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JESSICA K. ALTMAN,
Insurance Commissioner

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Viasat Carrier Services, Inc. for Designation as an Eligible Telecommunications Carrier

Public Meeting held
April 30, 2020

Commissioners Present: Gladys M. Brown Dutrieuille, Chairperson; David W. Sweet, Vice Chairperson; John F. Coleman, Jr.; Ralph V. Yanora

Petition of Viasat Carrier Services, Inc. for Designation as an Eligible Telecommunications Carrier; P-2018-3004983

Order

By the Commission:

Before the Pennsylvania Public Utility Commission (Commission) for disposition is the September 27, 2018 Petition of Viasat Carrier Services, Inc. (“VCS” or “Company”), as supplemented, in which it is seeking designation as an Eligible Telecommunications Carrier (ETC) in the Commonwealth of Pennsylvania for the purpose of receiving federal Universal Service Fund (USF) high-cost support, pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 214(e)(2), and Sections 54.201 and 54.202 of the Federal Communications Commission’s (FCC) regulations, 47 C.F.R. §§ 52.101 and 54.202, and 52 Pa. Code § 69.2501.

The Connect America Fund (CAF)—a part of the federal Universal Service High-Cost program—is an FCC program designed to expand access to voice and broadband services for areas where they are unavailable. Through CAF Phase II, the FCC provides funding to service providers to support the cost of building new network infrastructure or performing network upgrades to provide voice and broadband access services in areas where they are lacking. VCS’s parent company, Viasat, Inc. (Viasat), was selected as a winning bidder for certain eligible areas in Pennsylvania via the FCC’s CAF Phase II Auction (Auction 903) in order to provide voice and broadband access services to identified locations.¹

Obtaining a designation as a federal high-cost ETC from the Commission would qualify VCS to become eligible to receive the federal high-cost support funding from Auction 903 in any area where it was awarded a

winning bid.² As such, VCS is required to certify to the FCC that it is has received designation as an ETC in all of the eligible census blocks in Pennsylvania for which VCS was awarded Auction 903 support. Accordingly, in its Petition for ETC Designation (Petition), VCS states that it is seeking designation as a high-cost ETC only in the specific CAF-eligible census blocks for which it was awarded funding.³ VCS has identified these specific CAF-eligible census blocks in Exhibit A to the Petition, which we have replicated in Appendix A to this Order, and which we hereafter refer to as VCS’s proposed “Designated Service Area.” Specifically, VCS is seeking ETC designation to provide CAF Phase II-funded voice and broadband access services to 45,100 eligible locations in 1,287 discrete census blocks located within Pennsylvania’s sixty-seven counties.⁴ Additionally, VCS has identified the pertinent local exchanges where these CAF-eligible census blocks are located, which we have replicated in Appendix B to this Order.

Notice of VCS’s Petition was published in the *Pennsylvania Bulletin* at 48 Pa.B. 6760 on October 20, 2018. No comments were filed in response to VCS’s Petition. VCS also filed supplements to its Petition that set forth other additional pertinent information.⁵ We have reviewed VCS’s Petition, as supplemented, to determine whether it meets the statutory criteria and applicable minimum standards necessary under federal and state law to obtain an ETC designation. We hereby conclude that it is in the public interest that VCS be designated an ETC for purposes of receiving Auction 903 high-cost support in the eligible census blocks where it submitted a winning bid to deploy and maintain networks capable of providing voice and broadband access services and also to provide Lifeline service to qualifying low-income customers or households in those same census blocks. Specifically, VCS will be required to offer Lifeline services to qualified eligible low-income customers or households, subject to the conditions stated by this Order, and shall comply with all applicable Lifeline reporting, annual recertification, and other requirements as they currently exist or may come to exist under federal and/or state law.

Accordingly, VCS’s Petition is hereby approved under the applicable federal statutory criteria and other relevant federal and Pennsylvania law. Concomitantly, as a condition of receiving this ETC designation to receive federal high-cost support, VCS must also participate in the federal Lifeline program and is required to offer Lifeline service to qualified low-income eligible customers or households only in its Designated Service Area in accordance with applicable federal and Pennsylvania law.

² The FCC made eligible for Auction 903 certain high-cost census blocks in states where the price cap carriers had declined an earlier offer of model-based support in CAF Phase I, Part 2 and in other unserved areas nationwide (excluding New York, Alaska, Puerto Rico, and the Virgin Islands) that were not served by an unsubsidized service provider. It was through this competitive bidding process that Viasat was a winning bidder in certain high-cost census blocks located in the service territories of Pennsylvania’s Verizon Pennsylvania, LLC, Verizon North, LLC as these companies had declined an earlier offer of CAF Phase II model-based support and also includes other areas that are not served by the incumbent price cap carrier or an unsubsidized service provider with broadband at speeds of 10/1 Mbps or higher (based on December 2016 FCC Form 477 data).

³ It is in these federally-funded census blocks that VCS is seeking federal high-cost ETC designation and will be offering voice and broadband access services under federal law consistent with the FCC’s public interest obligations.

⁴ See Appendix A.

⁵ VCS filed supplements in response to Staff inquiries and data requests on January 30, 2019, April 23, 2019, May 2, 2019, September 17, 2019, October 1, 2019, October 17, 2019, February 3, 2020, February 19, 2020, March 17, 2020, April 14, 2020 and April 27, 2020. Some of these supplements contained material marked confidential. While our deliberation is based on all information submitted in all supplements, this instant Order does not contain any Confidential or Proprietary Information submitted by VCS.

¹ Viasat was a winning bidder in 20 states.

Background

A. FCC and State ETC Orders

In its 1997 Universal Service Order, the FCC established minimum requirements necessary for a telecommunications carrier to be designated an ETC, and thus, eligible to receive federal universal service high-cost support from the federal USF.⁶ In 2005, pursuant to Section 214(e)(6) of the Act, 47 U.S.C. § 214(e)(6), and consistent with the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), the FCC addressed these minimum requirements and adopted additional mandatory requirements for ETC designation proceedings.⁷ Additionally, as recommended by the Joint Board, the FCC encouraged states that exercise jurisdiction over ETC designations pursuant to Section 214(e)(2) of the Act, to adopt these same requirements when deciding whether they should designate a common carrier as an ETC.⁸ Accordingly, in order to provide consistent standards and to obtain the complete and necessary information necessary when reviewing future petitions for ETC designation and annual ETC recertifications, the Commission adopted the FCC's statutorily prescribed requirements for ETC designations and set forth additional Pennsylvania-specific standards as guidelines for all ETC applicants over which it exercises jurisdiction.⁹ The Commission codified these guidelines at 52 Pa. Code § 69.2501 (ETC Guidelines).

In its 2011 USF/ICC Transformation Order, the FCC comprehensively reformed the federal USF mechanism to accelerate broadband build-out to the 18 million Americans living across the nation in rural areas who were receiving voice service but lacked access to robust broadband infrastructure and service.¹⁰ Specifically, the FCC concluded that it should adopt high-cost support for broadband-capable networks as an express universal service principle under Section 254(b) of the Act, 47 U.S.C. § 254(b).¹¹ Additionally, for the first time, the FCC set specific performance goals for the high-cost component of the federal USF to ensure the reforms are achieving their intended purposes.¹² Accordingly, the FCC revamped the purpose of the Universal Service High-Cost program of the federal USF to expand access to both voice and broadband access services by supporting networks capable of providing those services and requiring certain support recipients to provide those services in geographic areas that were clearly unserved or underserved by unsubsidized service providers of broadband access services.¹³

Concomitant with this repurposing of the six pre-existing programs in the federal USF High-Cost Fund that supported voice services, there was also a renaming of the High-Cost program to the Connect America Fund or CAF.¹⁴ The CAF was rolled-out in different phases.¹⁵ Up through the CAF Phase II Auction 903, the FCC,

through the CAF, provided funding to federal price cap incumbent local exchange carriers (ILECs) to support the cost of building new network infrastructure or performing network upgrades to continue to provide voice and, in addition, retail broadband access services in areas where they were lacking.

In 2018, as a part of CAF Phase II, Part II, the FCC conducted Auction 903 to allocate Phase II support to a certain number of locations in eligible census block groups (CBGs) across the United States, including areas in Pennsylvania where certain federal price cap ILECs had declined to receive the model-based high-cost support that had been previously offered by the FCC.¹⁶ Auction 903 ran from July 24, 2018 to August 21, 2018 and awarded up to \$198 million annually for 10 years to all service providers that had committed to provide voice and fixed broadband access services to specific locations in unserved high-cost areas, including areas in Pennsylvania.¹⁷ As a result of Auction 903, some homes and businesses would have voice as well as broadband Internet access services (BIAS) available with download speeds of at least 100 Mbps.¹⁸ Others would have voice and gigabit (Gbps) service available.¹⁹ And lastly, the remaining locations would have voice as well as at least 25 Mbps download service available.²⁰

Concomitantly, 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 had begun restructuring the federal USF Lifeline program.²¹ In its 2012 Lifeline Reform Order, the FCC eliminated the previous system of tiered support and set an interim funding rate of \$9.25 per month and per eligible subscriber or household effective May 1, 2012.²² 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.²³

B. VCS's Petition and Supplements

On August 28, 2018, the FCC announced that Viasat had been awarded federal high-cost support funding from Auction 903 in certain designated CAF-eligible census blocks located throughout the Commonwealth of Pennsylvania. As a winning bidder, along with providing voice services, Viasat must also offer broadband access services at a speed of at least 25 Mbps downstream and 3 Mbps

¹⁶ See Public Notice, Connect America Fund Phase II Auction Closes Winning Bidders Announced FCC Form 683 Due October 15, 2018, AU Docket No. 17-182 and WC Docket No. 10-90 (rel. August 28, 2018) (CAF Auction Results Notice), <https://www.fcc.gov/auction/903>.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Lifeline and Link Up Reform and Modernization, et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Red 6656 (2012) (2012 Lifeline Reform Order or Lifeline FNPRM).

²² Currently, federal rules limit Lifeline funding support to \$7.25 per month per subscriber for voice services. The Lifeline subscriber's \$7.25 support is applicable to broadband access service a Lifeline consumer may choose to purchase but subscribers cannot receive the \$7.25 support separately for each service. However, Lifeline also supports broadband access and voice bundles so consumers choosing a bundled package containing voice and broadband access service can apply the \$7.25 monthly support to that bundle.

²³ 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 Red 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 Red 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 Red 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 NOD) (collectively Lifeline Reform Orders).

⁶ See Federal-State Joint Board on Universal Service, First Report and Order, 12 FCC Red 8776, 8847-76, paras. 130—180 (1997) (Universal Service Order).

⁷ See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Red 6371, 6372, 6380, paras. 2, 20 (2005) (2005 ETC Designation Order).

⁸ See 2005 ETC Designation Order, 20 FCC Red at 6372, 6380, paras 1, 20.

⁹ 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) (ETC Guidelines Order).

¹⁰ In the Matter of Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Red 17663 (2011), aff'd sub nom In re FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (USF/ICC Transformation Order). The FCC, inter alia, adopted rules that modernized and refocused the federal USF to make affordable broadband access available to all Americans and an inherent part of the universal service concept.

¹¹ See USF/ICC Transformation Order, 26 FCC Red at 17672, para. 17.

¹² Id.

¹³ Id. at 17673, paras. 19—25.

¹⁴ Id. at 17673, para. 20.

¹⁵ Id. at 17673, paras 22-23.

upstream (25/3 Mbps).²⁴ In accordance with Auction 903 rules and procedures, Viasat assigned all of its winning bids in Pennsylvania to its wholly-owned subsidiary, VCS.²⁵ In the instant Petition, VCS has requested ETC designation in only the 1,287 specific census blocks where it had submitted a successful bid in Auction 903 and had been awarded CAF Phase II high-cost funding support by the FCC. See Appendix A. The Commission has engaged in detailed analysis of the Petition and supplemental information²⁶ that was provided by VCS to ensure consistency with federal and state law.

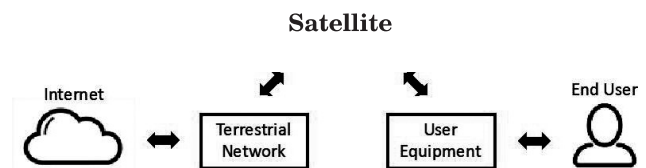
VCS is a Delaware corporation headquartered at 6155 El Camino Real, Carlsbad, California 92009.²⁷ VCS stated that it has received the requisite authority from the Pennsylvania Department of State to do business in Pennsylvania as a foreign corporation.²⁸ In its Petition, VCS stated that it is a wholly-owned subsidiary of Viasat, a Delaware corporation also headquartered at 6155 El Camino Real, Carlsbad, California 92009.²⁹ VCS stated that its parent company, Viasat, currently provides voice telecommunications service via Internet Protocol (IP) technology or interconnected Voice-over-Internet Protocol (VoIP) service and BIAS to customers in all fifty states and the District of Columbia.³⁰ VCS added that Viasat's end-to-end platform of high capacity Ka-band satellites, ground infrastructure and user terminals enables Viasat to provide cost-effective, high-speed, high-quality broadband solutions to enterprises, consumers and government users around the globe.³¹ VCS further pointed out that Viasat develops and provides advanced wireless communications systems, secure networking systems and cybersecurity and information assurance products and services.³² VCS indicated that it will rely on the significant managerial and technical expertise of Viasat to provide the CAF-funded supported services to consumers in Pennsylvania.³³

VCS stated that Viasat's satellite networks utilize geostationary-satellite orbit (GSO) satellite technologies.³⁴ VCS stated that Viasat had previously deployed several consumer broadband networks, starting with the WildBlue-1 network, which was deployed in 2005 and has operated continuously since that time.³⁵ VCS further indicated that in 2011, Viasat deployed the VCS-1 satellite network, which Viasat has used to provide high-speed, high-quality broadband access services to consumers and other end users.³⁶ Additionally, in 2017, Viasat deployed the VCS-2 satellite network, which commenced service in April 2018.³⁷ VCS noted further that Viasat has a new satellite under construction and ready for launch in the 2020 timeframe, Viasat-3, which will allow VCS to offer even higher speeds of broadband access service and more capacity than Viasat-2.³⁸ VCS stated that Viasat's

satellite networks support BIAS, video streaming, and VoIP service, among other applications.³⁹

VCS also stated that last-mile connectivity is provided to end users through GSO user terminals that communicate directly with Viasat's satellites.⁴⁰ VCS further indicated that Viasat's satellites also connect to satellite access nodes (SANs) that are located on the ground and interconnect with the Internet, the public switched telecommunications network (PSTN), and other terrestrial networks using leased fiber optic links.⁴¹ VCS stated further that it will outsource technical, billing, installation, and customer service matters to Viasat as doing so is more efficient and cost-effective than creating duplicative functions.⁴²

As noted above, VCS has stated that it will use Viasat's existing GSO network architecture to provide its interconnected VoIP service and BIAS to consumers in Pennsylvania.⁴³ VCS explained that the satellite network is comprised of three principal segments: (i) a space segment consisting of communications links between the satellites and associated ground facilities (which in turn connect to VCS's terrestrial network); (ii) a terrestrial network consisting of terrestrial data, management and control functions, and interconnection to the Internet; and (iii) a user segment, consisting of links between VCS's satellites and the end user equipment.⁴⁴



1. Space Segment

The space segment consists of the communication links between Viasat's GSO satellites located in space and gateway earth stations or SANs located on the ground.⁴⁵ As noted above, Viasat currently provides consumer broadband service over two GSO satellites—Viasat-1 and Viasat-2.⁴⁶ Together, these satellites will allow VCS to provide service to all supported areas. These satellites utilize Ka-band spectrum,⁴⁷ and will provide capacity to facilitate the provision of supported services.⁴⁸

- Viasat-1 is a “bent-pipe” Ka-band satellite, which uses relatively small “spot beams” that allow the efficient reuse of available spectrum resources. Viasat-1 provides at least 140 Gbps of total capacity. Viasat-1 currently communicates with 17 gateway earth stations. In addition to an antenna and associated radiofrequency (RF) and baseband equipment, each gateway contains a fiber optic link back to a core node, where data is further processed before connecting to the Internet (as part of the terrestrial network segment, described below).⁴⁹

- VCS-2 is a newer satellite design than Viasat-1. Viasat-2 has a maximum potential capacity of approximately 260 Gbps. Viasat-2 has a unique design which allows VCS to allocate capacity among spot beams based

²⁴ See generally CAF Auction Results Notice.

²⁵ Petition at 3 and 7. Viasat created VCS specifically for the purpose of assigning the Auction 903 high-cost funding support in order to provide voice service and BIAS. See also fn. 28 *infra*.

²⁶ See fn. 3.

²⁷ Petition at 5.

²⁸ See February 19, 2020 Supplement.

²⁹ Petition at 5.

³⁰ Petition at 5 and 9. Viasat is currently providing interconnected VoIP service and BIAS to customers in Pennsylvania which it refers to as Exede services. These Exede services offered by Viasat will be distinct from the CAF-funded interconnected VoIP service and BIAS that its wholly-owned subsidiary VCS will be offering to consumers upon designation as a federal high-cost ETC.

³¹ Petition at 5.

³² *Id.*

³³ Petition at 5 and 9.

³⁴ *Id.* at 9–11.

³⁵ *Id.* at 6.

³⁶ *Id.* at 6.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at 5.

⁴⁰ *Id.* at 6.

⁴¹ *Id.*

⁴² *Id.* at 5.

⁴³ *Id.* at 9.

⁴⁴ *Id.* at 10.

⁴⁵ *Id.* at 10.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ The term “Ka-band” refers to the 18.3–18.8 GHz, 19.7–20.2 GHz, 28.35–28.6 GHz, and 29.25–30.0 GHz bands, also known as the “conventional Ka-band,” which the FCC has designated as primary for GSO FSS operation. See 47 C.F.R. § 25.103.

⁴⁹ *Id.*

on demand. Viasat-2 currently communicates with 46 SANs. SANs are similar to gateway earth stations, except that in the case of SANs certain equipment (and related functions) are essentially relocated to the core node to increase operational efficiency.⁵⁰

VCS stated that Viasat has also been authorized to provide service to the United States using two additional GSO networks at the 79° W.L. and 88.9° W.L. orbital locations.⁵¹ VCS also has indicated that Viasat's ability to operate satellites at either or both of those locations, along with associated ground equipment, will allow it to scale available capacity over time to accommodate the demand for CAF II-supported services from additional subscribers.⁵²

2. Terrestrial Network

The terrestrial network segment performs the transport, data processing, control, and management functions for Viasat's GSO networks.⁵³ The terrestrial network segment is physically implemented using core nodes, fiber optic transport links, and public cloud computing centers.⁵⁴

- The transport network physically connects each gateway and SAN with its associated core node, and also connects the core nodes together to provide redundant data paths. The transport network is based on leased fiber optic wavelengths terminated into commercial off-the-shelf ("COTS") switching and routing equipment.⁵⁵

- Viasat maintains several core nodes across the country, which: (i) serve as aggregation points for data traffic routed through gateways and SANs; and (ii) interconnect with the Internet, the PSTN, and other terrestrial networks through leased fiber optic links. The core nodes essentially operate as private data centers and use a combination of proprietary and COTS applications.⁵⁶

- Control and management functions (e.g., provisioning, accounting, billing, network monitoring, and configuration management) are hosted in the public cloud. These functions utilize a combination of proprietary software and customized COTS software products. Hosting these functions in the public cloud allows them to be highly available and easily expandable.⁵⁷

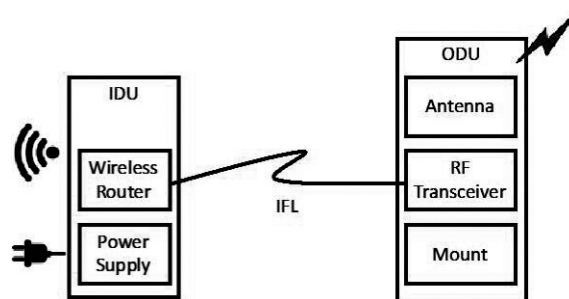
3. User Segment

The user segment refers to the portion of the network that connects each individual user to one or more of Viasat's GSO satellites and, therefore, the larger satellite network.⁵⁸ It is the rough analog of the "last mile" in terrestrial wireline networks. Relevant equipment (other than the satellite itself) includes the following:

- The user terminal is the ground-based equipment employed by an individual user to access the VCS satellite network. The user terminal consists of an indoor unit (IDU), outdoor unit (ODU), inter-facility link (IFL), and power supply (which are depicted in the figure below).⁵⁹

Figure: Viasat User Terminals

- The indoor unit (or IDU) performs client-side functions related to Internet access (e.g., those related to use



of transmission control protocol (TCP) and hypertext transfer protocol (HTTP)), as well as certain signal conversion, modulation, and amplification functions. The IDU also incorporates a Wi-Fi router that can be accessed by end users (and their communications devices) in the same manner as other Wi-Fi routers. The IDU interfaces with the ODU through the inter-facility link (described below).⁶⁰

- The outdoor unit (or ODU) performs certain signal conversion, modulation, and amplification functions, and transmits signals to and receives signals from the satellite. The ODU is typically mounted on a roof or a pole and interfaces with the IDU through the inter-facility link (described below).⁶¹

- The inter-facility link (or IFL) is a 75 Ohm coaxial cable that carries the communications signal and electrical power between the IDU and ODU.⁶²

VCS has stated that it will partner with a third-party vendor, Alianza Inc., (Alianza) for the provisioning of interconnected VoIP service to potential customers in Pennsylvania.⁶³ However, VCS has also indicated that it will be using the above-referenced GSO network architectures and technologies of Viasat to facilitate the transmission of the IP-enabled voice signal.⁶⁴ VCS has stated that with its current, existing satellite network it possesses the requisite satellite capacity to accommodate simultaneous broadband access download demand for its services in the contemplated Pennsylvania locations including time periods of peak demand.⁶⁵

Regarding the specific supported services, VCS stated that when it is designated as ETC, it plans to provide interconnected VoIP service and high-quality BIAS only to the 45,100 locations (customers) in the 1,287 discrete awarded census blocks across all 67 Pennsylvania counties that comprise its proposed Designated Service Area.⁶⁶ VCS stated that it would not charge any customers (including Lifeline customers) a security deposit for obtaining the supported services.⁶⁷

VCS stated that its interconnected VoIP service will provide unlimited local and long distance calling at a flat monthly rate.⁶⁸ Additionally, VCS stated that its interconnected VoIP service will be offered with a litany of standard features such as voicemail, call screening options such as caller I.D. blocking, auto-forwarding, block and auto-message), call forwarding, find me-follow me, call handling services (do not disturb, ring phone) at no additional charge.⁶⁹ As part of its interconnected VoIP service offering, VCS also has proposed to offer stand-

⁵⁰ Id. at 11.

⁵¹ Id.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Id. at 11-12.

⁵⁸ Id. at 12.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

⁶³ See April 23, 2019 Supplement at 3, Item 6.a.

⁶⁴ Petition at 9-12.

⁶⁵ See September 17, 2019 at 1-2, Item Nos. 1.a and 1.b (Redacted Responses).

⁶⁶ See Appendix A.

⁶⁷ See January 30, 2019 Supplement at 2; September 17, 2019 Supplement at 11.

⁶⁸ October 17, 2019 Supplement at 4.

⁶⁹ February 3, 2020 Supplement at 4.

alone voice service, which will be a protected service in its proposed designated service area unless the interconnected VoIP service is provided in one of the 153 wire centers reclassified as competitive in the Verizon Reclassification Order.⁷⁰ See Joint Petition of Verizon Pennsylvania LLC and Verizon North LLC for Competitive Classification of all Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services, Docket Nos. P-2014-2446303 and P-2014-2446304 (Order entered March 4, 2015). VCS will also make its interconnected VoIP service available as an add-on to its BIAS product offering.⁷¹ VCS also stated it will also ensure uninterrupted access to 911/Enhanced 911 (911/E911) emergency calling services for its CAF customers.

VCS stated further that it will provide electronic invoices to customers who provide prior consent, and will provide paper invoices at no additional charge for consumers who do not provide consent to electronic billing or seek to revert to paper billing or such requirements as may be in effect under Pennsylvania law.⁷² VCS also stated that it plans to bill all of its customers on a monthly prepaid basis.⁷³ VCS has also stated that it will charge all of its customers, including Lifeline customers, an installation fee and equipment lease fee (if applicable) for provisioning the interconnected VoIP service or BIAS to them.⁷⁴

VCS also stated that it would offer a variety of packages for its supported services, including packages with a one-year minimum service term.⁷⁵ VCS further submitted that it will offer a discount on the monthly charge for customers who purchase a bundle of voice and Internet access.⁷⁶ VCS further indicated that its bundled services package will have a minimum service term and since its voice service is provided via satellite, standalone voice offerings will require at least a one-year minimum service term to recover the costs of installing the satellite Internet portion of the service.⁷⁷ This one-year minimum service term for standalone voice will only apply to non-Lifeline customers.⁷⁸ VCS has indicated that as currently proposed, if the non-Lifeline customer decides to terminate service during the initial service term, a \$15 per month charge for the remaining term would become due.⁷⁹ VCS further indicated that an early termination fee, if assessed, would apply to non-Lifeline customers when or if free standard installation is advertised as a purchase incentive.⁸⁰ However, VCS explained that it would allow a residential voice customer to request an early termination of service without a penalty (early termination fee) for material, and ongoing degradation in service quality or service interruption of a significant length of time such that the customer is not able to use the service at all or to make reasonable use of the service issues.⁸¹

VCS stated that it has no current plans to offer the supported services of voice and BIAS outside of the CAF Phase II winning bid areas and, thus, will provide Lifeline services only within its proposed Designated

Service Area.⁸² VCS indicated that it will provide the same interconnected VoIP service offering and BIAS to Lifeline customers that are available to non-Lifeline subscribers at the same terms, rates and conditions.⁸³ However, VCS stated that Lifeline customers who subscribe to its standalone interconnected VoIP Services would not be subject to a minimum service term.⁸⁴ VCS also indicated that eligible Lifeline customers who will subscribe to the interconnected VoIP service offering will be provided with unlimited local and interstate calling capabilities that will feature access to a variety of standard features for its customers such as voicemail, caller I.D., etc., at no extra charge.⁸⁵ Furthermore, VCS stated that it will offer number porting at no charge to its Lifeline customers.⁸⁶ VCS also stated it will also ensure uninterrupted access to 911/Enhanced 911 (911/E911) emergency calling services for its CAF and Lifeline customers.⁸⁷ VCS's Lifeline customers will be advised of the prepaid billing method prior to establishing Lifeline service with VCS.

Lastly, VCS asserted that it will comply with the applicable FCC and Pennsylvania state requirements pertaining to eligibility determinations for potential Lifeline customers.⁸⁸ As such, VCS acknowledged and understood that Pennsylvania participates in the Lifeline National Eligibility Verifier (National Verifier) program.⁸⁹ VCS indicated that it understood that all electronic and paper applications are to be certified by the National Verifier, and applicants must physically e-sign an application for Lifeline whether entered by the applicant or VCS staff. Additionally, VCS stated that it will comply with the automated process that the Pennsylvania Department of Human Services (DHS) has established with the National Verifier to assist with qualification and that all applications for Lifeline are approved by the National Verifier.⁹⁰

Discussion

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific Federal universal service support."⁹¹ Section 214(e)(2) of the Act provides state commissions with the primary responsibility for performing ETC designations.⁹² Thus, pursuant to Section 214(e)(2), each certificated telecommunications carrier seeking federal universal service high-cost support must file a petition with the state commission in order to be designated an ETC. In those instances where a state cannot or will not make the requisite ETC designation, the FCC makes the ETC designation.⁹³ Thus, 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.

The Commission has adopted the federal requirements as a starting point for review of a request for ETC designation.⁹⁴ We also have Pennsylvania-specific guidelines discussed below that a federal high-cost ETC peti-

⁷⁰ January 30, 2019 Supplement at 8.

⁷¹ Petition at 14; January 30, 2019 Supplement at 8; October 17, 2019 Supplement at 4.

⁷² February 3, 2020 Supplement at 4.

⁷³ January 30, 2019 Supplement at 8; September 17, 2019 Attachment A at 2.

⁷⁴ October 17, 2019 Supplement at 5.

⁷⁵ See March 17, 2020 Supplement at 2.

⁷⁶ *Id.*

⁷⁷ March 17, 2020 Supplement.

⁷⁸ See March 17, 2020 Supplement and April 14, 2020 Supplement.

⁷⁹ See April 14, 2020 Supplement at 2.

⁸⁰ See April 14, 2020 Supplement at 2. As of that date, VCS was "still working at the details of its offerings." *Id.*

⁸¹ *Id.*

⁸² January 30, 2019 Supplement at 1.

⁸³ October 17, 2019 Supplement at 4.

⁸⁴ *Id.*

⁸⁵ January 30, 2019 Supplement at 8 and October 17, 2019 Supplement at 5.

⁸⁶ February 3, 2020 Supplement at 3. ETCs may not charge Lifeline customers a monthly number portability charge. See 47 C.F.R. § 54.401(e).

⁸⁷ January 30, 2019 Supplement at 8.

⁸⁸ Petition at 14; January 30, 2019 Supplement at 1-2.

⁸⁹ In 2016, the FCC established the National Verifier to make eligibility determinations to enroll eligible subscribers into the Lifeline Program. The National Verifier is further discussed, *infra*.

⁹⁰ January 30, 2019 Supplement at 2.

⁹¹ 47 U.S.C. § 254(e).

⁹² 47 U.S.C. § 214(e)(2).

⁹³ 47 U.S.C. § 214(e)(6).

⁹⁴ See generally Universal Service Order and the 2005 ETC Designation Order.

tioner must satisfy before we can approve its request for ETC designation in Pennsylvania.⁹⁵ As set forth below, VCS satisfies all federal requirements, including the FCC's Universal Service Order, the 2005 ETC Designation Order, the USF/ICC Transformation Order, the Lifeline Reform Orders, and FCC regulations codifying the requirements of these Orders. VCS also satisfies related Pennsylvania-specific requirements or guidelines.⁹⁶

I. Federal Requirements for Designation as A High-Cost ETC

Pursuant to 47 U.S.C. § 214(e)(1), an ETC petition must contain the following: (1) a certification that the petitioner offers or intends to offer all services designated for support by the FCC pursuant to Section 254(c); (2) a certification that the petitioner offers or intends to offer the services supported by the federal universal service mechanisms throughout the designated service area "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); (3) a description of how the petitioner "advertise[s] the availability of [supported] services and the charges therefor using media of general distribution"; and (4) a detailed description of the geographic service area for which it requests an ETC designation from the Commission.⁹⁷

As the FCC set forth in its 2005 ETC Designation Order,⁹⁸ a telecommunications carrier must also satisfy these additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) a commitment and ability to provide services, including providing service to all customers within its proposed designated service area; (2) how it will remain functional in emergency situations; (3) that it will satisfy consumer protection and service quality standards; and (4) that it offers local usage comparable to that offered by the ILEC.⁹⁹ These requirements were codified in the FCC's rules and regulations.¹⁰⁰ The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.¹⁰¹

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).¹⁰²

⁹⁵ See ETC Guidelines Order at 4.

⁹⁶ The Commission's ETC designation review process reflects the current requirements under federal and state law. But the Commission acknowledges that ETC designation requirements imposed under state and federal law may change in response to subsequent developments.

⁹⁷ See Universal Service Order, 12 FCC Red 8776, 8847-76, paras. 130-180.

⁹⁸ See ETC Designation Order, 20 FCC Red at 6380, para. 20 (citing Federal-State Joint Board on Universal Service, Recommended Decision, 19 FCC Red 4259, para. 5 (Fed-State Jt. Bd. 2004)).

⁹⁹ In the 2005 ETC Designation Order, the FCC also 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 Red 17872, para. 647 and Appendix A.

¹⁰⁰ See 47 C.F.R. § 54.202.

¹⁰¹ 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)-(b).

¹⁰² Verizon PA and Verizon North are not rural ILECs in Pennsylvania. However, Windstream PA and CenturyLink are.

Thus, our review of VCS's petition will be done consistent with the federal requirements that must be met in order for an applicant to receive designation as an ETC, as codified, which we have adopted and implemented in the Commonwealth as the minimum standards applicable to ETC designation. Our review of VCS's petition also will be done to ensure consistency with independent Pennsylvania law as an ongoing obligation.

A. The FCC's Rules Governing ETC Designations

1. 47 C.F.R. § 54.101(a) and (b)

Certification Regarding the Offering of All Services Designated for Support

The FCC defines supported service as qualifying voice service and the offering of qualifying broadband services.¹⁰³ As a condition of receiving support, ETCs must offer qualifying voice service as a standalone service throughout their designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.¹⁰⁴ Accordingly, all ETCs must satisfy these criteria.

All ETCs must offer qualifying voice service using their own facilities, at least in part.¹⁰⁵ The Commission has interpreted the term "facilities," for purposes of Section 214(e) of the Act, to mean "any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under section 254(c)(1)."¹⁰⁶ As explained by the FCC, "a carrier need not offer universal service wholly over its own facilities in order to be designated an eligible carrier because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale."¹⁰⁷ Facilities are the ETC's "own" if the ETC has exclusive right to use the facilities to provide the supported services¹⁰⁸ or when service is provided by any affiliate within the holding company structure.¹⁰⁹

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 federal USF-related requirements.¹¹⁰ Accordingly, a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or

¹⁰³ 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 Red 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).

¹⁰⁴ USF/FCC Transformation Order, 26 FCC Red at 17693, paras. 80-81; see also 47 C.F.R. § 54.101(b).

¹⁰⁵ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.101. The FCC has exercised forbearance from the provision requiring that providers must provide supported service using at least a portion of their own facilities for certain wireless Lifeline-only providers. See Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Limited Eligible Telecommunications Carrier Designation in New York, Pennsylvania, Virginia, North Carolina, and Tennessee, Order, 24 FCC Red 3381 (2009) (Virgin Mobile Order).

¹⁰⁶ Universal Service Order, 12 FCC Red at 8847, para. 128.

¹⁰⁷ Id. at 8870, para. 169.

¹⁰⁸ Id. at 8866, para. 160.

¹⁰⁹ December 2014 CAF Order, 29 FCC Red at 15668 n.43; see also 47 U.S.C. § 153(2) (defining an affiliate as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person").

¹¹⁰ Cf. Connect America Fund, Report and Order, 28 FCC Red 7211, 7215, para. 9 (2013) (Phase II Challenge Process Order) (finding that it is not sufficient for a broadband provider to qualify as an "unsubsidized competitor" if a consumer must obtain voice service from a third party, because that broadband provider would not be offering a voice service).

by offering a managed voice solution (including VoIP) through a third-party vendor but cannot simply rely on the availability of over-the-top voice options.¹¹¹

VCS has attested that it will be providing all of the services and functionalities supported by the federal universal service program as set forth in Section 54.101(a) of the FCC's regulations throughout its proposed Designated Service Area in the Commonwealth of Pennsylvania using its own facilities.¹¹²

a. *Voice Grade Access to the Public Switched Telecommunications Network (PSTN)*

In order to satisfy this criterion, VCS must certify and demonstrate the technical and financial ability to provide voice services meeting or exceeding the CAF Phase II service standards. The Commission simply seeks to ensure that VCS can provide its potential voice end users with the same service qualities obtained when terrestrial, fixed voice service is purchased. In its CAF Phase II Price Cap Service Obligation Order, the FCC specified the latency requirements for entities—specifically, price cap carriers—receiving CAF Phase II model-based support assistance to maintain voice service and extend broadband-capable infrastructure to millions of Americans.¹¹³ Latency is the time it takes for a data packet to travel back and forth through a network. It concluded that price cap carriers must be prepared to demonstrate a round-trip latency of 100 milliseconds (ms) or less and provided two options for how they may test and report compliance with this requirement.¹¹⁴

However, when it was establishing the parameters for Auction 903, the FCC decided to affirmatively allow providers of mobile or satellite technology, who are designated as high latency voice service providers, to submit competitive bids for each of the technology-neutral performance tiers it had adopted.¹¹⁵ In taking this action, the FCC explicitly acknowledged that some of these high latency providers may be awarded winning bids and receive federal high-cost support but also may not be able to meet the stringent latency standard already applicable to price cap carriers receiving CAF Phase II model-based support.¹¹⁶ Hence, in creating the public service obligations for Auction 903, the FCC deviated from the prior latency standard it had established for low latency price cap carriers receiving CAF Phase II model-based high-cost support and adopted an alternative standard for high latency providers unable to meet the 100 ms voice latency standard.

¹¹¹ See Connect America Fund et al., Order on Reconsideration, 33 FCC Red 1380, 1387-88, para. 20 (2018) (rejecting arguments contending that “because VoIP is provided over broadband networks and over-the-top voice options are available, broadband service providers need only offer broadband as a standalone service,” and requiring carriers to “offer VoIP over their broadband network on a standalone basis”); cf. Phase II Challenge Process Order, 28 FCC Red 7224, n.21 (explaining that a broadband provider would be considered to be providing voice service if it did so through an affiliated competitive local exchange company or “through a managed voice solution obtained from a third party vendor. . . so long as the broadband provider is the entity responsible for dealing with any customer problems, and it provides quality of service guarantees to end user customers”).

¹¹² See Petition at 5-6; 8-13.

¹¹³ The FCC addressed certain requirements for price cap carriers accepting CAF Phase II support, specifying that they must certify that 95% or more of all peak period measurements (also referred to as observations) of network round trip latency are at or below 100 milliseconds (ms) between the customer premises and an FCC-designated Internet Exchange Point (IXP). Connect America Fund, Report and Order, 28 FCC Red 15060, 15070-71, paras. 23 (2013) (CAF Phase II Price Cap Service Obligation Order).

¹¹⁴ Id.

¹¹⁵ See generally Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Red 5949 (2016) (CAF Phase II Auction Order). The FCC permitted electric cooperatives, wireless Internet service providers, cable operators, telecom carriers, and a satellite company to submit bids and compete to receive funding in exchange for offering voice and broadband services meeting certain requirements to a required number of locations in the eligible areas covered by their winning bids.

¹¹⁶ Id.

In the CAF Phase II Auction Order, the FCC concluded that bidders designating high latency performance would be required to meet the following two-part standard for the latency of both their voice and broadband service: (1) a requirement that 95 percent or more of all peak period measurements of network round trip latency are at or below 750 milliseconds, and (2) with respect to voice performance, a requirement to demonstrate a score of four or higher using the Mean Opinion Score (MOS).¹¹⁷ However, the FCC did not adopt the MOS scoring metric as a substitute for the milliseconds of latency requirement. Rather, it stated that the better approach was to continue to measure latency the same way for all providers, but for entities submitting high latency bids to set a higher benchmark and require a demonstration of MOS of four or higher in order to ensure they are provisioning quality voice service performance.¹¹⁸

Additionally, to ensure that the high latency winning bidders in Auction 903, such as high-earth orbit satellite providers like VCS, could meet this higher benchmark standard, the FCC required them to test their networks for compliance with the appropriate speed and latency metrics and certify and report the results to the Universal Service Administrative Company (USAC) and the relevant state (or tribal government) on an annual basis.¹¹⁹ Similar to what it had required of low latency winners, the FCC determined that the speed and latency of networks of carriers receiving support through the various high-cost support mechanisms should be tested between the customer premise of an active subscriber and an FCC-designated IXP.¹²⁰ Carriers failing to meet the required standards will be subject to withholding of universal service support, based on the level of noncompliance.¹²¹

Further, high latency bidders were required to be prepared to submit their laboratory testing consistent with International Telecommunications Union's (ITU) recommended P.800 standard.¹²² CAF Phase II recipients using the MOS metric to measure the latency of its voice service are also required to submit testing results that are specific to their CAF-funded areas and also must provide this level of voice quality to all consumers in CAF-funded areas, not just to a subset of locations.¹²³ Thus, VCS must not only make a commitment and certify that its voice service performance is at a MOS of four or higher, it also must be prepared to demonstrate the veracity of this certification that its network and voice service complies with the MOS standard throughout the term of support.

In order to receive Auction 903 high-cost support funding, carriers must offer at least voice and broadband access services commercially. VCS has stated that it will partner with a third-party vendor, Alianza, for the provisioning of its interconnected VoIP service to potential customer in Pennsylvania.¹²⁴ However, VCS will be handling all customer complaints, concerns and inquiries regarding the interconnected VoIP service.¹²⁵ Additionally, VCS has stated that it will provide a standalone voice service (or available as an add on to BIAS) at rates that

¹¹⁷ Id. at 5961, para. 30.

¹¹⁸ Id. at 5961-62 paras. 31 and 33.

¹¹⁹ USF/ICC Transformation Order, 26 FCC Red at 17705-06, para. 109; see also Connect America Fund, Order, 33 FCC Red 6509, 6516 para. 18 (2018) (First Performance Measures Order). 47 C.F.R. § 54.313(a)(6).

¹²⁰ See First Performance Measures Order, 33 FCC Red at 6516, para. 18; see also Connect America Fund et al., Report and Order et al., 29 FCC Red 7051, 7104-06, paras. 151-56 (2014).

¹²¹ See First Performance Measures Order, 33 FCC Red at 6530-33, paras. 56-67.

¹²² CAF Phase II Auction Order, 31 FCC Red at 5960-61, para. 30, fn. 62; see also First Performance Measures Order, 33 FCC Red at 6525-26, paras. 44-46.

¹²³ The test starting date is January 1, 2023 and the test results are due July 2024.

¹²⁴ See April 23, 2019 Supplement at 3.

¹²⁵ See January 30, 2019 Supplement at 9.

are comparable to urban rates.¹²⁶ VCS further stated that its voice service will be offered on a prepaid basis as customers will be charged a monthly fee in advance of the month.¹²⁷ Thus, VCS is offering the supported service commercially and appears to be eligible to receive Auction 903 support.

However, as an ETC, VCS's supported services, especially its voice service, must meet the relevant FCC service requirements. Specifically, before receiving its federal high-cost support, VCS must be able to demonstrate that it can provide quality, reliable voice service to potential customers in Pennsylvania and that its CAF-supported voice service (and broadband access service) meets the requisite speed and latency requirements. Similar to the FCC, the Commission's chief concern is that VCS provide quality, reliable voice service that is reasonably comparable to voice service purchased from a terrestrial, fixed service provider. Thus, the Commission seeks to ensure that VCS can provide its potential voice end users consistent with the service obligation standards established by the FCC

The Commission notes that although satellite transmissions travel at rates faster than those of terrestrial networks using copper, cable, or fiber to transmit voice service, a geostationary satellite's distance from Earth makes achievement of the 100 ms highly unlikely, if not nearly impossible. Based on the geostationary satellite technology VCS proposes to use to provide its voice services in Pennsylvania, the Commission recognizes that VCS's voice service will not be comparable to traditional wireline terrestrial voice services since it cannot meet the 100 ms latency standard. Low latency, that is, shorter delays, is an essential and critical component for voice telecommunications and also critical for other highly interactive applications. High latency voice service could result in problems such as echo or excessive delay that could be present in an interactive, two-way conversational setting that requires both speaking and listening. Thus, the Commission is not simply referring to a mere nuisance situation, but rather a highly problematic issue, especially for a customer attempting to make an emergency 911/E911 call that needs to be routed to the appropriate Public Safety Answering Point (PSAP).

Notwithstanding, the Commission acknowledges that the FCC did not bar or prohibit bidders utilizing satellite technology to provide voice services from participating in Auction 903, as long as the high latency provider could certify that it can provide performance comparable to terrestrial, fixed voice and meet the CAF Phase II service obligations. It simply established a differing latency standard applicable to their voice offerings by requiring them to demonstrate a score of four or higher using the MOS as a voice quality measure. Consequently, we will not go as far as to conclude or explicitly state in this Order that VCS's geostationary satellite system can never meet the MOS 4 standard that the FCC has adopted for high latency voice services. Nevertheless, the question that remains is whether the Commission should require VCS to demonstrate its capability to provide voice service meeting the Auction 903 performance standards as it has certified in its Petition before granting it an ETC designation.

The Commission notes that while VCS has a contractual agreement with Alianza, which is a third-party vendor of interconnected VoIP services, it will still be utilizing its parent company's, Viasat, extensive geosta-

tionary satellite network and facilities or a combination of its facilities to facilitate the transmission and provisioning of the interconnected VoIP service signals to and from its potential customers in Pennsylvania.¹²⁸ The Commission further notes that Viasat is currently providing a competitive interconnected VoIP service to customers throughout the United States, including in Pennsylvania using geostationary satellite technology.¹²⁹ VCS will be using Viasat's two satellites, Viasat-1 and Viasat-2 to provide the GSO services necessary to provide its interconnected VoIP service in its proposed Designated Service Area.

VCS has pledged to prioritize voice and other latency-sensitive traffic, including 911/E911 emergency calls, over other non-voice traffic in all situations, i.e., during periods of no congestion and periods of congestion.¹³⁰ VCS has stated that it has developed traffic shaping and other tools to mitigate any potential effects of latency on voice quality and plans to utilize these practices and technology to develop additional upgrades to its network to further improve voice quality for its voice services.¹³¹

Additionally, the Commission also takes note of the FCC's consideration of VCS's ETC Designation Petition that was before it. There, the FCC determined that VCS satisfied the eligibility requirements to receive universal service support, as set forth in Section 214(e)(6) of the Act, 47 U.S.C. § 214(e)(6), and issued an order on September 18, 2019, federally-designating VCS an eligible telecommunications carrier in eligible high-cost areas within Alabama, California, Florida and West Virginia.¹³²

In the VCS ETC Designation Order, the FCC stated that the federal ETC designation process is separate from and serves a different purpose than the authorization process and post-authorization accountability measures, including performance testing.¹³³ The FCC further stated that the ETC process establishes a petitioner's general eligibility for receiving federal USF support and imposes certain statutory and regulatory obligations but does not duplicate the multifaceted, objective, and consistent process for evaluating Auction 903 long-form applications or future performance.¹³⁴ The FCC concluded that it was not necessary to require VCS to submit documentation or proof of its technical capabilities to meet the Auction 903 performance standards as a condition of obtaining a federal high-cost ETC designation from it. Accordingly, a federally-designated ETC petitioner only needs to provide a certification as part of its ETC petition, and not to demonstrate its capability to provide service as certified.

For these reasons, VCS asserts that it meets the ETC requirement of being a common carrier. We agree. We believe that either by using its parent company's network and facilities, using its own facilities or a combination of both that VCS will be able to provide interconnected VoIP service to potential customers in Pennsylvania that meets the CAF performance standards for voice service.¹³⁵ Additionally, since the FCC designated VCS a federal ETC in the states of Alabama, California, Florida and

¹²⁸ Petition at 9—13; see also April 23, 2019 Supplement at 3.

¹²⁹ Petition at 5 and 9; see also April 23, 2019 Supplement at 5.

¹³⁰ See September 17, 2019 Supplement at 3, Item No. 5 (Redacted Response).

¹³¹ Id. VCS stated that: "Viasat prioritizes all Viasat voice communications, including 911/E911 emergency calls over other non-voice communications. Viasat does not prioritize 911/E911 emergency calls over other Viasat-managed VoIP calls within its network. 911/E911 calls are switched like any other calls in terms of processing and the order in which it is received. However, Viasat uses dedicated trunks to its E911 provider (Intrado) and its own call authorization process will decrease the call setup time by 5—10 ms." (Non-Proprietary Response).

¹³² See generally In the Matter of Telecommunications Carriers Eligible for Universal Service Support Connect America Fund, Order, 34 FCC Rcd 8137 (2019) (VCS ETC Designation Order).

¹³³ VCS ETC Designation Order, 34 FCC Rcd at 8142, para. 17.

¹³⁴ Id.

¹³⁵ Petition at 8—14.

¹²⁶ Petition at 10 and 14; January 30, 2019 Supplement at 8.

¹²⁷ See January 30, 2019 Supplement at 9.

West Virginia without requiring it to demonstrate that it already has the capability to provide voice service meeting the MOS scoring metric beforehand, the Commission will adopt this same approach.¹³⁶

Furthermore, we take note that even after receiving an ETC designation from us, VCS must again certify and demonstrate, as part of the FCC's long-form application process, that it has the technical and financial ability to provide voice service meeting or exceeding CAF Phase II standards prior to being authorized to receive federal high-cost support.¹³⁷ Indeed, it is only after the FCC evaluates whether the VCS is technically and financially capable of meeting its service obligations that the FCC will authorize the release of the financial support that VCS had won in the auction.

We acknowledge that VCS has certified in its Petition that its geostationary satellite system can and will meet the high latency MOS 4 standard established by the FCC for Auction 903 federal high-cost funding recipients.¹³⁸ The Commission will not require VCS to demonstrate to us that already has the capability to provide voice service meeting the MOS scoring metric before receiving an ETC designation from us. As such, the Commission finds that based on the information, representations, and certification in its petition, VCS is a common carrier under 47 U.S.C. § 214(e)(1) for purposes of ETC designation.

b. *Minutes of Use for Local Service*

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers at no additional charge. Although the FCC did not set a minimum local usage requirement, in the Universal Service Order, it determined that ETCs should provide some minimum amount of local usage as part of their "basic service" package of supported services.¹³⁹ However, the FCC has determined that a carrier satisfies the local usage requirements by including a variety of local usage plans as part of a universal service offering. VCS has stated that it will offer unlimited local and interstate (long distance) calling within the US and Canada for a flat monthly fee to CAF customers at a flat monthly rate and also to Lifeline customers.¹⁴⁰ VCS states that it will charge for international usage, but will not include usage or toll charges for local, intrastate or interstate calls.¹⁴¹ Therefore, VCS asserts that since its voice services will be unlimited and not distinguish between local and long distance calling, a customer's local calling area will not be relevant for the VCS's voice customer.¹⁴²

Additionally, as part of its voice service plan that VCS will also provide to Lifeline customers, VCS offers access to a variety of other features at no cost, including voice mail, call screening options such as caller I.D., blocking, auto-forwarding, block and auto-message, call waiting services, find me-follow, call handling (do not disturb, ring phone) and E911 capabilities.¹⁴³ This complies with the local usage requirements established by the FCC at 47 C.F.R. § 54.101.

¹³⁶ Petition at 13-14.

¹³⁷ See generally Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903, Public Notice, 33 FCC Red 1428 (2018) (Auction 903 Procedures Public Notice).

¹³⁸ Petition at 14-15.

¹³⁹ See Universal Service Order, 12 FCC Red 8776, 8813, para. 67. Although the FCC's rules define "local usage" as "an amount of minutes of use of wire center service, prescribed by it, provided free of charge to end users," the FCC has not specified a number of minutes of use. See 47 C.F.R. 54.101(a)(1). See also Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 02-1 (rel. Jul. 10, 2002).

¹⁴⁰ January 30, 2019 Supplement at 8; October 17, 2019 Supplement at 4.

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ See Petition at 14; October 17, 2019 Supplement at 5.

c. *Access to Emergency Services*

VCS certifies that it will provide access to 911 and E911 emergency calling services for all of its customers throughout its entire service area.¹⁴⁴ VCS has stated that it will transmit the user's phone number and/or location to the PSAP once the VoIP 911 call is connected to the PSAP.¹⁴⁵ VCS will rely on Viasat's existing 911 capabilities. VCS, Inc. provides 911 services to all of its United States based voice customers.¹⁴⁶ This is accomplished by routing 911 calls to a PSAP based upon a customer's ANI (automated number identification) and transported through a wireline 911 network.

Additionally, VCS has stated that it has already contacted municipalities in its service areas to arrange for the provision of 911/E911 emergency telecommunications services.¹⁴⁷ VCS also stated that Alianza, which is the third-party vendor that VCS has partnered with to provide its interconnected VoIP service, has already arranged for the provision of 911/E911 emergency calling service in the census blocks VCS has been awarded CAF II funds.¹⁴⁸ Alianza will partner with West Safety Communications (f/k/a Intrado Communications) for its 911/E911 service since it has a contract with them for the provisioning of 911/E911 services.¹⁴⁹ Lastly, as mentioned supra, VCS has pledged to prioritize 911/E911 emergency service over other Internet traffic in all situations, i.e., during periods of no congestion and periods of congestion.¹⁵⁰ Accordingly, the Commission determines that VCS has satisfied this criterion.

d. *Toll Limitation Services*

Under the language of Section 54.400, the FCC has defined three terms addressing the service provided by an ETC by which a subscriber may prevent toll charges from accumulating beyond a set point. Specifically, Subsection 54.400(b) of the FCC's regulations defines "toll blocking" as the service a subscriber may elect to not allow outgoing toll calls. Subsection (c) defines "toll control service" as the service a subscriber may elect to specify a set amount of toll usage allowed per month or per billing cycle. Subsection (d) defines "toll limitation service" as a generic term covering either toll blocking or toll control service for ETCs that are incapable of providing both or covering both services.

Section 54.401(a)(2), toll limitation service, does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an ETC charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers' Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

As mentioned supra, VCS's Lifeline service will include unlimited local and long-distance calling anywhere in the United States and Canada for a flat monthly rate and will not include any usage or toll charges for such calls.¹⁵¹ However, VCS has stated that it will charge customers for international calling.¹⁵² As such, VCS plans to provide toll limitation services at no cost to qualifying Lifeline customers in order to restrict calls to international or premium rate numbers unless the customer

¹⁴⁴ See Petition at 14.

¹⁴⁵ See April 23, 2019 Supplement at 3.

¹⁴⁶ Id.

¹⁴⁷ See January 30, 2019 Supplement at 3.

¹⁴⁸ See April 23, 2019 Supplement at 3.

¹⁴⁹ Id.

¹⁵⁰ See September 17, 2019 Supplement at 3.

¹⁵¹ See October 17, 2019 Supplement at 4.

¹⁵² See January 30, 2019 Supplement at 8.

requests access in writing to have those controls lifted.¹⁵³ Therefore, the nature of VCS's service eliminates the concern that low-income customers will incur significant charges for international calls, risking disconnection of their service.

e. *Eligible Broadband Internet Access Services*

An ETC subject to a high-cost public interest obligation to offer BIAS must offer BIAS that provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service, within the areas where it receives high-cost support.¹⁵⁴ Viasat is obligated to offer BIAS at a speed of at least 25/3 Mbps. For winners in the CAF Phase II auction who submitted high latency bids, the FCC required them to show that 95% or more of all testing hour measurements of network round trip latency are at or below 750 ms as their latency standard for BIAS.¹⁵⁵

The Commission notes that currently VCS's parent company, Viasat, provides BIAS to customers in all fifty states and the District of Columbia.¹⁵⁶ VCS will be utilizing Viasat's extensive network and facilities, its own facilities, or a combination of its own facilities to offer CAF-funded BIAS of at least a minimum speed of 25/3 Mbps to its potential customers residing within its proposed Designated Service Area.¹⁵⁷ Additionally, VCS has stated that it invests in cybersecurity measures and ensures that its third-party providers meet its security standards.¹⁵⁸ VCS stated further that it regularly performs vulnerability scanning of the management and control planes and has not experienced any customer data breaches within the last five years.¹⁵⁹

Accordingly, the Commission finds that VCS satisfies this requirement because through the CAF II funding support it will receive from Auction 903, VCS will be able to furnish BIAS supported service in Pennsylvania that provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.¹⁶⁰

2. *47 C.F.R. § 54.201*

Definition of ETC

Pursuant to Section 153(10) of the Act, "common carrier" is defined as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio[.]" 47 U.S.C. § 153(10). A carrier is eligible under Section 54.201 so long as it offers the services set forth in Section 54.101, either through its own facilities or a combination of its own facilities and the resale of another carrier's services and advertises the availability of the federal universal support services using media of general distribution.¹⁶¹ Common carriers that provide services consistent with the requirements of Section 214(e) may be designated ETCs.

As previously found, VCS meets the ETC requirement of being a common carrier. VCS will provide interconnected VoIP service (and BIAS) in Pennsylvania. Moreover, VCS will provide standalone interconnected VoIP service in its proposed Designated Service Area through its own facilities or in combination with Viasat's facilities and/or its Alianza contract.¹⁶² As such, VCS is a common carrier under 47 U.S.C. §§ 214(e)(1) and 214(e)(6) for purposes of ETC designation.¹⁶³

VCS has stated that it will advertise the availability of its Lifeline services on its website and using media of general distribution.¹⁶⁴ VCS's website must show the Lifeline service options available, and VCS will seek input and approval from the Bureau of Consumer Services (BCS) before placing this information onto its website. VCS has stated that it will establish a customer care center to assist existing and new subscribers with completing paper applications or the online National Verifier applications.¹⁶⁵

3. *47 C.F.R. § 54.202*

Additional Requirements

VCS also meets the additional requirements for ETC designation as outlined in the Commission's Policy Statement at 52 Pa. Code § 69.2501 and set forth in Section 54.202 of the FCC's rules, as discussed below.

a. *47 C.F.R. § 54.202(a)(1)*

Compliance with Service Requirements

In order to satisfy these criteria, an ETC applicant must demonstrate its commitment and ability to provide the supported services throughout its proposed Designated Service Area: (1) by providing services to all customers making a reasonable request for service within the ETC's designated service area; and (2) by submitting a formal network improvement plan that demonstrates how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support.

To satisfy the first prong, an ETC petitioner must ensure that it is providing services to all customers making a reasonable request for service within the ETC's designated service area. If the ETC's network already passes or covers the potential customer's premises, the ETC should provide service immediately. VCS has stated that it is able to install a new customer's service within four business days.¹⁶⁶

VCS certifies that it will comply with all applicable requirements related to receipt of high-cost support, consistent with 47 C.F.R. § 54.202(a)(1)(i).¹⁶⁷ VCS commits to providing voice and broadband access service, including all of the supported services, throughout its proposed Designated Service Area to all customers making a reasonable request for services, as required by 47 C.F.R. § 54.202(a)(1)(i).¹⁶⁸ VCS will also offer Lifeline services as required by the FCC's rules at all locations where it has been awarded support in accordance with 47 C.F.R. 54.101(d).¹⁶⁹

For supported locations in the eligible census blocks, VCS certifies in its Petition that it will satisfy the FCC's deployment obligations at 47 C.F.R. § 54.310(c) applicable

¹⁵³ Petition at 14; see also February 3, 2020 Supplement at 6.

¹⁵⁴ 47 C.F.R. §§ 54.101(a)(2) and (c).

¹⁵⁵ CAF Phase II Auction Order, 31 FCC Red at 5960-61, para. 30.

¹⁵⁶ Petition at 5, 8-9; see also January 30, 2019 Supplement at 7.

¹⁵⁷ See Petition at 8-14; October 17, 2019 Supplement at 6.

¹⁵⁸ See September 17, 2019 Supplement at 7, Item No. 7 (Redacted Response). VCS has specifically stated that Viasat safeguards its public cloud-based control and management functions "via logical separation," and that "Viasat's applications are designed to encrypt transmission of data." Id.

¹⁵⁹ Id.

¹⁶⁰ See Petition at 14.

¹⁶¹ The statutory and regulatory requirement to provide supported Lifeline service through a combination of a carrier's own facilities and those of another carrier has in certain instances been obviated through forbearance by the FCC. See, e.g., Virgin Mobile Order. That forbearance is not at issue in this Petition.

¹⁶² Petition at 14.

¹⁶³ 47 U.S.C. § 214(e)(1), (e)(6).

¹⁶⁴ Petition at 14.

¹⁶⁵ See January 30, 2019 Supplement at 9.

¹⁶⁶ See January 30, 2019 Supplement at 6.

¹⁶⁷ Petition at 14.

¹⁶⁸ Id.

¹⁶⁹ Id.

to recipients of CAF Phase II support monies awarded through Auction 903.¹⁷⁰ Specifically, VCS's proposed Designated Service Area in Pennsylvania consists of various discrete census blocks located throughout all sixty-seven counties as identified and included in Appendix A to this Order.

As currently proposed, VCS will be offering a variety of packages for its supported services, including packages with a one-year minimum service term on a prepaid monthly basis. For customers that purchase bundled services of interconnected VoIP service and BIAS from VCS, it will offer a discount on the monthly charge. The Commission acknowledges that, as a satellite network provider, VCS's network presents novel technological issues surrounding its provisioning of protected, basic voice service. Generally, our jurisdictional telecommunications carriers providing protected voice service bill their customers on a postpaid basis. Thus, VCS presents a billing practice that is not a normal commonplace billing practice.

In 2003, the Commission denied a request from a reseller of local exchange service to offer its service on a prepaid basis. See *In Re: EZ Talk Communications, LLC*, Docket No. P-00011911 (Order entered July 18, 2003). However, since that time, the Commission allowed another jurisdictional telecommunications carrier to offer local and unlimited calling voice service on a prepaid basis. See *Petition of Full Service Network, LP for a Declaratory Order or, in the Alternative, An Exemption/Waiver of Various Chapter 64 Regulations as Applied to Prepaid Landline Service*, Docket No. P-2009-2097542 (Order entered December 7, 2009). For this reason, we will not prohibit VCS's proposed prepaid billing practice. However, it must comply with our billing regulations at Chapter 64, Title 52 of the *Pennsylvania Code*.

We note that VCS must provide its consumers proper notice at the point of sale of the customer's medical certification rights applying to this prepaid service. We expect that the purchase of a month of local exchange service on a prepaid basis will end by its own term at the end of a month if not renewed, therefore, it is unclear from the VCS's Petition what the impact on 911 will be at the end of the prepaid period. Thus, VCS must provide proper notice at the point of sale that the customer will have access to 911 for five days after discontinuance of service.

While we acknowledge that VCS's proposed a billing practice is not a common billing practice for our traditional ILECS and CLECs, VCS is not prohibited from utilizing a pre-pay billing method for its customers as long as it complies the billing information required by 52 Pa. Code §§ 64.13 and 64.14 and other aspects of our regulations. Thus, the Commission will permit VCS to bill its protected basic voice service on a prepaid basis, subject to these conditions.¹⁷¹

VCS also indicated that its bundled services package will have a minimum service term and since its voice service is provided via satellite, its standalone voice offerings will require at least a one-year minimum service term. However, this one-year minimum service term for standalone voice will apply only to non-Lifeline customers. VCS has further indicated that if the non-Lifeline customer decides to terminate service during the initial service term, a \$15 per month charge for the remaining

term would become due. VCS has indicated that it imposes an early termination fee in order to recover the costs of installing the satellite Internet portion of its interconnected VoIP service.

We acknowledge that VCS may have significant costs to activate each customer, including the costs of equipment and installation. Nonetheless, the Commission generally is not in favor of early termination fees on standalone voice service, and other jurisdictional telecommunications carriers offering protected basic voice service are not imposing such a fee. However, we will not prohibit the early termination fee at this time. We note such a fee is not expressly prohibited under our regulations, and VCS has provided reasonable grounds for the fee based on its unique circumstances. Moreover, VCS has proposed a reasonable exception to the fee based on service reliability. As proposed by the company, VCS must allow a residential voice customer to request an early termination of service without a penalty for material, and ongoing degradation in service quality or service interruption of a significant length of time such that the customer is not able to use the service at all or to make reasonable use of the service issues. Notwithstanding, we caution VCS that early termination of a service agreement must only result in an early termination fee that is less than or equal to the sum of the monthly fees for the remaining months of the term. Thus, the Commission will permit VCS' early termination fee, subject to these conditions.

VCS stated that it has no current plans to offer the supported services of voice and BIAS outside of its CAF Phase II winning bid areas and, thus, will provide Lifeline services only within its proposed Designated Service Area. We note that VCS will provide the same interconnected VoIP voice service offering and BIAS to Lifeline customers that are available to non-Lifeline subscribers at the same terms, rates and conditions. Thus, eligible Lifeline customers who will subscribe to VCS's standalone, interconnected VoIP service offering will be provided with unlimited local and interstate calling capabilities that will feature access to a variety of standard features for its customers such as voicemail, caller I.D., etc., at no extra charge. Additionally, VCS stated that it will offer number porting at no charge to its Lifeline customers.

The "five-year plan" requirement set forth in 47 C.F.R. § 54.202(a)(1)(ii) is inapplicable to VCS. The FCC has eliminated the five-year improvement plan requirement for price cap carriers, rate-of-return carriers and petitioners seeking ETC designation to become eligible to receive Auction 903 support.¹⁷² Therefore, since VCS is a winning bidder in Auction 903, it is not required to file a five-year improvement plan with this Commission.

b. *47 C.F.R. § 54.202(a)(2)*

Functionality in Emergency Situations

An ETC applicant is required to demonstrate its ability to remain functional in emergency situations. In order to satisfy this criterion, an applicant must demonstrate 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

¹⁷² See *Connect America Fund et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 31 FCC Rcd 3087, 3166, 3168, paras. 216, 220 (2016) (eliminating five-year plan and related progress reports for federal rate-of-return and price cap carriers) (2016 Rate-of-Return Reform Order); see also Notice, *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6699-6700 (WCB 2019) (Auction 903 ETC Public Notice).

¹⁷⁰ See Petition at 14-15.

¹⁷¹ To the extent that VCS might use different terminology in its customer service agreement, VCS should understand that the Commission's suspension and termination regulations still apply.

situations. VCS has certified that it intends to design the network with redundancy to enable continuous service.¹⁷³

VCS has stated that its parent company, Viasat, has been providing high speed Internet access service to customers on a 24-hours times 365 days a year mode for more than thirteen years.¹⁷⁴ VCS has asserted that Viasat's ground network is extremely robust and is built with many redundancies to minimize service failures.¹⁷⁵ Each Viasat-2 spot beam is supported by multiple Satellite Access Nodes (SANs) and each SAN is located in a different geographic location spread across the United States.¹⁷⁶ As a result, if a single SAN is out-of-service for any reason (due to a storm, cut fiber, technical failure, etc.) the remaining SANs can continue to provide service to the affected spot beam. Further, VCS has stated it has backup generators to provide power to gateways and SANs in the event of a power outage.¹⁷⁷

VCS has asserted that it operates a 24/7 Network Operations Center to monitor the network so the company can react immediately when any outage or other issue occurs.¹⁷⁸ VCS stated further that as part of providing its interconnected VoIP service and BIAS, it will also have the necessary contingency plans in place for credible emergency situations for each of the major network facilities that are geographically distributed across the United States.¹⁷⁹ These plans contain activation, required staffing, escalation, and communication procedures to deal with such emergencies.¹⁸⁰

VCS has stated that its leased terrestrial facilities will have redundancies designed to maintain service in the event of an outage on one facility.¹⁸¹ VCS has also stated that its average outage restoration time for network equipment is 30 minutes.¹⁸² Additionally, VCS also has indicated that much of its network includes redundancy, so that even a network failure might not result in a loss of service.¹⁸³ This will ensure that VCS is capable of rerouting traffic around damaged facilities. Additionally, VCS has stated that its ground-based facilities are equipped with independent power generators and sufficient fuel to operate for several days so as to mitigate power losses.¹⁸⁴

VCS has also addressed an inquiry involving the potential degradation of satellite transmission capacity at the spot beam level:

In the rare instance of a spot beam outage, Viasat can transition customers to overlapping spot beams provided that Viasat has overlapping spot beams in the affected area. If such overlapping spot beam happens to be on another satellite, Viasat would need to send a service technician to the customer's location to repoint the satellite antenna. Note, this is not Viasat's primary redundancy plan. This would only be for exceptional circumstances. To date, we have not had a "sudden" spot beam outage. We have only had rare instances of slow degradation (over several years) of a spot beam, which allowed Viasat time to make contingency plans to address affected customers.

See September 17, 2019 Supplement, at 10.

¹⁷³ Petition at 15.

¹⁷⁴ See January 30, 2019 Supplement at 7.

¹⁷⁵ Id.

¹⁷⁶ Id.

¹⁷⁷ Id.

¹⁷⁸ Id.

¹⁷⁹ Id.

¹⁸⁰ Id.

¹⁸¹ Id.

¹⁸² Id.

¹⁸³ See January 30, 2019 Supplement at 6.

¹⁸⁴ Id.

¹⁸⁴ See Petition at 15.

The FCC's regulations require facilities-based fixed residential voice services that are not line-powered (fixed service providers) to offer for sale to subscribers "at least one option that provides a minimum of twenty-four hours of standby backup power" for customer premises equipment by February 13, 2019.¹⁸⁵ As to the customer's individual interconnected VoIP service and BIAS, VCS has stated that it will offer a battery backup for its interconnected VoIP service and BIAS to customers that will provide power for up to eight hours when fully charged.¹⁸⁶ The Commission determines that VCS's certifications that it will design its network with the adequate redundancy to enable continuous service and that it will offer to its subscribers at least one option with 24 hours of standby backup power is supported by the record.¹⁸⁷ Accordingly, the Commission finds that VCS satisfies the ETC criterion of remaining functional in emergency situations.

c. 47 C.F.R. § 54.202(a)(3)

Customer Service and Service Quality Standards

For applicants seeking ETC designation for the purposes of becoming authorized to receive Auction 903 high-cost support, the FCC waived the requirement to submit proof of compliance with consumer protection and service quality standards—finding that the need for such requirements is obviated by specific service quality standards applicable to Auction 903 winning bid areas and specific reporting obligations relating to such standards.¹⁸⁸ Nonetheless, under independent Pennsylvania law, VCS remains subject to all applicable consumer protection and service quality standards, even if it is providing interconnected VoIP service or BIAS service.¹⁸⁹ Thus, VCS, as an ETC, will remain subject to the consumer protection and service quality laws, regulations and standards promulgated by the Commonwealth of Pennsylvania or the Commission, since it proposes to offer a protected, basic voice service and BIAS to customers.¹⁹⁰

VCS has stated that it will have a dedicated Executive Escalations team to resolve customer complaints that may be received from the Pennsylvania Office of Attorney General (OAG), any other regulatory body or the Better Business Bureau.¹⁹¹ VCS has stated that its Executive Escalations team will actively monitor and respond to customer complaints, as appropriate, through the Pennsylvania OAG, the Commission's BCS, and Better Business Bureau's service portals. The telephone number for the Executive Escalations team is (866) 631-4683, and the email address is Executive.Escalations@VCS.com.

¹⁸⁵ 47 C.F.R. § 12.5(b)(2); see also Ensuring Continuity of 911 Communications, Report and Order, 30 FCC Rcd 8677 (2015).

¹⁸⁶ See January 30, 2019 Supplement at 5; April 23, 2019 Supplement at 6 and April 14, 2020 Supplement, Attachment C # 13. Under independent Pennsylvania law, VCS also remains subject to Pennsylvania's state emergency service mandates, including the VoIP Freedom Act at 73 P.S. §§ 2251.1—2251.6. See also *Eileen Floyd v. Verizon Pennsylvania LLC*, Docket No. C-2012-2333157 (Order entered April 30, 2013).

¹⁸⁷ See Petition at 15.

¹⁸⁸ See Auction 903 ETC Public Notice.

¹⁸⁹ 73 P.S. §§ 2251.5 and 2251.6(1)(v). Under the VoIP Freedom Act, the Commission has retained jurisdiction to enforce applicable federal and Pennsylvania statutes or regulations on interconnected VoIP services relating to the following subject matter: (i) The provision and administration of enhanced 911 service and nondiscriminatory enhanced 911 fees; (ii) telecommunications relay service fees; (iii) universal service fund fees; (iv) switched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company; and (v) Rates, terms or conditions of protected services provided under tariffs which are subject to approval by the Commission. 73 P.S. § 2251.6(1). See also *Eileen Floyd v. Verizon Pennsylvania LLC*, Docket No. C-2012-2333157 (Order entered April 30, 2013); Application of Momentum Telecom, Inc. for approval of the Abandonment or Discontinuance of Competitive Local Exchange Carrier and Interexchange Carrier Reseller Services to the Public in the Commonwealth of Pennsylvania, Docket No. A-2014-2450071, (Order entered May 20, 2015). See also *Mozilla Corp. v. FCC*, 940 F.3d 1, 74—86 (D.C. Cir. 2019).

¹⁹⁰ Id.

¹⁹¹ See January 30, 2019 Supplement at 9.

Additionally, VCS has stated that it will establish a customer care center dedicated to resolving any customer complaints or service issues, including a toll-free number with which customers will be able to access a 24/7 customer support center.¹⁹² Thus, customers will be able to seek assistance by emailing VCS or engaging with a customer support representative through an online chat session.

d. 47 C.F.R. § 54.202(a)(4)

Financial and Technical Ability

Generally, a carrier seeking only low-income support under Subpart E, 47 C.F.R. §§ 54.400—54.422, must demonstrate that it possesses the financial and technical ability to provide Lifeline service. A carrier seeking only low-income support also must submit information describing the terms and conditions of any voice telephone service plans and the terms and conditions of any broadband Internet access service plans offered to Lifeline subscribers.

VCS is not seeking an ETC designation for purposes of receiving only Lifeline support. However, VCS must participate in the federal Lifeline program as a condition of receiving an ETC designation to receive high-cost support, and VCS is required to offer Lifeline service to low-income eligible customers or households in its proposed Designated Service Area. Therefore, the Commission determines that VCS must still demonstrate financial and technical ability to provide Lifeline service.

We find VCS fit to provide Lifeline service in Pennsylvania. The Commission takes note that VCS was one of the successful bidders in the FCC’s CAF II Auction 903 that is aiding with the construction of the planned network facilities in Pennsylvania, and that the FCC’s CAF II bidding process required the substantive demonstration of managerial, technical, and financial fitness elements for the participation of the successful bidders.¹⁹³

Upon review, VCS has committed to offering Lifeline services, consistent with the FCC’s rules and the Commission’s rules and guidelines.¹⁹⁴ Additionally, we also find that VCS has provided the requisite information in its accompanying supplements about its Lifeline service plan offerings.¹⁹⁵ VCS’s supplements include the requisite description of its voice and Internet access service offerings for Lifeline subscribers. Accordingly, the Commission determines that VCS has demonstrated it is technically, managerially, and financially fit to offer the proposed services and finds that VCS meets the requirements of 47 C.F.R. § 54.202(a)(5) and 47 C.F.R. § 54.202(a)(6) as well.

e. 47 C.F.R. §§ 54.202(a)(5) and 54.202(a)(6)

Terms and Conditions of Lifeline Plans

Consistent with our prior determination regarding Section 54.202(a)(4) above, we believe these sections are also applicable to VCS’s ETC designation request. Pursuant to Sections 54.202(a)(5) and 54.202(a)(6), VCS commits to offering Lifeline discounts to qualifying low-income consumers, consistent with the FCC’s rules and the Commission’s rules and guidelines, in all high-cost areas where it

is authorized to receive support.¹⁹⁶ VCS’s supplements include the requisite description of the service offerings for Lifeline subscribers.¹⁹⁷ Accordingly, we find that VCS meets the requirements of 47 C.F.R. § 54.202(a)(5) and 47 C.F.R. § 54.202(a)(6).

f. 47 C.F.R. § 54.202(b)

Public Interest Standard

When making a public interest determination for an ETC designation, the FCC historically has considered the benefits of increased consumer choice and the unique advantages and disadvantages of the petitioner’s service offering.¹⁹⁸ In particular, granting an ETC designation may serve the public interest by providing a choice of service offerings in rural and high-cost areas. However, the value of increased competition, by itself, may not satisfy the public interest test.

In this case, we believe the public interest standard has been met through Viasat’s participation in the CAF II process. Viasat assigned its winning bids in Pennsylvania to VCS.¹⁹⁹ This assignment will allow VCS to offer voice and broadband data services to areas in Pennsylvania that currently do not have broadband access services. VCS was assigned winning bids in Auction 903 in the following manner:

<i>Bidder</i>	<i>State</i>	<i>Annual Assigned Support for 10-year period</i>	<i>Locations Assigned</i>
Viasat Carrier Services, Inc.	PA	\$1,994,511.99	45,100

ETC designations in areas where a winning bidder is authorized to receive Auction 903 support serve the public interest. That arises, in part, because approving an ETC designation for VCS permits it to secure the release of the total 10-year support of \$19,945,119.90 by the FCC from Auction 903 to deploy broadband-capable networks in rural underserved areas in Pennsylvania where such deployment might otherwise prove more expensive or take longer to implement.

Receipt of Auction 903 CAF Phase II federal funds is a considerable benefit to Pennsylvania, which is otherwise a net-contributor state to the federal USF funding mechanism. It will facilitate the provision of additional access to voice and broadband services to Pennsylvania consumers in rural areas that are expensive and difficult to serve. The FCC expressly recognized that there are some rural areas across the country where it is very expensive to extend broadband using terrestrial wireline technology, and that in some areas, satellite or fixed wireless technologies may be more cost-effective options to extend service. Recipients of CAF Phase II support are required to offer voice and broadband access services at modern speeds with latency suitable for real-time applications, including VoIP, and usage capacity that is reasonably comparable to similar offerings in urban areas. VCS has certified that that it will abide by the FCC’s rules for voice and broadband access services in accordance with 47 C.F.R. § 54.309.²⁰⁰

¹⁹² Id.
¹⁹³ See, e.g., FCC Public Notice, Instructions for Short-Form Application to Participate in the Connect America Fund Phase II Auction Scheduled to Begin on July 24, 2018, AU Docket No. 17-182, (FCC Rel. March 8, 2018), DA 18-182; FCC Public Notice, Technical Guide on Proposed Bidding Procedures for the Connect America Fund Phase II Auction, AU docket No. 17-182, WC Docket No. 10-90, (FCC Rel. August 4, 2018), DA 17-733.
¹⁹⁴ See Petition at 14.
¹⁹⁵ See generally September 17, 2019 Supplement, Attachment B; October 17, 2019 Supplement at 2; February 3, 2020 Supplement; March 17, 2020 Supplement, March 30, 2020 Supplement and April 14, 2020 Supplement.

¹⁹⁶ Petition at 14.
¹⁹⁷ See fn. 143 supra.
¹⁹⁸ Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia, Memorandum Opinion and Order, 19 FCC Rcd. 6422, 6424, para. 4 (2004); Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1565, para. 4 (2004).
¹⁹⁹ See Petition at 7.
²⁰⁰ See Petition at 13—15.

Certifying VCS as an ETC is in the public interest, pursuant to 47 C.F.R. § 54.202(b), because it will permit VCS to obtain over \$1.9 million in federal high-cost support to provide voice and broadband access services to areas that currently do not have modern broadband service.²⁰¹ By selecting VCS as a recipient of CAF II funds, the FCC has recognized that the services that VCS intends to offer will advance the goal of universal service and provide needed broadband access services to currently underserved areas. An ETC designation will allow VCS to fulfill the requirements of the CAF II and apply the high cost support in Pennsylvania for the purposes it was intended.

Moreover, VCS may possibly replace current federal price cap ETCs as the only carrier receiving federal USF high-cost support in these local exchanges.²⁰² In the December 2014 Connect America Order, the FCC determined that federal price cap carriers can remove their ETC status via the Section 214 process if (1) the census block is determined to be low cost; (2) the census block is served by an unsubsidized competitor offering voice and broadband at speeds of 10/1 Mbps or better to all eligible locations; or (3) the census block is served by a subsidized competitor (another ETC) receiving federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations.²⁰³ While Section 214(e)(4) of the Act, 47 U.S.C. § 214(e)(4), enables a price cap ETC to seek relinquishment of its ETC designation, it also requires states (or the FCC if it designated the ETC) to “ensure that *all* customers served by the relinquishing carrier will continue to be served.”²⁰⁴ Hence, if all other ETCs in VCS’s proposed Designated Service Area are permitted to relinquish their ETC designations, VCS, as the competitive ETC, may be required to ensure that all customers served by the relinquishing carriers in their respective service areas will continue to be served.²⁰⁵

Since an ETC designation will assist VCS to secure federal universal service high-cost support funding under CAF Phase II in various census blocks in specific local exchanges and also provide voice services while promoting the deployment of advanced telecommunications and BIAS in the relevant areas and locations of the Commonwealth addressed in the Petition, the Commission determines that ETC designation for VCS is in the public interest. It promotes both the FCC’s and the Pennsylvania General Assembly’s goals of preserving and advancing universal telecommunications and broadband services and

ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates within rural and high-cost areas. See 66 Pa.C.S. §§ 3011(1) and (2), 3012 (definition of universal broadband availability), and 3014(a) and (b).

g. 47 C.F.R. § 54.202(c)

Tribal Lands

ETC designation to serve any tribal lands is inapplicable in Pennsylvania, making Section 54.202(c) inapplicable to VCS’s Petition.

4. 47 C.F.R. § 54.203

ETCs for Unserved Areas

Because VCS’s Petition does not involve service to an unserved area, Section 54.203 is not applicable.

5. 47 C.F.R. § 54.205

Relinquishment of Universal Service

If at some point in the future VCS seeks to relinquish its ETC designation, VCS agrees to comply with the requirements of Section 54.205 as well as independent state law.

6. 47 C.F.R. § 54.207

Service Areas

Generally, once an entity is designated an ETC in a service area, it must offer the supported services throughout that entire service area.²⁰⁶ The term service area generally means the overall geographic area for which the carrier shall receive support from federal universal service support mechanisms.²⁰⁷ A service area is established by a state commission for the purpose of determining universal service obligations and support mechanisms.

VCS was a winning bidder in Auction 903 and has been awarded CAF Phase II high-cost funding support in specific CAF-eligible census blocks dispersed throughout Pennsylvania.²⁰⁸ Pursuant to its Petition, VCS is seeking ETC designation only in these CAF-eligible census blocks.²⁰⁹ VCS is requesting ETC designation only in specific discrete census blocks that are located in certain local exchanges of the following incumbent local exchange carriers (ILEC), both rural and non-rural:²¹⁰

Citizens Telephone Company of Kecksburg
 Consolidated Communications of Pennsylvania Company
 Frontier Communications Commonwealth Telephone Company
 Frontier Communications of Breezewood
 Frontier Communications of Lakewood
 Hancock Telephone Company
 Laurel Highland Telephone Company
 North Penn Telephone Company
 TDS Telecom—Mahanoy & Mahantango Telephone Company

²⁰⁶ 47 U.S.C. § 254(e) (stating that only an ETC is “eligible to receive specific Federal universal service support”).

²⁰⁷ 47 C.F.R. § 54.207(a).

²⁰⁸ See Appendix A.

²⁰⁹ Petition at 2.

²¹⁰ The number of census blocks that were eligible for inclusion in Auction 903 differs from the total number of census blocks where the price cap carrier had declined the offer of CAF Phase II model-based support. The FCC had added for inclusion in Auction 903 those census blocks to which price cap carriers that had accepted CAF Phase II model-based support had indicated that they did not intend to deploy broadband access services. Additionally, the FCC allowed census blocks that rate-of-return (RoR) carriers had identified they would be unable to serve to be included in Auction 903. Thus, Viasat proposed Designated Service Area will consist of portions local exchanges in price cap and RoR carriers’ service territories.

²⁰¹ Id.

²⁰² Notwithstanding Pennsylvania state law, a state commission must allow an ETC to relinquish its designation in any area served by more than one ETC pursuant to Section 214(e)(4) of the Act if conditions are met. See 47 U.S.C. § 214(e)(2). The relinquishing ETC must provide advance notice of such relinquishment to the state commission. Prior to allowing the relinquishing carrier to cease providing universal service, the state commission must require the remaining ETC or ETCs to ensure that all customers served by the relinquishing carrier will continue to be served. The state commission also must require sufficient notice to the remaining ETC or ETCs to permit the purchase or construction of adequate facilities, with such purchase occurring within a specific time period. See 47 U.S.C. § 214(e)(4).

²⁰³ See December 2014 Connect America Order, Report and Order, 29 FCC Red 15644, 15663-71, paras. 50–70.

²⁰⁴ 47 U.S.C. § 214(e)(4) (emphasis added).

²⁰⁵ 2005 ETC Designation Order, 20 FCC Red at 6386, para 36. The FCC stated that under Section 214(e)(4) of the Act, the state commission or, in the case of a common carrier not subject to state commission jurisdiction, the FCC “shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier.” However, prior to allowing the carrier to cease providing universal service in the area, the remaining ETC or ETCs will be required to ensure that all customers served by the relinquishing carrier will continue to be served. Furthermore, under Section 251(h)(2) of the Act, the Commission may treat another carrier as the incumbent LEC if that carrier occupies a position in the market that is comparable to the position occupied by the incumbent LEC, if such carrier has substantially replaced an incumbent LEC, and if such treatment is consistent with the public interest, convenience and necessity. Moreover, applicable Pennsylvania law notwithstanding, ILECs seeking to relinquish their ETC designations will remain obligated, however, to maintain existing voice service unless and until they receive authority under 47 U.S.C. § 214(a) to discontinue that service. They also will remain subject to the obligation to offer Lifeline service to qualifying low-income consumers or households throughout their service territory.

United Telephone of Pennsylvania d/b/a CenturyLink
 West Side Telephone Company
 Windstream Buffalo Valley Inc.
 Windstream Conestoga Inc.
 Windstream D&E Inc.
 Windstream Pennsylvania LLC
 Verizon North LLC
 Verizon Pennsylvania LLC

In the ETC Designation Order, the FCC adopted one set of criteria for evaluating the public interest for ETC designations for both rural and non-rural areas.²¹¹ The FCC noted in the ETC Designation Order that the same factors may be analyzed differently or may warrant a different outcome depending on whether the competitive ETC's request is in a rural or non-rural service territory and also regarding the specifics of the competitive ETC's proposed designated service area.²¹² The Commission notes that VCS is seeking an ETC designation only in the local exchanges where VCS's 1,287 CAF-eligible census blocks are located.²¹³ Thus, the Commission deems VCS's ETC designation request as seeking an ETC designation below the study (or service) area level of the seventeen ILECs listed above.

Since VCS seeks a limited ETC designation in both non-rural ILEC and rural ILEC's service territory, the Commission will conduct a two-fold analysis. First, the Commission will address VCS's ETC designation request in the rural ILECs' service territories. If an area is served by a rural ILEC (RLEC), the Act defines the service area for the purpose of designating an ETC to be the rural ILEC's entire study (or service) area for federal universal service support purposes. Generally, when a competitive ETC seeks to serve an area already served by a RLEC, Section 214(e)(5) of the Act imposes an additional requirement that the competitive ETC's service area must conform to the RLEC's service area.

If a state commission seeks to designate a competitive ETC in a rural ILEC's service area that differs from the RLEC's existing service area, that rural service area must first be redefined under the process set forth under the Act, and the Commission would be required to conduct a cream-skimming analysis to compare the population density of the wire centers in which the ETC applicant seeks designation against that of the wire centers in the study area in which the ETC applicant does not seek designation. See ETC Designation Order, 20 FCC Rcd at 6392-95, paras. 48—53.

In this case, VCS seeks an ETC designation below the study (or service) area level of fifteen RLEC(s). Under standard ETC requests as explained above, the Commission usually would have to undergo a redefinition analysis of the particular RLEC service territory since the Petitioner requests to serve only portions of the RLECs' service areas and Section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), requires conformance of a competitive ETC's and an RLEC's service areas. However, the FCC has waived its rules regarding the redefinition process for Auction 903 funding recipients.²¹⁴

In its Phase II Auction Order, the FCC held that for those entities that were seeking to obtain ETC designations solely as a result of being selected as winning

bidders for the Auction 903 support, it was best to forbear from applying Section 214(e)(5) of the Act and Section 54.207(b) of the FCC's rules insofar as those sections require that the service area of such an ETC conform to the service area of any RLEC serving an area eligible for Phase II support.²¹⁵ The FCC noted that since price cap ETCs had declined the offer of model-based support and another entity is now receiving that declined support through Auction 903, the incumbent ETC's service area is no longer a relevant consideration in determining the geographic scope of a winning bidder's ETC designation.

Pennsylvania-specific carrier of last resort obligations notwithstanding, the FCC expressly noted that "[i]f the rural telephone affiliate of a [federal] price cap carrier declines the offer of support and another entity is selected as the winning bidder to serve a portion of its area through the competitive bidding process, the incumbent will be replaced by the Phase II competitive bidding recipient in those areas, and the incumbent's legacy service area will no longer be a relevant consideration in determining where the winning bidder should be designated as an ETC."²¹⁶

Additionally, the FCC noted that forbearing from the service area conformance requirement eliminated the need for redefinition of any RLECs' service areas in the context of the Phase II competitive bidding process.²¹⁷ The FCC directly addressed its previously required "cream-skimming analysis," an analysis triggered out of the concern that an ETC serving only a relatively low-cost portion of an RLEC's service area might skim only the cream of customers by receiving per line support based on the RLECs' cost of serving the entire service area. The FCC determined that such an analysis is irrelevant since a winning bidder will be the only carrier receiving support to serve a bid area and must serve areas the marketplace would not otherwise serve absent the Auction 903 support.²¹⁸ Thus, past "cream-skimming" concerns are not relevant to the CAF II support awarded through a competitive process.²¹⁹

Here, VCS was a winning bidder in specific eligible census blocks in fifteen RLECs' service areas, and it is only seeking an ETC designation in those specific census blocks. Even though VCS is seeking ETC designation below the study area level of these RLECs, as explained above, applicable law explicitly indicates that the relevant analysis the state and the FCC historically undertook when deciding whether to redefine an RLEC's service area is no longer applicable to the Phase II competitive bidding process.²²⁰ If a petitioner is seeking an ETC designations only for the purpose of becoming authorized to receive Auction 903 support, applicable law dictates that the redefinition process is not required to approve the petitioner's request for an ETC designation below the incumbent ETC's study area. Thus, based on our analysis of the applicable law, we approve VCS's request for an ETC designation below the study area levels of each of the fifteen RLECs without any redefinition of those RLECs' service areas.

Additionally, the Commission also notes that a portion of VCS's proposed Designated Service Area includes spe-

²¹⁵ *Id.*

²¹⁶ *Id.* at 6006, para. 159.

²¹⁷ *Id.* at 6006-09, paras. 162—68.

²¹⁸ *Id.* at 6008, para. 165. It does not appear to us that the high-cost census blocks where VCS was a successful bidder are the low cost/high density areas that historically have been the focus of the FCC's cream skimming analysis. Rather, by virtue of their inclusion in Auction 903, these are high-cost or extremely high-cost areas.

²¹⁹ *Id.*

²²⁰ See also Tri-Co Connections, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania, Docket No. P-20183005127 (Order entered April 11, 2019).

²¹¹ ETC Designation Order, 20 FCC Rcd at 6389-90, paras. 42-43.

²¹² *Id.*

²¹³ Petition at 2, 4.

²¹⁴ See Phase II Auction Order, 31 FCC Rcd at 6005-09, ¶¶ 157—168.

cific CAF-eligible census blocks located only in certain local exchanges served by Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North), which are non-rural ILECs in Pennsylvania. Based on our analysis of the applicable law, we approve VCS's request for an ETC designation below the study area levels of Verizon PA and Verizon North.

Accordingly, we approve VCS's proposed Designated Service Area as set forth in its Petition and relevant supplements. VCS Designated Service Area will only consist of the specific CAF-eligible census blocks listed in Appendix A, which are located in the specific local exchanges²²¹ of seventeen ILECs, as listed in Appendix B. The Commission notes that a portion of Appendix B does not denote the proper name of the ILEC for the designated local exchange area. The Commission directs VCS to file a supplement clarifying that portion of its April 27, 2020 supplement within sixty days of entry of this Order.

B. Certification of Eligibility for Benefits under the Anti-Drug Abuse Act

Petitioners must certify that neither the petitioner nor any party to the petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in Section 1.2002 of the FCC's rules.²²² VCS certifies that no party to its Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.²²³

C. VCS Satisfies the FCC's Rules and Federal Requirements Governing High-Cost ETC Designations

Based upon our review of VCS's Petition, as supplemented, we determine that VCS satisfies all the applicable and relevant FCC rules and federal requirements necessary to obtain an ETC designation for the purpose of receiving Auction 903 high-cost support. We understand that VCS specifically stated in its Petition that it is seeking ETC designation in Pennsylvania only in the 1,287 CAF-eligible census blocks located within certain local exchanges that are dispersed throughout seventeen Pennsylvania ILECs' service territories.²²⁴ The Commission approves VCS's request for a limited federal high-cost ETC designation only in the CAF-eligible census blocks covered by VCS's award in Auction 903. The Commission concludes that this limited designation is in the public interest.

Consumers will benefit from the Commission's decision to designate VCS an ETC in the listed census blocks in Appendix A attached to this Order. Granting VCS an ETC designation allows it to receive the CAF Phase II high-cost support funding to expand voice and broadband-capable networks with service quality that meets the FCC's and Pennsylvania's requirements. As an ETC receiving federal high-cost support, VCS is obligated to ensure that the support it receives is being used only for the provision, maintenance, and upgrading of facilities and services in the areas where it is designated an ETC. Additionally, because VCS will also be providing voice and BIAS to non-Lifeline customers, we require VCS to comply with applicable Commission and FCC requirements governing the delivery of voice and BIAS to non-Lifeline consumers.

Notwithstanding, the Commission cautions VCS that it may replace the current incumbent ETCs in the future as

the only carrier receiving federal high-cost support in those census blocks within the local exchanges where it has received an ETC designation. The Commission acknowledges that the incumbent ETC in VCS's proposed Designated Service Area may seek and be granted relinquishment by the Commission of its respective ETC designations under 47 U.S.C. § 214(e)(4). If such relinquishment occurs, VCS, as the competitive ETC, will be required to ensure that all customers served by a relinquishing carrier in VCS's proposed Designated Service Area will continue to be served. In sum, we find that granting an ETC designation to VCS satisfies the public interest standard.

II. Federal Requirements of Eligible Telecommunications Carriers for Universal Service Support for Low-Income Consumers

Upon receipt of a federal high-cost ETC designation, a winning CAF bidder is required to offer Lifeline services and is required to comply with the rules and requirements of the federal Lifeline program. These rules and requirements have now been amended by the FCC's Lifeline Reform Orders and are codified at 47 C.F.R. §§ 54.101, et seq.

The major goal of the FCC's Lifeline Reform Orders was to implement procedures designed to preserve federal USF resources and prevent waste, fraud and abuse. To that end, the FCC codified rules governing the entire process of Lifeline reimbursement from the USF. These changes established defined terms governing the provision of low-income support and established parameters governing a carrier's duties and eligibility for USF low-income support. Specifically, revised Section 54.400 establishes relevant terms and definitions for provision of Lifeline; Section 54.401 defines Lifeline as a non-transferrable retail service; Section 54.403 establishes the Lifeline support amounts that ETCs may seek from the federal USF; and Section 54.404 requires the creation of the National Lifeline Accountability Database (NLAD),²²⁵ which intends to provide a national database for ETCs to cross-check subscriber eligibility as a means to eliminate federal USF support for duplicative or otherwise ineligible subscribers.

Further, the Lifeline Reform Orders instituted substantial changes which have impacted consumer qualification for Lifeline, including: Section 54.410 (Subscriber Eligibility Determination); Section 54.416 (Annual Certifications by ETCs); Section 54.417 (Record Keeping Requirements); and Section 54.422 (Annual Reporting for ETCs that Receive Low-income Support). These regulations govern the prerequisite duties of an ETC seeking low-income support from the federal USF.

All current and future ETCs must meet the minimum standards set forth in the FCC's Lifeline Reform Orders. All minimum federal requirements of the FCC's Lifeline Reform Order not expressly discussed herein, are nonetheless applicable to ETC designation requests in Pennsylvania. This includes any subsequent developments in those federal requirements. However, VCS is required to offer Lifeline-supported services only in the high-cost

²²⁵ NLAD is a national database that allows service providers to check on a real-time, nationwide basis whether a consumer is already receiving a Lifeline Program-supported service. Thus, the NLAD is used to prevent duplicative Lifeline enrollments. In 2016, the FCC established the National Verifier to make eligibility determinations to enroll eligible subscribers into the Lifeline Program. There are a variety of criteria by which an applicant can demonstrate Lifeline eligibility, including income eligibility or participation in various federal assistance programs. USAC, the federal USF administrator, manages both the National Verifier and NLAD. As to VCS's de-enrollment processes, however, as stated *infra*, VCS's ongoing Lifeline requirement remains subject to future developments for Lifeline service in general under state and federal law.

²²¹ See April 27, 2020 Supplement.

²²² See 47 C.F.R. § 1.2002.

²²³ See April 21, 2020 Supplement.

²²⁴ See Appendix B.

eligible census blocks for which it will receive CAF Phase II high-cost support via Auction 903 support—its Designated Service Area.²²⁶

A. The FCC's Rules Governing Lifeline

1. 47 C.F.R. § 54.410

Subscriber Eligibility Determination and Annual Certifications

The requirements for subscriber eligibility determination and annual certification requirements in Section 54.410 of the FCC's rules are the major requirements established to prevent waste, fraud, and abuse. These requirements pertain to consumer eligibility factors for Lifeline and the corresponding obligation for continued verification of that eligibility. Thus, every Lifeline consumer's eligibility is to be recertified annually.

In its 2016 Lifeline Order, the FCC established the National Verifier as the entity designated to make eligibility determinations and perform a variety of other functions necessary to enroll eligible subscribers into the Lifeline Program. As outlined in the 2016 Lifeline Order, "[t]he [FCC's] key objectives for the National Verifier are to protect against and reduce waste, fraud, and abuse; to lower costs to the Fund and Lifeline providers through administrative efficiencies; and to better serve eligible beneficiaries by facilitating choice and improving the enrollment experience."²²⁷ The National Verifier is a centralized system that determines whether subscribers are eligible for Lifeline. USAC manages the National Verifier and its customer service department, the Lifeline Support Center. Service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal, or consumers can apply on their own by mail or online. USAC will determine if the applicant is eligible for Lifeline.

The National Verifier was fully launched in Pennsylvania in March of 2019 and is the only means used for eligibility determination. New and potential Lifeline consumers will receive their initial income-based 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. VCS has certified that it will use the National Verifier to verify eligibility for its potential Lifeline customers given USAC's implementation of the National Verifier in Pennsylvania.²²⁸

Additionally, Section 54.410(f) of the federal rules provides for an annual recertification process by which each subscriber's eligibility for Lifeline service must be recertified. 47 C.F.R. § 54.410(f). In Pennsylvania, service providers must use the National Verifier to recertify their Lifeline subscribers. Accordingly, Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC. VCS has certified that it will use the National Verifier to recertify the eligibility of its potential Lifeline customers given USAC's implementation of the National Verifier in Pennsylvania.²²⁹

²²⁶ As previously noted, VCS's request for ETC designation was limited to its proposed Designated Service Area—the census blocks for which it was awarded Auction 903 support. Therefore, VCS is not seeking to be a Lifeline-only ETC designation for any census blocks outside its proposed Designated Service Area and is not authorized to offer Lifeline service beyond its proposed Designated Service Area.

²²⁷ 2016 Lifeline Order, 31 FCC Rcd at 4007, para. 128.

²²⁸ See January 30, 2019 Supplement at 2. For low-income consumers residing in group facilities or at an address shared by multiple households, the FCC's "One Per-Household rule" establishes that a "household" is defined as "any individual or group of individuals who are living at the same address as one economic unit." 47 C.F.R. § 54.400(h). Lifeline applicants may demonstrate at the time of enrollment that another Lifeline recipient resides at their address as part of a separate household.

²²⁹ See January 30, 2019 Supplement at 2.

The FCC modified Sections 54.410(b)(2)(i) and 54.410(c)(2)(i) of its rules to clarify that where use of the National Verifier determines the consumer's initial eligibility determination or recertification, the National Verifier is not required to deliver copies of those source documents to the ETC. The FCC determined that this amendment to the rules was consistent with its goals that the National Verifier ease burdens on Lifeline service providers while improving privacy and security for consumers applying to participate in the program.

Further, this amendment brings Section 54.410 of the rules in line with the FCC's stated intent in the 2016 Lifeline Order that Lifeline providers would not be required to retain eligibility documentation for eligibility determinations made by the National Verifier as it presents unnecessary risk to the privacy and security of subscriber information. Thus, VCS is not required to retain documentation of eligibility criteria determinations by the Lifeline National Verifier.²³⁰

VCS must comply with the federal policy for de-enrolling an account from Lifeline support for non-use is consistent with the FCC rules. VCS must certify that if it receives notification from USAC, the administrator of universal service, that a subscriber is receiving Lifeline service from another ETC or if another member of the household is receiving Lifeline service, it will de-enroll that subscriber in accordance with Section 54.405(e)(2) of the FCC's rules. Additionally, if VCS has a reasonable basis to believe that a Lifeline subscriber is no longer eligible to receive Lifeline service, it will notify that subscriber of impending termination of service utilizing a combination of communication methods including calling the subscriber. The subscriber will then have 30 days to demonstrate appropriate eligibility for the Lifeline benefit via NLAD that it is eligible for Lifeline.

Additionally, VCS must certify that it will de-enroll Lifeline customers for non-usage and failure to recertify in accordance with Sections 54.405(e)(3) and (4), respectively, of the FCC's rules. Furthermore, VCS must certify that it will de-enroll subscribers who have not used their Lifeline service for a period of 30 days. Pursuant to procedures outlined in the FCC's rules, following 30 days of non-usage by a Lifeline subscriber, VCS must send a notice to that subscriber stating that failure to use the service within the next 15 days will result in de-enrollment from Lifeline service. However, where a carrier bills on a monthly basis and collects or makes a good faith effort to collect any money owed within a reasonable amount of time, the Lifeline service provider will not be subject to the non-usage requirements.

VCS agrees it will comply with the National Verifier's consumer eligibility determination, recertifications and de-enrollment process per the applicable FCC rules.²³¹ This includes the FCC's Lifeline Reform Orders' amendment to the minimum eligibility criteria for consumers to receive Lifeline support, the revision to the eligibility determination process through the use of the National Verifier, and the modification of the annual recertification process as the National Verifier will also recertify subscribers each year.

2. 47 C.F.R. §§ 54.416, 54.417 and 54.422

Annual Certifications, Recordkeeping and Reporting

As previously noted, the FCC's rules contain certain annual certification, recordkeeping, and reporting requirements for ETCs participating in the Lifeline program. For

²³⁰ 47 C.F.R. § 54.410(c) and (d).

²³¹ Petition at 14; January 30, 2019 Supplement.

one, a service provider must annually certify in FCC Form 555 that is submitted to USAC that it complies with all minimum service levels set forth in 47 C.F.R. § 54.408, and applicable federal Lifeline certification procedures. The ETC certifies that it has policies and procedures in place to ensure that the Lifeline subscribers are eligible to receive Lifeline services.²³² Consistent with our prior discussion related to Section 54.410(f), VCS's Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources, or receive a recertification request from USAC. In any event, VCS in its Petition and the accompanying Supplements has certified that it will establish procedures to comply with these provisions.

B. *VCS Satisfies All the Federal Requirements Regarding Lifeline*

As a CAF II winning bidder and high-cost ETC, VCS is obligated to offer Lifeline-supported services in its proposed Designated Service Area. VCS also is obligated to comply with the rules and requirements of the federal Lifeline program, including, inter alia, compliance with the FCC's updated rules for determining subscriber eligibility and annual recertification. Based upon our review of VCS's Petition, as supplemented, we determine that VCS satisfies all the applicable and relevant FCC rules and federal requirements regarding Lifeline.

III. Pennsylvania-Specific Requirements for ETC Designation

In addition to the minimum federal standards above, through our ETC Guidelines, VCS must comply with Pennsylvania statutory law and Commission orders which govern Pennsylvania's Lifeline program.²³³ 52 Pa. Code § 69.2501(b).

A. *Section 3019(f) Requirements*

Section 3019(f) of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 3019(f), and the Commission's PA Lifeline Order set forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program. Section 3019(f) includes the following requirements for ETCs:

(1) All eligible telecommunications carriers certificated to provide local exchange telecommunications service shall provide Lifeline service to all eligible telecommunications customers who subscribe to such service.

(2) All eligible telecommunications customers who subscribe to Lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services.

(3) Whenever a prospective customer seeks to subscribe to local exchange telecommunications service from an eligible telecommunications carrier, the carrier shall explicitly advise the customer of the availability of Lifeline service and shall make reasonable efforts where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service.

(4) Eligible telecommunications carriers shall inform existing customers of the availability of Lifeline services twice annually by bill insert or message. The notice shall be conspicuous and shall provide appropriate eligibility, benefits and contact information for customers who wish to learn of the Lifeline service subscription requirements.

(5) Eligible telecommunications carriers shall provide the Department of Public Welfare with Lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas they serve, for use by the department of public welfare in providing the notifications required by this paragraph.

(6) No eligible telecommunications carrier shall be required to provide after the effective date of this section any new Lifeline service discount that is not fully subsidized by the federal universal service fund.

VCS certified that it will comply with the requirements for ETC designation contained in Section 3019(f) of the Code and the Pennsylvania Lifeline Order.²³⁴ VCS will provide its Lifeline service to all eligible telecommunications customers who wish to subscribe to such service. VCS will also agree to permit eligible customers to subscribe to such service and who reside within its proposed Designated Service Area. The company also will agree to permit eligible customers to subscribe to any number of its other telecommunications services at the standard rates for such services. VCS will establish protocols so that whenever a prospective customer in its proposed Designated Service Area seeks to subscribe to VCS's service, VCS will explicitly advise the customer of the availability of Lifeline service and shall meet federal requirements to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service.

Furthermore, VCS will comply with Section 3019(f)(4), and inform existing customers of the availability of Lifeline service twice annually by conspicuous bill insert or a message that provides eligibility, benefit and contact information. Finally, VCS will provide the Commonwealth's DHS its Lifeline service descriptions, contact telephone numbers and a listing of the geographic area or areas it serves for use by DHS in providing notification under Section 3019(f)(5).

B. *Other Pennsylvania Requirements and Relevant Reporting Requirements*

In addition to the Pennsylvania statutory requirements, the Commission has established Lifeline eligibility criteria, as well as procedures for certification and verification of a consumer's initial and continuing eligibility.²³⁵ We note that many Pennsylvania-specific requirements set forth in our PA Lifeline Order such as the requirements for certification and verification of a customer's initial and continued eligibility for Lifeline services have been impacted by Lifeline developments at the federal level. For example, the creation of the NLAD at 47 C.F.R. § 54.404 has led to changes in the Pennsylvania-specific requirements for eligibility verification.

Additionally, ETCs are further ordered to report to the Commission annual changes in Pennsylvania Lifeline enrollment.²³⁶ The Commission continues to reserve our right to impose separate state-specific requirements where necessary for the protection of the Commonwealth's consumers. As shown below, VCS commits to complying with relevant requirements set forth in the

²³⁴ See January 30, 2019 Supplement at 2.

²³⁵ In Re: Lifeline and Link-up Programs, Docket No. M-00051871 (Order entered May 23, 2005) (PA Lifeline Order).

²³⁶ 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).

²³² 47 C.F.R. § 54.416.

²³³ Because the FCC's Lifeline Reform Order discontinued the Link-Up support from the federal USF, all references to Link-Up programs are now inapplicable.

Pennsylvania Lifeline Order, Tracking Report Order,²³⁷ and Policy Statement²³⁸ that are applicable to a facilities-based provider.

1. *Compliance with Eligibility Certification and Verification*

As a condition of its ETC designation, VCS must query the NLAD to ascertain a potential Lifeline applicant's eligibility for service. Compliance with the Lifeline eligibility verification requirements are essential for prevention of waste, fraud and abuse. In particular, all ETCs designated by this Commission are required to take the necessary steps to ensure that Lifeline support paid by the federal USF to the carrier is remitted only for eligible low-income consumers or households.

As stated above, VCS must use the National Verifier when helping consumers apply to the Lifeline Program. In addition, VCS must include a public education component as part of its Lifeline outreach program to ensure that consumers are aware of and can participate in, the eligibility determination from the National Verifier.

By our PA Lifeline Order we also required eligibility be confirmed annually and required “[t]hat ETCs offering Lifeline services are directed to recertify their Lifeline customers at least annually in accordance with FCC procedures established at 47 C.F.R. § 54.410 (relating to certification and verification of consumer qualifications for Lifeline).”²³⁹ VCS is directed, as a condition of receiving an ETC designation, to ensure all of its Lifeline subscribers are recertified. VCS’s Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC.

Prior to recertification, however, we note that the FCC has adopted a reverification process that must occur to determine the continued eligibility of existing Lifeline subscribers. Reverification is the one-time process by the National Verifier to confirm that all existing Lifeline subscribers meet the eligibility standards. Reverification will be performed in groups based on subscribers’ enrollment dates. Reverification will reset a subscriber’s anniversary date. Subscribers will then be recertified one year after the date that they are successfully reverified.²⁴⁰ Thereafter, Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC. Because VCS has no existing Lifeline subscribers, we note that reverification likely will not be required since all VCS’s Lifeline customers will be newly certified.

2. *Compliance with the Tracking Report Order*

As a condition of ETC designation, ETCs are required under Pennsylvania law to report to the Commission annual changes in Lifeline enrollment, per our Tracking Report Order. VCS certifies that it will comply with this requirement to the extent applicable.²⁴¹ Consistent with requirements imposed on other ETCs, VCS must provide the Commission’s BCS a copy of its annual Lifeline verification results that it files with USAC each year, as

²³⁷ Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report, 100 Pa. P.U.C. 553 (Dec. 30, 2005).

²³⁸ 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, Final Policy Statement Order (Order entered August 2, 2010).

²³⁹ Pennsylvania Lifeline Order at 27. Both Pennsylvania and the FCC eliminated the Lifeline’s subscriber ability to self-certify annually.

²⁴⁰ See generally PA Lifeline Order and 47 C.F.R. § 54.410.

²⁴¹ See January 30, 2019 Supplement at 2.

well as the FCC Form 497 Lifeline customer reporting worksheet (or any successor form) filed quarterly with USAC.

The Commission also has imposed the requirement on other Lifeline ETCs that they provide operator services, directory assistance and interexchange access (long distance) to Lifeline subscribers. VCS’s customers have the ability to reach directory assistance and operator services. Additionally, given that all of VCS’s Lifeline voice offerings would include long distance, all Lifeline customers are afforded such access.²⁴²

Further, in order to ensure the Pennsylvania Lifeline program advances the Commonwealth’s universal service policy, VCS shall be required to provide to BCS a copy of its annual Lifeline Eligible Telecommunications Carrier Certification Form, FCC Form 555, that it files with USAC.²⁴³ The FCC Form 555 reports the results of the annual recertification process and includes data accuracy and minimum service standard certifications.

3. *Chapter 64 Requirements for Standards and Billing Practices*

As a condition of designation, VCS agrees to comply with the standards and billing practices set forth in Commission regulations at 52 Pa. Code §§ 64.1—64.213. Compliance with Chapter 64 will ensure that VCS customers receive the same protections as other Pennsylvania telecommunications services customers.

4. *Consumer Lifeline-Related Complaints Processed by the Bureau of Consumer Services*

As a final condition of designation, VCS agrees to work with BCS to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by VCS Lifeline customers on Lifeline and other related issues.²⁴⁴

Consistent with conditions imposed on other Lifeline ETCs, VCS is amenable to cooperating with BCS in resolving any-consumer-related complaints concerning any Lifeline service that VCS offers in Pennsylvania and expressly provided BCS with a direct contact to resolve Lifeline related issues.²⁴⁵ VCS will also provide BCS with copies of all advertising, promotional and general Lifeline program-related customer notices and communications on an annual basis or upon request.²⁴⁶ Specifically, BCS will address Lifeline-related issues which pertain to the consumers’ rights under VCS’s Residential Service Agreement, including (1) eligibility disputes; (2) program offering issues; and (3) limited equipment-related issues. Additionally, VCS agrees to engage in advertising that is directed at promoting the availability of Lifeline service in its proposed Designated Service Area.

Adherence to these Pennsylvania-specific requirements applicable to ETCs designated by the Commission will assure uniformity among Lifeline services offered by different ETCs, will provide consumer protection for low-income consumers, and will enable BCS to monitor Lifeline Program effectiveness in Pennsylvania.

5. *Change in Corporate Control and Renewed ETC Designation*

In the event of a change of or transfer in corporate control, as defined in Pennsylvania statutory law, case

²⁴² Id.

²⁴³ As previously stated in the discussion of Section 54.410 of the FCC regulations, ETCs designated in Pennsylvania must provide our BCS copies of the reports submitted to USAC for purposes of low-income USF support, these reports include, among others, those listed in our PA Lifeline and Tracking Report Orders.

²⁴⁴ See January 30, 2019 Supplement at 9.

²⁴⁵ In its January 30, 2019 Supplement at 4.

²⁴⁶ January 30, 2019 Supplement at 2.

law, and the Commission's regulations at 52 Pa. Code §§ 63.321—63.325, VCS will have to petition this Commission for a renewal of its ETC status. Corporate changes of control may also be accompanied with changes in ETC status of a particular telecommunications entity with reference to the various and evolving support mechanisms of the federal USF. In this respect, this Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue with an ETC designation. For this reason, we shall require VCS to file 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.

6. *Provision of ETC Application, Annual Certification and Promotional Materials to the Bureau of Consumer Services*

All ETCs are required to supply the Commission's BCS with copies of subscriber Lifeline certifications, annual re-certifications, promotional/advertising materials, and Lifeline-related customer notices to review for current information, consistency with eligibility determination criteria and annual certification requirements, and plain language requirements. Accordingly, as a condition of receiving ETC designation, Viasat is directed to provide the Commission with copies of any and all reports submitted to USAC, and, upon request, provide BCS with copies of subscriber Lifeline eligibility certifications, promotional/advertising materials, annual certifications reports, and Lifeline-related customer notices. Any failure of Viasat to comply with these requirements will be a basis for revocation of its ETC designation or other enforcement action.

7. *Reporting Requirements for State-Designated ETCs Receiving High-Cost Support*

In its 2016 Rate-of-Return Reform Order, the FCC eliminated many of the related reporting obligations for ETCs set forth in FCC Form 481. However, the FCC amended the rules to require ETCs to provide additional detail regarding their broadband deployment during each year. Specifically, ETCs are now required to provide location and speed information of newly-served locations.²⁴⁷ Additionally, those ETCs electing to receive CAF Phase II support they were required to provide information for the geocoded locations where they have newly-deployed voice and broadband access services. Additionally, as a condition of receiving high-cost universal service support, ETCs must offer broadband access service in their Designated Service Area that meets certain basic performance requirements and submit testing results as part of their annual compliance certification.²⁴⁸ Carriers that do not comply with the FCC's speed and latency requirements will be subject to a reduction in support, commensurate with their level of noncompliance. In addition, providers will be subject to audit of all testing data.²⁴⁹

VCS must comply with the following reporting requirements. VCS must submit to USAC the geocoded locations to which they have newly deployed broadband. This data will provide an objective metric showing the extent to which ETCs receiving high-cost support are using funds to advance as well as preserve universal service in rural areas, demonstrating the extent to which they are upgrading existing networks to connect rural consumers to broadband. VCS will also be required to report the

number of locations at the minimum speeds required by the FCC's rules. The location and speed data will be used to determine compliance with the FCC's associated deployment obligations. The geocoded location information should reflect those locations that are broadband-enabled where VCS is prepared to offer service within ten business days that meets the FCC's minimum requirements for high-cost recipients subject to broadband public interest obligations. Additionally, VCS must meet the specific speed and latency performance obligations to these fixed locations and are also required to submit testing results as part of their annual compliance certification.

VCS must provide annual reports and certifications regarding specific aspects of their compliance with public interest obligations to the FCC, USAC, and this Commission as the relevant state commission. These annual reporting requirements will provide the factual basis underlying this Commission's annual Section 254(e) certification by October 1st of every year that support is being used for the intended purposes.

C. *VCS Satisfies All Pennsylvania-Specific Requirements for Lifeline*

In addition to the minimum federal standards mentioned above, all ETCs are required to comply with Pennsylvania law and Commission orders which govern Pennsylvania's Lifeline programs. 52 Pa. Code § 69.2501(b). As already determined above, VCS commits to: (1) abide by the applicable eligibility certification and verification requirements set forth in the Commission's PA Lifeline Order; (2) abide by the applicable requirements set forth in the Commission's Tracking Report Order; (3) abide by the Commission's Chapter 64 regulations regarding standards and billing practices, 52 Pa. Code §§ 64.1—64.213; and (4) have consumer Lifeline-related complaints which are unresolved by VCS's customer service, handled by BCS as appropriate and, if not, be resolved through formal or informal Commission processes.

Conclusion

In consideration of the VCS Petition for ETC designation, as supplemented, we conclude VCS satisfies all federal and Pennsylvania-specific requirements for ETC designation. As a federal high-cost ETC designee, VCS must meet the minimum standards set forth in the FCC's Lifeline Reform Orders, reporting and performance metrics set forth in the USF/ICC Transformation Order, and all related regulations. Further, in Pennsylvania, VCS must satisfy the Commission's requirements in the Public Utility Code, our ETC Guidelines, and all related orders. Designation of VCS as a federal high-cost ETC to secure the federal high-cost support from Auction 903 in the discrete census blocks in its tariffed service area in Pennsylvania for which it has received that designation 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 of Viasat Carrier Services, Inc. for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania is granted, subject to the terms and conditions set forth in this order.

2. That the Commission designates Viasat Carrier Services, Inc. a federal high-cost Eligible Telecommunications Carrier only in the Connect America Fund Phase II-eligible census blocks located in certain local exchanges

²⁴⁷ See Connect America Fund, Order, 33 FCC Rcd 6509 (2018).

²⁴⁸ *Id.*

²⁴⁹ *Id.*

throughout the Commonwealth of Pennsylvania as listed in Appendices A and B attached to this Order.

3. That the rules of the Federal Communications Commission regarding the redefinition process as it relates to Viasat Carrier Services, Inc.'s designation as a federal high-cost Eligible Telecommunications Carrier below the study area level of Verizon Pennsylvania LLC and Verizon North LLC are inapplicable for the reasons set forth in this Order.

4. That the rules of the Federal Communications Commission regarding the redefinition process as it relates to Viasat Carrier Services, Inc.'s designation as a federal high-cost Eligible Telecommunications Carrier below the study area levels of Citizens Telephone Company of Kecksburg, Consolidated Communications of Pennsylvania Company, Frontier Communications—Commonwealth Telephone Company, Frontier Communications of Breezewood, Frontier Communications of Lakewood, Hancock Telephone Company, Laurel Highland Telephone Company, North Penn Telephone Company, TDS Telecom—Mahanoy & Mahantango Telephone Company, United Telephone of PA d/b/a CenturyLink, West Side Telephone Company, Windstream Buffalo Valley Inc., Windstream Conestoga Inc., Windstream D&E Inc. and Windstream Pennsylvania LLC are inapplicable for the reasons set forth in this Order.

5. That, pursuant to the VoIP Freedom Act, Viasat Carrier Services, Inc. shall submit a tariff to the Commission's Bureau of Technical Utility Services for its interconnected VoIP service for those local exchanges where its interconnected VoIP service is a protected service. This tariff filing is due within 60 days of the entry of this Order.

6. That Viasat Carrier Services, Inc. is required to offer Lifeline service to eligible low-income consumers or households only in those census blocks in its service area for which it will be receiving Connect America Fund Phase II Auction 903 high-cost support as described in this Order.

7. That Viasat Carrier Services, Inc. shall submit a Lifeline tariff page to the Commission's Bureau of Technical Utility Services within 60 days of the entry of this Order.

8. That Viasat Carrier Services, Inc shall submit its proposed Customer Service Agreement to the Commission's Bureau of Consumer Services prior to the commencement of service and dissemination to the public to ensure that it complies with all applicable regulations at Chapter 64, Title 52 of the *Pennsylvania Code*, especially as to the terms and conditions regarding the pre-payment billing method and the early termination fees that was approved by the Commission subject to the conditions set forth in the body of the Order.

9. Viasat shall submit a mock-up of its final marketing and promotional materials (e.g., advertisements and sales brochures) regarding its CAF-funded interconnected VoIP service and BIAS and Lifeline service to the Bureau of Consumer Services for its review and approval for plain language requirements and compliance with all applicable regulations at Chapter 64, Title 52 of the *Pennsylvania Code* prior to distribution of these materials to the public.

10. That Viasat Carrier Services, Inc. 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 its Lifeline customers on Lifeline and other related issues.

11. That Viasat Carrier Services, Inc. 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.

12. That Viasat Carrier Services, Inc. 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.

13. That Viasat Carrier Services, Inc. shall pay the Pennsylvania's Telecommunications Relay Service fee, E911 fees, and State Universal Service Fund fees for the duration of its ETC designation.

14. That Viasat Carrier Services, Inc. shall notify the Commission of any change in its network architecture that will impact its interconnected VoIP or BIAS offerings in Pennsylvania.

15. That the failure of Viasat Carrier Services, Inc. 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.

16. That, within sixty days of entry of this Order, Viasat Carrier Services, Inc. shall file a supplement in this proceeding with the Secretary's Bureau that provides the correct incumbent local exchange carriers name set forth in Part 3 of Appendix B which is attached to this Order.

17. That the Secretary shall serve a copy of this Order on Viasat Carrier Services, Inc., on the Office of Consumer Advocate, and the Office of Small Business Advocate.

18. That a copy of this Order shall be published in the *Pennsylvania Bulletin*.

19. That this docket shall be marked closed.

ROSEMARY CHIAVETTA,
Secretary

Appendix A

CAF-ELIGIBLE CENSUS BLOCKS COMPRISING VIASAT CARRIER SERVICES, INC.'S ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATED SERVICE AREA

Please refer to the docket at the address below to access Appendix A.

http://www.puc.state.pa.us/about_puc/consolidated_case_view.aspx?Docket=P-2018-3004983.

Appendix B

LOCATION OF VIASAT CARRIER SERVICES, INC.'S CAF-ELIGIBLE CENSUS BLOCKS BY INCUMBENT LOCAL EXCHANGE CARRIER LOCAL EXCHANGE AREA

Please refer to the docket at the address below to access Appendix B.

http://www.puc.state.pa.us/about_puc/consolidated_case_view.aspx?Docket=P-2018-3004983.

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