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|  | **PENNSYLVANIA****PUBLIC UTILITY COMMISSION****Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held July 15, 2021 |
| Commissioners Present: |  |

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|  Gladys Brown Dutrieuille, Chairman |
|  David W. Sweet, Vice Chairman |
|  John F. Coleman, Jr. |
|  Ralph V. Yanora  |
|   |
| Petition of Tri-Co Connections, LLC, to Amend its Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania | P-2018-3005127 |

**ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for disposition is a Petition for Amended Designation as An Eligible Telecommunications Carrier, as supplemented, (Petition) filed by Tri-Co Connections, LLC (Tri-Co). Specifically, Tri-Co is requesting the Commission to amend its existing Eligible Telecommunications Carrier (ETC) designation by designating it a high-cost ETC in the eligible census blocks where it submitted winning bids in the Federal Communications Commission’s (FCC) Rural Digital Opportunity Fund Auction (“RDOF Auction” or “Auction 904”) that was conducted in 2020. Granting Tri-Co’s Petition would result in an expansion to its current high-cost Designated Service Area where Tri-Co had been initially designated as an ETC in certain eligible high-cost census blocks in the Commonwealth of Pennsylvania at the above-captioned docket following the FCC’s 2018 Connect America Fund Phase II Auction 903 (“CAF II Auction” or “Auction 903”).[[1]](#footnote-1)

Per the rules of Auction 904, Tri-Co is required to certify with the FCC that it has been designated an ETC in the eligible census blocks in Pennsylvania where it has been awarded RDOF Phase I federal high-cost support to provide standalone voice and/or broadband internet access services (BIAS) to identified locations.[[2]](#footnote-2)

The Commission has reviewed Tri-Co’s Petition, as supplemented, to determine whether it meets the statutory criteria and applicable minimum standards necessary under state and federal law to obtain an ETC designation in the Auction 904-eligible census blocks. The Commission determines that Tri-Co has satisfied all relevant statutory criteria necessary to obtain an ETC designation in the Auction 904-eligible census blocks and that it is in the public interest to designate Tri-Co as an ETC in these eligible census blocks in order for it to become qualified to obtain RDOF Phase I federal high-cost support to deploy and maintain networks capable of providing standalone voice and/or broadband services.[[3]](#footnote-3) By making such a finding we affirmatively amend Tri-Co’s current high-cost ETC Designated Service Area, which only consisted of the Auction 903-eligible census blocks, and have expanded the high-cost designated service area so that it now also encompasses the Auction 904-eligible census blocks, i.e. Amended Designated Service Area. Tri-Co’s Petition is hereby approved under the applicable federal statutory criteria and other relevant federal and Pennsylvania law*.*

As a condition of receiving this ETC designation, Tri-Co is also required to participate in the federal Lifeline program and must offer Lifeline service to qualified low‑income eligible customers or households throughout its Amended Designated Service Area in accordance with applicable federal and Pennsylvania law. Since Tri-Co is also a Lifeline-only ETC in all other areas in its CLEC service territory where it is not receiving Connect America Fund high-cost support, it will continue to offer Lifeline services to qualified low-income eligible consumers residing in these geographic areas.

**BACKGROUND**

 **A. FCC’s Re-Purposing of the High Cost Program of the Federal Universal Service Fund**

In 2011, the FCC concluded that the deployment of broadband-capable networks would also be an express universal service principle under Section 254(b) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 254(b).[[4]](#footnote-4) For this reason, the FCC comprehensively reformed the High Cost Program of the federal Universal Service Fund (USF) so that it would ensure that robust, affordable voice and broadband services become available to all Americans living in rural areas across the nation.[[5]](#footnote-5)

 Up to that time, the six pre-existing programs within the High Cost Program only supported the provisioning of voice service.[[6]](#footnote-6) In order to accomplish its goal of ensuring all Americans had access to both voice service and robust broadband service, the FCC repurposed the six pre-existing programs so that it would distribute federal high-cost support to recipients to provision both fixed broadband and voice service throughout their service territories. Concomitant with this repurposing, the FCC also renamed the federal High Cost program the Connect America Fund (CAF). With the CAF, the FCC determined that it would begin to distribute federal high-cost support in the areas served by the incumbent local exchange carriers that operate as “price cap” carriers under

federal law, through the use of a combination of a “new forward-looking model of the cost of constructing modern multi-purpose networks” and a competitive bidding process.[[7]](#footnote-7)

 **B. FCC’s Efforts to Modernize the Federal Lifeline Program**

In order to continue the mission of assisting qualifying low-income Americans to get and stay connected in today’s technological climate, while at the same time relieving some of the burden on the entities providing this service, the FCC also began restructuring the federal USF Lifeline program. Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Lifeline program in the *2012 Lifeline Reform Order* by improving enrollment and consumer disclosures and eliminating the previous system of tiered support and setting an interim funding rate of $9.25 per month per eligible subscriber or household.[[8]](#footnote-8)

These reforms were adopted by the FCC to strengthen protections against waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; improved program administration and accountability by creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.[[9]](#footnote-9) The FCC also took preliminary steps to modernize the federal Lifeline program by, among other things, allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.[[10]](#footnote-10) The FCC has issued three later Lifeline reform orders establishing a number of additional enhancements to the federal Lifeline Program, further connecting low-income Americans to voice services and now, broadband access.[[11]](#footnote-11) These modified requirements have been codified in the FCC’s rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

**C. CAF Phase II Auction**

The FCC contemplated that its new competitive bid process to disburse federal high-cost support to common carriers would be done as “reverse auctions” and rolled-out in several phases. The second phase of the CAF, but first descending clock, reverse auction, was Auction 903 held in 2018. Auction 903 awarded up to $198 million annually for 10 years to the winning bidders that had committed to provide voice and fixed broadband services to specific locations in unserved high-cost areas, including areas in Pennsylvania.

Tri-Co was a winning bidder in Auction 903 and was awarded $32,326,228.30 of federal high-cost support to provide voice and broadband services to 7,015 identified locations situated within the Commonwealth of Pennsylvania.[[12]](#footnote-12) In the *Tri-Co Auction 903 ETC Designation Order*, the Commission designated Tri-Co an ETC eligible to obtain high-cost support in specific census blocks located in various local exchanges throughout its service territory.[[13]](#footnote-13) In the *Tri-Co Auction 903 ETC Designation Order*, the Commission found that Tri-Co met all applicable requirements for an ETC designation, including the federal requirements for a high-cost ETC designation at 47 C.F.R. § 54.101, the additional federal requirements for obtaining an ETC designation at 47 C.F.R. §§ 54.202 and 54.207, the FCC’s requirements related to Lifeline service at 47 C.F.R. §§ 54.410, 54.416, 54.417, and 54.422, and the Pennsylvania-specific requirements for an ETC designation. The same Order designated Tri-Co a Lifeline-only ETC in those geographic areas throughout its CLEC service territory where it was not awarded Auction 903 support.[[14]](#footnote-14) As such, Tri-Co was able to certify to the FCC that it was designated an ETC by this Commission and, thus, eligible to receive the awarded federal Auction 903 support in those specific high-cost eligible census blocks.

**D. Implementation of the Rural Digital Opportunity Fund**

The FCC acknowledged that Auction 903 was a significant step towards addressing the rural “digital divide” in America, but that more work needed to be done to accelerate the deployment of access to broadband in these unserved and underserved communities. Consequently, on August 1, 2019, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to establish the $20.4 billion RDOF Auction as its next step in bridging the rural digital divide in America.[[15]](#footnote-15) Specifically, the FCC sought to allocate this federal universal service high-cost support to a certain number of locations in eligible census block groups (CBGs) across the United States, including areas in Pennsylvania, which were entirely unserved by broadband service at least 25/3 Mbps.[[16]](#footnote-16)

On January 30, 2020, the FCC adopted the *RDOF Order*, which established the framework for the RDOF.[[17]](#footnote-17) The FCC determined that the RDOF would target federal high-cost support to areas that lacked access to both fixed voice and 25/3 Mbps broadband services in two phases: Phase I of the RDOF will assign up to $16 billion for those census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps,[[18]](#footnote-18) and Phase II will make the remaining $4.4 billion, along with any unawarded funds from Phase I available for those census blocks that it later determined through the Digital Opportunity Data Collection, or suitable alternative data source, are only partially served, as well as census blocks unawarded in the Phase I auction.[[19]](#footnote-19)

Phase I of the RDOF Auction began on October 29, 2020 and ended on November 25, 2020. On December 7, 2020, the FCC announced the winning bidders for Phase I of the RDOF auction. [[20]](#footnote-20) Tri-Co was named amongst the companies that had been awarded federal high-cost support to bring broadband to over five million homes and businesses across the nation in census blocks that were entirely unserved by voice and broadband with download speeds of at least 25 Mbps.[[21]](#footnote-21) With the receipt of this federal high-cost support from Auction 904, Tri-Co is expected to provide both standalone voice and BIAS

at 1 Gbps/500 Mbps in the 23 CBGs in Pennsylvania where it was named a winning bidder in Auction 904.[[22]](#footnote-22)

**E. Tri-Co’s RDOF ETC Petition and Supplements**

On February 4, 2021, Tri-Co filed this Petition. In its Petition, Tri-Co stated that the 23 CBGs where it has been awarded Auction 904 high-cost support fall within the geographic areas where it has already been designated a Lifeline-only ETC in the *Tri-Co Auction 903 ETC Designation Order*.[[23]](#footnote-23) The 23 CBGs where it has been awarded Auction 904 federal high-cost support consist of 559 individual census blocks for which Tri-Co submitted an identifying list.[[24]](#footnote-24) Accordingly, Tri-Co stated that since it was previously designated a Lifeline-only ETC in the individual Auction 904 eligible census blocks, it now requests that the Commission amend its previous ETC designation so that its current high-cost Designated Service Area now encompasses the 559 eligible census blocks where it has been awarded Auction 904 support. Thus its Amended Designated Service Area will comprise those local exchanges and census blocks where Tri-Co receives CAF support as identified in Appendix C, where Tri-Co will hold both Lifeline and high-cost ETC designation. It will remain a Lifeline-only ETC in any area where it does not receive CAF support.

Tri-Co stated that the 23 CBGs where it has been assigned Auction 904 federal high-cost support are located in Bradford, Lycoming, Potter and Tioga Counties, respectively. As noted below, the individual eligible census blocks comprising the CBGs are scattered throughout the service territories of the following incumbent local exchange carriers (ILECs) operating in these counties: Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company (Frontier Commonwealth); Frontier Communications of Oswayo River, LLC (Frontier Oswayo); North Penn Telephone Company (North Penn); Verizon North LLC (Verizon North); and Verizon Pennsylvania LLC (Verizon Pennsylvania).[[25]](#footnote-25) The local exchanges of the ILECs where the individual Auction 904 eligible census blocks are located are illustrated in the table below.

**Local Exchanges in Incumbent Local Exchange Carriers’ Service Territories — Auction 904**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Frontier****Commonwealth** | **Frontier Oswayo** | **North Penn** | **Verizon North** | **Verizon Pennsylvania** |
| Liberty | Genesee | Bentley Creek | Elkland | Austin |
| Morris | Millport |  | Harrison Valley | Coudersport |
| Troy |  |  | Trout Run | Galeton |
| Ulster |  |  |  | Roulette |
| Wellsboro |  |  |  | Ulysses |

In its Petition, Tri-Co asserted that, to the extent necessary, it incorporated all the information and pleadings that had been previously submitted in support of its existing ETC designations granted in the *Tri-Co Auction 903 ETC Designation Order*. This includes confirmation of the facilities and platforms over which Tri-Co will be providing its service, its proposal to offer stand-alone basic local telephone service, which is a protected service in Tri-Co’s Designated Service Area, and its offering Lifeline to eligible low-income consumers in accordance with FCC and Commission requirements. Tri-Co also asserted that it has certified in its January 25, 2021 Long-Form Submission to the FCC that it is in compliance with all statutory and regulatory requirements to obtain an ETC designation in the Auction 904 eligible census blocks.[[26]](#footnote-26) Tri-Co also filed supplements to its original Petition that set forth other additional pertinent information.[[27]](#footnote-27)

 Notice of Tri-Co’s Petition was published in the *Pennsylvania Bulletin* at 51 Pa.B. 3327 on June 12, 2021. No comments were filed in response to Tri-Co’s Petition. The Commission notes that upon receipt of a high-cost designation from the relevant authority, RDOF winning bidders are required to comply with the same long-form application process the FCC adopted for Auction 903.[[28]](#footnote-28) Consequently, Tri-Co will still have to submit a long-form application to the FCC and become subject to a thorough

financial and technical review by the FCC prior to ultimately receiving the Auction 904 support if the Commission designates Tri-Co an ETC in the Auction 904-eligible census blocks.

**DISCUSSION**

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive Federal universal service support.”[[29]](#footnote-29) Consequently, a common carrier first must be designated an ETC according to subsections (2), (3), or (6) of Section 214(e) of the Act in order to be eligible to receive federal high-cost universal service support in accordance with Section 254 of the Act.[[30]](#footnote-30) Pursuant to Section 214(e)(2) of the Act, state commissions have the primary responsibility for performing ETC designations for common carriers seeking to obtain federal high-cost funding support.[[31]](#footnote-31) Only in those instances where a state cannot or will not make the requisite ETC designation, will the FCC make the ETC designation.[[32]](#footnote-32)

The Commission reserves the right to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the circumstances particular to each application. Thus, the Commission will review Tri-Co’s Petition, as supplemented, to determine if it satisfies the federal and state law criteria to receive a designation as a high-cost ETC in the Auction 904-eligible census blocks.

**GOVERNING AUTHORITY**

**A. Requirements for Designation as a High-Cost ETC**

Pursuant to 47 U.S.C. § 214(e)(1), in order to obtain an ETC designation and become eligible to receive federal high-cost universal service support, a common carrier[[33]](#footnote-33) must satisfy the following criteria:[[34]](#footnote-34) (1) certify that it offers or intends to offer all services designated for support by the FCC pursuant to section 254(c) of the Act;[[35]](#footnote-35) (2) certify that it offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services;[[36]](#footnote-36) (3) describe how it advertises the availability of the supported services and the charges therefore using media of general distribution;[[37]](#footnote-37) and (4) describe the geographic service area for which it requests to be designated an ETC.[[38]](#footnote-38)

The FCC adopted additional requirements for parties seeking ETC designation that were codified at 47 C.F.R. § 54.202.[[39]](#footnote-39) As such, a telecommunications carrier must also satisfy the following additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) certify that it will comply with the service requirements applicable to the support that it receives in its proposed service area;[[40]](#footnote-40) (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area;[[41]](#footnote-41) (3) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;[[42]](#footnote-42) (4) demonstrate that it will satisfy applicable consumer protection and service quality standards;[[43]](#footnote-43) and (5) offers local usage comparable to that offered by the ILEC.[[44]](#footnote-44)

The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.[[45]](#footnote-45) Specifically, the FCC requires a party seeking ETC designation certify that neither it, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.

In addition to meeting these statutory requirements, state commissions must also perform a “public interest” review before approving an ETC designation.  Section 214(e)(2) of the Act states that, “[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier” for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1).

The Commission has adopted these federal standards under independent Pennsylvania law as a starting point for review of a request for ETC designation.

We also have Pennsylvania-specific guidelines that an ETC petitioner must satisfy before we can approve its request for designation as an ETC in Pennsylvania.[[46]](#footnote-46)

**B. FCC Rules Governing the Federal Lifeline Program**

Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Universal Service Fund’s Lifeline program.[[47]](#footnote-47) The reforms, adopted in the *2012 Lifeline Reform Order*, focused on changes to eliminate waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.[[48]](#footnote-48) It also took preliminary steps to modernize the federal Lifeline program by, among other things, adopting express goals for the program and allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.[[49]](#footnote-49) These modified requirements were codified in the FCC’s rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

**1. 47 C.F.R. § 54.405**

**Lifeline service provider obligations.**

All high-cost ETCs must certify that they do the following: (1) make available Lifeline service, as defined in § 47 C.F.R. § 54.401, to qualifying low-income consumers; (2) publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service; (3) explain in its marketing materials using easily understood language that the Lifeline program is a federal government assistance program that provides a monthly subsidy that lowers the monthly cost of phone or internet service (but not both) and is available only to one eligible consumer per household, not per person and that the benefit is non-transferable once the customer is enrolled into the program; and (4) disclose its name on all marketing materials describing the service.

**2. 47 C.F.R. § 54.410**

**Subscriber Eligibility Determinations and De-enrollments**

All high-cost ETCs must certify that they first ensure that their potential Lifeline subscribers are eligible to receive Lifeline services.[[50]](#footnote-50) In Pennsylvania, all ETCs must receive a notice from the National Verifier that their potential Lifeline subscribers are eligible to receive Lifeline services.[[51]](#footnote-51) Lifeline service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal that links to the National Verifier, or consumers can apply on their own by mail or online.[[52]](#footnote-52)

As Pennsylvania is a National Verifier state, Tri-Co must query the NLAD to ascertain a potential Lifeline applicant’s eligibility for service as determined by the National Verifier. Thereafter, once it has been verified that the consumer is eligible to qualify for Lifeline Service, the ETC may provide the consumer with an activated device that it represents enables use of Lifeline-supported service.

Further, a Lifeline service provider must certify that it complies with the FCC federal policy rules for de-enrolling an account from Lifeline support.[[53]](#footnote-53) There are several situations that might result in subscriber de-enrollment from Lifeline-supported service: (1) de-enrollment because the service provider has a reasonable basis to believe a subscriber is no longer eligible to receive a Lifeline benefit;[[54]](#footnote-54) (2) de-enrollment for duplicative support;[[55]](#footnote-55) (3) de-enrollment for non-usage;[[56]](#footnote-56) (4) de-enrollment for failure to re-certify;[[57]](#footnote-57) and (5) de-enrollment requested by the subscriber.

**3. 47 C.F.R. §§ 54.416, 54.417 and 54.422**

**Annual Certifications and Reporting to USAC**

ETCs must certify that they will comply with annual certification requirements relating to the Lifeline program such as certifying annually that they are in compliance with the minimum service levels set forth in 47 C.F.R. § 54.408.[[58]](#footnote-58) ETCs are required to annually certify compliance with the applicable minimum service level rules by submitting Form 481 to USAC.[[59]](#footnote-59)

**C. Pennsylvania-Specific Requirements for Lifeline Program**

In addition to the federal Lifeline standards above, the Commission also has adopted minimum service standards to govern the federal Lifeline program.[[60]](#footnote-60) Section 3019(f) of the Pennsylvania Public Utility Code (Code), 66 Pa. C.S. § 3019(f), sets forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program.

In addition to the above Pennsylvania statutory requirements, the Commission also established other Lifeline eligibility criteria via Orders.[[61]](#footnote-61) To the extent that federal law or federal requirements for Lifeline service have not preempted or made Pennsylvania state-specific Lifeline requirements obsolete, they remain applicable to all Lifeline service providers. For example, our *PA Lifeline Order*[[62]](#footnote-62) requires ETCs to verify the ongoing eligibility of their Lifeline subscribers and submit an annual re-certification of that verification. However, we note that pursuant to the federal rules, Tri-Co’s Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC.

Additionally, ETCs are required to report to the Commission annual changes in Pennsylvania Lifeline enrollment, such as whether the requirements for certification and verification of a customer’s initial and continued eligibility for Lifeline services have been impacted by developments at the federal level. Thus, ETCs must certify that they will comply with relevant requirements set forth in the *Pa. Lifeline Order*, *Tracking Report Order*, and *Policy Statement*.

**ANALYSIS**

In order to obtain the RDOF Phase I federal high-cost support in the 559 eligible Auction 904-census blocks, the Commission must find that Tri-Co is a common carrier and that it has adequately certified that, among other things, it offers or intends to

offer all federal high-cost supported services[[63]](#footnote-63) as described in 47 C.F.R. § 54.101 either using its own facilities or a combination of its own facilities and resale of another carrier’s services throughout its designated service territory.

As mentioned above, Tri-Co has been previously designated an ETC in various eligible census blocks located in Pennsylvania where it receives Auction 903 federal high-cost support.[[64]](#footnote-64) Consequently, this Commission is already significantly familiar with the facilities that Tri-Co utilizes to offer its qualifying supported services and the facts and certifications in support of its Petition for Amended ETC Designation. As a current certificated CLEC[[65]](#footnote-65) and high-cost ETC in Pennsylvania, Tri-Co offers voice telecommunications service and BIAS service throughout its current Designated Service Area. Thus, based on the federal definitions of "telecommunications service" and "telecommunications carrier" in the Telecommunications Act of 1996 and the definition of jurisdictional telecommunications public utility in the Public Utility Code, we find that Tri-Co is a common carrier.

Tri-Co has incorporated by reference all of the information and pleadings it had previously submitted to us in support of its existing ETC designations in the *Tri-Co Auction 903 ETC Designation Order* .[[66]](#footnote-66) We determine that is prudent and appropriate for us consider and incorporate these findings and the conditions set forth in our *Tri-Co Auction 903 ETC Designation Order* in reviewing the instant ETC designation request.

Tri-Co has affirmed that it will provide the qualifying supported services using its own facilities throughout the assigned Auction 904 eligible census blocks, all of which are located entirely within Tri-Co’s CLEC service area, pursuant to all applicable and relevant federal RDOF regulations.[[67]](#footnote-67) Also, Tri-Co has provided a detailed description of the geographic area for which it seeks to extend its high-cost ETC designation in the Commonwealth of Pennsylvania.[[68]](#footnote-68) The list of the individual Auction 904 census blocks is attached hereto as Appendix B. Accordingly, we determine that Tri-Co remains in compliance with the applicable federal and Pennsylvania-specific ETC rules and therefore, we find that Tri-Co will offer the supported services as described in 47 C.F.R. § 54.101 by using its own facilities throughout its Amended Designated Service Area. Tri-Co’s Amended Designated Service Area by ILEC local exchange areas and census blocks is set forth in Appendix C.

Additionally, Tri-Co commits to offering Lifeline discounts to qualifying low-income consumers in its Amended Designated Service Area consistent with both FCC and Pennsylvania-specific rules. The Commission acknowledges that when Tri-Co initially requested to be designated an ETC throughout its CLEC service territory, it was designated as a Lifeline-only ETC in those geographic areas outside of the census blocks where it received Auction 903 federal high-cost support. As stated above, Tri-Co has received Auction 904 support for geographic areas in its CLEC service territory where it was previously designated a Lifeline-only ETC. To the extent, however, that Tri-Co’s Amended Designated Area does not encompass Tri-Co’s entire CLEC service territory and there remain geographic areas where Tri-Co has not been awarded any CAF funding from the FCC, it will be considered a Lifeline-only ETC in those specific areas and must offer federal Lifeline support in these areas. Further, Tri-Co has received no waivers or exceptions from the FCC pertaining to high-cost or low-income Universal Service Fund support.

We also note that Tri-Co has certified in its January 25, 2021 Long-Form Application submission to the FCC, that it is in compliance with all statutory and regulatory requirements.[[69]](#footnote-69) The Commission notes that earlier this year, the FCC implemented a rule that requires providers of interconnected Voice-over-Internet Protocol (VoIP) services to specifically advise every subscriber, both new and existing, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.[[70]](#footnote-70) Tri-Co offers VoIP service as its standalone voice service throughout its Amended Designated Service Area.[[71]](#footnote-71)

We have reviewed Tri-Co’s customer materials concerning E911 limitations and those materials explicitly state that Tri-Co notifies each subscriber of the circumstances where 911/E911 emergency service may be limited or unavailable.[[72]](#footnote-72) However, to the extent that Tri-Co obtains customers’ affirmative acknowledgement of these E911 limitations, as required by 47 C.F.R. § 9.11(b)(5)(i), it shall ensure that there are both electronic and non-electronic means of obtaining such acknowledgement. Accordingly, we find that Tri-Co is compliant with all applicable federal and Pennsylvania-specific ETC rules.

Tri-Co is also required to comply with all prior certifications related to its previous ETC designation, such as complying with our requirements regarding the relinquishment of its ETC status in any of the census blocks where it receives federal high-cost support and filing a petition for renewal of its ETC designation in the event of a change of or transfer in corporate control as defined in Pennsylvania statutory law, case law, and the Commission’s regulations at 52 Pa. Code § 63.322.[[73]](#footnote-73)

**CONCLUSION**

The Commission has adopted the federal minimum standards that are applicable to ETC designations as codified. Consequently, our review of Tri-Co’s petition has been done consistent with these federal requirements. Additionally, our review of Tri-Co’s petition also has been done to ensure consistency with independent Pennsylvania law.

Tri-Co was a winning bidder in the FCC’s Auction 903, and the Commission previously designated Tri-Co as an ETC throughout its CLEC service territory so that it could obtain Auction 903 support to deploy broadband service in the Auction 903-eligible census blocks. As an ETC receiving Auction 903 support, Tri-Co was also required to participate in the federal Lifeline program and offer Lifeline service to qualified low‑income eligible customers or households in its Designated Service Area. Upon review, we conclude that amending Tri-Co’s previous ETC designation in Pennsylvania by designating it as a high-cost ETC in the 559 Auction 904-eligible census blocks so that it may obtain the RDOF Phase I federal high-cost from Auction 904 is in the public interest. Receipt of Auction 904 high-cost support funding will facilitate the provision of additional access to voice and broadband services to Pennsylvania consumers in rural areas.

We note that the Auction 904 eligible census blocks fall within the geographic areas where Tri-Co has been previously designated as a Lifeline-only ETC. To the extent that Tri-Co’s Amended Designated Area does not encompass its entire CLEC service territory any there are remain some geographic areas where Tri-Co will not be receiving any Connect America Fund federal high-cost support from the FCC, it will be considered a Lifeline-only ETC in those specific areas. Thus, Tri-Co is required to offer Lifeline discounts to qualifying low-income consumers in all high-cost areas where it is authorized to receive support, and all other geographic areas where it has not been awarded federal high-cost support, consistent with both FCC and Pennsylvania-specific rules.

As a winning RDOF bidder, we acknowledge that Tri-Co is only required to provide certifications as part of its ETC petition and is not necessarily required to demonstrate its capability to provide the supported services as certified. Nevertheless, as stated above, Tri-Co is currently a high-cost ETC in Pennsylvania and, thus, we deem that it is currently compliant with federal ETC requirements, including the FCC’s *Universal Service Order*, the *2005 ETC Designation Order*, the *USF/ICC Transformation Order*, and all relevant FCC regulations that have codified the requirements related to ETC designations and Lifeline service. Accordingly, we find that Tri-Co has established through the required certifications and related filings that in its Amended Designated Service Area it will offer the services supported by the federal universal service support mechanisms and will comply with the service requirements and annual reporting obligations applicable to the support that it receives.

 While our ETC designation process is separate from, and serves a different purpose than, the authorization process and post-authorization accountability measures that will be conducted by the FCC, our action to designate Tri-Co does impose certain statutory and regulatory obligations to Pennsylvania once it is authorized to receive the awarded Auction 904 support in the eligible census blocks in Pennsylvania. Based on the information, representations, and certifications in its petition, we find that Tri-Co has met all applicable Pennsylvania conditions and prerequisites for ETC designation throughout its Amended Designated Service Area and that such a designation is in the public interest. Accordingly, we also conclude that designation of Tri-Co as a federal high-cost ETC to secure the awarded federal high-cost support in the Auction 904-eligible census blocks in Pennsylvania is in the public interest, and is in accord with Section 214 of the Act, the FCC’s regulations and orders related to ETC designation, Section 3019(f) of the Code, and the Commission’s orders on ETC designation. 47 U.S.C.§ 214; 47 C.F.R. §§ 54.201, *et seq*.; and 66 Pa. C.S. § 3019(f); **THEREFORE,**

 **IT IS ORDERED:**

1. The Petition for Amended Designation as An Eligible Telecommunications Carrier of Tri-Co Connections, LLC is granted, subject to the terms and conditions set forth in this Order.
2. That the Commission amends Tri-Co Connections, LLC’s previous designation as an Eligible Telecommunications Carrier by approving its designation as an Eligible Telecommunications Carrier in the Auction 904-eligible census blocks in the service territories of Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; Verizon North LLC; and Verizon Pennsylvania LLC.
3. That Tri-Co Connections, LLC’s entire high-cost Designated Service Area in Pennsylvania, now to be known as the Amended Designated Service Area of Tri-Co Connections, LLC, consists of the eligible census blocks where it receives Connect America Fund federal high-cost support from the Federal Communications Commission via Auction 903 and Auction 904 and which are located within the local exchanges and census blocks set forth in Appendix C.
4. That the rules of the Federal Communications Commission regarding the redefinition process are inapplicable to Tri-Co Connections, LLC’s designation as a federal high-cost Eligible Telecommunications Carrier, which is below the study area level of Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Oswayo River, LLC; and North Penn Telephone Company.
5. That Tri-Co Connections, LLC is required to offer Lifeline service to eligible low-income consumers or households in its Amended Designated Service Area as described in this Order and also in all other geographic areas outside its Amended Designated Area where it is not receiving Connect America Fund federal high-cost support.

6. That Tri-Co Connections LLC shall comply with 47 C.F.R. §§ 9.11(b)(5)(i), (ii) and (iii) by ensuring that there are both electronic and non-electronic means of obtaining a customer’s affirmative acknowledgement of E911 limitations throughout its Amended Designated Service Area.

7. That Tri-Co Connections, LLC shall provide updated tariff pages for its qualifying voice service that is offered in census blocks that are located in

noncompetitive local exchanges within 30 days of the entry of this Order.

 8. That Tri-Co Connections, LLC shall provide updated tariff pages for its Lifeline service within 30 days of the entry of this Order.

1. That, upon request, Tri-Co Connections, LLC shall provide the Bureau of Consumer Services with copies of its and annual certification and promotional materials to review for current information, consistency with eligibility determination criteria and annual certification requirements, and plain language requirements.
2. That Tri-Co Connections, LLC is hereby directed to work with the Bureau of Consumer Services to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by Tri-Co Connections, LLC Lifeline customers on Lifeline and other related issues.
3. That the failure of Tri-Co Connections, LLC to comply with any of the provisions of this Order may result in revocation of its ETC designation(s) for purposes of receiving federal Universal Service Fund high-cost support and the federal Lifeline support or be subject to further Commission process.
4. That Tri-Co Connections, LLC shall petition this Commission for any future change to the basic Lifeline service offerings provided through this ETC designation as described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge and shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.
5. That Tri-Co Connections, LLC shall petition this Commission for renewal of its Eligible Telecommunications Carrier status at the same time it files or is implicated in the filing of any application for a change or transfer of control as defined in Pennsylvania law.
6. That the Secretary shall serve a copy of this Order on Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; Verizon North LLC; and Verizon Pennsylvania LLC; the Office of Consumer Advocate; and the Office of Small Business Advocate.
7. That a copy of this Order shall be published in the *Pennsylvania Bulletin*.

16. That this docket shall be marked closed.

**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

1. *Petition of Tri-Co Connections, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania*, P-2018-3005127 (Order entered April 11, 2019) (*Tri-Co Auction 903 ETC Designation Order*). [↑](#footnote-ref-1)
2. An Auction 904 winning bidder is required to certify that it has been designated as an ETC in all its winning bid areas and to submit appropriate documentation supporting such certification on or before June 7, 2021 (Auction 904 ETC deadline). On May 24, 2021, the Commission issued a “good faith” letter to Tri-Co stating that our review of its Petition would not be completed prior to deadline despite the good faith efforts of the long-form applicant. Tri-Co filed a waiver request of the Auction 904 deadline with the FCC. [↑](#footnote-ref-2)
3. As a RDOF recipient, Tri-Co is required to offer at least one standalone voice service plan and one service plan that provides broadband that meets FCC requirements. FCC 20-5, para. 43, Released February 7, 2020. [↑](#footnote-ref-3)
4. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17683- 17684, para. 60 (2011) (*USF/ICC Transformation Order*), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). [↑](#footnote-ref-4)
5. *Id*. at 17672, para. 17. [↑](#footnote-ref-5)
6. *Id*. at 17691-92, para. 76. [↑](#footnote-ref-6)
7. *Id*. at 17725, paras. 156-57. [↑](#footnote-ref-7)
8. *See generally Lifeline and Link Up Reform and Modernization, et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (2012 Lifeline Reform Order or Lifeline FNPRM).* Per subsequent FCC orders, the Lifeline benefit has been reduced, and it is currently set at $5.25. However, Lifeline support for standalone voice services is set to go from $5.25 to zero after December 1, 2021, although that decision is under reconsideration at the FCC. [↑](#footnote-ref-8)
9. *Id.* at 6690-91, paras. 77-78. [↑](#footnote-ref-9)
10. *Id.* [↑](#footnote-ref-10)
11. *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (*2015 Lifeline FNPRM*); *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4038, para. 211 (2016) (*2016 Lifeline Modernization Order*); *Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry*, 32 Rcd 10475 (2017), vacated and remanded, *National Lifeline Association et al. v. FCC*, Docket Nos. 18-1026, Order issued February 1, 2019 (D.C. Cir. 2019) (*2017 Lifeline NPRM and NOI*) (collectively *Lifeline Reform Orders*). [↑](#footnote-ref-11)
12. The locations in which Tri-Co was a winning bidder in Auction 903 were located in Bradford, Lycoming, Potter, and Tioga Counties. *See* <https://www.fcc.gov/file/14390/download>. *See also Tri-Co Auction 903 ETC Designation Order* at 8, 31; and Appendix A hereto. [↑](#footnote-ref-12)
13. *See* Appendix A. [↑](#footnote-ref-13)
14. *Tri-Co Auction 903 ETC Designation Order*, at 49-50. [↑](#footnote-ref-14)
15. *Rural Digital Opportunity Fund; Connect America Fund*; Notice of Proposed Rulemaking, 34 FCC Rcd 6778 (2019) (*Rural Digital Opportunity Fund NPRM*). [↑](#footnote-ref-15)
16. *Id*. The FCC made eligible for Auction 904 certain high-cost census block groups in RDOF Phase I in unserved areas nationwide that were not served by an unsubsidized service provider. [↑](#footnote-ref-16)
17. *Rural Digital Opportunity Fund et al.,* Report and Order, 35 FCC Rcd 686 (2020) (*RDOF Order*). [↑](#footnote-ref-17)
18. The FCC determined that eligible areas for Phase I would include (1) the census blocks for which price cap carriers currently receive CAF Phase II model-based support; (2) any census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (3) any census blocks where a CAF Phase II auction winning bidder has defaulted; (4) the census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps; (5) census blocks served by both price cap carriers and rate-of-return carriers to the extent that the census block is in the price cap carrier’s territory, using the most recent study area boundary data filed by the rate-of-return carriers to identify their service areas and determine the portion of each census block that is outside this service area; (6) any unserved census blocks that are outside of price cap carriers’ service areas where there is no certified high-cost eligible telecommunications carrier (ETC) providing service, such as the Hawaiian Homelands, and any other populated areas unserved by either a rate-of-return or price cap carrier; and (7) any census blocks identified by rate-of-return carriers in their service areas as ones where they do not expect to extend broadband.  *Id*. at 691, para. 12. [↑](#footnote-ref-18)
19. *RDOF Order*, 35 FCC Rcd at 689, paras. 8-9. [↑](#footnote-ref-19)
20. *See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, 35 FCC Rcd 13888, 13890-91, paras. 9-15 (RBATF, OEA, WCB 2020) (*RDOF Closing Public Notice*). [↑](#footnote-ref-20)
21. As a result of Auction 904, some homes and businesses in the eligible census blocks now would have access to voice as well as BIAS at download speeds of at least 100 Mbps. [↑](#footnote-ref-21)
22. Tri-Co participated in Auction 904 as part of a bidding group known as the Co-op Connections Consortium, which collectively was awarded $42.6 million for locations in Pennsylvania. Of that, Tri-Co was awarded $10,988,229 in RDOF funding for 23 CBGs encompassing 3,944 locations in Bradford, Lycoming, Potter and Tioga Counties. *See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Winning Bidders Announced*, Public Notice DA No. 20-1422 (OEA/WCB Rel. Dec. 7, 2020) (*RDOF Auction Closing Public Notice*), Petition at 4, ¶ 8. [↑](#footnote-ref-22)
23. *See* Petition at 4, ¶ 8; *see generally* *Tri-Co Auction 903 ETC Designation Order.* [↑](#footnote-ref-23)
24. *See July 9, 2021 Supplement*, Exhibit 1; *see also* Appendix B hereto. [↑](#footnote-ref-24)
25. *See May 4, 2021 Supplement*, Tri-Co’s response to Bureau of Consumer Services (BCS) Data Request No. 2. [↑](#footnote-ref-25)
26. Petition, Exhibit 2, at 8. [↑](#footnote-ref-26)
27. Tri-Co filed supplements on May 4, 2021 (*May 4, 2021 Supplement*), May 19, 2021 (*May 18, 2021 Supplement*), and July 9, 2021 (*July 9, 2021 Supplement*). [↑](#footnote-ref-27)
28. *RDOF Order*, 35 FCC Rcd at 725, para. 86. [↑](#footnote-ref-28)
29. 47 U.S.C. § 254(e). [↑](#footnote-ref-29)
30. 47 U.S.C. § 214(e)(1). [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. 47 U.S.C. § 214(e)(6). [↑](#footnote-ref-32)
33. Pursuant to Section 153(10) of the Act, a "telecommunications carriers" to include, with one minor exception, any provider of "telecommunications services."' 47 U.S.C. §153(51). The Act defines a "telecommunications service," as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." 47 U.S.C. §153(53). In turn, telecommunications means "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received." 47 U.S.C. § 153(50). The definition of "telecommunications carrier" in the Act goes on to state that "[a] telecommunications carrier" shall be treated as a *common carrier* under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as "common carriage." 47 U.S.C. §153(51) (Emphasis supplied). [↑](#footnote-ref-33)
34. *See Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8847‑76, paras. 128-180 (1997)*.* [↑](#footnote-ref-34)
35. 47 U.S.C. § 214(e) (1)(A); *see also* 47 C.F.R. § 54.201(d)(1). [↑](#footnote-ref-35)
36. 47 U.S.C. § 214(e)(1)(A); *see also* 47 C.F.R. § 54.201(d)(1). [↑](#footnote-ref-36)
37. 47 U.S.C. § 214(e)(1)(B); *see also* 47 C.F.R. § 54.201(d)(2). [↑](#footnote-ref-37)
38. 47 U.S.C. § 214(e)(5); *see also* 47 C.F.R. § 54.207(a). [↑](#footnote-ref-38)
39. *See 2005 ETC Designation Order*,20 FCC Rcd at 6380, para. 20 (citing *Federal-State Joint Board on Universal Service*, Recommended Decision, 19 FCC Rcd 4259, para. 5 (Fed-State Jt. Bd. 2004)).  [↑](#footnote-ref-39)
40. 47 C.F.R. § 54.202(a)(1)(i). [↑](#footnote-ref-40)
41. 47 C.F.R. § 54.202(a)(1)(ii). The FCC subsequently eliminated the five-year improvement plan requirement for CAF recipients since it had adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones. *See Connect America Fund et al.*, ETCs Annual Reports and Certifications, Report and Order, 32 FCC Rcd 5944, 5944-48, paras. 3-14 (2017) (*ETC Reporting Streamlining Order*) (eliminating requirements relating to the reporting of network outages, unfulfilled service requests, complaints, and pricing and the certification of compliance with applicable service quality standards). [↑](#footnote-ref-41)
42. 47 C.F.R. 54.202(a)(2). [↑](#footnote-ref-42)
43. 47 C.F.R. § 54.202(a)(3). The FCC also has eliminated this requirement for CAF support recipients finding that the need for it was obviated by the specific service quality standards applicable to CAF support recipients and specific reporting obligations relating to such standards. *See generally ETC Reporting Streamlining Order*. [↑](#footnote-ref-43)
44. In the *2005 ETC Designation Order*, the FCC had established that an ETC may be required to provide equal access if all other ETCs in the service area relinquish their designations. In the *USF/ICC Transformation Order*, the FCC determined that the above ETC equal access requirement was obsolete and deleted it from 47 C.F.R. § 54.202. The FCC stated because this rule was obsolete, it found good cause to delete it without notice and comment. *USF/ICC Transformation Order*, FCC Rcd 17872, para. 647. [↑](#footnote-ref-44)
45. 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)–(b). [↑](#footnote-ref-45)
46. 52 Pa. Code § 69.2501. [↑](#footnote-ref-46)
47. *See generally 2012 Lifeline Reform Order.* [↑](#footnote-ref-47)
48. *Id.* at 6690-91, paras. 77-78. [↑](#footnote-ref-48)
49. *Id.* [↑](#footnote-ref-49)
50. 47 C.F.R. § 54.410. [↑](#footnote-ref-50)
51. The Universal Service Administrative Company (USAC), the administrator of the federal Lifeline program, manages the National Verifier and its customer service department, the Lifeline Support Center. The National Verifier makes an initial determination of a subscriber's eligibility based on prospective subscriber’s eligibility to qualify for Lifeline service using either income-based eligibility criteria or program-based eligibility criteria is codified at Sections 54.410(b) and (c), respectively. [↑](#footnote-ref-51)
52. New and potential Lifeline consumers receive their initial eligibility determination by signing into CheckLifeline.org from any computer or mobile device to create an account, receive an eligibility decision, and use the list of service providers in their area to contact one to enroll. [↑](#footnote-ref-52)
53. 47 C.F.R. § 54.405(e). [↑](#footnote-ref-53)
54. 47 C.F.R. §54.405(e)(1). [↑](#footnote-ref-54)
55. If the USAC provides notification to a service provider that a subscriber has more than one discounted account, or that more than one member of a subscriber’s household is receiving service, the service provider must de-enroll the subscriber within five business days (47 C.F.R. Section 54.405(e)(2)). [↑](#footnote-ref-55)
56. If the subscribers do not use their Lifeline service at least every 30 days they will be notified by the provider that they may be de-enrolled if they do not use their service during the 15-day notice period (the “cure period”). [↑](#footnote-ref-56)
57. Every Lifeline consumer’s eligibility is to be recertified annually. 47 C.F.R. § 54.410(f). Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC. In Pennsylvania, service providers must use the National Verifier to recertify their current Lifeline subscribers. [↑](#footnote-ref-57)
58. 47 C.F.R. § 54.416. [↑](#footnote-ref-58)
59. 47 C.F.R. § 54.422. [↑](#footnote-ref-59)
60. 52 Pa. Code § 69.2501. [↑](#footnote-ref-60)
61. *In Re: Lifeline and Link-up Programs*, Docket No. M-00051871 (Order entered May 23, 2005) (*PA Lifeline Order*); *Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report*, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (*Tracking Report Order*);  *Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support*, Docket No. M-2010-2164741, (Order entered August 2, 2010) (*Final Policy Statement Order*). [↑](#footnote-ref-61)
62. *In Re: Lifeline and link-up Programs*, Docket No. M-00051871 (Order entered May 23, 2005). [↑](#footnote-ref-62)
63. The FCC defines federal high-cost supported services as qualifying voice service and the offering of qualifying BIAS. *See* 47 C.F.R. § 54.101 (including both eligible voice telephony and eligible broadband Internet access as services “supported by federal universal service support mechanisms,” and characterizing the provision of eligible broadband service as a high-cost public interest obligation); *see also USF/ICC Transformation Order,* 26 FCC Rcd at 17691-94, paras. 74-89 (describing the “core functionalities of the supported services as ‘voice telephony service,’” and as a separate condition of receiving federal high-cost universal service support, all ETCs are required to offer BIAS in their supported area that meets certain basic performance requirements). [↑](#footnote-ref-63)
64. *Tri-Co ETC Designation Order*; Appendix A*.* [↑](#footnote-ref-64)
65. Tri-Co is a certificated Competitive Local Exchange Carrier approved to provide voice telecommunications service in the territories of Verizon Pennsylvania LLC; Verizon North LLC; Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Canton, LLC; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; and Windstream Pennsylvania, LLC. *See Application of Tri-Co Connections, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania as a Competitive Local Exchange Carrier in the Service Territories of : Verizon Pennsylvania, LLC; Verizon North LLC; Commonwealth Telephone Company d/b/a/ Frontier Communications Commonwealth Telephone Company; Frontier Communications of Canton, LLC; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; and Windstream Pennsylvania, LLC*, Docket No. A-2018-3005309; and Application of Tri-Co Connections, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania as a Detariffed Facilities-based Interexchange Carrier, Docket No. A-2018-3005312 (Order entered December 6, 2018). [↑](#footnote-ref-65)
66. Petition at 4, ¶ 9. [↑](#footnote-ref-66)
67. *See May 4, 2021 Supplement*, Tri-Co’s response to Data Request Nos. 3 and 4. [↑](#footnote-ref-67)
68. While some of the Auction 904 eligible census where Tri-Co has been awarded RDOF Phase I support and seeks additional designation as an ETC are within local exchanges that are located in the service territories of the above-listed RLECs, a redefinition analysis of these RLEC service territories is not necessary since the FCC waived its rules regarding the redefinition process for Auction 904 recipients. *See RDOF Order,* 35 FCC Rcd at 727-28, paras. 91-93. [↑](#footnote-ref-68)
69. Petition, Exhibit 2, at 8. [↑](#footnote-ref-69)
70. 47 C.F.R. § 9.11(b)(5)(i). [↑](#footnote-ref-70)
71. On July 17, 2020, at Docket Nos. A-2018-3005309 and A- 2018-3005312, Tri-Co submitted an Amendment to its Application that indicated that it is now using an IP-platform to provision voice service to its customers. The Commission’s consumer protection and quality of service regulations applicable to CLECs apply to both competitive and non-competitive services. Further, we note that standalone basic voice service has not been reclassified as competitive under Section 3016 of the Code, 66 Pa. C.S. § 3016, in any of the service areas where Tri-Co provides CLEC services. Thus, in addition to other Commission jurisdiction preserved under the VoIP Freedom Act, this service remains subject to all applicable consumer protections and quality of service standards under Pennsylvania law, even though it will be provided as an interconnected VoIP service. *See* 73 P.S. §§ 2251.5 and 2251.6. [↑](#footnote-ref-71)
72. *See May 18, 2021, Supplement*, Tri-Co response to Data Request No. 1. [↑](#footnote-ref-72)
73. Tri-Co must file a petition for renewal of its ETC designation at the same time it files or is implicated in the filing of any application for a change or transfer of control under Pennsylvania law because the Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue with an ETC designation. [↑](#footnote-ref-73)