LLC f/k/a Mercury Wireless, Inc. (Mercury),⁹⁴ a fixed wireless broadband provider located in Kansas City, MO.⁹⁵ Mercury submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁹⁶ In turn, Mercury assigned bids covering 1,501 CBGs to Mercury IN.⁹⁷ On August 10, 2021, Mercury IN notified the Commission of its intent to default on 115 CBGs subject to forfeiture.⁹⁸ WCB declared Mercury IN to be in default on May 3, 2022, and referred the company to EB for enforcement action.⁹⁹ The Commission finds that Mercury IN apparently committed 115 violations by defaulting on 115 CBGs subject to forfeiture, which places the company's base forfeiture at \$345,000.00.¹⁰⁰ Mercury IN's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$4,768,591.60, thereby capping the maximum possible forfeiture at \$715,288.74, which is 15% of Mercury IN's defaulted support subject to forfeiture in Auction 904.¹⁰¹ Because the base

⁹⁰ See E-mail from Michael Clemons, Chief Executive Officer, GigaBeam Networks, LLC, to Heidi Lankau, Attorney Advisor, Telecommunications Policy Access Division, Federal Communications Commission (May 13, 2022, 13:49 EDT).

⁹¹ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

⁹² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁹³ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of GigaBeam's won support that is in default for the identified CBGs).

⁹⁴ See Mercury Wireless, Inc., Auction 904 FCC Form 175 Application, File No. 0009149636 (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_ownership.htm?searchLevel=B&application_id=12168219&file_num=0009149636&version=2&PStart=1&auction_id=904.

⁹⁵ Mercury, *About Us*, <https://mercurybroadband.com/about-us/https://starry.com/> (last visited Jan. 5, 2023).

⁹⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

⁹⁷ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁹⁸ See E-mail from Virginia D. Hiner, Counsel to Mercury Broadband, LLC, to Auction904@fcc.gov, Federal Communications Commission (Aug. 10, 2021, 14:34 EDT) (attaching Letter from Garrett R. Wiseman, Chief Executive Officer, Mercury Broadband, LLC, to Kris Monteith, Chief, Wireline Competition Bureau, Federal Communications Commission et al. (Aug. 4, 2021)).

⁹⁹ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁰⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁰¹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Mercury IN's won support that is in default for the identified CBGs).

forfeiture does not exceed the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁰² the Commission finds that the forfeiture amount of \$345,000.00 against Mercury IN is appropriate here.

14. **Mercury Wireless Kansas, LLC (Mercury KS); FRN: 0024930141; File No.: EB-IHD-23-00034750; NAL/Acct No.: 202332080017.** Mercury KS is a wholly owned subsidiary of Mercury Broadband, LLC f/k/a Mercury Wireless, Inc. (Mercury),¹⁰³ a fixed wireless broadband provider located in Kansas City, MO.¹⁰⁴ Mercury submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁰⁵ In turn, Mercury assigned bids covering 238 CBGs to Mercury KS.¹⁰⁶ On August 10, 2021, Mercury KS notified the Commission of its intent to default on 32 CBGs subject to forfeiture.¹⁰⁷ WCB declared Mercury KS to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁰⁸ The Commission finds that Mercury KS apparently committed 32 violations by defaulting on 32 CBGs subject to forfeiture, which places the company's base forfeiture at \$96,000.00.¹⁰⁹ Mercury KS's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$1,228,636.60, thereby capping the maximum possible forfeiture at \$184,295.49, which is 15% of Mercury KS's defaulted support subject to forfeiture in Auction 904.¹¹⁰ Because the base forfeiture does not exceed the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹¹¹ the Commission finds that the forfeiture amount of \$96,000.00 against Mercury KS is appropriate here.

15. **Monster Broadband, Inc. (Monster Broadband); FRN: 0019499375; File No.: EB-IHD-23-00034751; NAL/Acct No.: 202332080008.** Monster Broadband is a fixed wireless internet service provider that serves Tennessee.¹¹² Monster Broadband participated in Auction 904 as a member of the NexTier Consortium (NexTier).¹¹³ NexTier timely submitted its Short-Form Application to

¹⁰² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁰³ See Mercury Wireless, Inc., Auction 904 FCC Form 175 Application, File No. 0009149636 (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_ownership.htm?searchLevel=B&application_id=12168219&file_num=0009149636&version=2&PStart=1&auction_id=904.

¹⁰⁴ Mercury, *About Us*, <https://mercurybroadband.com/about-us/https://starry.com/> (last visited Jan. 5, 2023).

¹⁰⁵ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

¹⁰⁶ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁰⁷ See E-mail from Virginia D. Hiner, Counsel to Mercury Broadband, LLC, to Auction904@fcc.gov, Federal Communications Commission (Aug. 10, 2021, 14:34 EDT) (attaching Letter from Garrett R. Wiseman, Chief Executive Officer, Mercury Broadband, LLC, to Kris Monteith, Chief, Wireline Competition Bureau, Federal Communications Commission et al. (Aug. 4, 2021)).

¹⁰⁸ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁰⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹¹⁰ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Mercury KS's won support that is in default for the identified CBGs).

¹¹¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹¹² Monster Broadband, *About Us*, <https://www.monsterbroadband.com/index.php/why-monster/about-monster-broadband> (last Nov. 16, 2022).

¹¹³ See NexTier Consortium, Auction 904 FCC Form 175 Application, File No. 0009149839, at Ownership (filed Sept. 23, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12180976&file_num=0009149839&version=2&PStart=1&auction_id=904.

participate in Auction 904 and was a successful bidder.¹¹⁴ In turn, NexTier assigned 64 CBGs to Monster Broadband.¹¹⁵ On August 24, 2022, Monster Broadband notified the Commission of its intent to default on 64 CBGs subject to forfeiture.¹¹⁶ WCB declared Monster Broadband to be in default on August 31, 2022, and referred the company to EB for enforcement action.¹¹⁷ The Commission finds that Monster Broadband apparently committed 64 violations by defaulting on 64 CBGs subject to forfeiture, which places the company's base forfeiture at \$192,000.00.¹¹⁸ Monster Broadband's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$5,379,245.50, thereby capping the maximum possible forfeiture at \$806,886.82, which is 15% of Monster Broadband's defaulted support subject to forfeiture in Auction 904.¹¹⁹ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹²⁰ the Commission finds that a forfeiture of \$192,000.00 against Monster Broadband is appropriate here.

16. **Newport Utilities d/b/a NU Connect (Newport Utilities); FRN: 0027152438; File No.: EB-IHD-23-00034752; NAL/Acct No.: 202332080014.** Newport Utilities, headquartered in Newport, Tennessee provides voice and internet services.¹²¹ Newport Utilities timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹²² On May 17, 2022, Newport Utilities notified the Commission of its intent to default on five CBGs subject to forfeiture.¹²³ WCB declared Newport Utilities to be in default on May 25, 2022, and referred the company to EB for enforcement action.¹²⁴ The Commission finds that Newport Utilities apparently committed five violations by defaulting on five CBGs subject to forfeiture, which places the company's base forfeiture at \$15,000.00.¹²⁵ Newport Utilities' total assigned support for the CBGs in default subject to forfeiture amounted to \$87,582.10, thereby capping the maximum possible forfeiture at \$13,137.31, which is 15% of Newport Utilities' defaulted support subject to forfeiture in Auction 904.¹²⁶ Because the base forfeiture exceeds the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹²⁷ the

¹¹⁴ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13920, Attach. A: Winning Bidder Summary.

¹¹⁵ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹¹⁶ E-mail from Steve Baker, Co-owner, Monster Broadband, Inc., to Auction904@fcc.gov, Federal Communications Commission (Aug. 24, 2022, 11:03 EDT).

¹¹⁷ *August 31, 2022 Public Default Notice*, at 6, n.47, Attach. B: Bids in Default.

¹¹⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹¹⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default (describing the total amount of Monster Broadband's won support that is in default for the identified CBGs).

¹²⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹²¹ Newport Utilities, Home, <https://newportutilities.com/> (last visited Nov. 16, 2022).

¹²² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13920, Attach. A: Winning Bidder Summary.

¹²³ See E-mail from Chris Calhoun, Vice President, Operations and Technology, Newport Utilities, to Heidi Lankau, Attorney Advisor, Wireline Competition Bureau, Federal Communications Commission (May 17, 2022, 16:05 EDT).

¹²⁴ *May 25, 2022 Default Public Notice*, at 4, n.23, Attach. B: Bids in Default.

¹²⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹²⁶ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Newport Utilities' won support that is in default for the identified CBGs).

¹²⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

Commission finds the forfeiture amount of \$13,137.31 against Newport Utilities is appropriate here.

17. **RHMD LLC (RHMD); FRN: 0021036439; File No.: EB-IHD-23-00034753; NAL/Acct No.: 202332080020.** RHMD is a South Carolina company that provides voice and broadband services.¹²⁸ RHMD timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹²⁹ WCB declared RHMD to be in default on May 3, 2022, and referred the company to EB for enforcement action, after RHMD missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.¹³⁰ The Commission finds that RHMD apparently committed 69 violations by defaulting on 69 CBGs subject to forfeiture, which places the company's base forfeiture at \$207,000.00.¹³¹ RHMD's total assigned support for the CBGs in default subject to forfeiture amounted to \$15,981,706.90, thereby capping the maximum possible forfeiture at \$2,397,256.03, which is 15% of RHMD's defaulted support subject to forfeiture in Auction 904.¹³² Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹³³ the Commission finds that the forfeiture amount of \$207,000.00 against RHMD is appropriate here.

18. **Shenandoah Cable Television, LLC (Shenandoah Cable); FRN: 0021657853; File No.: EB-IHD-23-00034754; NAL/Acct No.: 202332080024.** Shenandoah Cable is a subsidiary of Shenandoah Telecommunications Company located in Edinburg, Virginia.¹³⁴ Shenandoah Cable provides both voice and broadband services,¹³⁵ and timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹³⁶ On November 15, 2021 and April 20, 2022, Shenandoah Cable notified the Commission of its intent to default on 10 CBGs subject to forfeiture.¹³⁷ WCB declared Shenandoah Cable to be in default for eight CBGs on May 3, 2022, and referred the company to EB for enforcement action.¹³⁸ On June 21, 2022, Shenandoah Cable notified the Commission of its intent to default on two more CBGs subject to forfeiture.¹³⁹ WCB declared Shenandoah Cable to be in default for the remaining CBGs on August 10, 2022, August 31, 2022, and November 10, 2022, and referred the

¹²⁸ RHMD, *About*, <https://www.rh-md.com>; see also South Carolina Secretary of State: *Business Entities Online: Business Name Search: RHMD, LLC*, <https://businessfilings.sc.gov/BusinessFiling/Entity/Search> (last visited Nov. 16, 2022).

¹²⁹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13924, Attach. A: Winning Bidder Summary.

¹³⁰ 47 CFR § 54.804(b)(5); *May 3, 2022 Default Public Notice* at 6, n.44, Attach. B: Bids in Default.

¹³¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹³² See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of RHMD's won support that is in default for the identified CBGs).

¹³³ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹³⁴ United States Securities and Exchange Commission, *Form 10-K*, Business, p. 12, <https://investor.shentel.com/static-files/3498fbb5-b7dc-43a1-acde-c4238fc542a2> (last visited Nov. 16, 2022).

¹³⁵ See Shenandoah Cable, Auction 904 Form 175 Application, File No. 0009149943 (filed July 15, 2020) https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12171025&file_num=0009149943&version=2&PStart=1&auction_id=904.

¹³⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13926, Attach. A: Winning Bidder Summary.

¹³⁷ See Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed Nov. 15, 2021); Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed Apr. 20, 2022).

¹³⁸ See *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹³⁹ See Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed June 21, 2022).

company to EB for enforcement action.¹⁴⁰ The Commission finds that Shenandoah Cable apparently committed 12 violations by defaulting on 12 CBGs subject to forfeiture, which places the company's base forfeiture at \$36,000.00.¹⁴¹ Shenandoah Cable's total assigned support for the CBGs in default subject to forfeiture amounted to \$3,812,575.60, thereby capping the maximum possible forfeiture at \$571,886.34, which is 15% of Shenandoah Cable's defaulted support subject to forfeiture in Auction 904.¹⁴² Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹⁴³ the Commission finds the forfeiture amount of \$36,000.00 against Shenandoah Cable is appropriate here.

19. **Terral Telephone Company (Terral); FRN: 0004320412; File No.: EB-IHD-23-00034755; NAL/Acct No.: 202332080013.** Terral is a South Carolina company that provides voice and broadband services.¹⁴⁴ Terral timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁴⁵ On May 12, 2022, Terral notified the Commission of its intent to default on 11 CBGs subject to forfeiture.¹⁴⁶ WCB declared Terral to be in default on May 25, 2022, and referred the company to EB for enforcement action.¹⁴⁷ The Commission finds that Terral apparently committed 11 violations by defaulting on 11 CBGs subject to forfeiture, which places the company's base forfeiture at \$33,000.00.¹⁴⁸ Terral's total assigned support for the CBGs in default subject to forfeiture amounted to \$632,991.90, thereby capping the maximum possible forfeiture at \$94,948.78, which is 15% of Terral's defaulted support subject to forfeiture in Auction 904.¹⁴⁹ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁵⁰ the Commission finds that the forfeiture amount of \$33,000.00 against Terral is appropriate here.

20. **Time Warner Cable Information Services (Massachusetts), LLC (TWC Massachusetts); FRN: 0013182712; File No.: EB-IHD-23-00034756; NAL/Acct No.: 202332080019.** TWC Massachusetts is a limited liability company formed in Delaware and a subsidiary of Charter.¹⁵¹

¹⁴⁰ See *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; see also *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default; see also *November 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default.

¹⁴¹ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁴² See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default; *Nov. 10, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Shenandoah Cable's won support that is in default for the identified CBGs).

¹⁴³ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁴⁴ See Terral Telephone Company, Auction 904 FCC Form 175 Application, File No. 0009150076, at Applicant Info (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12189335&file_num=0009150076&version=2&PStart=1&auction_id=904 (RHMD Short-Form Filing).

¹⁴⁵ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13929, Attach. A: Winning Bidder Summary.

¹⁴⁶ See Letter from Chad Seagress, President, Terral Telephone Company, to Trent Harkrader, Chief, Wireline Competition Bureau, Federal Communications Commission (May 12, 2022).

¹⁴⁷ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁴⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Terral's won support that is in default for the identified CBGs).

¹⁵⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁵¹ United States Securities and Exchange Commission, *Form 10-K*, Exhibit 21-1, <https://ir.charter.com/static-files/63606f63-1b11-4d60-91a0-5395f1552592> (last visited Nov. 16, 2022).

Charter participated in Auction 904 through another subsidiary called CCO.¹⁵² CCO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁵³ In turn, CCO assigned TWC Massachusetts 42 of its CBGs.¹⁵⁴ In a series of e-mails, Charter notified the Commission on behalf of its subsidiaries of its intent to default on CBGs, including two of TWC Massachusetts' assigned CBGs subject to forfeiture.¹⁵⁵ WCB declared TWC Massachusetts to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁵⁶ The Commission finds that TWC Massachusetts apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.¹⁵⁷ TWC Massachusetts' total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$1,104,815.00, thereby capping the maximum possible forfeiture at \$165,722.25, which is 15% of TWC Massachusetts' defaulted support subject to forfeiture in Auction 904.¹⁵⁸ Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹⁵⁹ the Commission finds the forfeiture amount of \$6,000.00 against TWC Massachusetts is appropriate here.

21. **Trailwave Fiber, Inc. (Trailwave); FRN: 0022716385; File No.: EB-IHD-23-00034757; NAL/Acct No.: 202332080012.** Trailwave is a broadband internet service provider located in Georgia.¹⁶⁰ Trailwave is a wholly owned subsidiary of Habersham Electric Membership Cooperation.¹⁶¹ Trailwave was a member of the NRTC Phase 1 RDOF Consortium (NRTC).¹⁶² NRTC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁶³ In turn, NRTC assigned 13 CBGs to Trailwave.¹⁶⁴ On May 25, 2022, Trailwave notified the Commission of its intent to default on 13 CBGs subject to forfeiture.¹⁶⁵ WCB declared Trailwave to be in default on May 25, 2022,

¹⁵² *Id.*

¹⁵³ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13907-08, Attach. A: Winning Bidder Summary.

¹⁵⁴ Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁵⁵ See, e.g., *Charter Summary Default E-mail, May 3, 2022 Default Public Notice*, at 6, n.44.

¹⁵⁶ *May 3, 2022 Default Public Notice*, at 6-7, n.44, Attach. B: Bids in Default.

¹⁵⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁵⁸ See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of TWC Massachusetts' won support that is in default for the identified CBGs).

¹⁵⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁶⁰ Trailwave, *Trailwave Plans*, <https://www.habershamemc.com/trailwave/pricing/#residential-plans> (last visited Nov. 16, 2022).

¹⁶¹ Trailwave, *Home*, <https://www.habershamemc.com/trailwave/> (last visited Nov. 16, 2022).

¹⁶² NRTC Phase 1 RDOF Consortium, Auction 904 FCC Form 175 Application, File No. 0009146856, at Consortium Members Attach., p. 11 (filed July 13, 2020); https://auctionfiling.fcc.gov/form175/search175/attachment_view.htm?searchLevel=B&application_id=12165439&file_num=0009146856&version=2&PStart=1&auction_id=904&attachment_id=20947677.

¹⁶³ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13921, Attach. A: Winning Bidder Summary.

¹⁶⁴ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁶⁵ E-mail from Casey Lide, Counsel to Trailwave Fiber, Inc., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (May 25, 2022, 9:51 EDT); Letter from Casey Lide,

(continued...)

and referred the company to EB for enforcement action.¹⁶⁶ The Commission finds that Trailwave apparently committed 13 violations by defaulting on 13 CBGs subject to forfeiture, which places the company's base forfeiture at \$39,000.00.¹⁶⁷ Trailwave's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$396,415.90, thereby capping the maximum possible forfeiture at \$59,462.38, which is 15% of Trailwave's defaulted support subject to forfeiture in Auction 904.¹⁶⁸ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁶⁹ the Commission finds that the forfeiture amount of \$39,000.00 against Trailwave is appropriate here.

22. **Xiber LLC (Xiber); FRN 0025619222; File No.: EB-IHD-23-00034758; NAL/Acct No.: 20232080004.** Xiber is a fixed wireless broadband provider located in Indianapolis, Indiana.¹⁷⁰ Xiber is a majority owned subsidiary of Hawaii Dialogix Telecom LLC (HDT).¹⁷¹ HDT timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁷² In turn, HDT assigned bids covering 14 CBGs to Xiber.¹⁷³ WCB declared Xiber to be in default on December 16, 2022, and referred the company to EB for enforcement action, after Xiber missed the deadlines for submitting audited financial statements and a letter from a qualified bank committing to issue an irrevocable stand-by letter of credit meeting the Commission's requirements.¹⁷⁴ The Commission finds that Xiber apparently committed 14 violations by defaulting on 14 CBGs subject to forfeiture, which places the company's base forfeiture at \$42,000.00.¹⁷⁵ The Commission further finds that Xiber apparently committed a separate violation when it failed to file audited financial paperwork with WCB during the Long-Form Application process, which subjects Xiber to an additional \$50,000.00 base forfeiture.¹⁷⁶ Xiber's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$5,449,918.00, thereby capping the maximum possible default forfeiture at \$817,487.70, which is 15% of Xiber's defaulted support subject to forfeiture in Auction 904.¹⁷⁷ The base default forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*, at

Counsel to Trailwave Fiber, Inc., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (May 26, 2022).

¹⁶⁶ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁶⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁶⁸ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Trailwave's won support that is in default for the identified CBGs).

¹⁶⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁷⁰ *See* Xiber, *About Us*, <https://xiber.com/about/> (last visited Jan. 4, 2023).

¹⁷¹ *See* Hawaii Dialogix Telecom LLC, Auction 904 FCC Form 175 Application, File No. 0009149368, (filed Oct. 28, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12170893&file_num=0009149368&version=2&PStart=1&auction_id=904.

¹⁷² *See Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

¹⁷³ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Jan. 4, 2023); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁷⁴ 47 CFR §§ 54.804(b)(3), (b)(4); *December Default Public Notice*, at 5, n.26, Attach. B: Bids in Default.

¹⁷⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁷⁶ *Id.* at 722-23, para. 80.

¹⁷⁷ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *See also December Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Xiber's won support in default for the identified CBGs).

\$42,000.00.¹⁷⁸ Combining the audited financials forfeiture of \$50,000.00 with the default forfeiture of \$42,000.00, the Commission finds that the total forfeiture of \$92,000.00 against Xiber is appropriate here.

¹⁷⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

APPENDIX B

[SPREADSHEET OF CBGS]

APPENDIX C

[SPREADSHEET OF ADDRESSES]

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *In the Matter of 22 Applicants for Rural Digital Opportunity Fund in Default*, Notice of Apparent Liability for Forfeiture.

Today, we adopt the second RDOF default Notice of Apparent Liability in a year, bringing the total number of RDOF applicants that we have proposed to fine for defaulting on their bids to 95. When we originally adopted the Rural Digital Opportunity Fund in 2020, I wrote that we must “create real accountability for companies that receive subsidies” and that there were “warning signs that we should not ignore.”¹ When applicants fail to live up to their obligations in a broadband deployment program, it is a setback for all of us. Defaulting applicants pay a fine, but rural communities that have already waited too long for broadband pay a larger toll. I’m glad that we are holding these companies accountable through our enforcement rules, and hope that these communities will be served by forthcoming broadband deployment programs.

¹ *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, Statement of Commissioner Geoffrey Starks (2020).