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Item Number: A10

Docket: UT-210149
Company Name: Commnet Wireless, LLC

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Recommendation

Enter an order granting Commnet Wireless, LLC's amended petition for designation as an Eligible Telecommunications Carrier (ETC) for the federal Rural Digital Opportunity Fund (RDOF) Phase I program.

Background

In early 2020, the Federal Communications Commission (FCC) created the Rural Digital Opportunity Fund program, which will commit up to \$20.4 billion over the next decade to support the deployment of voice and high-speed broadband services to unserved areas across the country.¹ The FCC plans to award support in two phases: Phase I will target those areas that are wholly unserved by broadband service (speeds less than 25/3 Mbps), as determined by the FCC; Phase II will target unserved locations within areas where FCC data demonstrates only partially served census blocks, as well as those areas that did not receive a winning bid in the Phase I auction.

The RDOF Phase I reverse auction concluded November 25, 2020, with 180 winning bidders who provisionally won \$9.2 billion in support to deploy broadband to over 5.2 million unserved homes and businesses.² In order to become eligible to receive RDOF support during the ten-year term of this program, each winning bidder must receive ETC designation by June 7, 2021. Before the FCC authorizes support, it will review a carrier's long-form application (FCC Form 683), confirm the carrier has been designated an ETC in all of the census blocks "won" in the auction, and review the carrier's letter of credit.

Commnet Wireless, LLC (Commnet or Company) is one of the nine winning bidders in Washington state. The Company has provisionally won \$777,600.57 in annual RDOF support to deploy and provide voice and broadband services to approximately 5,639 customer locations.

¹ *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126, 10-90, [Report and Order](#), 35 FCC Rcd 686, ¶ 2 (released Feb. 7, 2020) (*RDOF Order*), clarified on reconsideration by *Rural Digital Opportunity Fund Auction (Auction 904); Rural Digital Opportunity Fund; Connect America Fund*, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, FCC 20-127, Order on Reconsideration (released Sept. 29, 2020).

² 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, WC Docket Nos. 19-126, 10-90, Public Notice ([DA-20-1422A1](#)), 35 FCC Rcd 13888 (Dec. 7, 2020) (*Close of Auction 904 Public Notice*).

These unserved locations are within 293 specific census blocks in Clallam, Kittitas, and San Juan counties.

Commnet filed its ETC petition on March 2, 2021. Staff reviewed the petition, issued informal data requests, and conducted discussions with the Company. The Company filed its long-form application (FCC Form 683) on March 24, 2021. On April 20, 2021, the Company amended its petition to include a substantive investment plan, a part of which is contained within its long-form application, and to modify its proposed ETC service area to only those census blocks where the Company will receive RDOF support.

Federal Requirements for ETC Designation

A carrier must be designated as an ETC to receive federal universal service support,³ including RDOF support.⁴ Under the federal regulatory framework, state commissions have primary responsibility for designating ETCs in their states.⁵

Federal law provides that an ETC must offer and advertise the services supported by federal universal service support throughout the designated service areas.⁶ An ETC can use federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.⁷

The supported services that an ETC must offer and other requirements that an ETC must meet are set forth in federal rules.⁸ The services that the FCC has designated for support are voice telephony services,⁹ which include the following:

- Voice grade access to the public switched network or its functional equivalent;
- Minutes of use for local service at no additional charge to end users; and
- Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems.¹⁰

³ [47 U.S.C. § 254\(e\)](#); [47 U.S.C. § 214\(e\)](#).

⁴ See *RDOF Order* at 92.

⁵ 47 U.S.C. § 214(e)(2).

⁶ 47 U.S.C. § 214(e)(1).

⁷ 47 U.S.C. § 254(e).

⁸ [47 C.F.R. Part 54](#) - Universal Service.

⁹ The FCC's "definition of the supported service, voice telephony service, is technologically neutral, allowing ETCs to provision voice service over many platforms." *RDOF Order* at ¶ 43.

¹⁰ 47 C.F.R. § 54.101(a). Note that "toll limitation services to qualifying low-income consumers as provided in subpart E of this part" is no longer deemed a supported service as of 2014 under the rationale that many carriers no longer distinguish between toll and non-toll calls in their pricing. See *Lifeline and Link Up Reform and Modernization; Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, [Report and Order and FNPRM](#), 27 FCC Rcd 6656, ¶¶ 229-34 (released Feb. 6, 2012).

Other relevant federal requirements for ETCs include the following:

- An ETC must make available Lifeline service (reduced charges) to qualifying low-income consumers (47 C.F.R. § 54.405(a)) and comply with the FCC’s Lifeline rules (47 C.F.R. § 54.101(d)).
- An ETC must offer the voice telephony services supported by federal universal service support mechanisms throughout the service area for which the designation is received, either using its own facilities or a combination of its own facilities¹¹ and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier) (47 C.F.R. § 54.201(d)(1); *see* 47 U.S.C. § 214(e)(1)).
- An ETC must advertise the availability of its universal service offerings and charges for such offerings throughout the service area for which the designation is received using media of general distribution (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(2)).

Furthermore, in order to be eligible for RDOF support, an ETC must meet the RDOF requirements set forth in the FCC’s Universal Service rules¹² as well as requirements described in the RDOF Order and related FCC orders. These requirements include—

- Standalone voice service at rates comparable to offerings in urban areas (RDOF Order at ¶ 42)
- Deployment obligations (47 C.F.R. § 54.802(c))
- Technical and financial fitness (47 C.F.R. § 54.804)
- Public interest obligations, including provision of broadband service (47 C.F.R. § 54.805)
- Reporting, performance testing, compliance, and recordkeeping obligations (47 C.F.R. § 54.806)

¹¹ The FCC considers an ETC’s facilities as its “own” if the ETC has exclusive right to use the facilities or when the service is provided by any affiliate within the holding company structure. An ETC satisfies its obligation to “offer” qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service fund-related requirements. *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, WC Docket Nos. 19-126, 10-90, Public Notice ([FCC-20-77A1](#)), 35 FCC Rcd 6077, ¶¶ 138–39 (released June 11, 2020) (*Auction 904 Procedures Public Notice*).

¹² 47 C.F.R. Part 54, [Subpart J](#) (§§ 54.801–§§ 54.806).

Deployment Obligations

Recipients of RDOF support can determine their exact deployment schedules but must meet the following deployment milestones:¹³

- 40 percent of the required number of locations by the end of third full calendar year following funding authorization of support;
- An additional 20 percent in each subsequent year of support;
- 100 percent by the end of the sixth year of support; and
- 100 percent of updated location count by the end of the eighth year of support.¹⁴

Public Interest/Broadband Service Obligations

Recipients of RDOF support must offer broadband service with latency suitable for real-time applications, and with usage capacity and at rates comparable to offerings in urban areas.¹⁵

With respect to speed and latency, the RDOF rules require carriers to meet broadband performance standards in one of four tiers. In Washington state, companies bid in only two of those tiers, in either the “above baseline” or “gigabit” tier, described below:

- Above Baseline – This performance level requires two terabytes of monthly usage, broadband speeds of 100 Mbps down and 20 Mbps up, and latency less than or equal to 100 milliseconds.
- Gigabit – This performance level requires two terabytes of monthly usage, broadband speeds of 1,000 Mbps down and 500 Mbps up, and latency less than or equal to 100 milliseconds.¹⁶

¹³ Compliance with milestones will be determined on a state-level basis, meaning that a carrier will be in compliance for Washington, if it deploys to the required percentage of locations “across all of the awarded areas included in its winning bids” in Washington. See *RDOF Order* at 54. The RDOF recipient is subject to non-compliance measure if it fails or is unable to meet RDOF requirements or conditions:

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. As described in the Rural Digital Opportunity Fund Order and the CAF Performance Measures Order, these measures will scale with the extent of noncompliance, 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. 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.

Close of Auction 904 Public Notice at ¶ 39 (citations omitted).

¹⁴ [47 C.F.R. § 802\(c\)](#); *RDOF Order* at ¶ 45.

¹⁵ [47 C.F.R. § 54.805\(a\)](#).

¹⁶ See [47 C.F.R. § 54.805\(b\)](#); *Auction 904 Procedures Public Notice* at ¶ 15, which outlines each performance tier broadband speed and latency requirements. In addition, the FCC released two orders establishing speed and latency testing standards to maximize the impact of high-cost support to close the digital divide. See the 2018 CAF

Both voice and broadband services must be priced reasonably and comparably to urban services. The 2021 reasonable comparability benchmarks were released at the end of 2020 and are \$54.75 for voice service, \$107.58 per month for broadband at speeds of 100/20 Mbps or \$133.52 per month for broadband at speeds of 1,000/500 Mbps, respectively.¹⁷

UTC Requirements for ETC Designation

The Washington Utilities and Transportation Commission (commission) has the authority to designate carriers as ETCs pursuant to the authority delegated to state commissions in Section 214 of the Telecommunications Act of 1996,¹⁸ and pursuant to RCW 80.36.610, which states, “The commission is authorized to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the federal telecommunications act of 1996.”

A carrier seeking designation as an ETC must comply with the commission’s ETC rules, which include the ETC standard, petition requirements, and compliance requirements. With respect to the commission’s ETC standard, [WAC 480-123-040](#) states that “the commission will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of the universal service found in 47 U.S.C. § 254, and the designation is in the public interest.”

The commission’s ETC petition rule, [WAC 480-123-030](#), requires the following:

- (1) Petitions for designation as an ETC must contain:
 - (a) A description of the area or areas for which designation is sought.
 - (b) A statement that the carrier will offer the services supported by federal universal service support mechanisms throughout the area for which it seeks designation, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC);
 - (c) A description of how it will provide each supported service;
 - (d) A substantive plan of the investments to be made with initial federal support during the first two years in which support is received and a substantive description of how those expenditures will benefit customers;

Performance Measures Order, [DA-18-710A1](#), and the 2019 Performance Measures Order on Reconsideration, [FCC-19-104A1](#).

¹⁷ *Wireline Competition Bureau and Office of Economics and Analytics Announce Results of 2021 Urban Rate Survey for Fixed Voice and Broadband Services, Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowance for Eligible Telecommunications Carriers*, WC Docket No. 10-90, Public Notice ([DA-20-1409A1](#)) (released Nov. 30, 2020).

¹⁸ 47 U.S.C. § 214(e)(2).

(e) A statement that the carrier will advertise the availability of services supported by federal universal service mechanisms, including advertisement of applicable telephone assistance programs, such as Lifeline, that is reasonably calculated to reach low-income consumers not receiving discounts;

(f) For wireless petitioners, a map in .shp format of proposed service areas (exchanges) with existing and planned locations of cell sites and shading to indicate where the carrier provides and plans to provide commercial mobile radio service signals.

(g) Information that demonstrates its ability to remain functional in emergency situations including a description of how it complies with WAC 480-120-411 or, for a wireless carrier, information that demonstrates that, when commercial power is not available, it has a reasonable amount of backup power (fixed, portable or other backup power source) for its cell sites, and backup power for its switches as prescribed in WAC 480-120-411(3) for LEC central offices; and cell sites do not include any small cell facility as defined in RCW 80.36.375 (2)(d) or any in building wireless installation; and

(h) Information that demonstrates that it will comply with the applicable consumer protection and service quality standards of chapter 480-120 WAC or, for a wireless carrier, a commitment to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service. Information regarding the version of the CTIA code adopted and where to obtain it is set forth in WAC 480-123-999.

(2) A company officer must submit the petition in the manner required by RCW 9A.72.085.

Discussion

Commnet is registered with the commission to provide local exchange telecommunications services in Washington. Commnet is a Delaware limited liability company and is a wholly owned subsidiary of ATN International, Inc., a publicly traded corporation headquartered in Beverly, Massachusetts. Commnet provides service over facilities-based networks in 11 states which includes mobile voice and broadband as well as fixed voice and broadband services. At the end of 2020, Commnet provided services to approximately 23,000 mobile customers and approximately 9,600 fixed broadband customers.

Commnet requested designation as an ETC within the census blocks in San Juan, Kittitas, and Clallam counties where it was a winning bidder.¹⁹ In its petition, Commnet has committed to offer voice and broadband services throughout its designated service area.²⁰

¹⁹ See the attachment to this memo for a map of the proposed service area.

²⁰ [47 C.F.R. § 54.805](#) specifies the RDOF public interest obligations of winning bidders. Based on its bid, Commnet must meet the Above Baseline performance tier standard.

As an ETC, Commnet must provide discounted services to qualifying low-income consumers. Commnet has agreed to make Lifeline services available to low-income consumers and to advertise all supported services throughout its service area.

The Company has stated that it will comply with the applicable consumer protection and service quality standards of the commission in WAC 480-120. Furthermore, Commnet has demonstrated through its petition and discovery responses that it has the ability to remain operational in emergency situations.²¹

Commnet provided its initial plan of investments in its long-form application filed on March 24, 2021, and in its amended petition filed on April 20, 2021. The planned investments will make it possible for Commnet to begin deployment of supported services to locations that are currently unserved. The Company plans to meet the deployment milestones established for the RDOF program. That is, the Company will offer commercially at least one voice and one broadband service meeting the relevant service requirements to the number of locations in the timeframe required by the RDOF rules.

Based on its bid, Commnet must meet the Above Baseline performance tier standard. Commnet is committed to providing internet and voice services using fixed wireless technology. Commnet will provide this service by using LTE and 5G technology that are industry standards. Such technology will utilize either point-to-point microwave or fiber (if available) to connect its core network to the internet. For the last mile, Commnet will utilize a point-to-multipoint fixed wireless architecture to provide service to end users. Commnet has extensive experience using this technology to reach locations that are difficult to serve. According to Commnet, the fixed wireless technology is engineered to achieve the speed of 100 Mbps downstream and 20 Mbps upstream with latency of less than 100 milliseconds, as required by Commnet's winning "Above Baseline" performance tier bid. The company plans to offer two terabytes of monthly usage. Although specific rates for services in RDOF locations are still in development, Commnet commits to setting the rates of services at or below the FCC's reasonable comparability benchmark for voice and broadband services.

Conclusion and Recommendation

Commission staff has reviewed the amended petition and additional information provided by Commnet. The amended petition, supplemented by the long-form application, meets the

²¹ Commnet's response to Informal Staff Data Request No. 25 (a & b).

Q. Please describe how the company complies with WAC 480-120-411.

A. [. . .] The Commnet network is reinforced by the presence of generator backups, capable of running for extended periods in the event of a major electrical outage. These include back-up batteries that provide at least four hours of back-up power and portable generators can be moved to individual cell sites, as needed. . . . Commnet's main switch connectivity to the public switched voice network is based on a ring topology and is redundant – if the ring is cut, call traffic can be re-routed. Commnet uses both microwave and leased lines for added diversity to cell site hubs. . . .

requirements of the commission's ETC petition rule, WAC 480-123-030, and is consistent with federal RDOF requirements. Designation of Commnet as an ETC will benefit Washingtonians by making voice and broadband available to 5,639 unserved locations in the state.

Based on its review and analysis, staff concludes that Commnet has met the necessary requirements for designation as an ETC in the areas for which it seeks designation. Therefore, staff recommends that the commission enter an order granting Commnet's amended ETC petition.

Attachment - Map