

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

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90

ORDER

Adopted: May 1, 2014

Released: May 1, 2014

By the Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau), on its own motion, waives the requirement that price cap eligible telecommunications carriers (ETCs) receiving frozen or incremental support file new five-year build-out plans (five-year plans) by July 1, 2014.

2. In order to account for the new broadband obligations established in the *USF/ICC Transformation Order*, the Commission mandated that all ETCs subject to those obligations file a new five-year plan in a manner consistent with section 54.202(a)(1)(ii) of the Commission's rules, and annual progress reports thereafter.¹ In 2013, the Bureau waived the requirement that price cap ETC recipients of frozen support or incremental support file five-year plans by July 1, 2013, stating that "until the [Connect America Phase II forward-looking] cost model is adopted and incumbents have the opportunity to accept a state-level commitment, it does not serve the public interest" to require price cap ETCs to file five-year plans.²

3. We now grant a waiver of this requirement for price cap ETCs for an additional year.³ Because the Bureau just finalized the Connect America Cost Model, and price cap carriers have not yet had the opportunity to make a state-level commitment for Connect America Phase II,⁴ we find that it is not in the public interest to require price cap ETCs to file new five-year plans in 2014 for the same reason as last year: they do not yet know which areas they will be serving in the future.⁵ The Bureau therefore

¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17854, para. 587 (2011) (*USF/ICC Transformation Order*) (subsequent history omitted). Subsequently, the Commission changed the filing deadline to July 1 of each year. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Third Order on Reconsideration, 27 FCC Rcd 5622, 5626, para. 10 (2012); 47 C.F.R. § 54.202(a)(1)(ii). Competitive ETCs are not required to file new five-year plans.

² *Connect America Fund et al.* WC Docket No. 10-90 et al., Order, 28 FCC Rcd 2051, 2054, para. 8 (Wireline Comp. Bur. 2013) (*ETC Reporting Requirements Order*).

³ Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

⁴ See *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Report and Order, DA 14-534 (Wireline Comp. Bur. rel. Apr. 22, 2014).

⁵ See *ETC Reporting Requirements Order*, 28 FCC Rcd at 2054, para. 8.

waives the July 1, 2014 deadline for five-year plans for price cap ETCs. Those price cap carrier ETCs that accept offers of Connect America Phase II support will be required to file five-year plans on July 1 following their acceptance. Nothing in this Order changes other requirements for price cap ETCs regarding annual reports due on July 1, 2014, in accordance with all other relevant sections of 54.313 of the Commission's rules.⁶

4. We do not waive the July 1, 2014 deadline for filing of five-year plans for rate-of-return carriers. We acknowledge that last year the Bureau waived the requirement for rate-of-return carriers to file their initial five-year plans on July 1, 2013, on the ground that this would create conformity in filing dates for all incumbent ETCs, thereby simplifying administrative processing for the Universal Service Administrative Company.⁷ This year, we conclude that it is appropriate to require rate-of-return carriers to file their initial five-year plans, so that we may continue our efforts to monitor the impact of universal service reforms on this segment of the industry.⁸

5. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, the requirement that price cap ETCs file new five-year build-out plans by July 1, 2014, IS WAIVED, to the extent described herein.

6. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 0.91, 0.291, and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kimberly Scardino
Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁶ 47 C.F.R. § 54.313.

⁷ *Connect America Fund*, WC Docket No. 10-90, Order, 28 FCC Rcd 7227, 7229, para. 8 (Wireline Comp. Bur. 2013).

⁸ Wireline Competition Bureau, Universal Service Implementation Progress Report, WC Docket No. 10-90 (Wireline Comp. Bur. rel. Mar. 24, 2014), <http://www.fcc.gov/document/universal-service-implementation-progress-report>.