

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

In the Matter of)	
)	
Rural Digital Opportunity Fund Auction)	WC Docket No. 19-126
)	
Rural Digital Opportunity Fund (Auction 904))	AU Docket No. 20-34

ORDER ON RECONSIDERATION

Adopted: August 30, 2024

Released: August 30, 2024

By the Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we address a Petition for Reconsideration¹ (Petition) of the Commission’s order² affirming our decision to deny Starlink’s application to be authorized to receive broadband deployment subsidies from the Rural Digital Opportunity Fund (RDOF or Auction 904).³ The Petition seeks to reverse the Commission’s decision affirming the conclusion by the Wireline Competition Bureau (the Bureau) that Starlink did not demonstrate that it was eligible to receive RDOF support. Alternatively, the Petition seeks a waiver of Commission rules to allow Starlink to receive the RDOF funding it would have received had it been deemed eligible for support. As we discuss in more detail below, we dismiss the Petition on procedural grounds, and we reject the petitioner’s request for a waiver.

II. BACKGROUND

2. In January 2020, the Commission announced the RDOF, a multi-round, reverse descending clock auction that favored faster services with lower latency.⁴ Providers that could offer service at higher speeds and low latency could receive more funding to provide service in a given area.⁵ To ensure that the providers that ultimately received support in a given area were able to deliver the service they committed to offering, the Commission required auction participants to undergo a two-phase application process.⁶ Before the auction commenced, potential participants submitted “short-form applications,” which allowed Commission staff to conduct a high-level review of participants’ technical and financial information.⁷ After the auction concluded, winning bidders were required to provide more

¹ Petition of Greg Weisiger for Reconsideration of the Commission’s Order regarding Starlink Services, LLC, AU Docket No. 20-34 et al. (filed Jan. 1, 2024) (*Petition*).

² *Application for Review of Starlink Services, LLC*, File No. 0009395128, Order on Review, FCC 23-105 (Dec. 12, 2023) (*Starlink Order*).

³ See *Rural Digital Opportunity Fund Auction Support for 80 Winning Bids Ready to Be Authorized, Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-848, at 8-11 (WCB/OEA Aug. 10, 2022) (*11th RDOF Ready to Authorize/Defaults Public Notice*).

⁴ *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686 (2020) (*Rural Digital Opportunity Fund Order*).

⁵ *Id.* at 688, para. 5.

⁶ *Id.* at 717-18, paras. 67-68.

⁷ *Id.*

detailed information in a “long-form application” to allow staff to conduct an in-depth review and evaluate whether a winning bidder would be able to provide the required service in the required areas where an auction participant was the winning bidder.⁸

3. In the framework established by the Commission for review of long-form applications, the Commission delegated authority to the Bureau to determine whether long-form applicants were eligible to receive support.⁹ In the review process, the Bureau reached eligibility decisions solely based upon submissions from the applicants. The Commission had considered and rejected advocacy that third-parties should have access to other parties’ long-form applications for the purpose of vetting those applications.¹⁰ There was no provision in the RDOF auction for third-party advocacy regarding particular applications and eligibility determinations by the Bureau were final.¹¹

4. After the short-form application of SpaceX, Starlink’s parent company, was approved, SpaceX participated in the RDOF auction, where it ultimately was the winning bidder for \$885,509,638 in support over 10 years to deploy 100/20 Mbps low-latency service to 642,925 locations in 35 states. Subsequently, SpaceX assigned its winning bids to Starlink, its wholly owned subsidiary.¹² After Starlink submitted its long-form application, the Bureau undertook a lengthy review process. The Bureau ultimately concluded, after careful review of Starlink’s long-form application, that Starlink was not eligible for RDOF support because Starlink failed to demonstrate that it had the technical and financial ability to serve the specific areas where it won support.¹³ As a result, Starlink was found in default and was not authorized to receive RDOF support.¹⁴ Starlink filed an Application for Review (AFR) of the Bureau’s decision, which the Commission denied, agreeing with the Bureau’s conclusion and affirming the decision to deny Starlink’s long-form application.¹⁵

5. After the Commission released its order, Greg Weisiger filed the instant Petition. We received one filing, from Viasat, opposing the Petition,¹⁶ and Mr. Weisiger filed a response to that opposition.¹⁷

III. DISCUSSION

6. The Commission’s rules allow us to dismiss an untimely petition for reconsideration of a rulemaking, and allow us to dismiss a petition for reconsideration of the Commission’s denial of an application for review, if the petition “fails to rely on new facts or changed circumstances.”¹⁸ Because the Petition is untimely and does not identify any new events or changed circumstances since the

⁸ *Id.*

⁹ *Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6178, para. 321 (2020) (*Auction 904 Procedures Public Notice*).

¹⁰ *Rural Digital Opportunity Fund Order* at 725, para. 86 n.248.

¹¹ *Auction 904 Procedures Public Notice* at 6178, para. 321.

¹² *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888, Attach. A (2020) (*Auction 904 Long-Form Applicants Public Notice*).

¹³ *11th RDOF Ready to Authorize/Defaults Public Notice* at 8-11.

¹⁴ *Id.*

¹⁵ Application for Review of Starlink Services, LLC, WC Docket No. 10-90 (filed Sept. 9, 2023) (*Starlink AFR*).

¹⁶ Viasat Opposition to Petition for Reconsideration, AU Docket No. 20-34 et al (filed Jan. 11, 2024)

¹⁷ Reply of Greg Weisiger to Viasat Opposition to Petition for Reconsideration, AU Docket No. 20-34 et al. (filed Jan. 21, 2024) (Reply).

¹⁸ 47 CFR § 1.106(b)(3).

Commission's decision affirming our conclusion that Starlink was ineligible for support, we dismiss the Petition.

7. *Untimely Petition for Reconsideration.* By seeking, as a third party, to reverse the Bureau's determination that Starlink was ineligible for RDOF support, the Petition effectively seeks to revisit the determination made by the Commission in the RDOF rulemaking that third parties could not review applications for support and to substitute the petitioner's own judgment of Starlink's eligibility for the Bureau's. As indicated in the rulemaking, the Commission delegated eligibility determinations to the Bureau and the Bureau's eligibility decisions were "final."¹⁹ The Commission explicitly rejected third-party involvement in the review of long-form applications.²⁰ Under the Commission's rules, petitions for reconsiderations in rulemaking provisions must be filed within 30 days of publication of the final rule in the Federal Register.²¹ The final rules of the RDOF program were published in the Federal Register on March 10, 2020.²² The Petition was filed on January 1, 2024. Accordingly, we dismiss it as untimely.²³

8. *New Facts or Changed Circumstances.* Additionally, the Petition does not provide any new information or evidence of changed circumstances that rebut our previous determinations. Our conclusion in 2022 that Starlink was not eligible for RDOF support, and the Commission's subsequent affirmation of that conclusion, were based on a thorough examination of all available data.²⁴ The Petition does not attempt to rebut our conclusions about Starlink's eligibility for RDOF support. The Petition does not provide any data of its own, and instead only cites a positive review of Starlink's service which, notably, did not provide any specifics about the service Starlink offered.²⁵ The quoted article does not rebut our conclusions, and it was also published before the Commission affirmed our conclusion that Starlink was not eligible for support. Accordingly, there is nothing in the Petition showing that circumstances have changed since the Commission's decision.²⁶ Because there are neither new facts nor changed circumstances in the Petition, we dismiss it.

9. *Arguments Outside Scope of Order.* The Petition's other arguments are outside the scope of the order being challenged. The Petition argues that satellite internet providers such as Starlink could save the Universal Service Fund (USF) money, and those savings could be put towards other USF programs.²⁷ This argument is outside the scope of the Commission's order²⁸ because the relevant order only addressed Starlink's showing of technical and financial capability to provide the required service in the required areas, and did not address the overall budget for USF programs. The Petition's argument that other RDOF winners are seeking additional funds beyond what they were previously authorized is likewise outside the scope of the order that is being challenged.²⁹ The Commission's order solely

¹⁹ *Rural Digital Opportunity Fund Order* at 725, para. 86 n.248.

²⁰ *Auction 904 Procedures Public Notice* at 6178, para. 321.

²¹ 47 CFR § 1.429(b); 47 CFR § 1.4(b)(1).

²² Federal Communications Commission, *Rural Digital Opportunity Fund, Connect America Fund*, 85 Fed. Reg. 13773 (Mar. 10, 2020).

²³ 47 CFR § 1.429(l)(9).

²⁴ *Starlink Order* at 9, para. 31.

²⁵ Petition at 3 (citing an article from May 17, 2023).

²⁶ 47 CFR § 1.106(b)(2)(i). Mr. Weisiger's reply to Viasat raises no additional material facts or arguments and hence adds nothing to alter our conclusion to dismiss the Petition. We also reject the "proposed solutions" raised in the Reply as untimely and/or outside the scope of this proceeding. *See* Reply at 6-7.

²⁷ Petition at 5.

²⁸ 47 CFR § 1.106(p)(5).

²⁹ Petition at 5; 47 CFR § 1.106(p)(5).

addressed Starlink's eligibility to receive RDOF support, and whether other RDOF winners are seeking or receiving additional funding is irrelevant to that analysis.

10. *Denial of Waiver.* We also decline to grant a waiver of the RDOF rules that would allow Starlink to receive RDOF funding.³⁰ Generally, the Commission's rules may be waived for good cause shown.³¹ Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule; and (2) such deviation will serve the public interest.³² Good cause to grant such a waiver has not been shown here.³³ Waiving our rules to allow Starlink to receive RDOF funds would functionally reverse our previous determination that Starlink did not show that it was eligible to receive support.³⁴ The public interest is not served by providing RDOF support to an entity that did not show that it was eligible for support.

IV. ORDERING CLAUSES

11. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and sections 0.91, 0.291, 1.106, and 1.429 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.106, 1.3, 1.429, the Petition for Reconsideration filed by Greg Weisiger, is DISMISSED as untimely and to the extent Greg Weisiger has failed to identify any material error, omission, or reason warranting reconsideration. In addition, Mr. Weisiger's request for waiver of the Commission's rules is DENIED.

12. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

³⁰ Petition at 2.

³¹ 47 CFR § 1.3.

³² See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), *cert. denied*, 93 S.Ct. 461 (1972)) (*Northeast Cellular*).

³³ 47 CFR § 1.3.

³⁴ To the extent that the Petition could also be interpreted as a request for some form of monetary relief to the petitioner and other residents of the areas where Starlink would have received support, Petition at 4 (requesting that the Commission "restore funding for this service to *Petitioner and other Virginia residents* adversely affected by denial of this Funding Request Number (FRN)") (emphasis added)), we also decline to grant such a waiver. The RDOF Program provides support to eligible telecommunications carriers, not individual recipients of service. See 47 CFR § 54.804(a). Accordingly, a request for monetary relief for individuals is outside the scope of the RDOF Program, and we decline to consider such a request.