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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

PETITION OF ALBION TELEPHONE)
COMPANY, INC. FOR DESIGNATION)
AS AN ELIGIBLE) Docket No. _____
TELECOMMUNICATIONS CARRIER)
FOR PURPOSES OF RECEIVING)
FCC RURAL DIGITAL)
OPPORTUNITY FUND SUPPORT)

**PETITION OF ALBION TELEPHONE COMPANY, INC. FOR DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR PURPOSES OF
RECEIVING FCC RURAL DIGITAL OPPORTUNITY FUND SUPPORT**

Albion Telephone Company, Inc., an Idaho corporation doing business as ATC Communications ("ATC" or "Applicant"), by and through its undersigned attorney, hereby submits to the Public Service Commission of Utah (the "Commission") this Petition for Designation as an Eligible Telecommunications Carrier ("ETC") for Purposes of Receiving FCC Rural Digital Opportunity Fund Support, pursuant to Sections 214(e)(1)-(2) of the Telecommunications Act of 1934, as amended (the "Act")¹, and the Federal Communications Commission's ("FCC") rules², and this

¹ 47 U.S.C. § 214(e)(1)-(2)

² 47 C.F.R. § 54.201

Commission's rules. Specifically, Applicant seeks ETC designation in the areas for which it has been awarded Rural Development Opportunity Fund ("RDOF") support via Auction 904. On December 7, 2020, the FCC issued a Public Notice closing Auction 904 and announcing the winning bidders.³ ATC is obligated under the Auction Closing Public Notice to obtain this ETC designation in the awarded areas within 180 days of the Auction Closing Public Notice and therefore requests expeditious action to meet this obligation. ATC is seeking high cost RDOF support in the areas awarded to ATC as shown on Exhibit 1, attached hereto (the "Designated Service Areas").

As discussed below in more detail, the Commission has the ability to grant the ETC designation and ATC meets all statutory and regulatory prerequisites for the ETC designation. Furthermore, designation of ATC as an ETC for the purpose of receiving high cost RDOF funds to provide broadband services in the Designated Service Areas would serve the public interest. Accordingly, ATC respectfully requests that the Commission grant this Petition.

I. COMPANY BACKGROUND

ATC is an Idaho corporation, with a principal place of business located at 225 W. North Street, Albion, Idaho 83311. ATC is an incumbent local exchange carrier ("ILEC") holding a Certificate of Convenience and Public Necessity to provide local exchange services in certain service areas in southern Idaho. Applicant also provides broadband services, and is designated an ETC in Idaho. ATC is also an ILEC providing local exchange services and broadband services to the community of Yost, Utah in Box Elder County which areas are not served by any other local exchange carrier. ATC provides local exchange services in its service areas in Idaho and Utah using its own facilities.

All correspondence, communications, pleadings, notices, orders and decisions

³ *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, WC Docket 19-126, WC Docket No. 10-90, Public Notice DA 20-1422, December 7, 2020 ("Auction Closing Public Notice"), attached hereto as Exhibit 3.

relating to this Petition should be addressed as follows:

<p>Cynthia A. Melillo Cynthia A. Melillo PLLC 8385 W. Emerald Street Boise, Idaho 83704 Telephone: 208-577-5747 Email: cam@camlawidaho.com</p>	<p>Kyle Bradshaw Albion Telephone Company, Inc. PO Box 98 Albion, Idaho 83311 Telephone: 208-673-2401 Email: kbradshaw@atccomm.com</p>
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II. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATION.

States are given authority by 47 U.S.C. § 214(e)(2) to designate a qualified carrier as an ETC. Section 214(e)(2) specifically states that a State commission has authority to “designate a common carrier that meets the requirements” of an ETC “for a service area designated by the State commission.” This Commission has previously exercised its authority to designate qualified carriers as ETCs.⁴ Sections 214(e)(2) and 214(e)(5) of the Act provide that ETC designations shall be made for a geographic service area designated by the state commission. Applicant seeks ETC designation in the Designated Service Areas, which areas are part of the service area of Frontier Communications.

III. ATC MEETS THE STATUTORY AND REGULATORY REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.

As shown herein, ATC meets the requirements for designation as an ETC as established under Sections 214(e)(1) of the Act and FCC rules.⁵ Specifically, ATC (i) is a common carrier,⁶ (ii) offers services that are supported⁶ by federal universal support

⁴ See, e.g., *In the Matter of Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Households*, PSC Docket No. 09-2511-01.

⁵ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

⁶ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

mechanisms;⁷ (iii) will use its own facilities, in whole or in part, to provide the supported services;⁸ (iv) will provide the supported services throughout its Designated Service Areas;⁹ (v) will advertise the availability of such services using media of general distribution;¹⁰ (vi) will make Lifeline service available to qualifying low-income consumers;¹¹ (vii) will certify that it will comply with the service requirements applicable to the support that it receives;¹² (viii) will remain functional in emergency situations;¹³ (ix) will satisfy consumer protection and service quality standards;¹⁴ (x) will provide local usage plans comparable to the ILECs already operating in the proposed Designated Service Areas;¹⁵ (xi) will comply with all applicable reporting requirements;¹⁶ and (xiii) will take steps to limit fraud, waste and abuse of the federal USF.¹⁷ Additionally, ATC will comply with all reporting requirements for recipients of high cost RDOF support.

A. ATC is a Common Carrier

ATC is a telecommunications carrier as defined in 47 U.S.C. § 153(44) and 47 C.F.R. § 51.5(a) and is a telecommunications carrier for the purposes of Part 54 of the FCC's rules.¹⁸ ATC, therefore, is considered a common carrier under the Act.

B. ATC offers the Supported Services

ATC currently offers in its service areas the federally designated services listed

⁷ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.201(d)(l) and 54.405.

⁸ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(l).

⁹ 47 U.S.C. § 214(e)(l); 47 C.F.R. § 54.201(d).

¹⁰ 47 U.S.C. § 214(e)(l)(B); 47 C.F.R. § 54.201(d)(2).

¹¹ 47 C.F.R. § 54.405; see also *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012 ("Lifeline Reform Order").

¹² 47 C.F.R. § 54.202 (a)(1)(i).

¹³ 47 C.F.R. § 54.202(a)(2); and Commission ETC Requirements Order, App., at 3.

¹⁴ 47 C.F.R. § 54.202(a)(3); and Commission ETC Requirements Order, App., at 3.

¹⁵ Commission ETC Requirements Order, App., at 3.

¹⁶ See Commission ETC Requirements Order, App., at 3-4.

¹⁷ See *Lifeline Reform Order*.

¹⁸ 47 U.S.C. § 54.1 *et seq.*

at 47 C.F.R. § 54.101(a): (i) voice grade access to the public switched telephone network; and (ii) eligible broadband internet access. In addition, ATC also offers the following services which are supported by the federal USF program: (1) local usage; (2) access to emergency services; (3) access to operator services; (4) access to directory assistance; and (5) toll limitation for qualifying low-income consumers. ATC is a full service wireline carrier that offers all of these services, as described in detail below, throughout its service area, including the Designated Service Area, utilizing its own network infrastructure.

1. Voice Grade Access to the Public Switched Telephone Network and Broadband Internet Access.

ATC meets this requirement through the provision of wireline voice communications service and interconnection to the public switched telephone network. ATC offers broadband internet access services with the capability to transmit and receive data by wire or radio from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.¹⁹

2. Local Usage.

ATC's rate plans provide local usage consistent with Section 54.101(a)(1) of the FCC's Rules, including minutes of use for local service at no additional charge to end users.

3. Access to Emergency Services and Ability to Remain Functional in Emergency Situations.

¹⁹ 47 C.F.R. § 54.101(a)(2)

The ability to reach a public emergency service provider by dialing 911 is a required service in any Universal Service offering. Access to emergency services includes access to 911 and E911 services to the extent the local government has implemented such services.²⁰ ATC meets this requirement by providing 911 and E911 service from local public service answering points ("PSAPs").

Consistent with the FCC rules, ATC also has the ability to remain functional in emergency situations. Since ATC is providing service to its customers through the use of its own redundant facilities, ATC will provide to its customers functionality in emergency situations, including access to a reasonable amount of back-up power to ensure functionality without an external power source, rerouting of traffic around damaged facilities and the capability of managing traffic spikes resulting from emergency situations.

4. Access to Operator Services.

Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.²¹ ATC provides customer access to operator services.

5. Access to Directory Assistance.

The ability to place a call to directory assistance is a required service offering.²² Subscribers to ATC's services are able to dial "411" to reach directory assistance.

6. Toll Limitation for Qualifying Low Income Consumers.

ATC has the capability to provide toll limitation services to qualified low-

²⁰ 47 C.F.R. § 54.101(a).

²¹ *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8817-18 (1997) ("First Report and Order")

²² *Id.* at 8821.

income Lifeline customers as provided in the FCC rules²³.

C. ATC Provides Services Using its Own Facilities.

ATC is a facilities-based wireline voice/broadband provider with its own copper and fiber optic cable, networking equipment, trunking, and other associated facilities. ATC shares switching equipment under lease agreements with other providers. Thus, ATC meets the applicable facilities-based requirement for ETCs that the supported services be provided either using the ETC's own facilities or a combination of its own facilities and resale of another carrier's service.²⁴

D. Advertising Availability of Universal Services.

Pursuant to § 54.201 of the FCC's rules, 47 C.F.R. § 54.201, ATC currently advertises the availability of each of the supported services detailed above, throughout the Designated Service Area, by media of general distribution. In addition, once it receives its ETC designation, ATC will promote its Lifeline Services through traditional media avenues. ATC will develop an information sheet that explains the program and directs interested parties to the proper agencies to assist with the program qualification process. The methods of advertising utilized may include website, newspaper, digital/online ads, radio, direct mailings, bill inserts, and telephone directory advertising.

E. ATC Will Provide Service Throughout its Designated Service Areas.

ATC commits to provide the supported services throughout its Designated Service Areas in portions of Box Elder County, identified in Exhibits 1 and 2 attached hereto, consistent with all applicable requirements. Exhibit 1 identifies the auction item numbers

²³ 47 C.F.R. § 54.101(a)(1).

²⁴ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

and census block group numbers for which ATC has been awarded RDOF support via Auction 904 in the state of Utah. Exhibit 2 is a map that presents a visual depiction of the areas corresponding to the census block groups for which ATC was the winning bidder and for which ATC seeks ETC designation.

F. Commitment To Consumer Protection

ATC certifies that it will satisfy all applicable consumer protection and service quality standards applicable to RDOF support recipients.

G. Grant of this Petition Serves the Public Interest

ATC requests ETC designation throughout all of the Designated Services Areas depicted on Exhibit 2. Such areas do not include areas served by rural telephone companies.

For areas served by rural telephone companies, Applicant must show that granting the ETC designation would serve the public interest. For areas not served by rural telephone companies, Congress requires that the Commission grant ETC Petitions without requirement of a showing of public interest.²⁵ Thus, the Act provides that the Commission “shall” designate ATC as an ETC upon finding that ATC meets the requirements of Section 54.101(a) and Section 54.202(a) of the FCC’s Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)).

Nevertheless, grant of ATC’s Petition for ETC designation for purposes of receiving RDOF support will serve the public interest.²⁶ Granting ETC status to ATC would allow ATC to obtain federal RDOF support, which it will use for the deployment of advanced services to unserved and underserved areas of Utah. Grant of this

²⁵ See 47 U.S.C. § 214(e)(2).

²⁶ 47 U.S.C. § 214(e)(6); 47 C.F.R. § 202(b)

Petition also will ensure that RDOF support is used efficiently and effectively.

IV. ATC WILL MEET ALL ANNUAL CERTIFICATION REQUIREMENTS AND COMPLY WITH APPLICABLE LAWS

ATC will file all annual reports required by both this Commission and the FCC. In addition, ATC will comply with applicable state and federal regulations and its payment of applicable state and local regulatory fees.

V. LEGAL AUTHORITY

The Commission has the legal authority to grant the relief requested by ATC pursuant to 47 U.S.C. § 214I(2) and 47 C.F.R. § 54.201.

VI. RELIEF REQUESTED

For the reasons set forth above, and pursuant to Section 214I(2) of the Act, ATC requests that the Commission enter an Order designating ATC as an ETC eligible for federal high cost RDOF universal service funding for the Designated Service Areas, and that the Commission issue a notice of scheduling conference as soon as practicable so that a scheduling order can be entered that will provide the parties sufficient time to review the application in time for the Commission to issue an order in this matter before June 7, 2021.

RESPECTFULLY SUBMITTED this 5th day of January 2021.

Cynthia A. Melillo PLLC

BY: 
Cynthia A. Melillo

Attorney for Albion Telephone Company, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January 2020, I caused to be served a true and correct copy of the foregoing by email and addressed to the following:

Utah Public Service Commission
psc@utah.gov



Cynthia A. Melillo

Exhibit 1
Designated Service Areas
[attached]

Exhibit 1

Albion Telephone Company, Inc.

Auction 904: Rural Digital Opportunity Fund - Assigned Census Blocks

auction_id	bidder	frn	block_id	item	state	county	census_id
904	Albion Telephone Company, Inc.	3714805	490039601002002	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002007	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002008	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002011	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002014	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002034	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002041	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002043	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002044	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002045	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002046	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002047	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002049	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002050	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002053	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002055	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002056	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002057	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002058	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002059	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002071	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002174	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002281	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002283	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002284	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002285	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002286	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002287	UT-003-9601002	UT	Box Elder	4.9004E+11
904	Albion Telephone Company, Inc.	3714805	490039601002288	UT-003-9601002	UT	Box Elder	4.9004E+11

Exhibit 2

Map of Designated Service Areas

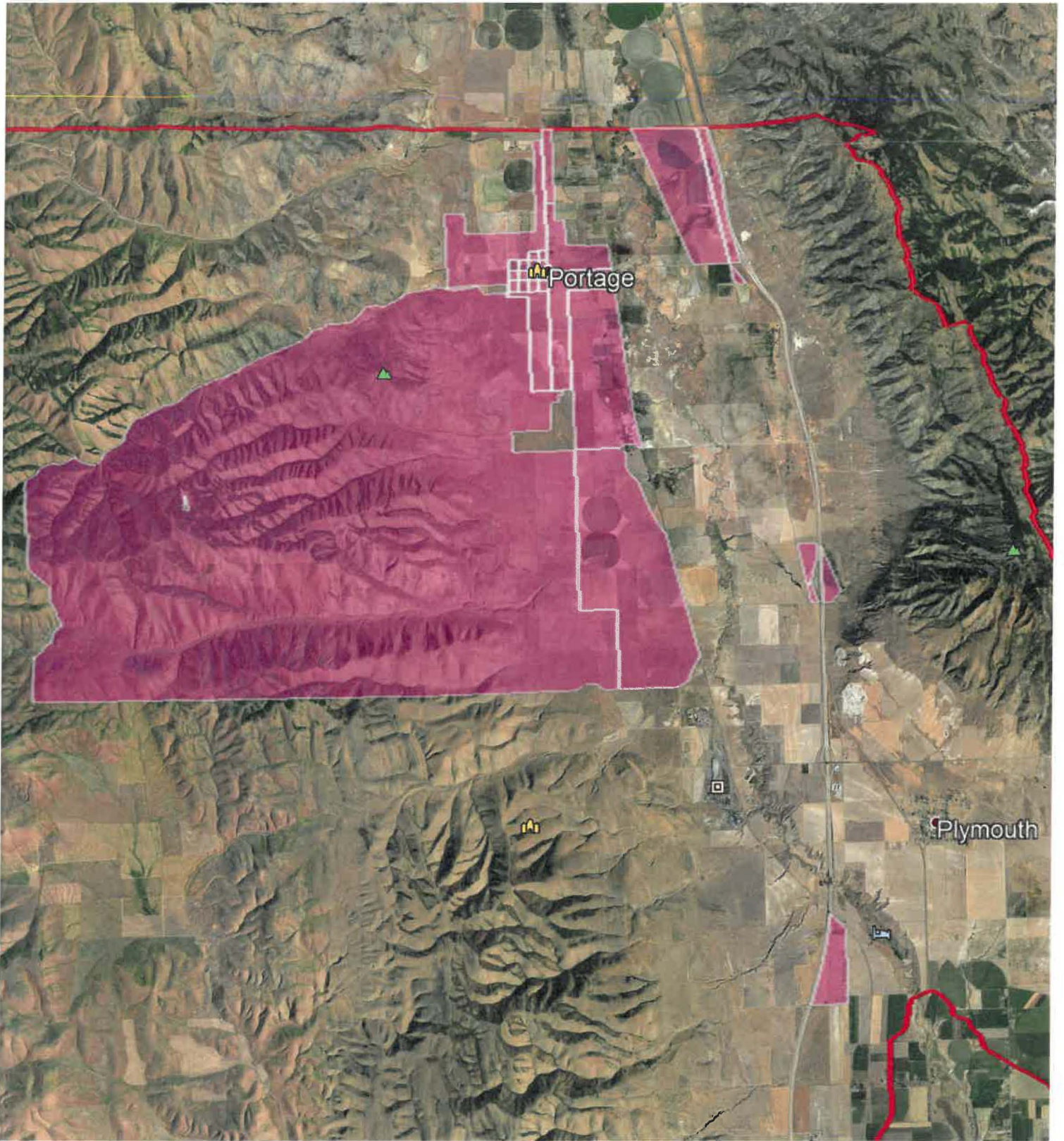


Exhibit 2

Albion Telephone Company, Inc.

Auction 904: Rural Digital Opportunity Fund - Designated Service Area



Exhibit 3

Auction Closing Public Notice

[attached]



PUBLIC NOTICE

Federal Communications Commission
45 L Street, NE
Washington, DC 20554

News Media Information: 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 20-1422
December 7, 2020

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
WC Docket 19-126
WC Docket No. 10-90

1. By this Public Notice, the Rural Broadband Auctions Task Force, Office of Economics and Analytics (OEA), and Wireline Competition Bureau (WCB) announce that bidding in the Rural Digital Opportunity Fund Phase I auction (Auction 904) concluded on November 25, 2020. There were 180 winning bidders in the auction, with the 10-year support amount totaling \$9.23 billion and covering 5,220,833 locations in 49 states and one territory. Of the 5,295,771 locations in the 61,766 eligible census block groups, approximately 99% of the locations are covered by winning bids. While winning bids are for a range of performance tiers, winning bids for downstream speeds of at least 100 megabits per second (Mbps) cover 99.7% of these locations, with over 85% of locations covered by winning bids for Gigabit speed service.

2. Winning bidders are required to submit a post-auction application for support (FCC Form 683) no later than **January 29, 2021**. Winning bidders that wish to assign some or all of their winning bids to related entities must do so by **December 22, 2020**, using the Divide Winning Bids process described below.

I. WINNING BIDDERS

3. This Public Notice summarizes the results of the auction and provides winning bidders with important information, including FCC Form 683 filing requirements and support disbursement matters. Key information appears in the following attachments:

Attachment A: “Winning Bidders Summary” lists for each bidder: the state, the 10-year assigned support amount, and the number of locations assigned in winning bids.

Attachment B: “State Results Summary” lists for each state with eligible areas in Auction 904: the total 10-year assigned support, the number of locations assigned, and the number of bidders with winning bids.

Attachment C: “FCC Form 683: Application for Rural Digital Opportunity Fund Phase I Support – Instructions.”

4. A copy of this Public Notice will be sent to each qualified bidder via overnight delivery to the contact person at the contact address listed in each qualified bidder’s short-form application (FCC Form 183).

II. AUCTION RESULTS

5. Concurrent with the release of this Public Notice, the Commission is making available the detailed auction results and bidding information described below.

Online Map: An interactive visual representation of the auction results is available on the Auction 904 web page (www.fcc.gov/auction/904). On the interactive map available at this webpage, there are options for displaying all eligible areas and non-winning bids. Clicking on a state or winning bid listed on the right-hand side of the map will zoom the map to that area.

Results Data: An online viewer of results data and downloadable files that include the identities of bidders and all their submitted bids are now available in the FCC Auctions Public Reporting System (auctiondata.fcc.gov), for which there is a link on the Results tab on the Auction 904 web page (www.fcc.gov/auction/904).¹

6. Additionally, the Commission will soon make available certain, previously withheld information submitted in the applications to participate in the auction (FCC Forms 183). This information includes the state(s) and performance tier and latency combination(s) for which each applicant was found to be eligible.² The applications are viewable through the application search feature, which can be accessed through the Application Search tab on the Auction 904 web page.

III. POST-AUCTION PROCEDURES

7. Under the competitive bidding rules adopted in the *Rural Digital Opportunity Fund Order*, Auction 904 winning bidders must file a post-auction application for support, also referred to as FCC Form 683, consistent with all requirements of the long-form application process.³ FCC Form 683 has two discrete parts—the Divide Winning Bids portion and the long-form application portion. Each winning bidder is required to file an FCC Form 683 to become authorized to receive support. Prior to completing the long-form application portion, a winning bidder may divide its winning bids by assigning them to related entities, as described below.⁴ If a winning bidder assigns its winning bids to related

¹ Because bids in Auction 904 implied annual support amounts, the bids and results data in the FCC Auctions Public Reporting System are on an annual basis, in contrast to the 10-year total support amounts reported in Attachments A and B.

² We will continue to withhold from routine public inspection responses to the technical questions in Appendix A of the *Auction 904 Procedures Public Notice* and any supporting information; financial information for which confidential treatment was requested under the section 0.459(a)(4) abbreviated confidential treatment process; and any other information subject to a request for confidential treatment that has been granted or remains pending. 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, 6129-30, para. 141 (2020) (*Auction 904 Procedures Public Notice*). Further, to prevent possible public dissemination of information related to bids or bidding strategies in Auction 107—an auction for flexible-use service licenses in the 3.7 GHz Band in which bidding is scheduled to commence on December 8—the data fields in which applicants identified specific spectrum bands that they proposed to use and spectrum access attachments will continue to be withheld from routine public inspection until the prohibition of certain communications in Auction 107 concludes. See 47 CFR 1.2105 (c); *Auction of Flexible-Use Service Licenses in the 3.7–3.98 GHz Band for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 107; Bidding in Auction 107 Scheduled to Begin December 8, 2020*, AU Docket No. 20-25, Public Notice, 35 FCC Rcd 8404, 8418, para. 44 (2020).

³ 47 CFR § 1.21004; *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 696, para. 22 (2020) (*Rural Digital Opportunity Fund Order*).

⁴ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6164-65, paras. 288-93.

entities, those entities will be required to file the long-form application portion of an FCC Form 683 for those winning bids, as described below. A winning bidder will be responsible for completing the long-form application portion of FCC Form 683 for any winning bids that it does not assign to a related entity.

8. **Winning bidders that intend to file a long-form application covering all their winning bids are not required to participate in the Divide Winning Bids process.** Any winning bidder that does not submit the Divide Winning Bids portion of FCC Form 683 prior to 6:00 p.m. ET on December 22, 2020, must file a long-form application that covers *all* its winning bids. In such circumstances, the winning bidder must file the long-form application in its own name, be designated as the eligible telecommunications carrier (ETC) to serve the relevant areas, be named in the requisite letter(s) of credit, and fulfill the public interest obligations associated with receiving Rural Digital Opportunity Fund Phase I support.⁵

A. Divide Winning Bids Portion of FCC Form 683

9. Any winning bidder that intends to assign some or all its winning bids to related entities must do so by submitting the Divide Winning Bids portion of the FCC Form 683 during the Divide Winning Bids filing window. **The Divide Winning Bids filing window will open at 10:00 a.m. Eastern Time (ET) on Wednesday, December 9, 2020, and close at 6:00 p.m. ET on Tuesday, December 22, 2020.** During this period, a winning bidder will be able to log into the Auction Application System using the FCC Registration Number (FRN) that it used to file its short-form application and complete the Divide Winning Bids portion of FCC Form 683. The instructions in Attachment C explain how a winning bidder can assign its winning bids to related entities.

10. A winning bidder may only assign its winning bids to a related entity that is named in its short-form application or that was formed after the short-form application deadline (i.e., July 15, 2020).⁶ The Auction Application System will not permit a winning bidder to assign its winning bids to another winning bidder. A related entity is an entity that is controlled by the winning bidder or is a member of (or an entity controlled by a member of) a consortium/joint venture of which the winning bidder is a member.⁷ Thus, if a holding company/parent company is a winning bidder in Auction 904, the winning bidder may designate one or more operating companies that it controls to complete the long-form application to receive Rural Digital Opportunity Fund support for some or all of the winning bids in a state. If a consortium/joint venture is a winning bidder in Auction 904, the entity may designate one or more members (or entities controlled by members of) the consortium/joint venture to complete the long-form application to Rural Digital Opportunity Fund support for some or all of the winning bids in a state.

11. A winning bidder may assign winning bids to more than one entity in a single state, but it cannot assign a single winning bid to more than one entity.⁸ Thus, a winning bidder may not split among multiple entities either: 1) eligible census blocks within a winning bid for an individual census block group, or 2) separate census block groups within a winning package bid.⁹

⁵ Subject to the limited exception described below for multiple operating companies operating in a state.

⁶ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6165, para. 291.

⁷ *Id.* at 6164, para. 289.

⁸ *Id.* at 6164, para. 290.

⁹ For example, assume a winning bidder has three winning bids—package bid A, package bid B, and single bid (i.e., one census block group) C. The winning bidder could assign package bid A to one related entity, package bid B to another related entity, and single bid C to a third entity. The winning bidder could not assign some census block groups from package bid A to one related entity and then the remaining census block groups from package bid A to another entity. The entire package bid must be assigned to one related entity. Similarly, the winning bidder could not assign some eligible census blocks from single bid C to one entity and then the remaining eligible census blocks from single bid C to another related entity. The entire census block group covered by the single winning bid must be assigned to one related entity.

12. **Each entity that is assigned a winning bid through the Divide Winning Bids process is the entity that must file the long-form application portion of FCC Form 683 in its own name. Except for one limited exception, that long-form applicant must be designated as the eligible telecommunications carrier to serve the relevant area(s), be named in the requisite letter(s) of credit, and fulfill the public interest obligations associated with receiving Rural Digital Opportunity Fund support.**¹⁰

13. For administrative convenience, if a winning bidder is a holding/parent company that has multiple operating companies in a state and intends to assign its winning bids to multiple operating companies in a state, it may choose one of those entities to be the lead operating company.¹¹ In such circumstances, the winning bids should be assigned to that lead operating company, the long-form application should be filed in the name of the lead operating company, the letter of credit should be in the name of the lead operating company, and payments will be made to the study area code associated with the lead operating company. However, the long-form application must identify which operating companies will meet the public interest obligations for which census block groups and documentation must be submitted that demonstrates that each of the operating companies has an ETC designation covering the relevant census block groups. As decided in the *Rural Digital Opportunity Fund Order*, compliance with the service milestones will be determined on a statewide basis across all the relevant operating companies.¹²

14. A winning bidder that assigns some or all its winning bids to a related entity must make several certifications in the Divide Winning Bids portion of FCC Form 683. In particular, it must certify and acknowledge that it:

- has assigned the winning bids to related entities that were named in the short-form application or are newly formed,
- will inform each entity of its filing obligation and cause each entity to submit a timely FCC Form 683 long-form application,
- will be at risk for default if any of the related entities do not submit a timely FCC Form 683 long-form application, and
- will submit a timely FCC Form 683 long-form application for any of the winning bids that it did not assign to another entity.

B. Obligation to Apply for Support – Long-Form Application Portion of FCC Form 683

15. A winning bidder that retains any of its bids, as well as all entities that are assigned winning bids by a winning bidder, must electronically submit the long-form application portion of FCC Form 683 covering those bids prior to the close of the long-form application filing window. **The long-form application filing window will open at 10:00 a.m. ET on Thursday, January 14, 2021, and will close at 6:00 p.m. ET on Friday, January 29, 2021.** Certain additional information may be submitted to the Commission after this filing window closes, as described below. **The Auction Application System will open a filing window at 10:00 a.m. ET on Thursday, January 14, 2021 to permit applicants to submit this additional information by the relevant deadlines.**

1. Deadlines

16. Attachment C of this Public Notice provides instructions for completing the long-form application portion of FCC Form 683. These instructions are consistent with the Commission's

¹⁰ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6165, para. 291.

¹¹ *Id.* at 6165, para. 292.

¹² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 712, para. 54.

requirements fully described in section 54.804(b) & (c) of the Commission's rules and paragraphs 286 to 322 of the *Auction 904 Procedures Public Notice*.¹³ Below is a summary of the information that must be submitted by the applicable application deadlines:¹⁴

- **Information due prior to 6:00 p.m. ET on Friday, January 29, 2021:**
 - **Applicant information**, including legal classification (e.g., corporation, general partnership, etc.), jurisdiction of formation, address, contact information, and responsible individual
 - **Whether the applicant has already been designated as an eligible telecommunications carrier (ETC)** for all the eligible census blocks in a winning bid(s)¹⁵
 - If the applicant has already obtained a high-cost ETC designation that covers all the relevant areas in a state, it should submit the required ETC documentation and certification letter by this deadline so that Commission staff can expeditiously verify the applicant's ETC status in the state
 - If the applicant has obtained a high-cost ETC designation for only some of the relevant areas in a state, Commission staff will not verify the applicant's ETC status in a state until the applicant has submitted the required documentation and certification letter for *all* the relevant areas in the state
 - **Whether the applicant is required to submit audited financial statements** during the long-form application process and whether it seeks confidential treatment of those financial statements¹⁶
 - **Initial project overview(s)** describing at a high-level the applicant's intended technology and system design for each state with a winning bid.¹⁷ An applicant should not include any confidential trade secrets or commercial information in its overview(s), which will be made publicly available.
 - **Project funding description(s)** that explains how necessary construction will be funded in each state¹⁸
 - **Spectrum access description(s)** demonstrating that the applicant has sufficient access to spectrum in each state, if applicable¹⁹

¹³ 47 CFR § 54.804(b), (c); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6163-78, paras. 286-322; *see also Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 725-735, paras. 86-113.

¹⁴ As discussed in Attachment C, certain applicant information may be automatically transferred from a winning bidder's short-form application (FCC Form 183) to its long-form application (FCC Form 683).

¹⁵ By June 7, 2021, the long-form applicant must obtain from all the relevant states or the Commission a high-cost ETC designation(s) that cover its winning bid areas and upload the required documentation and a certification letter to its FCC Form 683. 47 CFR § 54.804(b)(5); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 316; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 727-28, para. 92.

¹⁶ As noted below, the audited financial statements are due by June 7, 2021. 47 CFR § 54.804(b)(4); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6177, para. 318; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, para. 80.

¹⁷ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6167, para. 302.

¹⁸ 47 CFR § 54.804(b)(2)(vi); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6174-75, para. 312; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 727, para. 91.

¹⁹ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6175, paras. 313-14.

- **Agreement information**, including information regarding any agreements relating to the applicant's participation in Auction 904²⁰
- **Ownership information**, including information regarding entities that have an ownership or other interest in the applicant and associated Commission-regulated businesses²¹
- **Various certifications**, including certifications regarding the applicant's compliance with statutory and regulatory requirements; financial and technical qualifications; available funds; compliance with the relevant public interest obligations and ETC requirements; and spectrum access, if applicable²²

17. We adopt a deadline of 70 days from the release of this Public Notice for long-form applicants to submit letter of credit commitment letters, as well as detailed technology and system design descriptions.²³

- **Information due prior to 6:00 p.m. ET on Monday, February 15, 2021:**

- **Letter of credit commitment letter(s)** for each applicable state from a qualified bank committing to issue an irrevocable stand-by letter of credit to the long-form applicant in the required form that covers the first year of support (at a minimum).²⁴ A long-form applicant with winning bids in multiple states may submit a single commitment letter that covers all of the relevant states as long as it is clear that the letter is applicable to the relevant states.
 - At a minimum, the letter must provide the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit in Appendix C of the *Rural Digital Opportunity Fund Order*.²⁵
 - The bank eligibility requirements are described in detail in paragraph 107 of the *Rural Digital Opportunity Fund Order* and section 54.804(c) of the Commission's rules.²⁶
- **Detailed technology and system design description(s)** for the approved technology for each applicable state, including a network diagram certified by a professional engineer.
 - Paragraphs 301 to 311 of the Auction 904 Procedures Public Notice provide detailed guidance on how an applicant can successfully meet this requirement.²⁷

²⁰ *Id.* at 6138, para. 173.

²¹ 47 CFR §§ 1.2112(a), 54.804(b)(2)(i); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6165, para. 295; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 726, para. 87.

²² *See, e.g.*, 47 CFR § 54.804(b)(2)(ii), (iii), (v), (vii); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6165-67, 6174-75, 6175-76, paras. 296-300, 312, 314.

²³ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6167, 6176, paras. 303, 315 (stating that this information would be due "[w]ithin the specified number of days after the release of the Auction 904 closing public notice").

²⁴ 47 CFR § 54.804(b)(3), (c)(2); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 315; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 106.

²⁵ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 315; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 106.

²⁶ 47 CFR § 54.804(c)(2); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 107.

²⁷ 47 CFR § 54.804(b)(2)(iv); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6167-74, paras. 301-11; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 726, para. 90

Further educational materials regarding this requirement will also be made available on the Auction 904 website, www.fcc.gov/auction/904.

- The professional engineer must certify that he or she has reviewed each state network diagram and that the network is capable of delivering, to at least 95% of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements.²⁸ For purposes of this requirement, while it is not necessary that the professional engineer certifying the network diagram have a Professional Engineer license, the certification should describe the professional engineer's qualifications such that the certifier's network design and performance expertise is apparent.
 - Wireless coverage maps should be submitted in ESRI Shapefile format. The component files (including the .SHP, .SHX, .DBF, and .PRJ files) should be uploaded in a single compressed .ZIP archive. Recommended standards and data fields will be made available on the Auction 904 website, www.fcc.gov/auction/904. Long-form applicants will see an error message when they upload the .ZIP archive to the long-form application, but the error will not prevent long-form applicants from submitting their applications provided that the submission occurs prior to the deadline and Commission staff should still be able to access the file. Commission staff will contact a long-form applicant after the filing deadline if there are any issues with the file. The FCC Form 683 attachment size limit is 10 MB.
- **Information due prior to 6:00 p.m. ET on Monday, June 7, 2021:**
 - **Documentation of high-cost ETC designation(s)** in all areas where the applicant will receive support, as described in paragraphs 316-317 of the *Auction 904 Procedures Public Notice*.²⁹ An applicant should also upload a .csv file of the census blocks that are covered by the ETC designation order.
 - **ETC certification letter(s)** from an officer of the applicant certifying that the long-form applicant's ETC designation(s) covers all the areas where the applicant will receive support.³⁰
 - If not provided with the FCC Form 183 short-form application by the long-form applicant or a related entity,³¹ **financial statements from the prior fiscal year (i.e., 2019) that have been audited by an independent certified public accountant**, including the balance sheets, statements of net income and cash flow, along with an opinion letter from an independent certified public accountant and the accompanying notes.³² An applicant

²⁸ 47 CFR § 54.804(b)(2)(iv); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6167, para. 301; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 726, para. 90. Note that all performance requirements for broadband and voice services have to be met at peak periods. See *Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509, 6517-21, paras. 22-33 (WCB/WTB/OET 2018) (*CAF Performance Measures Order*); *Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 10109, 10116-10118, paras. 20-23 (2019) (*CAF Performance Measures Second Reconsideration Order*).

²⁹ 47 CFR § 54.804(b)(5); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, paras. 316-17; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 727-28, para. 92.

³⁰ 47 CFR § 54.804(b)(5); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 316; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 727-28, para. 92.

³¹ In this context, a related entity means the long-form applicant's parent/holding company or, if the long-form applicant is a member of a consortium or joint venture, the member of the consortium or joint venture that submitted financial statements with the short-form application.

can also submit fiscal year-end 2020 audited financial statements instead if they are available.

- The applicant must submit the audited financial statements of the entity that submitted its unaudited financial statements in the relevant FCC Form 183 short-form application or its own audited financial statements.³³
- Any applicant that fails to submit the audited financial statements as required by this deadline will be subject to a base forfeiture of \$50,000, which will be subject to adjustment upward or downward as appropriate based on criteria set forth in the Commission's forfeiture guidelines.³⁴

18. Timely submitted applications will be reviewed by Commission staff for completeness and compliance with the Commission's rules and to determine if the long-form applicant has demonstrated that it is technically and financially qualified to fulfill its Rural Digital Opportunity Fund public interest obligations if authorized to receive support. Commission staff will notify a long-form applicant if additional information is required. We expect long-form applicants to expeditiously complete their applications and respond in a timely manner to staff requests for additional or missing information.³⁵ If the application and the information with respect to each winning bid in a particular state is complete and the long-form applicant has demonstrated that it is technically and financially qualified, WCB will release a public notice identifying the applicant and the winning bids for which the Commission is ready to authorize Rural Digital Opportunity Fund support.³⁶ If a long-form applicant ultimately fails to provide all the required information or demonstrate that it is technically and financially qualified, WCB will release a public notice identifying the applicant and the winning bids that are considered in default.³⁷

- The applicant will have 10 business days from the release of the public notice indicating that the Commission is ready to authorize support to submit:
 - **Irrevocable standby letter of credit** for each state where the long-form applicant will be authorized to receive support. Long-form applicants should carefully review the letter of

(Continued from previous page)

³² 47 CFR § 54.804(b)(4); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6177, para. 318; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, para. 80.

³³ Accordingly, if the long-form applicant is a member of a consortium, it should submit the audited financial statements of the consortium member that submitted its unaudited financial statements in FCC Form 183. If the long-form applicant is an operating company of a holding company that filed an FCC Form 183 on behalf of the long-form applicant, the long-form applicant should submit the audited financial statements of the holding company. A long-form applicant also has the option of submitting its own audited financial statements instead.

³⁴ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6177, para. 318; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, para. 80; 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(8), note to paragraph (b)(8).

³⁵ See 47 CFR § 1.21004(b) ("The Commission may dismiss a winning bidder's application with prejudice for failure of the winning bidder to prosecute, failure of the winning bidder to respond substantially within the time period specified in official correspondence or requests for additional information, or failure of the winning bidder to comply with requirements for becoming authorized to receive support. A winning bidder whose application is dismissed for failure to prosecute pursuant to this paragraph has defaulted on its bid(s)."); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 696, para. 22 (noting "the Commission will apply as appropriate any modifications to [the general competitive bidding rules] that it may adopt").

³⁶ 47 CFR § 54.804(b)(6)(v).

³⁷ A long-form applicant that defaults on a winning bid in a state may still be authorized to receive support for its remaining winning bids in that state.

credit requirements in section 54.804(c) of the Commission's rules and in the *Rural Digital Opportunity Fund Auction Order*,³⁸ which are summarized below:

- The initial letter of credit must cover the first year of support for the state, at a minimum.³⁹
- The letter(s) of credit must be issued in substantially the same form as set forth in the model letter of credit provided in Appendix C of the *Rural Digital Opportunity Fund Order*.⁴⁰
- The long-form applicant must be the entity that is named in the letter(s) of credit.⁴¹
- The letter(s) of credit must be issued by a qualified bank. The issuing bank eligibility requirements are described in section 54.804(c)(2) of the Commission's rules and in paragraph 107 of the *Rural Digital Opportunity Fund Order*.⁴²
- Before a support recipient can receive its next year's support and each year's support thereafter, it must modify, renew, or obtain a new letter of credit to ensure that its value is consistent with the Commission's rules. The value of the letter of credit must increase each year until it has been verified that the support recipient has met certain service milestones as described in more detail in section 54.804(c)(1) of the Commission's rules.⁴³
- The letter of credit must remain open until the support recipient has certified that it offers the required service to 100% of the Connect America Cost Model (CAM)-determined location total in the state by the end of year six (or WCB's adjusted CAM location count if there are fewer locations) and the Universal Service Administrative Company (USAC) has verified that the build out obligation has been fulfilled.⁴⁴
- A list of common letter of credit errors is available at <https://www.fcc.gov/file/18256/download>.

³⁸ 47 CFR § 54.804(c); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 729-35, 773-77, paras. 96-113, Appx. C.

³⁹ 47 CFR § 54.804(c)(1); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 107.

⁴⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 773-77, Appx. C.

⁴¹ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6164, para. 291.

⁴² 47 CFR § 54.804(c)(2); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732-33, para. 107. WCB also issued guidance announcing that a non-U.S. bank that has a branch office located in New York City and that will accept a letter of credit draw certificate from USAC via overnight courier, in addition to in-person presentations, will be considered qualified to issue letters of credit if the bank also meets the Commission's other non-U.S. bank eligibility requirements. *Wireline Competition Bureau Provides Guidance Regarding the Eligibility of Non-United States Banks Issuing Letters of Credit for Universal Service Competitive Bidding Mechanisms*, WC Docket No. 19-126 et al., Public Notice, 35 FCC Rcd 2804 (WCB 2020).

⁴³ 47 CFR § 54.804(c)(1)(i)-(vii); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 729-31, paras. 98-104.

⁴⁴ 47 CFR § 54.804(c)(1); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 731, para. 103. *See also Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 709-12, paras. 45-55 (describing the service milestones and WCB's recalculation of location totals). More information about USAC's verification process is available at:

<https://www.usac.org/high-cost/resources/fund-verification-reviews/>.

- **Letter of Credit Bankruptcy Opinion Letter(s)** from outside legal counsel regarding the treatment of the letter(s) of credit or its proceeds in a bankruptcy proceeding.⁴⁵ The letter must clearly state, subject only to customary assumptions, limitations, and qualifications, that, in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the long-form applicant's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.⁴⁶

19. Once Commission staff has determined that a long-form application is complete and the long-form applicant is financially and technically qualified, and the letter(s) of credit and accompanying opinion letter(s) have been received and approved, WCB will issue a public notice announcing the authorization of support for the winning bid(s) and directing USAC to begin disbursing support.⁴⁷ USAC will issue a new study area code to each long-form applicant for each state in which it is authorized to receive support. Long-form applicants will be notified of the new study area code prior to the authorization for support along with procedures for disbursing support. Monthly support disbursements will begin shortly after the authorization public notice has been released.

20. If an applicant is not authorized to receive support for a winning bid, it will be in default and subject to forfeiture for that winning bid as described below.

2. Forfeiture in the Event of Default

21. As described in the *Rural Digital Opportunity Fund Order*,⁴⁸ winning bidders or long-form applicants that have been assigned winning bids during the Divide Winning Bids stage will be subject to a forfeiture in the event of a default. 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, and/or otherwise defaults on its winning bids or is disqualified for any reason prior to the authorization of support. Any such determination shall be final, and a winning bidder or long-form applicant shall have no opportunity to cure through additional submissions, negotiations, or otherwise.

22. A winning bidder or long-form applicant that defaults will be subject to a base forfeiture per violation of \$3,000.⁴⁹ A violation is defined as any form of default with respect to the census block group. In other words, there shall be separate violations for each census block group assigned in a bid.⁵⁰ So that this base forfeiture amount is not disproportionate to the amount of a winning bidder's bid, the Commission has limited the total base forfeiture to 15% of the bidder's total assigned support for the bid for the support term.⁵¹ Notwithstanding this limitation, the total base forfeiture will also be subject to

⁴⁵ 47 CFR § 54.804(c)(3); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6177-78, para. 320; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 113.

⁴⁶ 11 U.S.C. § 541; 47 CFR § 54.804(c)(3); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 113.

⁴⁷ 47 CFR § 54.804(b)(6)(vi).

⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, paras. 114-17; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, paras. 321-22.

⁴⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322. This would occur in situations where the dollar amount associated with the bid is low. For example, assume Bidder A bids to serve 100 census block groups for \$100,000 over the support term. We (continued....)

adjustment upward or downward based on the criteria set forth in the Commission's forfeiture guidelines.⁵²

C. General FCC Form 683 Information

23. For both the Divide Winning Bids and long-form application portions of FCC Form 683, the application may be filed at any time after the relevant filing window opens until the filing window closes. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applications can be updated or amended multiple times until the relevant filing window closes.

24. **A winning bidder and/or long-form applicant must always click on the CERTIFY & SUBMIT button on the "Certify & Submit" screen to successfully submit its FCC Form 683 and any modifications; otherwise, the application or changes to the application will not be received or reviewed by Commission staff.** If a winning bidder or long-form applicant needs guidance or encounters technical difficulties in filing FCC Form 683, it may contact FCC Auctions Technical Support using the information in the Contact section, below.

D. Maintaining Accuracy of Information

25. Each long-form applicant must make all changes to its information in the Auction Application System using FCC Form 683. With the release of this Public Notice, long-form applicants are no longer required to maintain the accuracy and completeness of information furnished in their FCC Form 183 applications.

26. A long-form applicant will be permitted to make minor modifications to its application after the deadline for submitting applications.⁵³ Minor modifications include correcting typographical errors and supplying non-material information that was inadvertently omitted or not available at the time the application was submitted.⁵⁴ If a long-form applicant makes a major modification to its application, the application will be denied.⁵⁵ In such an event, the long-form applicant will be subject to forfeiture. Major modifications include, but are not limited to, any changes in the ownership of the long-form applicant that constitute an assignment or transfer of control, any changes in the identity of the long-form applicant, or any changes in the required certifications.⁵⁶

E. Public Availability of FCC Form 683 Information

27. Information submitted in FCC Form 683 will generally be publicly available after Commission staff completes its review. Accordingly, a long-form applicant should take care not to include any unnecessary sensitive information, such as Taxpayer Identification Numbers or Social Security Numbers, in its application. However, consistent with the Commission's limited information procedures in place for Auction 904, certain information will be withheld from routine public inspection even after support is authorized. **To ensure that the information described below is afforded such**

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would impose a base forfeiture of \$15,000 (15% of \$100,000) because otherwise the base forfeiture would be \$300,000, three times the entire bid amount (\$3,000 x 100 census block groups). In contrast, if Bidder B bids to serve 50 census block groups for \$1,000,000 over the support term, we would impose a base forfeiture of \$150,000 (\$3,000 x 50 census block groups), which is 15% of the total bid.

⁵² See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(8), note to paragraph (b)(8); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 115; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁵³ 47 CFR § 54.804(b)(6)(iii).

⁵⁴ *Id.*

⁵⁵ *Id.* § 54.804(b)(6)(iv).

⁵⁶ *Id.*

confidential treatment, a long-form applicant must upload the information to FCC Form 683 using the appropriate attachment “type” as described in the instructions in Attachment C.

28. Information related to a long-form applicant’s detailed technology and system design description, its project funding description, and its letter of credit will be treated as confidential and will be withheld from public inspection.⁵⁷ The Commission will treat long-form applicants that submit this information as having made a request to treat this information as confidential trade secrets and/or commercial information. As such, a long-form applicant need not submit a separate section 0.459 confidentiality request for this information with its FCC Form 683.

29. Moreover, a long-form applicant may request confidential treatment of its audited financial statements directly on FCC Form 683, using an abbreviated process under section 0.459(a)(4) of the Commission’s rules. The applicant need not submit a separate section 0.459 confidentiality request with its FCC Form 683.⁵⁸

30. Nevertheless, if a request for public inspection under section 0.461 is made for the long-form applicant’s audited financial statements, detailed technology and system design description, project funding description, or letter of credit, the long-form applicant will be notified and then must justify the continued confidential treatment of the information if it objects to the disclosure.⁵⁹

31. A long-form applicant may include with its FCC Form 683 a request that any other information submitted in its application not be made routinely available for public inspection following the procedures set forth in section 0.459 of the Commission’s rules.⁶⁰ Requests for confidential treatment of information other than that discussed above will not be routinely granted.

IV. OTHER IMPORTANT INFORMATION

A. Maintaining Prohibition on Certain Communications

32. Section 1.21002 of the Commission’s rules provides that, subject to specified exceptions, after the deadline for filing a short-form application, an applicant “is prohibited from communicating with any other applicant in any manner the substance of its own, or one another’s, or any competing applicant’s bids or bidding strategies, until after the post-auction deadline for winning bidders to submit applications for support.”⁶¹ As explained more fully in the *Auction 904 Procedures Public Notice*, this prohibition took effect as of the short-form application filing deadline, i.e., July 15, 2020, at 6:00 p.m. ET, and extends until the deadline for filing the long-form application portion of FCC Form 683, i.e., **January 29, 2021, at 6:00 p.m. ET.**⁶²

⁵⁷ *Id.* § 0.459; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6130, 6168, 6175, paras. 141 n.325, 303 n.516, & 314 n.542. A long-form applicant’s high-level initial project overview will be made publicly available. *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6167, para. 302. For the Connect America Phase II auction, a winning bidder’s letter of credit from a qualified bank was treated as confidential trade secrets and/or commercial information and thus withheld from routine public inspection. *See Connect America Fund Phase II Auction Support for 962 Winning Bids Ready to Be Authorized; Listed Auction 903 Long-Form Applicants Must Submit Letters of Credit and Legal Counsel’s Opinion Letters by March 13, 2019*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 955, 956 (WCB/OEA 2019). For the same reasons, we will withhold an applicant’s letter of credit commitment letter, letter of credit, and bankruptcy opinion letter.

⁵⁸ 47 CFR § 0.459(a)(4).

⁵⁹ *Id.* § 0.461

⁶⁰ *Id.* § 0.459.

⁶¹ *Id.* § 1.21002(b).

⁶² *See Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6132, para. 151.

33. **This prohibition applies to all short-form applicants regardless of whether such applicants became qualified bidders or actually bid.**⁶³ We also emphasize that, for purposes of this prohibition, an “applicant” includes the entity filing the application, each entity capable of controlling the applicant, and each entity that may be controlled by the applicant or by an entity capable of controlling the applicant.⁶⁴

34. With the release of this Public Notice, the Commission has made public auction-related information which previously would have been subject to the prohibition on certain communications.⁶⁵ Parties are reminded, however, that “bids or bidding strategies” encompasses more than information about bids submitted during the bidding portion of the auction. How an applicant participates in an auction is subject to the prohibition and includes, for example, a winning bidder filing a long-form application for support.⁶⁶ As noted in the *Auction 904 Procedures Public Notice*, information within the scope of the prohibition includes “subject matters that could convey cost or geographic information related to bidding strategies. Such subject areas include, but are not limited to, management, sales, local marketing agreements, and other transactional agreements.”⁶⁷ We note that proxy bid instructions, which may reflect such information, remain non-public.

35. Moreover, the prohibition of “communicating in any manner” includes public disclosures, private communications, and indirect or implicit communications, as well as express statements of bids and bidding strategies.⁶⁸ Consequently, an applicant must take care to determine whether its auction-related communications may reach another applicant.

B. High-Cost Eligible Telecommunications Carrier Designations

36. As noted above, by Monday, June 7, 2021, the long-form applicant must have obtained from either the relevant state authority or, where such authority lacks jurisdiction, from the Commission, a high-cost ETC designation(s) that covers its winning bid areas. The long-form applicant must submit for each state the required documentation and a certification letter from an officer.⁶⁹ Long-form

⁶³ An entity that submits an application becomes an “applicant” under the rule at the application filing deadline and that status does not change based on subsequent developments. *See, e.g., Star Wireless, LLC v. FCC*, 522 F.3d 469 (D.C. Cir. 2008) (section 1.2105(c) applies to applicants regardless of whether they are qualified to bid). Thus, an auction applicant that does not correct deficiencies in its application, or does not otherwise become qualified, remains an “applicant” for purposes of the rule and remains subject to the prohibition on certain communications until the long-form application filing deadline.

⁶⁴ 47 CFR § 1.21002(a).

⁶⁵ In addition, the combination of publicly available short-form application information and bidding information made available today effectively makes public the information that can be derived from such sources, including the potential assignee(s) of each winning bid. Accordingly, we clarify that the prohibition does not apply to information about the selection of assignees for winning bids in the Divide Winning Bids process.

⁶⁶ 47 CFR § 1.21004; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6133, para. 155 (“communicating, among other things, how an applicant will participate . . . would convey bids or bidding strategies and would thus be prohibited”).

⁶⁷ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6133, para. 156.

⁶⁸ *Id.*; *see generally Updating Part 1 Competitive Bidding Rules*, WT Docket No. 14-170 et al., Report and Order et al., 30 FCC Rcd 7493, 7577, para. 199 (2015) (explaining that similar section 1.2105(c) language prohibiting communicating bids or bidding strategies “in any manner” bars “communicating bids or bidding information, either directly or indirectly”); *Cascade Access, L.L.C.*, Forfeiture Order, 28 FCC Rcd 141, 144, para. 7 (EB 2013) (rejecting argument that the communication was not prohibited because it did not reveal the “substance” of Cascade’s bids or bidding strategies).

⁶⁹ 47 CFR § 54.804(b)(5); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6176, para. 316.

applicants subject to state jurisdiction must petition the relevant state commissions for ETC designation and should follow state rules and requirements to apply for designation(s).⁷⁰ Long-form applicants not subject to state jurisdiction must petition the Commission for designation(s) as described in the *ETC Public Notice*.⁷¹ Petitioners for FCC designation do not need to include a list of census blocks with their ETC petition but should certify they will serve all blocks for which the long-form applicant has or will seek an award of support in that state.⁷²

37. In the event a long-form applicant determines that it will be unable to obtain the necessary ETC designations within 180 days, it should upload a petition for waiver of the deadline to its FCC Form 683 and in AU Docket No. 20-34. The Commission has found that it would be appropriate to waive the 180-day timeframe if the long-form applicant is able to demonstrate that it has engaged in good faith efforts to obtain an ETC designation, but the proceeding is not yet complete.⁷³ A waiver of the 180-day deadline would be appropriate if, for example, the applicant (or an associated entity) has an ETC application pending with a state and the state's next scheduled meeting at which it would consider the ETC application will occur after the 180-day window. When considering waivers of the 180-day deadline for obtaining ETC designation, we will presume that an entity acted in good faith if the entity files its ETC application **within 30 days** of the release of this Public Notice.⁷⁴

C. Public Interest Obligations and Annual Reporting Requirements

38. To ensure that Rural Digital Opportunity Fund support meets the Commission's public interest objectives, a long-form applicant that has received notice from the Commission that it is authorized to receive Rural Digital Opportunity Fund support will be subject to a variety of obligations, including service requirements, service milestones, reporting, and record retention requirements.⁷⁵ This includes the requirement that support recipients test and certify compliance with the relevant performance requirements in accordance with the uniform framework that has been adopted for measuring and reporting on the performance of high-cost support recipients' service.⁷⁶

⁷⁰ 47 U.S.C. § 214(e)(2).

⁷¹ *Id.* at § 214(e)(6); *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Docket No. 09-197 et al., 33 FCC Rcd 6696 (WCB 2018) (*ETC Public Notice*). As described in this public notice, the Commission places the burden of proof upon the petitioner seeking a Commission ETC designation to demonstrate that the Commission has jurisdiction. *Id.* at 6696-97. We extend to Auction 904 winners the same waivers of section 54.202 of the Commission's rules for the reasons described in the *ETC Public Notice* and the same presumption that designation will serve the public interest. *See id.* at 6699-6700; 47 CFR § 54.202.

⁷² Petitioners may, in addition to seeking a high-cost designation in winning bid areas, seek a Lifeline-only ETC designation in areas not eligible for high-cost support for the limited purpose of becoming eligible to receive only Lifeline support in such areas. When doing so, they must submit with their ETC application a map or other information delineating these Lifeline-only areas, and other information specifically required by the Commission's Lifeline rules. *See, e.g., Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 09-197 & 10-90, Order, 34 FCC Rcd 10533 (WCB 2019); 47 CFR § 54.202(a)(4)-(6).

⁷³ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, para. 81.

⁷⁴ *Id.*

⁷⁵ *See, e.g.,* 47 CFR §§ 54.313, 54.314, 54.316, 54.320, 54.802, 54.805, 54.806; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6082-86, 6127-29, paras. 15-21, 135-39 (providing a high-level summary of the relevant public interest obligations and high-cost ETC obligations).

⁷⁶ 47 CFR § 54.313(a)(6). *See also, CAF Performance Measures Order*, 33 FCC Rcd 6509. Further modifications were made to the performance measures requirements in subsequent reconsideration orders. *See Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 8081 (WCB/WTB/OET 2019) (*CAF Performance Measures First Reconsideration Order*); *CAF Performance Measures Second Reconsideration Order*, 34 FCC Rcd 10109.

39. An Auction 904 support recipient will be subject to non-compliance measures if it fails or is unable to meet the service milestones or other service requirements, or fails to fulfill any other term or condition of Rural Digital Opportunity Fund support.⁷⁷ As described in the *Rural Digital Opportunity Fund Order* and the *CAF Performance Measures Order*, these measures will scale with the extent of non-compliance, and include additional reporting, withholding of support, support recovery, and drawing on the support recipient's letter of credit if the support recipient cannot pay back the relevant support by the applicable deadline.⁷⁸ A support recipient may also be subject to other sanctions for non-compliance with the terms and conditions of Rural Digital Opportunity Fund support, including, but not limited to, the Commission's existing enforcement procedures and penalties, reductions in support amounts, potential revocation of ETC designations, and suspension or debarment.⁷⁹

40. We also remind applicants that all Auction 904 support recipients will be subject to the Commission's National Security Supply Chain proceeding, including the rule that "no universal service support may be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by any company posing a national security threat to the integrity of communications networks or the communications supply chain."⁸⁰ The prohibition on using universal service funds applies "to upgrades and maintenance of existing equipment and services."⁸¹

D. Access to the Bidding System

41. The bidding system will remain accessible to Auction 904 qualified bidders until 3:00 p.m. ET on Thursday, December 10, 2020. Bidders should download any files they wish to save from the bidding system before that time.

E. Return of SecurID® Tokens

42. The SecurID® tokens distributed to qualified bidders are tailored to Auction 904 and will not function in future auctions. The Commission will send each bidder, along with the copy of this Public Notice, a pre-addressed, stamped envelope to return its SecurID® tokens. Each bidder should return its SecurID® token(s) to the Commission for recycling.

F. Contact Information

43. For further information, contact:

Technical Support

Electronic Filing
Auction Application System and CAF II Bidding
System (Hardware/Software Issues)

FCC Auctions Technical Support Hotline

(877) 480-3201, option nine; or (202) 414-1250
(202) 414-1255 (TTY)
Hours of service: 8:00 a.m. – 6:00 p.m. ET,
Monday through Friday

Press Information

Anne Veigle, (202) 418-0500

⁷⁷ 47 CFR §§ 54.804(c)(4), 54.320, 54.806.

⁷⁸ *Id.* §§ 54.804(c)(4), 54.320, 54.806; *CAF Performance Measures Order*, 33 FCC Rcd at 6531-33, paras. 60-67; *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 713-16, paras. 58-64.

⁷⁹ 47 CFR § 54.320(c), 54.806(b); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 716, para. 63.

⁸⁰ 47 CFR § 54.9(a).

⁸¹ *Protecting Against National Security Threats to the Communication Supply Chain through FCC Programs et al.*, WC Docket No. 18-89 et al., Report and Order et al., 34 FCC Rcd 11423, 11453, para. 77 (2019).

General Universal Service Information

**Wireline Competition Bureau,
Telecommunications Access Policy Division**
Alex Minard
Heidi Lankau
Lauren Garry
Ian Forbes
(202) 418-7400

General Auction Information

General Auction Questions
Auction Process and Procedures

FCC Auctions Hotline

(888) 225-5322, option two; or
(717) 338-2868

Auction 904 Information

Post-Auction Rules, Policies, and Regulations

Rural Broadband Auctions Task Force

Michael Janson, (202) 418-0627
Kirk Burgee, (202) 418-1599
Jonathan McCormack, (202) 418-1065
Audra Hale-Maddox, (202) 418-0794

**Office of Economics and Analytics
Auctions Division**

Mark Montano
Daniel Habif
(202) 418-0660

Small Businesses

Additional information for small and
disadvantaged businesses

**Office of Communications Business
Opportunities**

(202) 418-0990
www.fcc.gov/ocbo

Accessible Formats

Braille, large print, electronic files, or
audio format for people with disabilities

Consumer and Governmental Affairs Bureau

(202) 418-0530 or (202) 418-0432 (TTY)
fcc504@fcc.gov

FCC Internet Sites

www.fcc.gov
www.fcc.gov/auction/904

- FCC -



FCC Rural Digital Opportunity Fund Phase I Auction

Auction ID: 904

Winning Bidder Summary

(Sorted by Bidder Name)

Date of Report: 12/07/2020 08:17 AM ET

Bidder	FRN	State	Assigned Support over 10 Years	Number of Locations Assigned
4-Corners Consortium	0029719283	New Mexico	\$ 2,598,030.00	635
AB Indiana LLC	0021994686	Florida	\$ 668,304.10	261
ACT	0029754652	Mississippi	\$ 1,622,136.00	925
Albion Telephone Company, Inc.	0003714805	Utah	\$ 599,795.70	141
All West Communications, Inc.	0004924809	Wyoming	\$ 46,648.00	218
Allen's T.V. Cable Service, Inc.	0003746898	Louisiana	\$ 371,348.10	620
Altice USA, Inc.	0025637406	Arkansas	\$ 58,415.00	528
Altice USA, Inc.	0025637406	Idaho	\$ 10,556.00	140
Altice USA, Inc.	0025637406	Kentucky	\$ 351,065.00	1,734
Altice USA, Inc.	0025637406	Louisiana	\$ 303,952.00	2,267
Altice USA, Inc.	0025637406	Texas	\$ 364.00	15
Altice USA, Inc.	0025637406	West Virginia	\$ 125,528.00	536
American Heartland	0002594190	Iowa	\$ 1,821,520.00	1,549
AMG Technology Investment Group LLC	0021701891	Illinois	\$ 193,098,839.90	68,921
AMG Technology Investment Group LLC	0021701891	Indiana	\$ 18,947,203.50	11,803
AMG Technology Investment Group LLC	0021701891	Iowa	\$ 112,637,885.70	36,228